

Exclusionary Reasons and the Balancing View of Ought

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According to a natural and widely shared view, claims about what we ought to do correspond with claims about the balance of our reasons: agents ought to ϕ if and only if they have *most reason* to ϕ , which is to say that the set of all of their reasons for ϕ -ing is *stronger* or *weightier* than any set of competing reasons. Following Schmidt (2024), I call this the “Balancing View of Ought” (or “Balancing View” for short):

The Balancing View (BV): For every agent A and act type ϕ , A ought to ϕ if and only if the set of A's reasons for ϕ -ing is weightier than any set of competing reason.¹

One reason why the truth of (BV) matters is that (BV) plays a crucial role in an attractive reductive account of ought facts, which explains such facts in terms of facts about the balance of reasons:

Ought Reduction (OR): For every agent A and response type ψ , for it to be the case that A ought to ψ is for it to be the case that the set of A's reasons for ψ -ing is weightier than any set of competing reasons.²

(OR) is attractive for a number of reasons. The notion of a reason that counts in favour of a certain option with a certain strength is a familiar, pre-theoretical notion. Every agent who has ever made a reflective decision by weighing one consideration against another is already familiar with the property of a reason. To provide explanations of other normative phenomena in terms of this familiar property is illuminating and theoretically attractive. (OR) provides such an explanation.

Moreover, the biconditional between ‘ought’ and ‘most reason’ – i.e., the Balancing View – is itself initially plausible; we seem to use both of these expressions interchangeably, at least in many contexts. It is a well-known point that such biconditionals call for explanation, and (OR) provides a good

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¹ Proponents of the Balancing View include Schroeder (2007, 130); Parfit (2011, 33); Snedegar (2016, 158); Portmore (2019, Ch. 6); McHugh and Way (2022, Ch. 6); Schmidt (2024).

² See esp. Schroeder (2007, 130); McHugh and Way (2022, Ch. 6).

explanation. Provided that the Balancing View can be defended and that there is no better explanation for its truth, (OR) is thus supported by an inference to the best explanation of the Balancing View.

It's clear that (OR) will appeal to those who are sympathetic to the so-called reasons-first approach, according to which all normative facts or properties can be explained in terms of reasons.³ But it should be attractive to many opponents to the reasons-first approach, too. For those who think that reasons can be analyzed in terms of another normative property – such as value (Maguire 2016), fittingness (McHugh and Way 2022), or normative support (Fogal and Risberg 2023) – can combine their view with (OR) in order to analyze ought facts in terms of their preferred fundamental normative property.⁴

There are, of course, alternatives to the reasons-first approach that are inconsistent with (OR), and at least one of them seems to be in a good position to explain the Balancing View as well.⁵ This is the view that for something to be a reason just is for it to explain, or to play a role in the explanation, of an ought.⁶ This view – ought explanationism – rules out (OR) because it takes oughts to be explanatorily more fundamental than reasons, and it can arguably explain why one ought to ϕ iff one has most reason to ϕ as well. However, ought explanationism faces well-known problems. Since one can have reasons to ϕ even if it's not the case that one ought to ϕ , reasons cannot be explanations of oughts; at best, they can play a certain kind of role in a certain kind of explanation of certain facts about oughts and their negation.⁷ As many have pointed out, however, it is doubtful that the relevant explanatory role can be specified without presupposing the notion of a normative reason or the related notion of a reason's weight.⁸ Another problem is that ought explanationists cannot accommodate the natural idea that reasons explain oughts *because* they are reasons.⁹ Given these problems, (OR) seems to provide the better explanation of (BV).

In this paper, I am concerned with an objection to the Balancing View. It is thus an objection that not only proponents of (OR) should worry about, but ought explanationists as well, at least insofar as they are committed to (BV). The objection is that the Balancing View gets things wrong in cases in which the agent has what Joseph Raz calls an “exclusionary reason”, i.e. a “second-order reason to

³ See esp. Skorupski (2010) and Schroeder (2007; 2021).

⁴ See esp. McHugh and Way (2022, Ch. 6).

⁵ Another one is the view that for something to be a reason is for it to be evidence for an ought (Thomson 2008, 146; Kearns and Star 2008). This view is also inconsistent with (OR), but it is at least doubtful that it can explain (BV). For an independent argument against this view and references to further objections, see Kiesewetter and Gertken (2022).

⁶ See esp. Broome (2013, Ch. 4).

⁷ Nebel (2019) suggests that normative reasons can be analyzed as ‘reasons why one ought’ because such ‘reasons why’ are not factive. But if reasons why aren't factive, then they don't seem to be explanatory reasons, for explanations are factive. It is therefore unclear that the non-factive notion of a ‘reason why one ought’ is sufficiently independent from the notion of a normative reason to be used in an analysis.

⁸ See e.g. Kearns and Star (2008); Brunero (2013); Gregory (2016); Fogal and Risberg (2023, 57).

⁹ McHugh and Way (2022, 24–25).

refrain from acting for some reason” (Raz 1975, 40). Consider cases in which the reasons that tip the balance in favour of ϕ -ing – i.e., the reasons whose presence make a decisive difference for the overall balance of reasons – are excluded by an (undefeated) exclusionary reason. In such cases, Raz argues that “one should not act on the balance of reasons, [...] one should act for the weaker rather than the stronger reason which is excluded” (Raz 1975, 41). This seems to contradict the Balancing View.

One of Raz’s examples for illustrating the concept of an exclusionary reason and the problem it causes for the Balancing View is *Colin’s Promise*:

Consider the case of Colin who promised his wife that in all decisions affecting the education of his son he will act only for his son’s interests and disregard all other reasons. Suppose Colin has now to decide whether or not to send his son to a public school. Among the relevant reasons are the fact that if he does he will be unable to resign his job in order to write the book he so much wants to write, and the fact that given his prominent position in his community his decision will affect the decisions of quite a few other parents, including some who could ill afford the expense.¹⁰

Colin faces the decision between a public school (which in the UK is the term for a private school) and a state school for his son. He has first-order reasons for and against sending his son to a state school, but he also has a second-order exclusionary reason not to act for some of these reasons. Let us suppose that the balance of Colin’s reasons supports sending his son to a state school and that one reason that tips the balance is the fact that sending him to a private school would prevent Colin from writing his book. Since this reason is excluded by the reason to keep his promise, the balance of non-excluded reasons supports sending his son to a private school. Raz argues (at least according to a common interpretation) that if Colin’s promise constitutes an exclusionary reason, Colin ought to send his son to a private rather than state school, even though the overall balance of reasons supports sending him to a state school.

If this is true, the Balancing View has to be rejected. What is worse, it’s far from clear that (BV) can be modified to accommodate exclusionary reasons in a way that is consistent with the idea that oughts can be explained in terms of reasons – or so will I argue. If Raz’s argument succeeds, then exclusionary reasons pose an essential threat to this idea.

¹⁰ Raz (1975, 39).

