

Raz on Practical Conflicts

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Pau Luque*

Philosophical Research Institute, UNAM

Abstract

This paper has two main aims. The first one is to redefine Raz's taxonomy of practical conflicts. Specifically, I want to show that there is a situation of genuine conflict that he does not seem to contemplate. The second one deals with a conceptual assumption that Raz does not justify in his work – that an agent facing a genuine conflict is not at fault. I think that he is correct in making this assumption, but at the same time I think that this assumption needs to be explicitly addressed and properly justified. This is precisely the second aim of the paper.

1. Introduction

Sometimes an agent has to face situations where she genuinely thinks that she has reasons to perform different acts. The problem arises when, in those situations, she realizes that these acts are not only different but also incompatible. As a consequence, she can only perform one of these acts, leaving unattended the other one or other ones – and, therefore, leaving unattended some reasons that she thought she had to attend. These situations are known as single-agent practical conflicts¹.

Joseph Raz has approached this issue several times in his work. I will discuss here his last contribution to the matter, that is, chapter 9 of his *From Normativity to Responsibility*².

I will proceed as follows. First, I will reconstruct Raz's taxonomy of practical conflict. In the second place, I will criticize this taxonomy by showing that he does not take into consideration a relevant situation of practical conflict. Finally, I will show that an agent facing a genuine conflict is not to blame, i. e. her practical reasoning is not faulty. This

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¹ Notice that the fact of being a single-agent conflict is not incompatible with having a reason to perform one act that has to do with other people different from the agent herself. To be a "single-agent conflict" only means that it is just one single agent the one who has contradictory duties – regardless of who is the "beneficiary" of the acts. When the reason to perform one act has to do with other people, Raz calls this reason a "relational reason" (Raz, 2011: 174).

² Raz, 2011: 173 ff.

will not be a critique to Raz, but rather a justification of his assumption that there is nothing defective or malfunctioning in a scenario of conflict³.

2. Practical Conflict

Raz wants to clarify what practical conflicts are and which questions they raise (173). He begins with an initial definition of practical conflict.

“Agents face a practical conflict when they are in a situation in which they have reasons to perform two acts (or more) such that they can perform either but not both”⁴.

A second initial definition, connected to the first one, claims that

“Agents face a practical conflict when in a situation where they have several reasons for action such that complying better with one makes it impossible to comply fully with another”⁵.

As Raz says, “the two definitions seem to be formally equivalent, the first emphasizing the inability to perform all the actions for which one has reason, the second the inability to comply with all the reasons one has”⁶. Given that they are formally equivalent, from now on when referring to the “initial definition” I will assume both initial definitions of practical conflict.

This initial definition, as Raz himself points out, is too vague, since many things in it are not clear. However, the vagueness issue is not fundamental right now for my purpose. The relevant and actual problem here, as we will see in the next section, and as Raz himself underlines, is that this initial definition is too broad⁷.

3. Three Different Situations

There are three different practical situations that seem to instantiate Raz’s initial definition of practical conflict⁸.

³ His commitment to this idea can be seen from the very beginning of the chapter, since he quotes Stuart Hampshire’s famous claim according to which “Neither in social order, nor in the experiencing of an individual, is a state of conflict the sign of a vice, or a defect, or a malfunctioning” (Hampshire, 1999:__).

⁴ Raz, 2011: 173.

⁵ Raz, 2011: 174.

⁶ Raz, 2011: 174.

⁷ Raz, 2011: 178.

⁸ This is my own reconstruction of Raz’s taxonomy, in the sense that Raz does not present the issue exactly in this fashion. What I simply do here is reconstruct the situations that instantiate the initial

An example of the first practical situation occurs when a friend offers me 10€ or 15€. He tells me that this double offer is mutually exclusive, so that I have to take 10€ or, alternatively, I have to take 15€. Let's assume that I am in an ordinary position, so that I do not prefer, for any special reason, less than more money – or that I have made some strange promise according to which I will only accept 10€ no matter the circumstances. If I assume that the agent is in ordinary circumstances, then there is an option clearly better than the other – she will give me 15€.

Let's turn on another example, also provided by Raz himself. "Suppose that I go shopping for shoes. I find one pair that looks fine, and though not a perfect fit, it will be fine after the first painful week. Then I find another pair that looks even better and fits my feet perfectly. I have to choose. There are reasons for the first pair, but clearly the reasons for the second are better, and I should choose it"⁹.

There is an option, in both examples, that is better than the alternatives. Therefore, though apparently there was a conflict in this situation, it is actually the case that, since there is an option better than the alternative, the conflict vanishes. Let's call this kind of examples *choice* situations. The agent has reasons to perform different acts so that she can satisfy one of them but not all, but one of the options available is clearly better than others¹⁰. This clearly better option will be, under normal conditions, her choice.

These examples show that not all choices imply conflict, while conflict always seems to imply choice¹¹.

A second situation that seems to instantiate Raz's initial definition of practical conflict can be illustrated with the following example. Let's imagine that I want to do something interesting tonight in Barcelona, so the background reason that I have when deciding what to do tonight should satisfy this desire. I have three different options. I can go to a concert, I can go to Barcelona stadium to see a soccer game or I can go out to dinner at Casa Leopoldo. Any of those options satisfies the background reason, that is, to do something interesting tonight in Barcelona.

Again, we must assume that I am, so to speak, in normal conditions. I am not a musical critic – so I don't have a special reason to go to the concert –, nor I am the coach of a team playing against the F. C. Barcelona in the next days – so that I'd have a special reason to go to Barcelona stadium in order to analyze its strategy – and I am not a mythomaniac reader of Vázquez Montalbán – so that I'd have a special reason to go to his favorite restaurant.

