

## **MOTIVATION, RECONSIDERATION AND EXCLUSIONARY REASONS\***

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*Abstract.* What do exclusionary reasons exclude? This is the main issue I address in this article. Raz appears to endorse what I label the ‘motivational’ model of exclusionary reasons. He stresses that within the context of his theory of practical reasoning exclusionary reasons are reasons not to be motivated by certain first-order reasons (namely, the first-order reasons which conflict with the first-order reasons the exclusionary reasons protect). Some of his critics take him to be also committed to another model of exclusionary reasons which I label the ‘consideration’ model. According to it exclusionary reasons are reasons not to consider or think of the conflicting first-order reasons. I argue that Raz’s account of the exclusionary function of decisions suggests a third model of exclusionary reasons which I label the ‘reconsideration’ model. On the reconsideration model exclusionary reasons are reasons not to reconsider the balance of first-order reasons. In this article I show how the reconsideration model differs from both the motivational and the consideration model and how it can account for the exclusionary function of not only decisions but also personal rules and authoritative directives.

Raz’s account of exclusionary reasons for action is one of his major contributions to the theory of practical reasoning. What do exclusionary reasons exclude? This remains controversial. Raz stresses that exclusionary reasons exclude only acting on some reasons

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which conflict with the first-order reasons they protect. I call this the ‘motivational’ model of exclusionary reasons. Some of Raz’s critics argue that on Raz’s account exclusionary reasons exclude also thinking of or considering these conflicting reasons. I call this the ‘consideration’ model. I argue that apart from explicitly endorsing the motivational model Raz also alludes to another model of exclusionary reasons which is nevertheless different from the consideration model. On this model, which I call the ‘reconsideration’ model, exclusionary reasons exclude a particular type of deliberation. It is the type of deliberation which is most paradigmatically involved in reconsideration of decisions.

In this paper I analyze the motivational and the reconsideration model. My analysis is limited in two ways. First, to keep things simple, I focus on the exclusionary function of valid decisions, good personal rules and legitimate authoritative directives. In all three cases we can neatly identify the relevant exclusionary reasons by contrasting them to the first-order reasons they protect. For example, a valid decision to go to Santorini is a first-order reason to go to Santorini. This first-order reason is different from the exclusionary reason which this decision generates and the aforementioned models of exclusionary reasons attempt to explain.<sup>1</sup> Second, insofar as my discussion of the exclusionary function of legitimate authoritative directives is concerned, I assume (rather than arguing for) Raz’s account of legitimate authority. My aim is to show that the reconsideration model can account for an important aspect of the exclusionary function of authoritative directives within the context of

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<sup>1</sup> Raz also takes promises and some incapacities of the agent (say, having a strong headache or being drunk) to have exclusionary function. First, concerning promises, on the one hand I agree with Gans (1988, 392-93) that Raz has not provided a clear example of the exclusionary function of promises. On the other, I believe that due to its complexity the issue of promising is best addressed separately. Second, incapacity-based exclusionary reasons cannot be identified by contrast to relevant-first order reasons which they protect as, for example, valid decisions can. As a result it is unclear whether to treat, say, my strong headache as an exclusionary or as a first-order reason not to decide on a financial issue.

Raz also treats mandatory norms as exclusionary reasons taking them to be analogous to decisions (Raz 1999, 74). I believe that my analysis of the exclusionary function of decisions helps explicate the exclusionary function of mandatory norms. But due to lack of space I will not examine the analogy between decisions and mandatory norms.

Raz's account of legitimate authority. I do not take a stance on whether Raz's account of legitimate authority is correct.

My paper is divided into three parts. In the first part I offer an initial contrast between the motivational, the consideration and the reconsideration model of exclusionary reasons. In the second part I explore two different versions of the motivational model. I argue that exclusionary reasons are best understood as favouring that some first-order reasons do not get one to act rather than as favouring that one does not appreciate the force of these first-order reasons. In the third part I analyze the reconsideration model and provide a detailed account of how it differs from both the motivational and the consideration model.

1. An initial contrast between the motivational, the consideration and the reconsideration model

Raz draws a distinction between first-order and second-order reasons. First-order reasons favour doing or refraining from doing a certain action. Second-order reasons favour acting or refraining from acting for a first-order reason. Exclusionary reasons are second-order reasons to refrain from acting for a first-order reason (1999, 39).<sup>2</sup> Raz explicates that exclusionary reasons are reasons for 'not being motivated in one's actions by certain (valid) considerations' and that they 'exclude reasons from being one's motivation for action' (1999, 185). These explications capture the essence of what I call the 'motivational' model of exclusionary reasons.<sup>3</sup> According to the motivational model, exclusionary reasons exclude

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<sup>2</sup> Note that for Raz exclusionary reasons have a limited scope and do not exclude all first-order reasons which may conflict with them. In the subsequent discussion when I refer to exclusionary reasons I understand reasons with limited exclusionary scope.

<sup>3</sup> Cf. Moore's account of the motivational interpretation of Raz's exclusionary reasons (Moore 1989, 856ff.)

being motivated to act by certain valid considerations. For example, my decision to go to the theatre on Monday evening is a reason for me not to act on my desire to watch the football match scheduled for Monday evening.

What counts as a valid consideration in this context may be debatable. For example, one may wish to deny that my sudden desire to smoke is a first-order reason for me to smoke. Given that it is an intrinsically harmful desire it may not count as a valid consideration which favours smoking. But things become more complex if we turn to the consideration that a cigarette after a long day's work may help me unwind or that it helps me relax before taking a serious decision. I cannot address this issue here. I will rather sidestep it by assuming that on the motivational model exclusionary reasons exclude also acting on considerations that may fail to qualify (at least on some accounts of what counts as first-order reasons for action) as even *prima facie* first-order reasons for action.

Raz appears to allude to a different model of explicating the function of exclusionary reasons. This model is suggested by his account of decisions. Raz claims that 'decisions are exclusionary reasons in the sense that it is logically true that if x has decided to do A then x *believes* that his decision is a reason for him to disregard further reasons for or against doing A.' (1999, 68; Raz's italics) Disregarding further reasons for or against doing A is treated as equivalent to a refusal to 'go on looking for more information and arguments and to decline to listen to them when they crop up in one's mind or are suggested by other people.' (1999, 67) Raz suggests that only decisions the agent is justified in making are valid exclusionary reasons (1999, 68) (presumably in order to avoid problems concerning bootstrapping).<sup>4</sup> This account of the exclusionary function of decisions captures a defining feature of valid

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<sup>4</sup> For example, my original bad decision at  $t_1$  to start smoking would bootstrap my subsequent decision at  $t_2$  not to reconsider it into a rational decision. For the problem of bootstrapping see Bratman 1999, 24-27.

decisions.<sup>5</sup> Valid decisions exclude (in a sense to be fully explained in section 3) reconsideration, i.e. they exclude deliberation about the first-order reasons which the decision is meant to reflect with a view to re-evaluating the decision.