Although Raz presented this objection 50 years ago in his first book *Practical Reason and Norms*, and even though his concept of an exclusionary reason has been very influential in moral, political and legal philosophy, Raz's objection to the Balancing View has received surprisingly little attention in the debate concerning the reasons-first approach and its competitors. In fact, none of the proponents of the Balancing View that I referenced above even mentions exclusionary reasons. One reason for this may be that Raz's discussion contains some important ambiguities that make it difficult to reconstruct the details of the objection. In fact, some interpreters seem to hold that he never meant to argue against the Balancing View. I will provide a reconstruction of what I take to be Raz's objection to the Balancing View below, but my main interest is systematic rather than exegetical. Whether exclusionary reasons undermine the Balancing View is an important question in its own right, no matter whether Raz is best interpreted as claiming that they do.

The main aim of this paper is to defend the Balancing View against the objection from exclusionary reasons. Section §1 starts with some general remarks about the content of the Balancing View, and a discussion of the question of how to understand the notion of a 'competing reason' figuring in it. Section §2 presents Raz's objection to the Balancing View in more detail, and section §3 discusses three reply strategies. My defence of the Balancing View is based on a distinction between two kinds of cases: cases in which the agent can conform with both the exclusionary and the balance-tipping first-order reason (*compatibility cases*), and cases where this is not the case (*incompatibility cases*). Section §4 argues that there cannot be undefeated exclusionary reasons against acting on balance-tipping reasons in incompatibility cases. Section §5 argues that undefeated exclusionary reasons in compatibility cases pose no threat to the Balancing View. I conclude, in section §6, by discussing the question of what relevance exclusionary might have if my defence of the Balancing View is successful.

§1. The Balancing View

The notion of 'ought' that the Balancing View is concerned with is the all-things-considered notion, which should not be confused with the moral ought or any other ought that is relativized to a particular normative domain or a particular set of reasons. I follow Raz in taking ought facts to "indicate that an action is such that failure to do it, unless excused, indicates some fault, which need not be a moral one, nor a neglect of one's self-interest".¹¹ This is one reason why the Balancing View requires that the reasons for doing what you ought must be *stronger* than the competing reasons. If neither of two

¹¹ Raz (1990, 213, n. 18). Raz makes this claim in a context in which he *revises* his earlier view that ought claims are equivalent with (pro tanto) reasons claims (cf. Raz 1975, 29). However, I take it that what he calls the "ought all things considered" in Raz (1975, 36) is already meant to cover the notion that is related to fault.

competing sets of reasons is stronger than the other – for example, because they are equally strong, or because they are incommensurable – then it would not be a fault (even absence any excuse) to perform one rather than the other, and so neither option is what you ought to do.¹² It might still be the case that you ought to perform at least one of them, of course, if the reasons for performing at least one of them are stronger than competing reasons.

There is a lively debate about whether the all-things-considered ought should be understood as being constrained by the agent’s epistemic circumstances. I hope to be neutral on this issue in this paper. The Balancing View might be understood as being concerned with an objective ought that is defined in terms of objective reasons, or with an epistemically constrained ought that is defined in terms of an epistemically constrained notion of a reason, or with both of these oughts. Those who think that oughts but not reasons are epistemically constrained can adjust (BV) by reformulating it in terms of available or possessed reasons.¹³ These questions are orthogonal to the ones I am pursuing here, and I only mention them to put them aside.

(BV) makes reference to *competing reasons*, but what are these? All of the following seem prima facie natural candidates:¹⁴

(CR)_{AGA} For a reason to compete with a reason to ϕ is for it to be a *reason against ϕ -ing*.

(CR)_{REF} For a reason to compete with a reason to ϕ is for it to be a *reason to refrain from ϕ -ing* (or, equivalently, a reason *for not- ϕ -ing*).

(CR)_{ALT} For a reason to compete with a reason to ϕ is for it to be a reason *for an alternative to ϕ -ing*.

Throughout this paper, I will understand competing reasons along the lines of (CR)_{ALT}. This yields the following version of the Balancing View:

(BV)_{ALT} For every agent A and act type ϕ , A ought to ϕ if and only if the set of A’s reasons for ϕ -ing is weightier than any set of reasons for any alternative to ϕ -ing.

¹² Raz’s assumption that oughts correlate with undefeated reasons seems to conflict with this point; see §2 below for a brief discussion.

¹³ See Kiesewetter (2017, Ch. 8) for the view that reasons are epistemically constrained and Lord (2018, Ch. 8) for the view that oughts are to be analyzed in terms of possessed reasons.

¹⁴ See also Schroeder (2015, 163–64).

Further, I will assume that ϕ -ing and ψ -ing are *alternatives* just when they are incompatible options, i.e. just when A can ϕ , A can ψ , but A cannot [ϕ and ψ]. I take the ‘can’ in question to denote the specific ability to ϕ , which requires both the general capacity as well as the opportunity to ϕ . However, nothing in my argument hinges on this understanding of ‘can’, and I will later consider an alternative conception when it becomes relevant for the dialectic.¹⁵

Why favour this conception of the Balancing View over other possible ones? Consider a conception that takes competing reasons to be reasons against. The problem is that there are cases in which the reasons for ϕ -ing are stronger than the reasons against ϕ -ing, but not stronger than the reasons for some incompatible alternative to ϕ -ing.¹⁶ In such cases, the Balancing View yields implausible results if the only competing reasons it takes into account are reasons against. One might think that such cases are impossible, because reasons for actions transmit to reasons against incompatible alternatives:

Reasons Transmission (RT): If R is a non-optional reason for ϕ -ing, then R is also an equally strong reason against every alternative to ϕ -ing.¹⁷

But the problem is that the restriction to non-optional reasons in the antecedent of this principle is unavoidable, and the restriction renders cases of the described kind possible. Non-optional reasons are reasons one cannot fail to conform to without some (at least minor) loss; a reason is non-optional if and only if it is either a non-derivative reason or a reason for a necessary or best means to conforming with a non-derivative reason. Reasons for means that are not best means, but merely optimal (or even less than optimal) are optional: one can forego them without any loss if one takes another optimal means. Consider:

¹⁵ Raz rejects the assumption that ‘ought’ implies ‘can’ in the sense of ‘is able to’ (Raz 1989, 1174), but he seems to accept that ‘ought’ implies ‘can’ in the sense of ‘is physically possible’, as he maintains that reasons are defeated by stronger reasons for logically or physically incompatible actions (cf. Raz 1975, 25–26). This will become relevant below in sections §§4–5.

¹⁶ See also Schmidt (2024, 264–66) for an independent argument to the same conclusion. Schmidt’s argument relies on a controversial premise that the present argument does not rely on, namely that non-derivative reasons against actions provide reasons for each optimal alternative. The present argument merely relies on the uncontroversial assumption that non-derivative reasons for actions provide reasons for optimal sufficient means (cf. Kiesewetter and Gertken 2021).

¹⁷ See Kiesewetter (2018, 114). Schmidt (2024, 252) embraces a slightly weaker principle that is restricted to non-derivative reasons.

Ticket counter #1: You bought a ticket for a concert and you can collect it either at counter A or B. After having collected the ticket at one of these counters, it's no longer possible to collect it at the other.