My purpose tonight is simply to do something interesting. Those three options are

definition of practical conflict in a more analytic way.

⁹ Raz, 2011: 178.

¹⁰ Raz, 2011: 178.

¹¹ Raz, 2011: 179.

equally valuable for me, and by performing any of them the background reason would be satisfied.

Let's call these situations, following Raz, *embarras de richesse* situations. The agent has different mutually exclusive reasons for performing two or more acts, but any of those reasons satisfies the background reason for action. The *embarrass de richesse* situations are linked, then, to indifference. It makes no difference if I go to stadium, to the concert or to Casa Leopoldo. Whatever my choice is, I would equally satisfy my purpose, that is, to do something interesting tonight in Barcelona, and therefore the background reason for action.

The *embarrass de richesse* situations, like *choice* situations, seem to instantiate the initial definition of practical conflict as well. They are situations in which it is not possible to perform all the actions which we have reasons for. But it would be weird to say that they instantiate genuine conflicts. Whether there is a better option – in cases of *choice* – or there is indifference – in cases of *embarrass de richesse* –, the agent is not compelled to meet contradictory duties.

Now I have to make explicit a distinction that has not been addressed directly, though it has been present both in the *choice* and *embarrass de richesse* situations and examples. We need to distinguish between primary reasons and background reasons.

In the *embarrass de richesse* cases it seems that we face incompatible actions, since we have reasons to go to the concert, to the stadium and to the restaurant. But all these reasons are what Raz calls primary reasons. And they all “derive” from the same background reason, a reason to do something interesting tonight in Barcelona. Since any of those primary reasons equally satisfies the background reason, it is indifferent which way I go. At the background level, so to speak, there is no conflict.

In *choice* cases, we can establish a hierarchy between the different and incompatible primary reasons. The hierarchy will be established on the grounds of the background reason. In the example of the friend offering me money, since the background reason would be something like “to get as much money as possible”, the reason that I have to accept the 15€ offer would be hierarchically superior to the 10€ offer. Once it is possible to establish this hierarchy, we cannot say that the agent is facing an actual conflict.

A third situation that seems to instantiate the initial definition of Raz's notion of practical conflict can be expressed through the following example. Let's suppose that I have two different job offers. One of these jobs provides me a great career perspective, but implies moving to a very boring city. The other job is much less stimulating, but it implies I will live in a very interesting city.

On Raz's view, only this last kind of situation instantiates a genuine case of conflict, while the other two situations do not. What makes the difference between this genuine conflict situation and the previous two?

In the *choice* case, since there is an option clearly better than the other, the choice we make eliminates the reasons we had concerning the alternative option. In the *embarrass de richesse* situation, the choice we make eliminates the primary reasons

we had for the alternative options. Instead, in the case of *genuine conflict*, i. e. the job offer, the choice we make does not eliminate the reasons we have for the other course (or courses) of action. That's what Raz calls the unfortunate aspect of conflicts. Whether I take one course of action or the other there will always remain reasons for action unattended. Thus, in the *choice* situation we have just one background reason that one of the alternative courses of action satisfies better than the others. We could say that the background reason allows us to establish a hierarchy among the different and incompatible courses of action. In the former example, the background reason – I am simplifying, of course – is to get as much money as we can. There is one of the options, the 15€ offer, clearly better than the other. The background reason allows us to establish a hierarchy according to which the 15€ offer is superior to the 10€ offer. Or, to use Raz's vocabulary, the 15€ offer satisfies better the background reason. In the *embarrass de richesse* situation we cannot establish a hierarchy among the different options, but this is not important because any of them satisfies completely the background reason. It's indifferent what course of action we choose to follow, since any of them will attend the background reason completely. Once we make the choice the remaining primary reasons vanish because the background reason to which they were connected is now completely attended. And this implies that the alternative primary reasons need not be attended anymore.

Instead, in *genuine conflicts* we have incompatible background actions supported by different backgrounds. Thus, no matter what course of action we choose, it will be impossible to attend completely all the background reasons that were appealing to us. In the example of the job offer, if I accept the job that implies a great career perspective I won't satisfy the reason that I have to live in an interesting city. But if I accept the job placed in an interesting city then I do not attend the reason that I have for accepting a more stimulating job. Whether I choose one job or the other, it won't be possible to satisfy completely all the background reasons. And once I make the choice the reason for the other job will still be appealing to me. Sometimes, this remaining unattended reason, which is the unfortunate aspect of the conflict, is also called the residue of the choice¹²

It can be said that the unfortunate aspect – the impossibility to attend completely to all of the background reasons for action – is a constitutive feature of practical conflicts. And it is this aspect that is lacking in cases of *choice* and *embarrass de richesse*.

4. Principle of Conformity to Reasons and the Fault Issue

Raz claims that one should conform to reason completely and, when it is not possible, one should come as close as possible to complete conformity. Raz calls this "the conformity principle"¹³. The first part of the principle, Raz claims, is tautological.

¹² Williams, 1965; Marcus, 1980.

¹³ Raz, 2011: 189.

The second part, instead, has two important implications that arise when it is not possible to satisfy the principle. (1) There may be a “next best possibility” that the agent should satisfy. (2) Not being able to conform with reason completely is a matter of regret¹⁴.

The first implication means that when I cannot conform completely to reason I must compensate this by satisfying the next best possibility. And the second implication “is merely an expression of the fact that reasons can be known and appreciated. Knowing that they require conformity means that inability to conform is a source of regret”¹⁵. Not being able to conform completely to reason leaves a residue, some sense of loss or regret. This is what is distinctive of genuine conflicts. As a consequence, I have a reason to compensate because of this sense of loss.