The distinction between the motivational and the reconsideration model will be explored in detail in section 3. For the time being it suffices to note the following. The class of actions excluded according to the motivational model is not coextensive with the class of actions excluded according to the reconsideration model. On the one hand, the motivational model does not exclude mental actions like deliberation about first-order reasons in the process of reconsideration of a decision of the agent. It excludes only acting on the basis of some of these first-order reasons. On the other, the reconsideration model does not exclude actions which are excluded on the motivational model. The reason is that not all reasons people act upon are the result of their deliberations. For example, we are moved to act out of sudden urges, unreflective desires, habits or thoughts which simply crop up in our minds. Even if we assume that the reconsideration model makes it trivial that if one is precluded from reconsidering the balance of the first-order reasons which one's decision aims to reflect, then one is a fortiori precluded from acting on the conflicting first-order reasons, the reconsideration model cannot account for the exclusion of actions motivated by reasons which the agent has not reached as a result of deliberation.

Despite the fact that Raz alludes to what I call the 'reconsideration' model in his account of the exclusionary function of decisions, he claims that he subscribes only to the motivational model. Furthermore, the debate between Raz and his critics revolves around a

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<sup>5</sup> I take it that by valid decisions Raz means decisions which properly reflect the balance of reasons. They are to be distinguished from reasonable decisions the agent may be justified in making given the evidence available to her which may nevertheless be mistaken. Furthermore, it is not necessary that the agent who took a valid decision considered all the relevant reasons for the decision. As will become clear later, I take that the agent's consideration of other reasons for the decision she has already taken need not amount to reconsideration of her decision.

model different from the reconsideration model. For matters of convenience I will call it the ‘consideration’ model. According to it, exclusionary reasons exclude considering or thinking of certain first-order reasons (Raz 1989, 1156; Raz 1999, 184; cf. Moore 1989, 854-56 Gans 1986, 383-84).<sup>6</sup>

Raz denies that exclusionary reasons have this function. However, neither Raz nor his critics provide a comprehensive account of the consideration model. I think that roughly three types of considerations of first-order reasons are excluded according to the consideration model. I will treat valid decisions as focal cases. First, valid decisions exclude both instantaneous and deliberative thoughts of first-order reasons which conflict with them. For example, if I have taken the right decision to spend my holidays in Santorini I should shout out from my mind thoughts about the beauty of the sandy beaches of Chalkidiki and restrain myself from thinking what holidays in Chalkidiki would have been like. Second, valid decisions exclude using first-order reasons which conflict with them in the context of further relevant decision-making of the agent.<sup>7</sup> For example, if I have decided to raise an issue concerning university regulations at one senate meeting during the academic year despite the fact that it will irritate the vice-chancellor, in deliberating about whether to raise this issue at the October meeting I should not consider the fact that it might irritate the vice-chancellor.<sup>8</sup> Third, valid decisions exclude my going through the first-order reasons for and against my decision as an idle exercise (say, while I am sipping my afternoon coffee exhausted by the

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<sup>6</sup> Though both Moore and Gans acknowledge that Raz alludes to the fact that exclusionary reasons exclude reconsideration they fail to appreciate how reconsideration of first-order reasons differs from mere consideration of these reasons. As a result they never properly differentiate the consideration from the reconsideration model.

<sup>7</sup> Moore holds that on Raz’s theory this second type of consideration of relevant first-order reasons is excluded by valid exclusionary reasons. He claims that ‘Raz should ... sometimes be construed to be using “exclusionary reasons” as the name of reasons we have not to consider certain actions as we decide what to do’ (Moore 1989, 856). For this reason I take his ‘decision-strategy interpretation’ of Raz’s exclusionary reasons to be a variant of the consideration model.

<sup>8</sup> As I explain in section 3 on the reconsideration model it is not precluded that in deciding whether to raise the issue at the October meeting I may take into account the consideration that raising the issue may irritate the vice-chancellor.

continuous heat wave in Athens) even though I am resolved not to (or cannot be bothered to) change my mind about my decision.

One's endorsing the reconsideration model is compatible with one's rejecting the consideration model. Valid decisions are not reasons for never thinking of the first-order reasons the balance of which they are meant to reflect or considering the latter in the context of making further decisions. Rather valid decisions are reasons for not reconsidering them. Even deliberation of the pros and cons of a decision in the form of an idle mental exercise does not amount to a process of reconsideration of the decision. The latter requires that one seriously re-opens the issue concerning the justification of one's decision (in a sense to be explicated in section 3).

Resistance to reconsideration is an intrinsic feature of decisions. Unless one is unwilling to re-open the issue of the balance of the first-order reasons which one's decision is supposed to reflect, one has not decided. The decision's resistance to reconsideration should not be confused with the desire to avoid the anxiety of continuous deliberation which may occasionally be the motivating reason for making a decision. Avoidance of the latter anxiety is simply an incidental consequence of making decisions.

I can think of two possible lines of argument one who wants to deny the viability of the reconsideration model in the context of decisions may follow. The first is to deny that it is an intrinsic feature of decisions that they resist reconsideration. I do not know the form this account of decisions may take and in any case it does not seem to be the way Raz understands the function of decisions. As we have already seen, for Raz, the person who has made a decision believes that she has a reason not to reconsider. The second is to accept that decisions resist reconsideration but to explicate this feature of decisions in terms of normative reasons for *making* decisions. In this case we are treating the idea that there is a rational need

for putting an end to our deliberations and committing ourselves to the right action as a normative reason for making decisions. But we treat this reason as separate from the kind of reason a valid decision itself is. On this account a valid decision is not itself a reason for not reconsidering it. Rather our rational need for not continuously considering our options and committing ourselves to the right action is a reason for making decisions.

The problem with this line of reasoning is that if there is a relevant rational need which makes the mechanism of decision-making rational, it is hard to see why a valid decision (which satisfies this rational need) is not in itself a reason for not reconsidering it. In general it is hard to see why some reasons for making decisions which encapsulate the function of decisions (i.e. satisfaction of the rational need for putting an end to continuous deliberation and committing ourselves to the right action) cannot be themselves reasons which valid decisions generate.<sup>9</sup>

I have argued so far that valid decisions should be considered to exclude a particular kind of deliberation, namely the deliberation involved in reconsidering decisions. This is compatible with taking valid decisions to also exclude acting on certain first-order reasons along the lines of the motivational model which Raz explicitly endorses. If my decision to go to Santorini for holidays is valid, then I have reasons not only not to reconsider it but also not to act on certain first-order reasons which favour my going to Chalkidiki for holidays, for example, the convenience of sandy beaches. Following this first-order reason defeats the purpose of my having made a decision. Thus, I suggest that the exclusionary function of decisions should be understood on both the motivational and the reconsideration model within the context of Raz's theory.

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<sup>9</sup> This consideration addresses Gans's (1986, 383) scepticism about whether reasons for making decisions are the same as the reasons decisions generate. Insofar as valid decisions are concerned the reasons are the same.



The motivational and the reconsideration model of decisions complement each other. Decisions are psychological mechanisms which commit us to action. I will explore in more detail the nature of this commitment in section 3. For the time being it suffices to say that this commitment is psychologically important for two reasons. On the one hand, human beings experience thoughts, desires, urges or mere inclinations which motivate them to pursue diverse actions. The agent's psychological ability to commit herself to a course of action enables her to overcome the motivational clout of these diverse elements in her motivational set and follow a certain course of action. If one's decision is valid and thus one is committed to the right action then one has reason to resist being motivated to act otherwise. It is this aspect of the importance of commitment to right action which the motivational model of decisions captures. On the other, human beings form intentions to act as a result of their deliberations. They are also able to change their minds. If the decision one has reached as a result of one's deliberation is correct and thus one is committed to the right course of action, then one has reason not to change one's mind. It is this (different) aspect of the importance of commitment to action which the reconsideration model of decisions captures.