You have reasons for incompatible actions – for collecting your ticket at counter A and for collecting it at counter B. But it seems false to think that your reason to collect the ticket at counter A is a reason against collecting it at counter B. What matters is that you get the ticket. Provided that both are optimal ways of collecting it, the fact that collecting the ticket at counter B prevents you from collecting it at counter A does not count against it. The restriction in (RT) to non-optional reasons avoids this result: since your reason to collect the ticket at counter B are derivative, and they aren't reasons for a best means but a merely optimal one, they do not transmit to reasons against incompatible alternatives. This means, however, that you have a reason for collecting the ticket at counter B, but no reason against doing so. If the only competing reasons are reasons against, (BV) entails that you ought to collect the ticket at counter B. Evidently, this is the false result: you are not at fault if you collect the ticket at counter A rather than B, nor do you need an excuse for doing that. This result is avoided if we allow reasons for incompatible alternatives to be among the competing reasons. Since the reasons for collecting the ticket at counter A are just as strong as the reason for collecting it at counter B, the reasons for collecting it at counter B are not stronger than the competing reasons, and we get the desired result that it's not the case that you ought to collect your ticket at counter B.

This explains why being a reason against is not a necessary condition for being a competing reason, and the same argument shows that being a reason to refrain from ϕ -ing is not necessary either. The appeal to alternatives is unavoidable. However, this doesn't show that reasons for alternatives exhaust the class of competing reasons. Do we need to add reasons against or reasons to refrain to the class of competing reasons, besides reasons for alternatives? Since refraining from ϕ -ing is an incompatible alternative to ϕ -ing, reasons to refrain are already covered. The question thus turns on whether there is any difference between reasons against and reasons to refrain. Consider:

Reasons against (RA): For R to be a reason against ϕ -ing is for R to be a reason for not- ϕ -ing.

This view seems both pre-theoretically plausible and theoretically attractive. It is pre-theoretically plausible because in ordinary discourse, we do not seem to distinguish between reasons against and reasons for not doing it. And it is theoretically attractive, because it avoids postulating a separate and

independent reasons-against relation over and above the reasons-for relation. We thus need strong reasons for rejecting (RA) to insist on such an independent relation.

I agree with the proponents of (RA) that the reasons that have been put forward against (RA) are inconclusive at best, but it would take me too far afield to engage with these reasons here.¹⁸ For the purposes of this paper, I will simply assume that (RA) can be defended, and reasons against can be understood as a subclass of reasons for alternatives. However, nothing in what follows depends on this assumption. Those who reject (RA) will have to appeal to a less unified picture of competing reasons and the Balancing View, according to which reasons for ϕ -ing have to be stronger than both reasons against ϕ -ing *and* reasons for alternatives in order to establish an ought fact.¹⁹

So far, I have argued that the reference to reasons for alternatives is necessary for spelling out the Balancing View, and that the reference to reasons against and reasons to refrain is redundant, at least if (RA) holds true. Let me finally consider whether there are reasons to doubt the suggested account of an ‘alternative’, i.e. whether we should allow for some *compatible* options to be alternatives. Cases of reasons for optimal sufficient means that are compatible with each other seem to provide support for this view. Consider:

Ticket counter #2: You bought a ticket for a concert and you can collect it either at counter A or B. After having collected the ticket at one of these counters, you are still able to collect a duplicate ticket at the other counter. However, there is no advantage of collecting such a duplicate; the ticket contains a barcode that will be scanned when entering the venue and each barcode can only be scanned once.

In this case, collecting your ticket at counter A is not incompatible with collecting it at counter B. So it might seem that, on the present conception of an alternative, (BV)_{ALT} entails that you ought to collect the ticket at counter A, since you have reason to do that and apparently no reason for an incompatible alternative that counterbalances this reason. But for the same reasons as above, this seems

¹⁸ The only argument against (RA) I am aware of is Snedegar’s, who argues that (RA) is false because it does not tell us how reasons against ϕ -ing bear on more fine-grained choices between reasons for ϕ -ing and several other options. As Schmidt (2024, 250, n. 6) points out, however, there are ways of answering that question that Snedegar disregards. More fundamentally, it’s just not clear why this is an objection to (RA). Just as it isn’t obvious how reasons against ϕ -ing bear on the competition between reasons for ϕ -ing and reasons for various fine-grained alternatives to ϕ -ing, it isn’t obvious how reasons for not- ϕ -ing bear on that competition. But this can hardly be an argument against (RA). What could provide an argument is an independently plausible account of the first kind of competition that rules out (RA). Snedegar aims to provide such an account, but it relies on a number of highly controversial assumptions about reasons. Moreover, the fact his account rules out (RA) speaks strongly against it, given the pre-theoretical and theoretical attractions of (RA).

¹⁹ See e.g. Snedegar (2021, 148–50).

the wrong result: there is no fault in not collecting the ticket at counter A if you collect it at counter B instead, nor do you need an excuse for doing so. There is pressure to say, then, that the reasons for collecting the ticket at counter B are reasons for an alternative that counterbalance the reasons for collecting the ticket at counter A, even though in this variant of the case collecting the ticket at counter B is not incompatible with collecting it at counter A.

If this were so, defenders of the Balancing View would need a different account of an alternative, but it's not clear that such an account is needed.²⁰ One of the options in the present example is the “conjunctive option” of [collecting the ticket at counter B and not-collecting the ticket at counter A]. This option is incompatible with collecting the ticket at counter A, and it is difficult to see why the reasons for collecting the ticket at counter A should be stronger than the reasons for taking this conjunctive option. If they aren't, then (BV)_{ALT} doesn't have the false implication that you ought to collect the ticket at counter A if we assume that alternatives must be incompatible.

This strategy seems to generalize. Whenever it seems that two equally well supported compatible options, ϕ -ing and ψ -ing, are alternatives in an intuitive sense, because there is no point of taking them both, then the options of [ϕ -ing and not- ψ -ing] and [not- ϕ -ing and ψ -ing] seem no less supported than the options of ϕ -ing and ψ -ing. If this is so, there are incompatible alternatives to both ϕ -ing and ψ -ing that are equally well supported, which means that (BV)_{ALT} doesn't entail that one ought to take any of these options in particular. It thus seems that the strict notion of an alternative, which I defined above, is sufficient for the purposes of spelling out the Balancing View.

§2. *The objection from exclusionary reasons*

According to Joseph Raz, a great variety of normative practices and deliberative phenomena – including authoritative directives, jurisdiction, promises, decisions, and discourse about moral obligations – are committed to the existence of exclusionary reasons. Raz's official definition of an exclusionary reason states that it is a “second-order reason to refrain from acting for some reason” (Raz 1975, 40). But there are disagreements about how to understand the notion. Moore (1989) distinguishes a heuristic (or decision-strategic), a motivational and a justificatory sense of ‘exclusionary reason’.²¹ On the heuristic interpretation, exclusionary reasons are reasons against the mental acts of *considering* certain reasons or *attending* to them in deliberation. Raz explicitly rejects this interpretation, claiming that “there is no reason to prevent a person ... from going through the

²⁰ I owe thanks to Thomas Schmidt for correspondence on this point.