Besides, Raz assumes that it is not the case that an agent facing a genuine conflict is to blame. There are some situations in which the inability of the agent to conform to reasons is due to her own mistakes, to her own weakness of will, to her irrational motivations, etc¹⁶. But this is not the case, according to Raz, when dealing with genuine conflicts¹⁷.

5. A Different Situation of Genuine Conflict

Let’s suppose that two friends of mine, Paolo and Riccardo, have each one suffered an accidental crash and each one of them calls me asking for my help at the same time. Due to unfortunate circumstances – they are asking for my help simultaneously –, I can only help one of them. Let’s put the example in the Razian language of reasons: I have reasons both to help Paolo and Riccardo, but I cannot satisfy all the reasons I have.

It seems that the reasons I have to help Paolo and Riccardo are reasons connected to the same background reason, that is, to help friends when they ask me to. So the reasons I have to help Paolo and Riccardo are primary reasons, which are connected to the same background reason. If this were an *embarrass de richesse* case, it would be possible to say that I can help Paolo or Riccardo indistinctly, since the primary reasons, as in the case of *embarrass de richesse*, are connected to the same background reason.

¹⁴ Raz, 2011: 189.

¹⁵ Raz, 2011: 189.

¹⁶ Aquinas, when discussing moral dilemmas, distinguishes between *perplexus simpliciter*, due to intrinsically inconsistent moral systems, and *perplexus secundum quid*, which arises because of the wrongdoing of the agent. While he concedes the contingent existence of the latter, he denies that the former is possible. (Dougherty: “[for Aquinas] the only moral dilemmas that exist are those generated by an agent’s prior misdeeds”, see Dougherty, 2013: 139). Aquinas’ claim on the former, as we will see, is consistent with my approach to the question of genuine conflicts. Nevertheless, Raz’s notion of genuine conflict excludes the possibility of *perplexus secundum quid* in Aquinas’ sense. I’ll assume, with Raz, that genuine conflict, in the relevant sense here, arise not because of the agent’s prior misdeeds, but because of unhappy circumstances.

¹⁷ Raz, 2011: 188.

But this would be a misguided approach. In the case of Paolo and Riccardo it's absurd to claim that it is indifferent which way I go¹⁸. In the *embarrass de richesse* case it's indifferent which way I go because whatever option I take I will satisfy completely the background reason – there will be no loss or residue. But in the case of my friends, although the background reason that I have to help Riccardo and Paolo is one and the same, my decision, whatever the content of it, won't be able to satisfy completely the background reason.

So, on the one hand, we have that in the Paolo and Riccardo case I have one and the very same background reason that justifies the primary reason to help Paolo and also the primary reason to help Riccardo. From this structural point of view, this situation seems to have some analogies with the *embarrass de richesse* case. But, on the other hand, in the Paolo and Riccardo case whatever I choose to do I won't attend completely the background reason, i. e. I won't help my friends when they ask me to. So a situation like that has what Raz calls the unfortunate aspect, that is, I cannot satisfy all the background reasons that I have. In other words, there will be at least some loss in the choice that I make in the situation. The unfortunate aspect is not present in the *embarrass de richesse* case, where I am able to attend completely the background reason taking any of the alternative courses of action. So, despite of some structural analogies, the Paolo and Riccardo situation cannot be understood as an instance of the *embarrass de richesse* case, because it possesses the unfortunate aspect.

The unfortunate aspect is characteristic, as we have seen, of *genuine conflict* cases, where there are some background reasons that remain unattended after the choice. Is the Paolo and Riccardo situation a case of *genuine conflict*?

One feature of *genuine conflict*, besides the unfortunate aspect is, as we saw, that I have different background reasons that justify the primary reasons that I have for each one of the options that are incompatible. Let's recall the example initially used to illustrate the *genuine conflict* situation. I had two different job offers and the reason that I had to accept one of the jobs was different from the reason that I had to accept the other. As we have seen, for Raz the *genuine conflict* situation is linked with value pluralism¹⁹. So in a *genuine conflict* a plurality of values or a plurality of background reasons is involved. In contrast, in the Paolo and Riccardo situation there is no plurality of background reasons involved. There is just one background reason, i. e. to help friends whenever they ask me to, which justifies the primary reason that I have to help Riccardo and the primary reason that I have to help Paolo. Can we say, then, that the Paolo and Riccardo situation is a peculiar situation of *genuine conflict*?

One possible objection to my approach would consist in saying that everything

¹⁸ Of course, there is a sense in which is completely indifferent which way I go. No matter if I help Paolo or Riccardo I will feel exactly the same loss. From this point of view, it is indifferent which way I go (see Brink, 1994). But the relevant sense of "indifference" that I have in mind, and that will be clarified in the following lines above, is not this one.

¹⁹ Raz, 2011: 180.

depends on the description of the case. Someone could claim that in the Paolo and Riccardo situation there is actually a plurality of background reasons involved. I have a background reason to help Paolo and a different background reason to help Riccardo. I deem the reason that I have to help Paolo as a different reason from the reason that I have to help Riccardo. They are just two distinct and non-reducible evaluative properties. If this were plausible, then these kinds of situations would be just an instance of Raz's already presented *genuine conflict* category. But is this the case?

Whoever wants to defend that this is the case, has to face the following difficulty. If the reason that I have to help Riccardo, for example, is not anymore a primary reason but a background reason, then it seems that the distinction between primary and background reasons becomes blurry. What would be the primary reason to help Riccardo if the background reason is itself to help Riccardo? In these terms, the distinction between the two kinds of reasons seems to collapse.

A way to avoid this collapsing would be to remember that the nature of background reasons is abstract, while the nature of primary reasons is more specific. Assuming that this is so, primary reasons usually "derive" from background reasons. As Raz puts it:

"[T]he proximate reasons [i. e. the primary reasons] for actions are evaluative properties of those actions, and they often 'derive' from the relation of the action to some other evaluative fact, which is the 'root reason' [i. e. the background reason]. Thus that an action is buying needed clothes for one's children or repaying a loan is a reason for it, and that is so because of one's duties towards one's children and their need, or one's promise to repay the loan"²⁰.