I suggest that good personal rules should be understood to have also this dual exclusionary function within the context of Raz's theory. Raz claims that the function of rules is to 'mediate between deeper-level considerations and concrete decisions' (Raz 1986, 58). If the function of rules is to help the agent do the right thing without her balancing each time the relevant first-order reasons, then good rules should exclude reconsideration. If I consider the rule of abstaining from smoking open to reconsideration, then I cannot be said to be treating abstaining from smoking as my rule. The point is not that the agent should not think of or, as part of an idle exercise, go through the relevant first-order reasons the balance of which the rule purports to reflect as the consideration model suggests. Rather the point is that the agent should not seriously re-open the question of whether the rule is good. Similarly a good rule is

a reason not to act on certain conflicting first-order reasons. If my rule of abstaining from smoking is a good one, I should not act on the consideration that a cigarette may help me relax before making a decision.

Legitimate authoritative directives should be similarly considered to have a dual exclusionary function within the context of Raz's theory. On the one hand, Raz takes authoritative directives to have the same function as rules. Their point is to enable the agent act without having to balance the relevant first-order reasons (Raz 1986, 58-59). I explain in section 3 that we should treat legitimate authoritative directives as reasons for the deferring party not to engage in a particular type of deliberation once legitimate authorities have passed a judgement on the balance of relevant first-order reasons. On the other, an authoritative directive would fail to commit the agent if it were not a reason for her not to be motivated to act by a first-order reason which conflicts with the directive. If, in accordance with Raz's normal justification thesis (Raz 1986, 53), the soldier is more likely to conform to the balance of reasons by following the directives of the general rather than her own judgement, then the general's order to hold her ground is a reason for her not to act on her consideration that by leaving her position she would enhance her chances of survival.<sup>10</sup>

In this section I provided an initial account of the contrast between the motivational, the reconsideration and the consideration model. This account needs to be further filled in. I will proceed by providing more detailed account first of the motivational and then of the reconsideration model.

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<sup>10</sup> Raz (2006, 1014) complements the normal justification thesis with what he calls the 'independence condition'. The independence condition is satisfied if the soldier has no independent overriding reason to decide for herself about military matters rather than following the order of the general.

## 2. The motivational model of exclusionary reasons

I will start by considering an objection to the motivational model put forward by Moore. Moore (1989, 878-83) argues as follows:

- (1) If exclusionary reasons (understood along the lines of the motivational model) are to satisfy the ‘ought implies can’<sup>11</sup> condition, then the agent should be able to choose which motivating reasons she acts on.
- (2) Motivating reasons are causes of actions.
- (3) Therefore if exclusionary reasons are to satisfy the ‘ought implies can’ condition, then the agent should be able to choose that a certain motivating reason causes her action.
- (4) But one cannot choose that certain causal relations hold.
- (5) Therefore, exclusionary reasons do not satisfy the ‘ought implies can’ condition.

Moore’s objection retains its bite even if one wishes to reject the ‘ought implies can’ condition. There is clearly some uneasiness about normative reasons which favour something which the agent is unable to do.

Raz counters Moore’s objection by denying that satisfaction of the ‘ought implies can’ condition requires that the agent is able to choose what reason will cause her action. As I understand him, Raz argues that it suffices that the agent is able to control what reason will

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<sup>11</sup> Moore (1989, 875-76) understands this condition within the context of a compatibilist framework. For the sake of the argument I do the same.

cause her action. His argument is based on a distinction between on the one hand choosing and on the other controlling the causal efficacy of one's motivating reasons. Raz equates choosing with willing. He claims that we cannot choose our beliefs because beliefs are not the proper objects of our will. And it is logically impossible to choose our desires because there is no logical gap between desiring and willing (or choosing): to desire *x* is to will *x*. Given that our motivating reasons consist of pairs of beliefs and desires, Raz agrees with Moore that we cannot choose our motivating reasons. But he counters that we have control over them. The control he has in mind is control over our beliefs. What controls our beliefs is our intellect, i.e. the process of reasoning which leads us to form beliefs about what we should do which in turn cause our actions (Raz 1989, 1175-78).

Raz's reply to Moore faces several problems. First, the controlling power which Raz assigns to our intellect over our actions does not square with the role assigned to beliefs on the causal account of action upon which Moore's arguments are based. On the standard cases which the causal account aims to explicate the beliefs which in conjunction with relevant pro-attitudes cause one's actions are instrumental beliefs. They are beliefs that a certain course of action enables the agent to reach the aim which the relevant pro-attitudes designate for the agent. On this account it is our pro-attitudes which control our actions rather than our instrumental beliefs.

Second, if the controlling power Raz assigns to our intellect were considered to be controlling power over our pro-attitudes, then Raz's account would be both of limited scope and incomplete. In this case Raz would be claiming that our pro-attitudes which in conjunction with instrumental beliefs cause our actions are controlled by processes of reasoning. But it is not true that every desire we have is the result of some form of deliberation (think of my urge to drink water when thirsty). Furthermore, even if in some cases we develop a desire to do something as a result of, say, considering the merits of the

action, it is not clear that the relevant controlling power over our pro-attitude should be ascribed solely to our intellect. Habits or traits of character may also have a relevant causal role. For example, considerations about the safety of a car may lead me to form the desire to buy it and act on this desire. But these considerations may have been able to influence my relevant pro-attitude and consequently my action only because I have been the sort of person who is inclined to value car safety over all other features of cars. And this inclination may have been rooted in a nexus of habits or even irrational fears developed through time.

Third, Raz's equation of choosing with willing omits an important feature of choosing. We grasp this feature once we ponder on the relation between choosing and having a choice. The agent who chooses understands herself as having a choice, that is, she (at least implicitly) believes that there are at the very least two meaningful alternatives open to her: she can either do A or not do A. The presence of this belief differentiates choosing from mere willing. One may want to do A even though one does not believe that one has a meaningful choice between doing A and not doing A. A person who resigns after being blackmailed may still want to resign even though she does not understand herself as having chosen to resign (since she does not believe that not resigning was a meaningful alternative for her).

I think that Moore's argument fails though for different reasons from the ones Raz mentions. First, Moore's argument is based on a contrast between 'choosing' and 'being caused'. But within the context of the causal account of action, there is no such contrast. 'Choosing to do A' is partly 'being caused to do A by a certain motivating reason'. Second, the false contrast between 'choosing' and 'being caused' leads Moore to mischaracterise the content of choosing one must be able for if the 'ought implies can' principle is to be satisfied.

On the causal account of action a statement of the type 'X chooses to do A for the reason that p' should be analysed as follows

‘(a) X forms the intention to do A and

(b) the formation of her intention is caused by the motivating reason that p (i.e. a relevant conjunction of a pro-attitude and a belief) and

(c) X believes that she had the option of either doing A or not doing A (if my account of choosing is correct).