²¹ Moore (1989, 858) maintains that all three senses are present in Raz's work, while he holds that Raz consistently used only the motivational interpretation in Moore (forthcoming).

arguments to amuse himself or as an exercise, etc., so long as he does not trust his judgement enough to act on it”.²² On the motivational interpretation, exclusionary reasons exclude certain considerations as motivating reasons; they tell us not to do something for a certain reason or not to be guided in a certain way. One can conform to such a reason either by refraining from performing the act, or by performing the act for another rather than the excluded reason (or perhaps for no reason at all). This motivational interpretation seems to meet Raz’s official definition.

On what Moore calls the “justificatory interpretation”, exclusionary reasons do not only exclude certain reasons as motivating, but prevent them from “doing their normal justificatory work” as *normative* reasons.²³ There are two ways in which this might happen (which are not always clearly distinguished by Moore). Firstly, exclusionary reasons might be understood as what epistemologists call “undercutting defeaters” and what Raz calls “cancelling conditions”: factors that make it the case that a fact that would otherwise be a normative reason is no longer such a reason. For example, if people agree to annul a contract or marriage, or if a promisee releases a promisor from a promise, this plausibly cancels certain reasons they had before.²⁴ Alternatively, an exclusionary reason might also be understood as a non-undercutting defeater, i.e. a factor that prevents a reason to ϕ from making it the case that the agent ought or has sufficient justification to ϕ , but not by preventing it from being a reason or counting in favour of ϕ -ing. The view here would be that besides the familiar forms of defeat, undercutting defeat by cancelling conditions and countervailing defeat by stronger reasons, there is a further kind of defeat – let’s call it *pre-emptive defeat* – that prevents reasons from establishing an all-things-considered normative status without either undercutting them as reasons or outweighing them in virtue of strength.

Raz explicitly distinguishes exclusionary reasons from cancelling conditions, and he makes claims that strongly suggest that he thinks of exclusionary reasons as pre-emptive defeaters. He says, for example:

The introduction of exclusionary reasons entails that there are two ways in which reasons can be defeated. They can be overridden by strictly conflicting reasons or excluded by exclusionary reasons. (They may, of course, also be cancelled by cancelling conditions [...]).²⁵

²² Raz (1975, 48).

²³ Moore (1989, 857).

²⁴ See Adams (2021) for a defence of a conception of exclusionary reasons as cancelling conditions.

²⁵ Raz (1975, 40).

This passage entails that exclusionary reasons defeat excluded reasons, and that they do so in a way that is different from cancelling as well as from overriding, which is Raz's preferred term for countervailing defeat (i.e. defeat in virtue of strength or weight). Does this mean that he uses the term 'exclusionary reason' in what Moore calls the "justificatory sense" in this passage? Is Raz's notion of an exclusionary reason subject to an ambiguity between a motivating and a justificatory interpretation?

The much more charitable conclusion to draw is the following. Raz's concept of an exclusionary reason is consistently and unequivocally the concept of an exclusionary reason in the motivating sense, i.e. the concept of a reason not to act for another reason.²⁶ However, this is consistent with ascribing to Raz the *normative* claim that exclusionary reasons pre-emptively defeat the reasons they exclude. If Raz used 'exclusionary reason' in the (pre-emptive) justificatory sense, it would be a conceptual truth that they pre-emptively defeat the reasons they exclude. But it is not. According to Raz, this assumption follows from a normative principle rather than a conceptual truth, namely the "general principle of practical reasoning which determines that exclusionary reasons always prevail when in conflict with first-order reasons".²⁷

On my interpretation, then, Raz uses the term 'exclusionary reason' to refer to the notion of a reason not to act for some other reason (i.e. not to be guided in one's actions by certain motivational reasons), and he also makes the normative claim that such reasons pre-emptively defeat the normative reasons they exclude as motivating reasons (at least unless they are defeated themselves, more on this presently).²⁸ It is this normative claim that presents a challenge for the Balancing View. If it's possible for Colin to have an undefeated exclusionary reason not to act on a reason that tips the balance in favour of sending his son to a state school, and if undefeated exclusionary reasons defeat the reasons they exclude, then the excluded reason is prevented from making it the case that Colin ought to send his son to a state school, and since it tips the balance, no other reason can establish this conclusion without its help. The Balancing View, however, entails that Colin ought to send his son to a state school.

²⁶ As Raz confirms in his response to Moore, see Raz (1989, 1156)

²⁷ Raz (1975, 40). Moore (forthcoming) seems to argue that since Raz uses the term 'exclusionary reason' in the motivating sense, he does not think that exclusionary reasons are pre-emptive defeaters. But this ignores the possibility that Raz thinks of the latter as a normative rather than conceptual truth. My interpretation is further supported by the fact that the concept of a pre-emptive defeater is not the concept of a reason at all. Pre-emptive defeaters do not count in favour or against responses; in particular, "excluding from ought-making" is not a response that can be favoured by a reason – not something agents can do (let alone do for a reason). The same is true of cancelling conditions. The concept of an exclusionary reason, which is the concept of a certain kind of reason, therefore cannot be the concept of a pre-emptive defeater or cancelling condition. In other words, Moore's concept of an exclusionary reason in the justificatory sense is not the concept of a reason at all. But of course it does not follow that exclusionary reasons cannot be pre-emptive defeaters.

²⁸ I should say that this is my interpretation of Raz's discussion in Raz (1975). As we shall see, Raz seems to withdraw the normative claim in later work.

Raz presents his case against the Balancing View by way of a discussion of the following three principles:

- P1. It is always the case that one ought, all things considered, to do whatever one ought to do on the balance of reasons.
- P2. One ought not to act on the balance of reasons if the reasons tipping the balance are excluded by an undefeated exclusionary reason.
- P3. It is always the case that one ought, all things considered, to act for an undefeated reason.²⁹

P1 represents the Balancing View.³⁰ The formulation presupposes that there are senses of ‘ought’ that are relativized to sets of reasons and that differ from the all-things-considered ought, but this assumption does not seem essential. I take it that we can substitute “whatever is best supported by the balance of reasons” for “whatever we ought to do on the balance of reasons”.

Raz claims that “P2 contradicts P1”, which is why P1 has to be replaced by P3.³¹ This is crucial for the interpretation of P2 and P3. The first thing to note here is that for P2 to contradict P1, the ‘ought’ occurring in P2 must be understood as the all-things-considered ought that also occurs at the beginning of P1 and P3. Even after this adjustment, there remains an important ambiguity in P2, however. “Acting on the balance of reasons” has a motivational and a non-motivational reading: it can mean that one *is motivated by* the relevant reasons or that one merely *conforms to* those reasons (no matter how one is motivated). On the motivational reading, P2 merely says that one ought not to be motivated by the excluded reasons. That one ought not to be motivated by a reason that is excluded by an undefeated exclusionary reason is, if true, a quasi-formal truth: it simply follows from the conceptual truth that exclusionary reasons are reasons not to be motivated, together with the principle (which Raz accepts) that one ought to ϕ if one has an undefeated reason to ϕ . But on this reading, P2 does not contradict P1. P1 is a principle about what one ought to do, which has no immediate implications for how one ought to be motivated. For this reason, P2 must be understood as stating that one ought not to *conform to* the balance of reasons if the reasons tipping the balance are excluded. This principle contradicts P1, and it is based on a substantive normative assumption about exclusionary reasons rather than a quasi-formal truth.