In Riccardo's case, the proximate reason, in Raz's terms, is to help Riccardo. And this primary reason has to derive from some other reason that could not be the same reason that I have to help Riccardo – this would produce a circularity problem. The reason from which the reason to help Riccardo is derived is an abstract reason: to help friends whenever they ask me to. Of course, I am assuming, for the sake of the argument, that Riccardo is my friend. Otherwise it would be impossible to derive the proximate reason to help Riccardo.

The same could be said of Paolo's case. The reason that I have to help Paolo is derived from the reason that I have to help friends whenever they ask me to. So the background reason or the root reason that I have to help Paolo is the same that I have to help Riccardo.

An alternative way to try to make the case against my last claim would be to say that the background reason is to help Paolo and that the primary reason is to help Paolo at moment *t*. On the other side, the background reason is to help Riccardo and the primary reason is to help Riccardo at moment *t*. Thus I will have two different background reasons and the situation can be understood again as an instance of Raz's *genuine conflict*. Besides, this would allow us to keep the distinction between primary

²⁰ Raz, 2011: 174.

and background reasons, leaving Raz's taxonomy of practical conflicts intact.

But this argument is not enough to show that they are two different and non-reducible background reasons. Let me explain. Even if we deem "to help Riccardo" and "to help Paolo" as background reasons, these different reasons have to be "derived" from a more abstract reason²¹. And if I go through the chain of reasons, at some point I will find the reason that I have "to help friends whenever they ask me to". In other words, at the end of the day, no matter how we describe the reasons to help Riccardo and Paolo, we will find that the root reason to help each of them is the same one.

Perhaps what saying that all depends on the description of the case actually means is that the content of the background reason could never be just "to help friends whenever they ask me to". The content of the background reason has to include what we can call the "condition of possibility". So that the background reason in my case would be "to help friends whenever they ask me to and if it is feasible for me". It's true that this is an issue for those who admits genuine conflict, but is a different point²² from the one that I am dealing with here. The point here is that even if the background reason is "to help friends whenever they ask me to and if this is feasible for me", I cannot see why this couldn't be the same root reason from which I derive the reason that I have to help Riccardo and also the reason that I have to help Paolo.

The Paolo and Riccardo situation cannot be understood as a case of Raz's *genuine conflict*, since it does not involve a plurality of background reasons. Nevertheless, the Paolo and Riccardo situation possesses the feature that distinguishes *genuine conflict* from *embarrass de richesse* and *choice* cases. That feature is the unfortunate aspect, i. e. the impossibility to satisfy completely all the background reasons that I have to attend. So it seems that we can consider the Paolo and Riccardo case as a special situation of *genuine conflict*, one where there is not a plurality of values involved, but only one.

Situations like Paolo and Riccardo's are studied in legal philosophy and constitutional theory. Those situations are admitted as a particular form of genuine practical conflicts, one in which there is a unique principle or background reason. Let's make, in the first place, a very simple example and then I will address two more complicated issues.

6. Intra-right Conflicts?

Let's imagine that two people are in a room and each of them has a right to sit down on a chair²³. The conflict arises when they realize that there is only one chair in the room. Both persons justify their actions on the same right: there is just one

²¹ Otherwise, it would be arbitrary that I have "to help Paolo" or that I have "to help Riccardo".

²² That I will address in the next section.

²³ Let's also assume, for the sake of the argument, that both have the desire to sit down.

evaluative property – the right to sit down – from which each of them thinks legitimately that her action can be derived²⁴. If I were a neutral person that has to adjudicate, there will be no way to make a decision that could respect completely the right of those two people to sit down on a chair²⁵. Once I make a decision adjudicating to one of the people the right to sit down, there is no way that I can satisfy the right to sit down of the other person. It is not possible, in this case, to respect completely the “right to sit down”. It would be clearly absurd to claim that the *embarrass de richesse* schema would be useful here. It is not the case that whatever I do the “right” – the unique evaluative property at stake – would be satisfied, rather it is the case that whatever decision I make the “right” would remain unsatisfied.

It is admitted in moral philosophy and in legal theory that sometimes some principles or fundamental rights clash. But it is also admitted that sometimes it is not even necessary to have a plurality of different principles or rights to say that one and the same principle can be in conflict with itself. This kind of conflict is sometimes called *intra-right conflict*²⁶. There are some cases in which the exercise of a right by one person can clash with the exercise of the same right by a different person. This can happen in cases where a negative right is involved. As Wellman puts it: “cases in which a person permissibly defends her life by killing an innocent person show that the right to life can sometimes conflict with another’s same negative right”²⁷.

But there are even more complicated cases in which there is just one principle or right at stake, though this is not immediately evident. Let’s imagine a case in which the right to free speech clashes with the right to privacy. For example, a newspaper publishes that a famous person has an extra-marital affair. The newspaper editor will defend that she has a claim based on the free speech right, while the famous person will claim that her right to privacy protects her. Apparently, these seem to be two different rights or principles. But actually both principles derive from a more abstract right or value, which is the negative liberty. Both “free speech” and “right to privacy” are more specific instances of the evaluative property “freedom from”. “Freedom from” is the absence of obstacles, barriers or constraints²⁸. Both “free speech” and “right to privacy” establish that no one can interfere in my speech, in the first case, and in my private life, in the second case. So both, though in conflict, derive from the same evaluative property – or in Razian terms, the same background reason –, that is, negative liberty.