So, on the causal account of action to choose to do A for the reason that p is (partly) for the intention to do A to be caused by the motivating reason that p. What is required in order for one to be able to choose to do A for the reason that p is that one’s intention to do A can be caused by the motivating reason that p. Sometimes, for example, due to depression or some other psychological condition, it may be psychologically impossible for a certain reason (or indeed any reason at all) to cause the formation of one’s intention to do A. But if one’s intention to do A can be thus caused to be formed then the ‘ought implies can’ condition is satisfied.

In his argument Moore employs a different analysis of the statement ‘X chooses to do A for the reason that p’. According to it, ‘for the reason that p’ does not state the cause of X’s choosing to do A but is part of what X chooses. ‘Choose’ has thus a wide scope. What X chooses is ‘to do A for the reason that p’. Consequently, Moore thinks that in order for second-order reasons to satisfy the ‘ought implies can’ condition it must be true that X is able to choose *to do (or refrain from doing) A for the reason that p*. Given that ‘for the reason that p’ signifies the cause of X’s doing or refraining from doing A, Moore infers that X must be able to choose what causes one’s action which he finds absurd.

But if ‘X’s choosing to do A’ partly involves ‘the formation of X’s intention to do A being caused by a certain motivating reason’ then one should not adopt Moore’s analysis of

‘X chooses to do A for the reason that p’. One need not think in terms of the agent’s choosing what causes her action; rather when the agent chooses to do a certain action the formation of her intention is caused by certain reasons. This means that in order for positive second-order reasons to satisfy the ‘ought implies can’ condition it suffices that the formation of the agent’s intention to do A can be caused (i.e. it is psychologically possible that it is caused) by the relevant motivating reasons. And in order for exclusionary reasons to satisfy the ‘ought implies can’ condition it suffices that the formation of the agent’s intention to do A need not be caused (i.e. it is not psychologically necessary that it is caused) by the relevant excluded motivating reasons.

The crux of the matter is to substantiate the idea that it is not psychologically necessary for certain motivating reasons to cause the formation of the agent’s intention to do A. I believe that it is possible for certain psychological mechanisms to interfere with the motivational clout of motivating reasons. I will call them inclination and desire resisting mechanisms. To understand their function we need to draw some further distinctions concerning motivating reasons.

We may distinguish between inducing, averting and determinant motivating reasons. Inducing reasons are reasons which lean the agent towards a certain action at the psychological level and not normative reasons which actually favour a certain action. They are of two kinds: inclinatory and inciting. Inclinatory reasons are tendencies towards certain actions. For example, I may be inclined to have fruit after dinner or my belief that it will rain tonight may incline me to stay indoors. Inciting reasons are reasons which the agent is in the grip of and are ‘pulling’ her towards a certain action or tempt her. For example, despite being inclined to have fruit after dinner I may be tempted by a desert.<sup>12</sup> Inducing reasons are

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<sup>12</sup> I owe this example to Paul Gilbert. I am also grateful to him for making me realize the need to distinguish between different kinds of inducing reasons.

reasons the agent is aware of or at least able to identify upon reflection (or perhaps psychoanalysis). Averting reasons are motivating reasons which disincline or push an agent away from certain actions. They may be similarly epistemically transparent to the agent at the time of action or at least can be identified upon reflection.

Determinant reasons are a species of inducing reasons. They are reasons which not only lean the agent towards a certain action but actually get her to act. They are the reasons why the agent does what she does. Sometimes an agent's action is over-determined in the following sense: the conjunction of all inducing reasons for doing A gets the agent to do A. In this case inducing and determinant reasons are coextensive. Sometimes however the determinant reasons are only a subclass of the agent's inducing reasons. The agent may do A only for some and not all of the reasons which induce her to do A. Cases of what I will call 'mental trumping pre-emption'<sup>13</sup> illustrate this possibility. Here is a fanciful example. A godfather asks a gangster to kill a Mafioso for a considerable amount of money. The Mafioso had killed the gangster's brother. The gangster has two independent reasons which lean him towards killing the Mafioso, revenge and money. When asked by a friend why he killed the Mafioso he replies: 'It was both business and pleasure. I would have done it for the money but I actually did it for revenge.'

In this example, the gangster's desire for revenge was the determinant reason of his action. His desire for money was a *merely* inducing reason. According to his description of his motivational state, his desire for money would have sufficed to get him to act even in the absence of the motive of revenge. But in fact this (strong) inducing reason was trumped by the motive of revenge and never became the determinant reason of his action.

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<sup>13</sup> For the notion of trumping pre-emption see Schaffer 2000; cf. Hatzistavrou 2006.



The phenomenon of mental trumping pre-emption shows the need for a distinction between merely inducing and determinant motivating reasons. In turn this distinction probes a reformulation of the motivational model. We may distinguish a weak and a strong version of the motivational model:

(Weak motivational model) Exclusionary reasons favour that the agent's behaviour is not determined by certain motivating reasons (i.e. those which conflict with the first-order reasons for doing A the exclusionary reasons protect).

(Strong motivational model) Exclusionary reasons favour that the agent is not induced to act by certain motivating reasons (i.e. those which conflict with the first-order reasons for doing A the exclusionary reasons protect).

According to the strong motivational model the agent should not be inclined or feel a pull towards action B which conflicts with action A which the relevant exclusionary reason purports to support. This means that the agent should somehow cease to desire or appreciate certain features of action B. Think for example of the case of a smoker. On the strong motivational model, her rule to abstain from smoking demands from her to cease feeling a pull towards smoking. The exclusionary reason interferes with and demands a change of her pro-attitudes. It presupposes (if its demand is to have any bite) that it is psychologically possible for her to block off the relevant pro-attitudes.

By contrast the weak model is less demanding. On the weak model it does not matter whether the smoker feels a pull or is inclined towards smoking. The rule requires that when she feels an urge to smoke this urge does not get her to act. For this exclusionary demand to have a bite there must be a psychological mechanism which enables her to overcome at the

time of her making up her mind about whether to smoke the motivational force of her urge to smoke.

Are exclusionary reasons normative reasons not to be induced by certain considerations or motives? The strong motivational model does not presuppose an implausible psychological mechanism for repression or in some cases extinction of certain pro-attitudes. We seem to be able to change or silence certain pro-attitudes. Desires, for example, do not simply occur to us but can also be cultivated. We may be able to affect their growing by refusing to cultivate them. Thus, it is plausible to assume that at least in some cases we are able to exercise strong control over our pro-attitudes in the sense that we can contribute to their perishing or flourishing. Furthermore, it seems that we have normative reasons to silence certain pro-attitudes. I am thinking here of inherently evil pro-attitudes (for example, paedophilic impulses) or pro-attitudes which are detrimental to the agent (for example, suicidal desires).