²⁹ Raz (1975, 36–40).

³⁰ More exactly, P1 represents merely the conditional (entailed by the Balancing View) that one ought to ϕ if one has most reason to ϕ . But this difference won’t matter for what follows.

³¹ Raz (1975, 40).

Raz embraces this normative assumption in the discussion that leads him to accept P2 – it is the “general principle of practical reasoning” that we have already encountered, which states that conflicts between exclusionary and excluded reasons (conflicts that Raz contrasts with “strict conflicts” between first-order reasons) are always resolved in favour of the exclusionary reason. The principle is later limited to *undefeated* exclusionary reasons (“only undefeated exclusionary reasons succeed in excluding”), but the point here is that exclusionary reasons not only *count against being motivated* by excluded reasons (which they do as a matter of conceptual truth), but *defeat* excluded reasons (in virtue of a substantive principle of practical reasoning). It is this reading (and only this reading) that explains why Raz holds that P2 contradicts P1; why he holds that exclusionary reasons establish a distinctive form of defeat; and also why he holds that exclusionary reasons can make it the case that “one should act for the weaker rather than the stronger reason” (Raz 1975, 41).

For related reasons, I also propose to understand P3 as claiming not that we always ought to be *motivated by* any undefeated reason (which is suggested by the formulation “act for an undefeated reason”), but instead as claiming that we always ought to *conform to* an undefeated reason. Otherwise, we would have substituted a view about what we ought to do (P1) with a view about how we ought to be motivated – a view on a different subject matter! To make matters worse, the motivational reading of P3 yields a highly demanding and implausible view, as it seems often optional for us to be motivated by our undefeated reasons.³² Finally, my interpretation of P3 is strictly logically weaker than the motivational reading, and it cannot be wrong to stick to the weaker assumption if the stronger isn’t needed.

On my interpretation of Raz, then, we should understand him as being concerned with the following three principles, arguing that P1* should be replaced by P3* because it is ruled out by P2*:

- P1*. It is always the case that one ought, all things considered, to do whatever is best supported by the balance of reasons.
- P2*. One ought, all things considered, not do what is best supported by the balance of reasons if the reasons tipping the balance are excluded by an undefeated exclusionary reason.
- P3*. It is always the case that one ought, all things considered, to do what one has undefeated reason to do.

³² Suppose you have an undefeated promissory reason to visit your friend in the hospital: are you at fault if you are motivated by an intrinsic desire to see your friend rather than your promise? On the motivational reading, P3 entails that you are, which strikes me as evidently false.

As mentioned above, some seem to interpret Raz differently, as not holding that exclusionary reasons pre-emptively defeat normative reasons, and, consequently, as not rejecting the Balancing View.³³ I find it difficult to square this interpretation with Raz's claims that P2 contradicts P1 and that P1 needs to be replaced by P3 (as well as a number of other of Raz's claims that I cited). But for my purposes, this exegetical question is secondary. Surely, Raz has often been understood as presenting an argument against the view that we ought to act in accordance with the balance of reasons. The proposed interpretation displays an interesting and coherent objection to the Balancing View that is worth considering in its own right, independently of whether Raz should be read as embracing it or not.

Even though nothing really hinges on this for the argument of this paper, one last point needs to be mentioned. On a natural reading of what it means for a reason to be undefeated, P3* seems objectionable. For a reason to be undefeated is for this reason to be not defeated. Plausibly, however, a reason can be not defeated and still fail to establish an ought fact. This will be so if there are reasons for incompatible actions that are not stronger, but also not weaker than the reason in question, as in the famous case of Buridan's donkey, or the ticket counter cases discussed above, but also in the various cases of incommensurability that Raz himself has explored in great depth (Raz 1999). In my view, these are all cases in which not conforming to an undefeated reason without excuse need not amount to a fault and thus doesn't violate an ought.³⁴ By contrast, P3* seems to entail that these are all cases of deontic dilemmas. I have argued against the possibility of dilemmas between all-things-considered ought claims elsewhere, and I think that the appearance of such dilemmas can be captured by allowing for unresolvable conflicts between incommensurable reasons or *pro tanto* duties (which may also give rise to *disjunctive* all-things-considered oughts).³⁵ But I take it that even those who believe in the existence of deontic dilemmas cannot seriously maintain that all cases of parity or ties – including the ticket counter cases discussed above – are deontic dilemmas. And yet this is what P3* entails on the present interpretation.

³³ This seems to be Heuer's (forthcoming) and Moore's (forthcoming) interpretation. It's worth noting that the fact that Raz allows for "lucky mistakes" (1989, 1159–60; 1990, 185–86) – cases in which an agent is lucky because he accidentally conforms to both the exclusionary and the first-order reason – does not support this interpretation. While it arguably supports the view that excluded reasons are not cancelled (cf. Heuer forthcoming), it doesn't support the view that excluded reasons aren't pre-emptively defeated, at least if we allow for the possibility that violating an ought can be a lucky mistake. And we should allow for this possibility: I certainly ought not bet my life savings on rolling doubles, but if I win, I will have made a lucky mistake.

³⁴ Note that the fact that there is an undefeated reason for an incompatible alternative is not an *excuse* but a *justification*. If reasons for other options counted as excuse, the principle that failure to do what one ought to do is a fault absent excuse would be uninformative.

³⁵ See Kiesewetter (2015; 2018) for an argument against deontic dilemmas and Kiesewetter (2023) for an argument for the possibility of conflicting (moral) duties.

One option here is to stipulate a notion of ‘defeat’ according to which for a reason to be defeated is simply for it to be prevented from establishing an ought fact. On this notion, being counterbalanced by equally strong or incommensurable reasons already amounts to defeat. But this surely stretches the intuitive notion of ‘defeat’, which indicates a form of *winning* and is essentially *asymmetric*: drawing with the chess champion is different from defeating the chess champion, after all. Alternatively, P3* has to be modified, perhaps by way of including the condition that there is no undefeated reason for an incompatible alternative.

§3. Three replies

How can the friends of the Balancing View respond to Raz’s objection? As far as I can see, there are three options. The first is to accept both the existence of exclusionary reasons and P2* and follow Raz in adjusting the Balancing View in a way that accommodates these assumptions. The second option is to defend a general skepticism about exclusionary reasons, which would make P2* vacuously true, but in a way that does not threaten P1*. Finally, one might reject P2* and argue that the existence of exclusionary reasons is consistent with P1*.

Raz’s own proposal of how to accommodate P2* faces an important challenge. P3* appeals to the notion of an ‘undefeated reason’, but what is it for a reason to be undefeated? On the stipulated notion mentioned above, it is for this reason not to be prevented from establishing an ought fact. However, insofar as we are looking for an informative explanation of oughts in terms of reasons, appealing to the idea of *preventing from ought-making* is not a viable option.