Thus there are cases in which it is not necessary a plurality of rights or principles to

²⁴ See Moreso, 2009: 324.

²⁵ If I am the one who has to adjudicate and I genuinely consider that both of them have the right (and the desire) to sit down, then I am actually the one dealing with the practical conflict. From this point of view, and notwithstanding the appearances, this case is like the others in the text, that is, a case of a single-agent conflict. Regarding this point, see note 1.

²⁶ See, Pino, 2010: __; Moreso, 2009; and Waldron, 1993.

²⁷ Wellman, 1995: 273.

²⁸ See Berlin, 1958.

face a *genuine conflict*²⁹. We are allowed to claim that those cases are *genuine conflicts* cases because in those situations there is loss. Notice, however, that those are peculiar cases of *genuine conflict*, since we are dealing only with just one single value. Well, if this is so and in opposition to Raz's claim, it is not necessarily true that *genuine conflict* is uniquely linked to value pluralism, that is, it is not the case that I must have a plurality of values for a genuine conflict. Someone could endorse a moral system with just one single value, negative liberty, and this feature would not prevent genuine conflict in some circumstances. In this sort of proto-nozickian moral system, genuine conflicts are as possible as they are in a pluralistic moral system, i. e. it all depends on the circumstances of the particular case.

Raz does not take into consideration this particular case of *genuine conflict*. If he did, there will be four, instead of three, situations that could instantiate the initial too broad definition of practical conflict. And of these four, there will be two cases or forms, of *genuine conflict*. So the proper taxonomy will be as follows:

Choice. The agent has different mutually exclusive options that "derive" from the same background reason, but there is one that satisfies better than the others the background reason.

Embarras de richesse. The agent has different mutually exclusive options that "derive" from the same background reason, but any of them satisfies equally the background reason.

Genuine pluralistic conflict. The agent has different mutually exclusive options that "derive" from different background reasons, so that she can satisfy one but not both reasons.

*Genuine intra-right conflict*³⁰. The agent has different mutually exclusive options that "derive" from the same background reason, but none of them satisfies completely the background reason³¹.

²⁹ Ruth Barcan Marcus noticed this. She claims that "Kantian ethics is notably deficient in coping with dilemmas" and that "act utilitarianism is a plausible candidate for dilemma-free principle or conjunction of principles, but not because it can be framed as a single principle. It is rather that attribution of rightness or wrongness to certain kinds of acts per se is ruled out whether they be acts of promise-keeping or promise-breaking, acts of trust or betrayal, of respect or contempt" (see Marcus, 1980: 192 ff).

³⁰ If a right is the mirror of an obligation, as Kelsen famously put it, then an intra-right conflict is just the reflection of an intra-obligation conflict (see Kelsen, 1960: 127). So that when I say "intra-right conflict" it entails also an "intra-obligation conflict". Generally speaking, therefore, when I say "intra-right conflict" I mean "monistic conflict".

³¹ I am not going to deal here with the question whether our practical systems are actually pluralistic or rather monistic. I think that this it's not necessary for my point here, because regardless whether they are pluralistic or monistic, both are susceptible of genuine conflicts with empirical rooting. I do not need to take sides, to say it briefly, on the dispute between Berlin and Dworkin, since my claim is that the genuine conflict issue can affect both positions altogether. The question would be relevant if my claim were, for example, that genuine conflicts only arise when we assume pluralistic systems, or the other way round. If it were the case that assuming a pluralistic or a monistic system makes a difference

7. Agent at Fault and Duty of Compensation

The question I address in this section is what does it mean to say that an agent facing a genuine conflict is not at fault. What does it mean that an agent who cannot satisfy all the relevant reasons without losing something of value is not to blame? And what does it mean that, notwithstanding the latter, the agent has a reason to compensate?

Raz claims several times that an agent that faces a genuine conflict has made no error³². But he never explains what he means in saying this and he never justifies this conceptual assumption.

I think that Raz is right in making this assumption, but I also think that the point needs more elaboration. In this section I will show, first, two traditional ways in which it is usually understood that an agent facing a genuine conflict is at fault. And second, I will show why Raz, in his assumption, is right and why we must consider that to face a genuine conflict does not presuppose any error on the part of the agent.

Before accounting for the former two points, it is necessary to justify why I believe that I have to address this question. There are two reasons for this. On the one hand, I think that this point is relevant because to claim that an agent has made no error is an ambitious statement. At the same time, this statement is a necessary condition in order to show that *genuine conflicts* are possible. If this were not the case, in the sense that it could be showed that agents face only apparent conflicts, the whole idea of *genuine conflict* would fall apart. Some authors claim that it is precisely because an agent has committed an error that she thinks she is facing a genuine conflict. Once the error is identified and solved, the *genuine conflict* vanishes. So to be or not to be at fault is not trivial when dealing with the existence of genuine conflicts. And if this is so, then that agents are not at fault cannot be assumed simply as a sheer premise, with no further justification.

On the other hand, it is relevant to deal with this point because it is usually said that a duty of compensation arises when the agent is at fault and her error causes some harm³³. But, according to Raz, this is not the case when dealing with *genuine conflicts*. In those cases a duty of compensation for the agent arises in spite of the agent's *not being* at fault. This is not a mainstream claim, so it seems strange to embrace it just as a mere assumption.

I will explain two traditional ways in which it has been said that an agent facing a

regarding the possibility of genuine conflict, then I would have to adjudicate between these two positions. Since my claim is that it makes no difference (since, for both of them, the rise of genuine conflicts is equally contingent), I do need not to adjudicate between them.

³² Raz, 2011: 188.

³³ I am presupposing that the reasons to compensate do not derive from an independent duty of compensation (Raz 2011: 191).

genuine conflict could be in error³⁴. Subsequently, I will try to show that there is a way to understand that an agent facing a genuine conflict does not incur in error.