The problem with the strong motivational model becomes clear once we consider motivating reasons which are not inherently evil or self-destructive. The paradigmatic cases are considerations of (valid) first-order reasons which motivate the agent. As Raz himself acknowledges (1999, 184), the fact that a first-order reason is excluded by a valid exclusionary reason does not mean that it is cancelled, or else that it ceases to favour a certain course of action. That is, despite the fact that the first-order reason  $p$  is excluded by the second-order reason  $q$ ,  $p$  still favours doing  $A$ . Now if  $p$  favours doing  $A$ , then it is rational for the agent to implicitly or explicitly believe that  $p$  is a reason for doing  $A$ . And if the agent has this implicit or explicit belief then it is hard to see why it would not be rational for her to have an inducing motivating reason for doing  $A$ . Developing a relevant pro-attitude is a form of appreciating the reason she has for doing  $A$ . For example, assume that a pilot by disobeying an order to bomb her own village will save her children. The fact that she has

been ordered (by a legitimate military authority) to bomb the village does not alter the fact that she has a reason not to do it. Feeling some inclination or a pull towards not bombing the village is a way of appreciating the fact that she has such a reason. If the order does not change the fact that she has such a reason why would it exclude his appreciation of the fact that she has such a reason? If it did then the agent would be faced with an extremely odd requirement in the case in which she believed she had a reason not to bomb the village. The order would require from her to be in a state similar to those who suffer from depression are: namely a state in which her belief that she has a reason to do something leaves her totally unmoved.

The weak motivational model avoids this problem. It does not require that the agent does not feel attracted to the excluded first-order reasons. It only requires that she is able to resist them so that they do not become the determinant reasons of her actions. This presupposes that the agent possesses a psychological mechanism to resist the attraction of certain pro-attitudes in the agent's motivational set.

We accept that this kind of resistance mechanism frequently operates and sometimes operates successfully. People sometimes succeed in following their decisions, rules, or authoritative directives at the face of opposing desires and inclinations. Some smokers manage to stop smoking, some overweight people manage to stick to their diets, some people manage to overcome a destructive passion, some soldiers obey their orders despite their fear. They themselves and we as observers think that, though their inclinations and desires might have got the best of them, they somehow managed to successfully operate an inclination and desire resistance mechanism. Their cases are evidence that it is not psychologically necessary that one's inclinations and desires determine one's actions.

There is of course a range of complicated issues which I cannot address here. For example, there is an issue about whether everyone is able to operate successfully or even develop this resistance mechanism. Or whether its operation may be equally successful against all desires or inclinations. Or whether it is the intellect alone responsible for the operation of this mechanism or non-rational habits and conative elements also play a causal role. But it suffices for our purposes to have shown that exclusionary reasons make a demand which we believe that it is psychologically possible for at least some people in some cases to fulfil.

### 3. The reconsideration model of exclusionary reasons

On the reconsideration model exclusionary reasons exclude a particular kind of deliberation about relevant first-order reasons. I have already argued that this kind of deliberation differs from mere consideration of first-order reasons. In this section I will elaborate on the distinction between the reconsideration and the consideration model. I will further distinguish the deliberation excluded according to the reconsideration model from other kinds of deliberation about first-order reasons. I will start by examining how the reconsideration model applies to personal decisions and rules and then expand the model to account for authoritative directives.

Take, for example, the rule of abstaining from smoking. We may distinguish four different kinds of first-order normative reasons which relate to this rule. First, there are what, borrowing Scanlon's terminology (Scanlon 1998, 204), I will call 'generic' reasons to abstain from smoking. Generic reasons are facts about the condition of the person who adopts the

rule when the latter is characterised in general terms. In the case of a smoker the relevant paradigmatic generic reasons are health related facts. For example, the fact that smoking significantly increases the probabilities of developing lung cancer is a generic normative reason to abstain from smoking. Second, there are ‘individual-specific’ reasons. By individual-specific reasons I understand facts about more or less enduring features of the person who adopts the rule. For example, the fact that the agent may be suffering from a terminal disease and has only a few weeks life expectancy or the fact that she is psychologically unable to control her smoking habits may be reasons against her adopting a rule of abstaining from smoking (which may in certain cases override relevant ‘generic’ health reasons). Individual-specific reasons are not however restricted to facts about the physical or psychological condition of the person who adopts the rule. They may also include normative facts, say, obligations one may have towards one’s family or one’s colleagues. For example, despite the fact that exercising three times a week may be good for my health and thus a generic reason for adopting the corresponding rule, my obligations to my bed-ridden sister who requires continuous care may override this generic reason.

The validity of a personal rule depends on the balance of its generic and individual-specific reasons. Decisions to adopt a certain rule normally reflect the agent’s view on the balance of these reasons. I will call the generic and individual-specific reasons for a rule its ‘core’ reasons. But once a personal rule is adopted there are other reasons affecting its normative status. On the one hand, there are reasons which concern the defeasibility conditions of rules. These are facts about the specific circumstances to which a rule adopted by someone applies. Most rules are not absolute and sometimes the agent has reasons to block their application. For example, in certain occasions (an example is given below) I may have stronger reasons to smoke a cigarette than to conform to my rule of abstaining from smoking. One may distinguish two different kinds of deliberations about the defeasibility

conditions of a rule. First, the person who has adopted a rule may consider the specific circumstances to which the rule applies with a view to determining whether there are *pro tanto* reasons against applying her rule. Second, she may deliberate about whether these reasons are strong enough to block the application of her rule in the circumstances she is facing. In the remainder of this article by ‘deliberation about defeasibility conditions’ I will refer to the latter deliberation. On the other, there are reasons which affect the applicability conditions of the rule. For example, reasons for treating a certain substance as a drug or reasons for not considering a case of not inhaling smoke to be a case of smoking. The applicability conditions of a rule differ from its defeasibility conditions. Defeasibility conditions are the conditions under which a rule which applies in the circumstances may be overridden by other considerations. Applicability conditions are the conditions under which a rule is relevant to the circumstances even though its application may be blocked because it is defeated by overriding considerations.

Reconsideration of a rule is different from consideration of its defeasibility and applicability conditions.<sup>14</sup> The following examples illustrate this point. Think first of a diplomat who is negotiating with a dictator the release of some prisoners. Assume that the diplomat has adopted the rule of abstaining from smoking. Now the diplomat has managed to make good progress in the negotiations and establish a good rapport with the dictator. At one of their meetings the dictator offers him a cigar from his private collection of Havana cigars. The diplomat deliberates about whether to deny the offer of the dictator and conform to his rule. He suspects that the dictator might be offended if he declines his offer and this might negatively affect the progress of the negotiations. He decides to block the application of his rule in that case and takes the cigar.

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<sup>14</sup> The distinction between reconsidering a rule and considering its defeasibility conditions maps the distinction Bratman (1999, 88-89) draws between reconsidering and blocking the application of a general policy.

Second, think of the same diplomat who during his holidays in an exotic country finds out that the natives smoke nargileh which contains a specific substance. He tries to find out more about this substance and deliberates about whether it is actually a drug or dangerous for one's health. After a few queries he is satisfied that it is not harmful and goes on to smoke the nargileh.

In neither of these two examples did the diplomat abandon his rule. And in neither of these examples did he reconsider it. In the first example, he deliberated about the defeasibility conditions of his rule (and decided that the demands of his specific circumstances required that he blocked its application). In the second example, he deliberated about its applicability conditions. He decided to smoke the nargileh because he believed that in this case the rule did not apply.