Perhaps P3* can be adjusted in the mentioned way to avoid the stipulated definition, but the question remains whether Raz’s notion of defeat can be spelled out in a way that is consistent with the explanatory ambitions of the reasons-first approach and other approaches that aim to explain normative overall properties in terms of *pro tanto* reasons. For example, it won’t help to define a defeater as a factor that prevents a reason to ϕ from making it the case that the agent *may* ϕ , or has *sufficient justification* to ϕ , or that ϕ -ing is *rationally eligible*. For plausibly, these are duals of ought: an agent ought to ϕ if and only if it is not the case that she may not- ϕ , or has sufficient justification to not- ϕ , or that not- ϕ -ing is rationally eligible. And in any case, giving up the idea that ‘may’, ‘justification’ or ‘rational eligibility’ can be informatively explained in terms of reasons would be a great cost for these views as it would rule out their more global ambition of explaining normative properties in terms of reasons or another unified notion reasons can be reduced to.

The problem cannot be avoided by modifying P3* as follows:

Exclusive Balancing (EB): For every agent A and act type ϕ , A ought to ϕ if and only if the set of A's *non-excluded* reasons for ϕ -ing is weightier than any set of *non-excluded* competing reasons.³⁶

For what is a non-excluded reason? For (EB) to have the desired extension, we need to assume that it is a reason that is not excluded by an *undefeated* exclusionary reason. But then (EB) also implicitly relies on the notion of defeat.

Bracketing undercutting defeat (which Raz anyway doesn't count as defeat, and whose analyzability in terms of reasons cancellation does not seem to raise any problems), proponents of the Balancing View can spell out defeat in terms of the strength of reasons:

Defeat: For a reason for ϕ -ing to be defeated is for there to be a set of reasons for an incompatible alternative to ϕ -ing that is stronger than any set of reasons for ϕ -ing.

But Raz's distinctive claim is that besides this *countervailing* kind of defeat (and besides undercutting defeat or cancellation), there is another kind of defeat that cannot be spelled out in terms of the strength of reasons.

Perhaps, then, we need to give a disjunctive account of defeat. For a reason to be defeated, on this view, is for it to be *either* counterbalanced by reasons for incompatible options *or* excluded by an undefeated higher-order reason. But this proposal still faces three challenges. The first is that it faces a regress, because it appeals to the property of being undefeated in an account of what defeat is. The second is that the account is disjunctive and thus faces the problem of all disjunctive accounts, namely that they cannot account for the unity of the phenomenon they are supposed to account for. If there is any content to the thesis that counterbalancing and excluding are both ways of defeating a reason, then they must have something in common other than that they are either counterbalancing or excluding. The third and probably most severe problem is that it does not seem correct to say that being defeated can *consist in* being excluded. Being excluded is the property that a reason has when there is (undefeated) reason not to act for it, i.e. not to be motivated by it. If it's true that being excluded entails being defeated, then this is not true in virtue of the property of being excluded, but in virtue of a normative principle that says that excluded reasons are defeated. And for that principle

³⁶ Compare Heuer (forthcoming).

to have content the property of being defeated cannot be the disjunctive property of being countervailed or excluded.

It is thus not clear whether the idea that oughts can be explained in terms of reasons is consistent with P2* if we assume that there are exclusionary reasons that can make its antecedent true. One way to avoid these problems would be to adopt a skeptical view about exclusionary reasons. Accordingly, both Moore (1989) and Whiting (2017) have argued that we lack the kind of control over our motivating reasons that we have over our actions and that, therefore, exclusionary reasons do not satisfy an important precondition for being reasons in the first place. However, as Keeling (2023) emphasizes, we seem to be accountable for our motivating reasons – we can be criticized for doing the morally right thing for selfish reasons, for example, which suggests that we have reasons against doing so. Moreover, we also do not have the kind of control over our beliefs or emotions that we have over our actions, and yet there are reasons for beliefs and emotions. Responsiveness to second-order reasons might be understood according to the model of responsiveness to epistemic reasons and other reasons for attitudes, rather than in terms of voluntary control.³⁷

Skeptics about exclusionary reasons also face the challenge to redescribe the normative and deliberative phenomena that Raz appeals to in a way that does not appeal to exclusionary reasons, and they will likely have to accept revisionary implications. Colin's promise, for example, seems to create a reason not to act for certain reasons. One might argue that the promise is invalid or that it only creates a first-order reason for him to desire or attempt to bring it about that he doesn't act for this reason.³⁸ But these responses don't seem to do full justice to the phenomenon. It is not the same to promise to base one's decision only on certain reasons and to promise to attempt to bring it about that one does, and it's not clear why the first kind of promise could not be valid. It thus seems preferable to take the example at face value.

It has been argued that those who accept exclusionary reasons are committed to rejecting the Balancing View.³⁹ But this is to confuse the thesis that there are reasons against being motivated in certain ways with the thesis that these reasons generally defeat the reasons they exclude as motivating reasons. These claims are independent and one can accept the first while rejecting the latter. I shall now argue that the existence of exclusionary reasons does not conflict with the Balancing View, and that Raz's argument to this effect is unconvincing.

³⁷ Cf. Keeling (2023), Raz (1989, 1174–78).

³⁸ Cf. Whiting (2017, 410).

³⁹ See e.g. Whiting (2017, 401).

§4. Defending the Balancing View in incompatibility cases

Consider Colin's promise again. In order for it to create a problem for the Balancing View, we need to suppose that the set of reasons to send his son to a state school is stronger than the set of reasons to send him to a private school, but that the set of non-excluded reasons to send him to a private school is stronger than the set of non-excluded reasons to send him to a state school. In such cases, the Balancing View entails that Colin ought to send his son to a state school, which contradicts P2*. *Excluded Balancing*, by contrast, entails that Colin ought to send his son to a private school, which accommodates P2*.

Granting this starting point (including the presence of the relevant exclusionary reason that Colin created by giving the promise), should we reject the verdict of the Balancing View? It pays to distinguish two possible cases. In what I call the *incompatibility cases*, the agent cannot conform to both the exclusionary and the relevant first-order reason. Applied to the case of Colin's promise, this means that Colin can send his son to a state school only if he breaks his promise not to act on certain first-order reasons. In *compatibility cases*, by contrast, the agent can conform to both the exclusionary and the first-order reason. Applied to our example, this means that Colin can keep his promise and still send his son to a state school. The distinction is straightforward if we follow my interpretation of 'can' in terms of ability. Colin might lack the ability to send his son to a state school without acting for the reason that he has promised not to act on. Or he might have that ability. He might, for example, falsely believe that the state school is in his son's best interest, and therefore be able to conform to both the exclusionary and the excluded reason. For this reason, I think that both incompatibility and compatibility cases are real possibilities. However, this doesn't matter for my argument. As logical possibilities, compatibility and incompatibility cases are jointly exhaustive and I will defend the verdict of the Balancing View for both cases.