Is it irrational, or does it involve some kind of error, to admit the possibility of genuine conflicts? Is the agent that faces a genuine conflict at fault?

7.1 Inconsistency and the “ought implies principle”

As I said, there are two possible ways to answer positively to the former question. In the first place, for an agent to be inconsistent is to be at fault. In the second place, for an agent, not being able to satisfy the kantian principle according to which “‘ought’ implies ‘can’” is to be at fault.

The argument from the inconsistency principle. A genuine conflict can only be the product of an inconsistent moral system. And an inconsistent moral system, regardless of its substantive content, cannot be a rational system. So that any agent holding that has to satisfy two or more incompatible reasons is an agent at fault³⁵.

The argument from the “‘ought’ implies ‘can’” principle. To admit that genuine conflicts are possible is to admit that the principle “‘ought’ implies ‘can’” cannot be satisfied. In the genuine conflict cases what I ought to do is not what I am able to do. Thus, in a genuine conflict it is not the case that “‘ought’ implies ‘can’”. It is usually said that whoever holds that this is genuinely the case is at fault³⁶.

To assume these two principles as presented above would mean that it is certainly true that an agent facing a genuine conflict is at fault. This is the same thing to say that as a matter of fact there will be no genuine conflict, since the agent thinks that she has to satisfy all the reasons when actually she has not. To be at fault would mean that there is some reason that does not actually apply to the case.

Let’s see now if it is the case that I have to accept these two principles as they have been formulated above.

Can I imagine a possible world where I can have a good job in an interesting city? Or is it rather the case that, due to the logical properties of this dilemma, there is no possible world in which I can have a good job in an interesting city?

Not only can I imagine that there is a possible world where I can have both things but, as a matter of fact, we can see people having both things in our actual world. So the two options here, and the respective reasons that justify them, have no logical properties that make them incompatible in at least one possible world. If this is so,

³⁴ I am not claiming that these are the only two ways in which an agent facing a genuine conflict can be in error. My point here is not necessarily exhaustive of the question.

³⁵ Bayón, 1991: 406.

³⁶ Bayón, 1991: 409.

then we can claim that when dealing with genuine conflict, the agent's practical reasoning does not suffer from any logical affliction. Her reasoning is not inconsistent, since for being so it would have to be the case that she cannot satisfy all reasons in any possible world. And there is at least one possible world where she can satisfy them. Genuine conflict arises here not because of our faulty reasoning, but due to particular circumstances. The genuine conflict is not the outcome of an error of the agent. And, of course, it makes no sense to claim that the circumstances of the world are at fault. The circumstances of the world are simply arbitrary facts that are not subject to the rules that apply to the agent's practical reasoning.

So, regarding the first principle, we can say that "consistency" has two different meanings³⁷. In a weak sense, "consistency" means that there is a possible world in which I can satisfy all the reasons that I have to attend without loss. This world is not necessarily this actual world. The important thing is that in this possible world "consistency" can be achieved. By contrast, in a strong sense, "consistency" requires that I have to be able to satisfy all the reasons that I have to attend, without loss, in every possible world. According to this strong sense, it is necessary that my practical system be consistent in every possible world.

Only if we accept the strong sense of "consistency" we can say that the agent is at fault, since it would be certainly mistaken to hold a practical system that cannot be completely satisfied in any possible world. But why should we accept this strong sense of "consistency"? I think that there are two main reasons for which we should reject it and accept the weak sense instead.

In the first place, it is hard to imagine a practical system composed by a set of values that wouldn't clash at least under some circumstances, i. e. at least in one possible world. Let's recall that it is sufficient that there be just one possible world in which I cannot satisfy all reasons to violate the strong sense of "consistency". It is easy to imagine at least one possible world in which freedom and equality do clash. And it is easy as well to imagine at least one possible world in which truth – understood here as an evaluative or substantive property – and happiness do clash. And so on. And if just one of these possible worlds exists, the strong sense of "consistency" will be violated. The consequence of this is certainly too severe, since all pluralistic systems will be conceptually inconsistent. This conclusion would be probably enough to reject the strong sense of "consistency".

But for those who think that the point still wouldn't be enough to assume the weak sense of "consistency", since we are not obliged to endorse pluralistic systems, it wouldn't be actually necessary to endorse a pluralistic system to reach the same conclusion. As we have seen before, to face a genuine conflict is not necessary to hold a plurality of values or background reasons. It is enough to "derive" two different duties or primary reasons from the same value or the same background reason for the situation to arise. Again, it is not hard to imagine at least one possible world in which two specifications of negative liberty can clash. And it is easy as well to imagine a

³⁷ Bayón, 1991: __. See also Marcus, 1980: 194 ff.

world in which two children need a vaccine and I have only one shot. The existence of one of these possible worlds is enough to violate “consistency” in the strong sense.

So the ultimate conclusion that follows from the strong sense of “consistency” is that, no matter if pluralistic or monistic, all practical systems are irrational and the agents holding them are at fault. If we want to avoid such an unreasonable conclusion, we do better assuming the weak sense of “consistency”. This weak sense would allow us to claim that *genuine conflicts* arise due to particular empirical circumstances, and not because of afflictions of the agent’s practical reasoning. In other words, the agent is not to blame – in principle it would be arbitrary to blame the agent for facing unfavorable circumstances – if we assume the weak sense of “consistency”.

And what about the argument from the “‘ought’ implies ‘can’” principle? The objection against this argument is based on reasons that are similar to those used against the argument from the inconsistency principle. But, first of all, let’s recall what the point of the argument is. If we assume the possibility of genuine conflicts we have reasons to satisfy two duties that are not compatible, so we *ought* to do two things that we *cannot* do. The conjunction of both duties violates the “‘ought’ implies ‘can’” principle.