Deliberations about the defeasibility and applicability conditions of a rule do not raise a question which is central to cases of reconsideration of a rule. It is the question of whether the rule is a good rule. Once this question is raised the agent needs to consider the core reasons for retaining the rule. Thus, reconsideration requires that the agent considers the balance of the core reasons for a rule.

We may still speak of core reasons for making specific decisions though given the difference between general rules and concrete decisions we may not unpack the notion of core reasons of decisions in terms of generic and individual-specific reasons. For some decisions (for example, my decision to have a meeting with John at 10am on Monday) there is no meaningful distinction between consideration of their defeasibility or applicability conditions and consideration of whether they are valid decisions. For example, the fact that John had an accident on Sunday and is in intensive care is a reason for me to reconsider my decision. But some decisions allow that a distinction is drawn between, on the one hand,

reconsideration of these decisions and, on the other hand, deliberations which are similar to deliberations about the defeasibility and applicability conditions of rules. Two examples illustrate this point. First, assume that I have decided to raise an issue about university regulations at one meeting of the Senate in the current academic year without having fixed which meeting. My deliberation about whether to raise the issue in the October meeting is not deliberation about whether my decision to raise the issue at the Senate sometime during the year is a good one. If I decide not to raise the issue in the October meeting I have not abandoned my decision. Following Bratman (1989, 456-57) I will say that I have simply chosen not to execute this decision exploiting the fact that my decision is flexible about the occasions of its execution.<sup>15</sup> Second assume that I have made the following conditional decision: if I go on holidays this summer I will go to Santorini. Now a friend invites me to spend a long weekend in Corfu to discuss some business at his house near the coast. In considering his offer I might deliberate about whether I view this trip as business or (also) holidays. In so doing I implicitly (or even explicitly) deliberate about whether my decision about holidays in Santorini would be relevant or not. (If I conclude that I view the trip as business, my decision about my holidays is not relevant.) In this example, I may deliberate about the relevance of my decision without at the same time deliberating about whether my decision is valid.

Thus, we have good reasons to differentiate the kind of deliberation excluded by the reconsideration model from the kind of deliberation involved in assessing the defeasibility and applicability conditions of rules and the conditions of execution and relevance of some decisions. But our attempt to properly identify the kind of deliberation excluded by the reconsideration model is not yet complete. For we need to explain how deliberation about the

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<sup>15</sup> Note that Bratman speaks about intentions. I think however that we can extend his account to cover decisions.



core reasons of a decision or a rule excluded by the reconsideration model differs from mere consideration of these reasons according to the consideration model.

It may be suggested that when I am reconsidering the rule I bracket it and do not let it guide my action. By contrast when I am merely considering the core reasons of the rule, say as an idle exercise, the rule continues to guide my actions or relevant deliberations. This suggestion fails. For I may reconsider the rule and at the same time I may have adopted the policy that I will be guided by the rule until I am confident about the result of my reconsideration of the rule.

I believe that the difference between the consideration and the reconsideration model may be understood as follows. When I reconsider a decision or a rule I pass a new judgement on the balance of the core reasons of my decision or rule. This means that when I reconsider I am willing to change my mind about the balance of the core reasons. By contrast when I am considering only some of the relevant core reasons (as I might do when for example I try to determine whether a substance is harmful and therefore my rule against smoking applies to it), I do not pass a judgement on the balance of the core reasons. Neither do I pass a judgement on the balance of the core reasons, when I consider certain first-order reasons in order to determine whether to execute an occasion-flexible decision on a certain occasion. For example, I may use the consideration that my raising the issue about university regulations may anger the vice-chancellor in my deliberation about whether to raise the issue in the October meeting (given the fact that other more important issues are at stake it might not be prudent to anger the vice chancellor in the October meeting). But letting this consideration influence my deliberation about whether to execute in that occasion my occasion-flexible decision does not mean that I reconsider my decision. Nor do I pass a new judgement on the balance of the core reasons, when I am going through the core reasons for

and against my decision or rule, in order to remind them to myself<sup>16</sup> or as part of an idle exercise. What makes the examination of reasons part of an idle exercise is precisely the fact that I am unwilling (or not bothered) to change my mind about the balance of the core reasons.

Thus the agent's willingness to change her mind about the balance of the core reasons is intrinsic to reconsideration of decisions and rules. This intrinsic feature of reconsideration explains why decisions and rules are reasons to exclude reconsideration. When I decide on a course of action or adopt a rule I acquire a relevant commitment to be guided in my actions by my decision or my rule. This commitment involves unwillingness to revisit the balance of core reasons of my decision or my rule. If my decision or the rule is legitimate, then it is a reason for me to be unwilling to change my mind about the balance of core reasons. But reconsidering my decision or the rule requires that I am willing to change my mind about the balance of core reasons. Therefore, if my decision or the rule is legitimate, it is a reason for me not to reconsider it.

Unwillingness to reconsider is not equivalent to an unwavering commitment to non-reconsideration. Rather it is equivalent to treating non-reconsideration as the default position of the agent. The following considerations support this thesis. First, sometimes due to change of external circumstances it is impossible to execute one's decisions or to apply one's rules. In these cases reconsideration is mandatory. Second, even in the absence of change in the circumstances of execution of decisions or application of rules, it may be rational for an agent to periodically reconsider some of her decisions or rules including the legitimate ones. For example, the agent may have adopted the policy to revisit on New Year's Eve the most

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<sup>16</sup> Sometimes I may adopt a good rule unreflectively. At a later stage, I may still feel committed to the rule but I may wish to reveal its justification, or else its core reasons. In examining the core reasons I still fall short of reconsidering the rule. For in this case my examination of the core reasons is not accompanied by willingness to change my mind about the rule.

important decisions she has taken the previous year. It may be rational for the agent to have adopted such a policy given the confidence she gains about the goals she pursues after such reconsideration. Third, the legitimacy of many decisions and rules partly depends on the goals the agent has. When these goals change due to major shifts in the agent's preferences, it is rational for the agent to reconsider her decisions or rules. These considerations show that unwavering commitment to non-reconsideration would be an unreasonable standard. It seems preferable to treat non-reconsideration as the default position of the agent.

The unwillingness to reconsider her decisions or rules understood as the default position of the agent is related to the function of decisions and rules. Part of the function of decisions and rules is to enable the agent to act without having to weigh up the first-order (core) reasons upon which decisions and rules are based. This is not to say that decisions and rules are only time and labour saving devices. They are also assurance conditions. By making non-reconsideration the default position of the agent decisions and rules provide a degree of assurance that the agent will not fail to form the intention to follow the course of action supported by the relevant decisions or rules because she changes her mind. This assurance enables the agent to pursue further meaningful deliberations and planning. For example, it does not make sense for me to make plans about how to spend the money I will have saved in a year's time from quitting smoking if I believe that my rule of quitting smoking is open to constant reconsideration. And this assurance enables the agent to engage in meaningful cooperative relations with other people. For example, it does not make sense for my partner to make plans for our life together if she believes that I treat my decision to marry her as being open to constant reconsideration.