To anticipate, I will argue for two claims. The first is there cannot be undefeated reasons against acting on a balance-tipping reason in incompatibility cases. In such cases P2* is vacuously true and thus consistent with the Balancing View. The second claim is that while there can be undefeated reasons not to act on a balance-tipping reason in compatibility cases, such reasons do not undermine the verdict that the agent ought to conform to the balance of reasons. Such cases show that P2* has to be rejected.

Let me start with the incompatibility case. In this variant of *Colin's promise*, sending his son to the state school (in short, SEND STATE) is an incompatible alternative to keeping his promise (in short, KEEP PROMISE). Here we have three (again logically exhaustive) possibilities. The first is that the reasons to KEEP PROMISE are stronger than the reasons to SEND STATE. In this case, (BV)_{ALT} entails that the

reasons to SEND STATE are defeated in just the normal, countervailing way. The second possibility is that the reasons for neither option is stronger. In this case, $(BV)_{ALT}$ entails that neither option is what Colin ought to do. Finally, there is the possibility that the reasons to SEND STATE are stronger. This is the only possibility in which $(BV)_{ALT}$ entails that Colin ought to SEND STATE. Is this a case where the Balancing View conflicts with P2*? This is so only if Colin's promise in this case provides an *undefeated* exclusionary reason. But since there are stronger reasons for an incompatible action, it follows from $(BV)_{ALT}$ that the reasons to KEEP PROMISE are defeated. Within the terms of the Balancing View, then, this is not a case where it clashes with P2* because the Balancing View entails that one ought to act in accordance with an excluded first-order reason – rather, this is a case in which the first-order reason isn't excluded because the exclusionary reason is defeated.

This verdict of the Balancing View is, moreover, based on a principle of defeat that seems independently quite plausible:

Countervailing defeat (CD): A reason for ϕ -ing is defeated if there is a set of reasons for an incompatible alternative to ϕ -ing that is stronger than any set of reasons for ϕ -ing.

Since (CD) merely states a sufficient condition for defeat, it is consistent with the thesis that there are other forms of defeat that do not depend on strength. This neutrality is also confirmed by the fact that (CD) is entailed by the disjunctive conception of defeat – briefly discussed in section §4 – according to which to be defeated is to be either counterbalanced or excluded. (CD) directly entails that there cannot be an undefeated exclusionary reason to KEEP PROMISE in an incompatibility case if the reasons to SEND STATE are stronger than the reasons to KEEP PROMISE.

If (CD) is true, incompatibility cases cannot be cases in which the Balancing View and P2* give conflicting verdicts. Defenders of this possibility thus have to reject (CD). They might hold:

The Immunity Principle (IP): Higher-order reasons are immune against being defeated by lower-order reasons.

On the basis of this principle, they might then substitute (CD) with the weaker principle that a reason is defeated if there is a set of *non-excluded* reasons for an incompatible alternative to ϕ -ing that is stronger than any set of non-excluded reasons for ϕ -ing. On this view, Colin's reason to KEEP PROMISE is undefeated, even though it is weaker than his reason for the incompatible option to SEND STATE.

The Balancing View entails that Colin ought to SEND STATE, while P2* entails that he ought not to SEND STATE.

Raz's repeated claim that "exclusionary reasons always prevail, when in conflict with first-order reasons"⁴⁰ and his statement that "the strength of the exclusionary reason is not put to test" as "it prevails in virtue of being a reason of a higher order"⁴¹ strongly suggest that he accepts the *Immunity Principle*. Whether or not this is so, however, this principle should be rejected. The suggestion that a reason is immune against being outweighed by a stronger reason simply in virtue of its higher-order content is implausible. It amounts to treating a *purely formal feature* of a reason as a normative factor that is necessarily decisive – a blatant case of fetishism. Moreover, on the present assumption that there are incompatibility cases, there are powerful counterexamples to (IP). Consider:

Drowning child: You have been promised a reward of \$100 if you do not act for reasons based in other people's welfare today. This gives you a prudential reason to avoid acting for such reasons. As you are walking along a pond, you come across a drowning child and you're the only one who can save them. Alas, you find yourself unable to save the child other than by acting on the basis of a reason based in their welfare.

In this case, there is a conflict between a prudential and a moral reason: you are unable to conform to both. Surely your prudential reason is outweighed in this case; you ought to save the child. But if the *Immunity Principle* is true, we cannot say that. Unfortunately for the poor child, your prudential reason has a second-order content, which immunizes it against being defeated by a first-order reason, and so you ought to let the child drown!

The success of this *reductio* does not depend on the details of the case. We could have assumed that your exclusionary reason is based in the fact that you find it unpleasant to act for altruistic reasons, or that acting for such reasons has aesthetic disvalue, for example. We also could have assumed that you get the reward for not acting on a prudential reason conformity with which would guarantee you \$200. There can even be examples of moral reasons not to act for other moral reasons (for example, a moral reason to avoid signaling moral superiority) that is outweighed by a more important first-order reason (for example, to save the life a person). The point is that having a higher-order content is a purely formal property that tells us nothing about the importance of a reason. Treating this property as a normatively decisive factor cannot be right.

⁴⁰ Raz (1975, 40).

⁴¹ Raz (1975, 46).

My argument is based on a conception of competition and countervailing defeat in terms of reasons for incompatible alternatives. Raz, however, understands competition and countervailing defeat in terms of *reasons to refrain*.⁴² Reasons for incompatible alternatives become relevant for defeat only through the following principle:

Razian Reasons Transmission (RRT): “If p is a reason to ϕ and q is a reason to perform another action, ϕ' , and it is it is logically impossible both to ϕ and to ϕ' , then q is also a reason to refrain from ϕ -ing [...]. If, however, it is merely physically impossible both to ϕ and to ϕ' , then q, in conjunction with the facts which make it impossible to perform both actions, is a reason to refrain from ϕ -ing.”⁴³

(RRT) is close to the transmission principle that was mentioned earlier (RT), but it crucially restricts the transmission of reasons to *logically and physically incompatible* alternatives. Thus, on this view stronger reasons for logically and physically incompatible alternatives will defeat, but stronger reasons for alternatives that the agent is *unable* to co-perform will not defeat as long as the inability isn't due to logical or physical impossibility. Since lack of ability to conform to both an exclusionary and a first-order reasons is arguably never due to logical or physical impossibility, the cases we've considered are not cases of countervailing defeat, according to Raz.

Now, I don't think that this view can be made to work. As we have seen in *ticket counter #1*, the transmission of reasons to reasons against incompatible alternatives has to be restricted to non-optional reasons, and a principle that is restricted in this way cannot do the work that it would need to be doing in order for us to be able to spell out competition, counterbalancing, and defeat in terms of reasons to refrain alone. However, Raz's view can be adjusted to reflect this point. On this modified view, competing reasons are reasons for incompatible alternatives, and stronger reasons for incompatible alternatives directly defeat competing reasons – i.e. both (CR)_{ALT} and (CD) hold true – but the sense of 'can' that defines what incompatible alternatives *are* is not the sense that goes with ability, but a sense that goes with physical possibility (I omit logical possibility because it is entailed by physical possibility). On this view, then, (CD) does not entail that an exclusionary reason not to act on a balance-tipping reason is defeated in a case in which the agent is unable to conform to both, for in the relevant sense, conformity to both is always possible. Raz can even maintain the *Immunity Principle*

⁴² Cf. Raz (1975, 25–26).