One premature way out to this argument would be to give up the “‘ought’ implies ‘can’” principle³⁸. But before dealing with such an ambitious plan, perhaps there is a way to interpret the “‘ought’ implies ‘can’” principle that allows us to keep the principle and, at the same time, to claim that the agent facing a genuine conflict is not at fault for violating it.

According to Bayón, when we speak about “duties” we mean both the duty to perform a generic act and the duty to perform an individual act³⁹. If the “‘ought’ implies ‘can’” principle applies to the duty to perform a generic act, it will be irrational – i. e. it will be faulty – to postulate the obligation to perform a certain generic act that is either logically impossible or empirically impossible in *any* combination of variables that we can find in the world, assuming the persistence of the physics laws that rule it. On the contrary, if the “‘ought’ implies ‘can’” principle applies to individual acts, it will be irrational – i. e. it will be faulty – to postulate the obligation to perform a certain individual act that is either logically impossible or empirically impossible in a *particular* combination of variables that we can find in the world in the moment *t*, which is the moment when the agent should have to perform the mentioned individual act⁴⁰.

Bayón labels the former the weak interpretation of the “‘ought’ implies ‘can’” principle and the latter the strong interpretation of the principle⁴¹. It is certainly

³⁸ Which is what John Lemmon seems to propose, see Lemmon, 1962.

³⁹ Bayón, 1991: 410. See also Marcus, 1980: 199 ff.

⁴⁰ Bayón, 1991: 410.

⁴¹ Obviously, if the individual act *p* is possible, then any generic act of which *p* is an instance is also possible. The strong interpretation of the principle presupposes the weak one, but not the other way round.

irrational to hold a practical system that cannot even satisfy the weak interpretation of “‘ought’ implies ‘can’”. But those who admit the possibility of genuine conflict are able to satisfy, with no problem, the weak interpretation of the principle. If this is so, our practical reasoning would be faulty only if we cannot satisfy “‘ought’ implies ‘can’” in its strong interpretation. But there is no particular reason for accepting the strong interpretation of the principle since, as I said, those who admit the possibility of genuine conflict can accept the weak interpretation of it. This latter move does not lead to irrationality, while the assumption of the strong interpretation seems less promising if our aim is to preserve the rationality of the agent facing a genuine conflict.

If I assume both the weak sense of “consistency” and the weak interpretation of the “‘ought’ implies ‘can’” principle, I can claim that when I face a genuine conflict I am not at fault. This is so because the conflict does not arise out of any fault of mine; under different circumstances I wouldn’t face a genuine conflict.

7.2 A Different Strong Sense of “‘ought’ implies ‘can’”

Perhaps we can ask ourselves if it's possible to meet a strong interpretation of the kantian principle in a different sense. I think that this is what Bernard Williams tried to show in his classical “Ethical Consistency”⁴². In a case where I ought to do *a* and I ought to do *b*, in virtue of the agglomeration principle it seems that I ought to do both *a* and *b*. The problem arises when, due to empirical circumstances, the agent is no longer able to do both *a* and *b*. But Williams claims that to assume the “‘ought’ implies ‘can’” principle is to accept “that from the fact that I cannot do both *a* and *b* it follows contrapositively that it is not the case that I ought to do both *a* and *b*”⁴³. This implies the giving up of the agglomeration principle. Williams, however, does not intend to offer a knock-down disproof of this principle, he only wants to claim “that it is not a self-evident datum of the logic of ought, and that if a more realistic picture of moral thought emerges from abandoning it, we should have no qualms in abandoning it”⁴⁴.

Williams holds this on the grounds of some sociological armchair thesis: “for no agent conscious of the situation of conflict, in fact thinks that he ought to do *both* of the things. What he thinks is that he ought to do *each* of them; and this is properly paralleled at the level of ‘can’ by the fact that while he cannot do both of the things, it is true of each of the things, taken separately, that he can do it”⁴⁵.

Williams seems to claim that if it is true that “‘ought’ implies ‘can’” then it is also

⁴² Williams, 1965.

⁴³ Williams, 1965: 131.

⁴⁴ Williams, 1965: 132.

⁴⁵ Williams, 1965: 132 (emphasis in the original). To put the point in a little bit more formal terms: the agglomeration principle says that if $Oa \& Ob$ then $O(a \& b)$. Williams, instead, claims that if $Oa \& Ob$, and I cannot satisfy $Oa \& Ob$ then (assuming “‘ought’ implies ‘can’”) it follows that $\neg O(a \& b)$.

true that “cannot implies not-ought”⁴⁶. So that the agent facing a genuine conflict is not constrained to meet both of the duties applying to the case at hand. If it is impossible to produce a state of affairs x (the satisfaction of two circumstantial inconsistent duties) then the agent is not obliged to produce it.

The rejection of the agglomeration principle allows Williams to keep the “‘ought’ implies ‘can’” principle in a strong sense. From a deontic point of view, Williams' move is impeccable. But this strategy does not seem to mirror our everyday practical reasoning in an accurate fashion. *Contra* Williams' sociological armchair thesis, there are so many practical occasions in which we assume the agglomeration principle. This happens in the moral sphere and even in a clearer way in the legal sphere. Let's start with the latter.

If a judge decides that I ought to pay the loan to bank n. 1 and that I ought to pay the loan to bank n. 2, and, *ex hypothesi*, I don't have money enough to pay both of them, it doesn't seem that a reference to Williams' giving up of agglomeration principle is going to help us. In a case like this, the agglomeration principle clearly applies. But the same happens in the moral domain. If I have to help Riccardo and I if I have to help Paolo, I usually assume that I have to help both Riccardo and Paolo despite of the fact that I cannot do it. The bitter circumstance that I cannot help both of them and that I have to make a choice doesn't change the fact that I consider that I ought to help both of them. And it is even clearer that the unpleasant circumstance of not being able to pay all my debts doesn't change the fact that I have to meet both oughts.