Let us now explore how the reconsideration model of exclusionary reasons applies to legitimate authoritative directives. We need to find a counterpart to the concept of reconsideration. Reconsideration of decisions and personal rules requires that the agent

revisits the balance of the relevant core reasons while being willing to change her mind and be guided in her action by the outcome of her new deliberation. I suggest that in the case of authoritative directives the counterpart of reconsideration is a deliberation about their core reasons in which the deferring party in an authority relation engages while being willing to be guided in her action by the outcome of this deliberation. If the deferring party engages in this kind of deliberation, then she directly challenges the authority of the party that issues the directive. If the latter's authority is legitimate, then the default position of the deferring party should be to be unwilling to engage in this kind of deliberation.

There is an important difference between reconsideration and its counterpart in the case of authoritative directives. It can be brought out by looking at what could trigger reconsideration. We might distinguish two broad types of cases.<sup>17</sup> On the one hand, reconsideration may be triggered when the agent becomes aware of a new piece of information relevant to circumstances to which her decision or personal rule applies. In this case reconsideration may be triggered by a new belief or desire of the agent. On the other, reconsideration may be triggered even in the absence of some relevant new information. Reconsideration may be simply the result of the agent's psychological anxiety: she may want some further reassurance. In both types of cases if the relevant decision or personal rule is valid, then unwillingness to reconsider should be the default position of the agent. New information or psychological anxiety could similarly lead the deferring party to deliberate about the core reasons of an authoritative directive and thus challenge the authority of the party that issues the directive. But the relevant deliberation of the deferring party could have an additional triggering cause. Before an authoritative directive is issued the deferring party may have formed her own judgement about what is to be done in the circumstances. For example, a colonel may have formed a judgement about how his regiment should protect its

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<sup>17</sup> I leave aside special cases like Kavka's Toxin example.

flanks before he receives a relevant order from the general. There is nothing wrong with his passing a judgement on the relevant balance of core reasons before he receives an order by the general. Indeed it is his duty to make a decision or have in place contingency plans if a directive does not arrive. I suggest that when the deferring party has formed a judgement about the balance of core reasons before she receives an authoritative directive the counterpart to reconsideration is a deliberation of the deferring party in which she weighs up her own judgement about the balance of core reasons against the judgement of the party that issued the directive. If the authoritative directive is legitimate then the default position of the deferring party should be to be unwilling to weigh up her own judgement against the judgement of the authority. By weighing up her judgement against the judgement of the authority the agent challenges the legitimacy of the authority to provide practical guidance.

This deliberation which challenges the authority of the ruling party is different from on the one hand mere consideration of the core reasons which the authoritative directive purports to reflect and on the other deliberation about the defeasibility and applicability conditions of a rule-like authoritative directive or the conditions of execution of an occasion-flexible authoritative directive or the relevance of a conditional authoritative directive. The following examples illustrate how the reconsideration model of the exclusionary function of authoritative directives works. Consider first the rule-like authoritative directive of the general that the colonel's regiment should go for training to the nearby forest every Thursday. There are deliberations about this authoritative directive which are not excluded on the reconsideration model. The colonel may deliberate about whether the severe storm forecasted for the following Thursday is a reason which defeats the application of the rule on that day. Or the colonel may deliberate about whether the fact that the forest has been destroyed in a fire renders the rule inapplicable. Consider second the occasion-flexible command of the general that the regiment should go for training to the nearby forest once a month. The

command allows that the colonel may deliberate about which day of the month to send his troops for training. Consider finally the conditional command of the general that the regiment should retreat to the forest if the enemy's main offensive is on the regiment's right flank. The command permits that the colonel may deliberate about whether the enemy's attacks on the regiment's right flank are a mere diversion. And in all these cases the colonel is permitted to go through the core reasons of the general's command as an idle exercise. Or to have formed his own judgement about what the regiment should do before the general issued his command. What the colonel should not do is to weigh up his judgement about the balance of the core reasons of the command (say, that it is better that the regiment holds its position instead of retreating in the forest if the enemy concentrates its forces against its right flank) against the command.<sup>18</sup>

This understanding of the application of the reconsideration model to authoritative directives is based on a Razian understanding of the function of authoritative directives and their legitimacy. As we have seen, Raz claims that authoritative directives function like personal rules: they mediate between people's actions and first-order reasons for these actions and enable people to act in accordance with the first-order reasons without having to continuously weigh them up for themselves. I have already explained that this characterization of the function of rules should not be taken to imply that rules are only time and labour saving devices. Rules also function as assurance conditions which enable the agent herself and the people she cooperates with to engage in further meaningful deliberations and planning. I suggest that authoritative directives have a similar function as

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<sup>18</sup> Similar considerations apply to the case of law. According to the reconsideration model the default position of a judge should be to be unwilling to weigh up her judgement about the balance of the core reasons of a statute against the statute. But the judge may consider the balance of the core reasons as an idle exercise or deliberate about the defeasibility or applicability conditions of a statute. For example, she may deliberate about whether the defendant was justified in breaking the speed limit (say, to rush his child to hospital) or whether a certain substance is a drug and relevant criminal charges may be brought against a specific individual.

assurance conditions. Furthermore, if we accept Raz's account of legitimate authority, and thus we assume that the deferring parties are more likely to act in accordance with the reasons which apply to them by obeying the authoritative directives rather than their own judgement, then they have a reason to be unwilling to engage in a deliberation about the core reasons of the authoritative directives with a view to forming their own practical judgement about what to do. Or in cases they have already formed their own practical judgement prior to receiving relevant authoritative directives, they have a reason to be unwilling to weigh up their judgement against those directives.

One may object that the reconsideration model is redundant and may be subsumed under the motivational model. The objection I have in mind is based on the assumption that non-reconsideration has exclusively the following instrumental value: it enhances the probabilities that the agent may not be motivated by the excluded reasons. Thus, the fact that a valid decision, for example, favours not reconsidering it ultimately depends on the fact that a valid decision favours not being motivated by the excluded reasons.

The assumption upon which this objection rests is mistaken. First, if my decision is valid, then I have formed a relevant true practical belief. I normally have reason not to lose my true beliefs. So, non-reconsideration has also value as a way of preserving one's relevant true beliefs. Holding on to true beliefs is important not simply because one may not act on false beliefs in the relevant occasion but also because one gains understanding (in our case practical understanding). Second, treating non-consideration of valid decisions as my default position is a sign that I intellectually trust my decisions. I should intellectually trust my valid decisions. For by intellectually trusting my valid decisions I exhibit a relevant virtuous epistemic disposition which enables me to become a good cognizer. So, non-reconsideration

has value as an epistemic disposition which promotes intellectual virtue.<sup>19</sup> Third, there is a sense in which I can reconsider my decision even after I acted on it. I can still change my view about the balance of the relevant core reasons. But if my decision is valid, I have reason not to change my mind. Changing my mind may affect the way I feel by causing as per assumption unjustified regret. And it may relatedly affect my future social interaction. This indicates that decisions have practical significance for the agent which exceeds the role they play in guiding the action they favour. The value of non-reconsideration is also related to the wide epistemic and practical significance of decisions.<sup>20</sup>

The reconsideration model is not susceptible to two objections which are usually mounted against the consideration model.<sup>21</sup> The first objection is that if the deferring party conformed to the normative demand of the exclusionary reasons she would deprive herself of the epistemic resources for assessing the legitimacy of the authoritative directives. This criticism has some bite if exclusionary reasons are understood along the lines of the consideration model. For if authoritative directives exclude even thinking of the first-order reasons they purport to reflect, the deferring parties would never be able to check whether they actually reflect the relevant first-order reasons. This problem does not arise on the reconsideration model. The latter allows that the deferring party may think of the relevant first-order reasons, consult them in order to determine whether the authoritative directive is defeated on occasion by other considerations (which were not included in the balance of the

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<sup>19</sup> I develop this line of argument in my 'Reconsideration and Self-trust' (manuscript). For a systematic analysis of intellectual trust see Foley 2001.

<sup>20</sup> These considerations apply to the case of legitimate authoritative directives as follows. First, by relying on the judgement of legitimate authorities (i.e. authorities which meet the normal justification thesis) I am more likely to acquire or retain true practical beliefs than by relying on my own judgement. So not weighing up my judgement against legitimate authoritative directives is valuable because it raises the probabilities that I will acquire or retain true practical beliefs. Second, intellectually trusting the judgement of legitimate authorities is evidence of a virtuous epistemic disposition. Third, changing my mind about legitimate authoritative directives I have already obeyed may provoke unjustified regret for past actions and relatedly affect my future social interaction.

<sup>21</sup> For a version of these objections see Hurd (1999, 80-88).



core reasons) or properly applies to specific circumstances. It allows that the deferring party may consider them in deciding to exploit the occasion-flexibility of an authoritative directive or its relevance. It even allows that the deferring party may consider the balance of first-order reasons in support of the authoritative directive as an idle exercise or have formed her own judgment about what is to be done before receiving the directive. The reconsideration model only requires that the default position of the deferring party is that she will not weight up her judgement about the balance of the core reasons against the authoritative directive. Thus, on the reconsideration model the deferring party retains the epistemic resources to assess the authoritative directives and depart from her default position if she finds them grossly illegitimate.

In a similar manner one can show that the second objection to the consideration model does not affect the reconsideration model. The second objection is that if authoritative directives excluded consideration of the first-order reasons the authoritative directives purport to reflect, then the deferring party would be epistemically unable to assess whether they fall within their jurisdiction. This objection is based on the assumption that to assess the jurisdiction of an authoritative directive it is necessary that one considers the first-order reasons which the authoritative directive purports to reflect. It is by no means clear that this assumption is correct. One could plausibly claim that to assess whether a command of a certain type (for example, a military command) falls within its jurisdiction it suffices that one knows the range of issues commands of the same type concern. If the colonel orders the major to marry the following day, the major can recognize that the colonel has overstepped his jurisdiction without considering the first-order reasons of the colonel's command. He knows that military commands do not purport to address marital issues.

But even if we accept this dubious assumption, on the reconsideration model the agent retains the epistemic resources for assessing the jurisdiction of an authoritative directive. For,

as we have seen, the reconsideration model allows that the deferring party may consider the core reasons of the authoritative directive.<sup>22</sup>

Does the reconsideration model pragmatically entail the consideration model? One may suggest that to avoid developing a willingness to change one's mind about the balance of the core reasons of an authoritative directive one better avoids considering these reasons. The pragmatic argument appears weak. First, many cases of consideration of the core reasons of an authoritative directive do not involve consideration of the balance of these reasons. For example, when I consult some core reasons of an authoritative directive to determine whether it applies to a certain case, I need not examine the balance of core reasons. Second, even when one examines the balance of the core reasons of an authoritative directive, say, as part of an idle exercise, one does not by default or necessarily become willing to change one's mind on the basis of one's judgment about the balance of the core reasons. Whether one becomes thus willing depends crucially on one's relevant habits and character-traits (for example, epistemic humility) which may bolster one's commitment in certain contexts to rely on the authority's judgement. The risk of one's becoming willing to weigh up one's own judgement against the authority's judgement is diminished when these habits and character-traits are cultivated.

The reconsideration model requires that the agent is psychologically able to exercise a reconsideration avoidance or resistance mechanism. It is quite plausible to assume that such mechanism frequently operates. On the one hand, non-reconsideration is often habitual. For example, we often conform to our decisions without stopping to examine whether to reconsider them. And sometimes soldiers obey their commands without considering whether to challenge the authority of their superiors. On the other, we sometimes decide not to

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<sup>22</sup> I am not here addressing the problems the jurisdiction of authoritative directives creates for Raz's defence of exclusive legal positivism (Raz 1994). For a relevant criticism of Raz's position see Kyritsis 2012.

reconsider. The costs of reconsideration (in terms of time and energy) may be too high. And sometimes people choose not to weigh up their judgement against an authoritative directive despite the fact that they have formed a judgement which conflicts with it. For example, some old Bolsheviks refused to believe that the party order to condemn some of their comrades in the 1937 purges may be wrong and suppressed their own judgement about the innocence of their comrades.<sup>23</sup>

To conclude, the reconsideration model suggested by Raz's account of the exclusionary function of decisions is independent from the motivational model and avoids some of the pitfalls of the consideration model. I suggest that in the context of Raz's theory of practical reasoning exclusionary reasons are properly analyzed along the lines of both the motivational and the reconsideration model.

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## References

Bratman, Michael. 1989. Intention and Personal Policies. *Philosophical Perspectives* 3: 443-69.

Bratman, Michael. 1999. *Intention, Plans and Practical Reason*. Stanford: CSLI Publications.

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<sup>23</sup> See for example the predicament of the fictional character of commissariat Krymov in Grossman (1995).

- Foley, Richard. 2001. *Intellectual Trust in Oneself and Others*. Cambridge: Cambridge University Press.
- Gans, Chaim. 1986. Mandatory Norms and Exclusionary Reasons. *Philosophy* 15: 373-394.
- Grossman, Vasily. 1995. *Life and Fate*. Tr. R. Chandler. London: The Harvill Press.
- Hatzistavrou, Antony. 2006. Instrumental Rules and Motivation. *Legal Theory* 12: 315-45.
- Hurd, Heidi M. 1999. *Moral Combat*. Cambridge: Cambridge University Press.
- Kyritsis, Dimitrios. 2012. The Persistent Significance of Jurisdiction. *Ratio Juris*
- Moore, Michael S. 1989. Authority, Law and Razian Reasons. *Southern California Review* 62: 827-96.
- Raz, Joseph. 1986. *The Morality of Freedom*. Oxford: Oxford University Press.
- Raz, Joseph. 1989. Facing Up: A Reply. *Southern California Review* 62: 1153-1235.
- Raz, Joseph. 1994. Authority, Law, and Morality. *Ethics in the Public Domain*. Oxford: Oxford University Press.
- Raz, Joseph. 1999. *Practical Reason and Norms*. Oxford: Oxford University Press.
- Raz, Joseph. 2006. The Problem of Authority: Revisiting the Service Conception. *Minnesota Law Review* 90: 1003-44.
- Scanlon, T. M. 1998. *What We Owe to Each Other*. Cambridge Mass: Harvard University Press.
- Schaffer, Jonathan 2004. Trumping Preemption. In *Causation and Counterfactuals*. Ed. J. Collins, N. Hall and L.A. Paul. Cambridge Mass: MIT Press.