According to Williams, the culprit in the violation of the kantian principle when dealing with genuine conflicts is the agglomeration principle. Once we suspend it in relation to the practical domain, we can meet the kantian principle in the strong sense. But this impeccable strategy from the deontic point of view does not faithfully reproduce our daily practical reasoning, since it does not give account of cases like those mentioned above.

I think that this is one of those situations where in the translation from the language of reasons for action to the deontic language something relevant gets lost. Whereas it is true that if “‘ought’ implies ‘can’” then “cannot implies not-ought” it is not true that if I cannot satisfy all the relevant reasons then some of those reasons simply cease to be reasons that apply to the case. That's not the way reasons for action work. In a case of a genuine conflict, some reasons remain unattended. And it is this failure to satisfy them what yields agent's loss or regret. The aseptic language of deontic logic allows us to disregard this fact. But if we want a reconstruction as faithful as possible of our practical reasoning, then Williams' proposal is unsatisfying⁴⁷.

⁴⁶ *Via modus tollens*: if $o \rightarrow c$ then $\neg c \rightarrow \neg o$.

⁴⁷ Besides, as Beirlaen shows, it's not true that we not assume the agglomeration principle in practical cases where we are able to meet two or more duties. If it's possible for us to satisfy all the relevant duties for a situation x then, as a matter of fact, we agglomerate them. Beirlaen's point is that the abandonment of the agglomeration principle occurs only when it is not empirically possible for the agent to meet two or more oughts simultaneously; in a situation where the agent can meet all the

If we want to keep the possibility of genuine conflicts when speaking of reasons for action we cannot assume neither the Williams' strong sense of the "'ought' implies 'can'" nor what I earlier called the strong interpretation of the same principle. We have to reject the former because it ignores the fact that many times in our daily practical reasoning we assume the agglomeration principle and we have to discard the latter because, as we saw, we have no specific reason for assuming it.

Some lines above, I advocated for a weak interpretation of the kantian principle as a way to keep both the possibility of genuine conflicts and the idea of an agent facing a genuine conflict as an agent not at fault. Does all the discussion on the agglomeration principle change my claim? In fact, it doesn't.

It would be certainly irrational to hold the agglomeration principle in a case in which I have to perform two or more generic acts that are either logically impossible or empirically impossible in any combination of variables that we can find in the world, assuming the persistence of the physic laws that rule it. But not even one of the examples introduced earlier is a case of this kind. It is not hard to imagine a combination of variables in which I have money enough to pay all my debts and, therefore, to satisfy both oughts regarding bank n. 1 and bank. 2. And I can easily imagine a combination of variables that allow me to help both Paolo and Riccardo as well. The weak interpretation of the principle claims that it is rational to hold the agglomeration principle in cases in which I have to perform two or more acts that are logically possible and empirically possible in at least one combination of variables that we can find in the world, given the persistence of the physical laws that rule it. Under this interpretation, we can keep the "'ought' implies 'can'" principle itself without giving up the agglomeration principle. And we can do both things leaving intact the idea that an agent facing a genuine conflict is not faulty.

7.3 Where Does the Reason to Compensate Come from?

But if it is the case that the agent is not at fault, where does the reason to compensate come from? Let's recall that it is normally accepted that a duty of compensation arises when the harm caused by the agent is due to her being at fault. But in the case of genuine conflict the agent has a duty of compensation despite not being at fault. Raz claims that "If compensation is nothing but acting to get as close as possible to complete compliance then the reason one has to compensate is the reason

relevant duties, we keep the agglomeration principle (Beirlaen, 2011: 49-50). That is, if $\phi(a \& b)$ then $O(a \& b)$ and if $\neg \phi(a \& b)$ then $\neg O(a \& b)$. As a consequence, and against Williams' claim, the agglomeration principle would only be partially expelled from the practical domain. My point, however, is a little bit different from Beirlaen's. I'd agree with Beirlaen if my interest were limited to the deontic language. But If we reconstruct our practical reasoning by means of reasons for action, then it is not true that we give up the agglomeration principle in cases where we are not able to meet all the relevant background reasons (or the primary reasons that derive from the same background reason when dealing with an intra-right conflict). But this, as I will show in the next lines of the text, does not condemn the agent to irrationality, since we still have available the weak interpretation of the "'ought' implies 'can'" principle.

one had in the first place”⁴⁸. Neither this reason nor the reason to compensate presuppose fault. If I couldn’t manage to help both Paolo and Riccardo, and I could only help Paolo, I have a reason to compensate Riccardo – I could do all the bureaucracy derived from the accidental crash that Riccardo has suffered, for example. The reason that I have to compensate Riccardo is the same reason that I had to help both Paolo and Riccardo. This is what Raz means by getting as close as possible to complete compliance with reasons.

8. Conclusion

This paper has been devoted to assess Raz’s account of practical conflicts. In the first place, I have tried to show that Raz’s taxonomy does not contemplate a special situation of genuine conflict, one that is not linked to plurality of values – but that at the same time is not incompatible with the existence of genuine conflicts where a plurality of values is involved. I called this special situation of genuine conflict “intra-right genuine conflict”.

On the other hand, I have justified the choice of a conceptual assumption in Raz’s account. I have tried to show that an agent facing a genuine conflict is not at fault. This is so because there are two weak ways to interpret the principles on which the objection that the agent facing a genuine conflict would be at fault is grounded. If we assume these two weak interpretations, it is not the case that the agent is at fault.

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⁴⁸ Raz, 2011: 191-192.

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