⁴³ Raz (1975, 26).

on this view. Since it is never physically impossible to conform to both a higher- and a lower-order reason, it follows trivially that a higher-order reason is immune to being defeated by a lower-order reason.⁴⁴ All counterexamples against (IP) go up in smoke, as they rely on an ability-related conception of incompatibility.

I don't think it's a good idea to restrict the relevant notions of what an agent can conform to and which alternatives are compatible to physical possibility. If I'm unable to do something, why should it matter whether my inability is due to physical or some other kind of possibility? I'm unable to do it, and so there is no point in considering it as an option in deliberation, in advising me to do it, or faulting me for not doing it.⁴⁵ These considerations strongly support the view that we must be able to do what we ought to do, and similar points support the view that we must indeed be able to do *all* that we ought to do together (recall that we are dealing with the all-things-considered ought).⁴⁶ This will be so, however, only if we understand the relevant notion of an incompatible alternative that figures in our account of defeat as being concerned with what we are able to do.

However, let's grant this view for the sake of the argument. It follows that there are no incompatibility cases. In the relevant sense of 'can' and 'compatibility', all cases of higher-order conflict are compatibility cases. It follows that my defence of the Balancing View in incompatibility cases is redundant, but it also follows that my defence of the Balancing View in compatibility cases applies to all cases of higher-order defeat. This can be put as a dilemma: Either proponents of the objection from exclusionary reasons allow that cases of inability of co-conformity are cases in which conforming to the exclusionary reason is an incompatible alternative to conforming to the first-order reason, or they hold that in such cases conformity with each reason is compatible with the other in the relevant sense. On the first horn, the argument from (CD) applies. On the second horn, my argument from compatibility cases applies.

I have argued that if the presence of stronger reasons for incompatible options is a sufficient condition for the defeat of a reason – as stated by (CD) – then there cannot be undefeated exclusionary reasons not to act for balance-tipping first-order reasons in incompatibility cases. It follows that P2* is vacuously true in such cases and does not conflict with the Balancing View. (CD) might be rejected

⁴⁴ There are passages in later discussions of exclusionary reasons, in which Raz seems to suggest that exclusionary reasons prevail in higher-order conflicts simply because they do not strictly conflict with the first order reason and it is always possible to conform to both (cf. Raz 1989, 1167–68). One problem with this suggestion is that it likewise seems to follow that lower-order reasons are immune to being defeated by higher-order reasons, while Raz repeatedly claims that higher-order reasons defeat lower-order reasons.

⁴⁵ I might be faulted for not doing it indirectly if I'm at fault for my inability. But in the same sense I may be faulted for having headaches if I'm at fault for drinking too much – it still doesn't follow that I ought not to have the headache (something that I'm not able to do), but only that I ought not to drink too much.

⁴⁶ See Kiesewetter (2015, 930–34) for a defence of this principle of *Joint Satisfiability*.

on grounds of the *Immunity Principle*, but unless we assume that all cases of higher-order conflict are compatibility cases, this principle has unacceptable results. So if there are any incompatibility cases, these cannot be cases in which the presence of exclusionary reasons undermines the Balance View. If such reasons pose any threat to the Balancing View, this must be in compatibility cases.

§5. Defending the Balancing View in compatibility cases

Let me turn to such cases, then. Compatibility cases are cases in which the agent can conform to both the exclusionary reason and the first-order reason subject to it. In such cases, it is possible that a balance-tipping first-order reason is excluded by an undefeated exclusionary reason. Since conforming to the exclusionary reason is compatible with conforming to the balance of reasons, (CD) doesn't rule out that the exclusionary reason is undefeated. There are thus possible compatibility cases in which the antecedent of P2* holds true and P2* is not vacuously true. In such cases, P2* is inconsistent with the Balancing View, as it entails that we ought not to conform with the balance of reasons. The question we thus need to ask is whether P2* should be accepted in compatibility cases.

Consider Colin's promise again. We are now supposing that Colin can both keep his promise and send his son to a state school. Perhaps he is luckily unaware of the fact that the private school is in his son's best interest. Perhaps he knows this, but he has found a way of managing his motives in a way that allows him to act for a reason that he considers to be weaker than a competing one. Should we concur with P2* and say that he ought not to send his son to a state school? This seems the wrong conclusion to draw. If it's really possible for Colin to conform with both the balance of reasons and the exclusionary reason, then it seems that he ought to do both. No plausible objection against his acting in accordance with the balance of reasons remains in place.

Raz himself came to see this. In his last paper on the issue of exclusionary reasons he writes:

If p is a reason to ϕ and q a reason not to ϕ for p, both p and q will be satisfied if one ϕ s but is not guided by p. That is what one has an all-things-considered reason to do in that situation. [...] one should satisfy the reason, as well as satisfy the exclusionary one.⁴⁷

⁴⁷ Raz (2021, 13–14). This quote might be taken to suggest that my interpretation of the argument in Raz (1975) was on the wrong track, i.e. that Raz never maintained P2* but only held P2 in what I've called the motivational interpretation above. As argued above, this interpretation is in tension with other claims Raz makes, however. Moreover, note what Raz says in the first footnote of his most recent article: "The present paper expresses my current thinking about exclusionary reasons, which is not always the same as it was." (Raz 2021, 1)

This amounts to a denial of the claim that P2* holds true in compatibility cases. It follows that such cases also do not pose a threat to the Balancing View.

This point does not depend on defining the relevant notion of an ‘incompatible alternative’ in terms of ability. If the normatively relevant notion of possibility is physical possibility rather than ability, then all cases of higher-order conflict are cases in which the agent can conform to both reasons in the normatively relevant sense. And if conformity to both reasons is possible in the normatively relevant sense, it’s difficult to see why one of the reasons should be regarded as defeated by the other.

Let’s call the view that one ought to conform to both the exclusionary and the excluded reason if doing so is possible in the normatively relevant way the *Double Ought View*. This view might be criticized on grounds of the idea that it must be possible for agents to do what they ought *in a non-accidental way*, and that this requires that it must be possible for them to do what they ought *for the reasons* in virtue of which they ought to do it.⁴⁸ Let’s say that one *conforms* with the fact that one ought to ϕ if and only if one ϕ -s, while one *complies* with this fact if and only if one ϕ -s for the reasons in virtue of which one ought to ϕ . The assumption at issue can then be called the principle that ‘*Ought*’ *Implies ‘Can Comply’*:

‘Ought’ Implies ‘Can Comply’ (OICC): If A ought to ϕ in virtue of reason R, then A can ϕ for the reason that R.

The Double Ought View is not in conflict with this principle. Colin can comply with his promise and he can comply with his reasons to send his son to a state school – the problem is that compliance with the exclusionary reason rules out compliance with the first-order reason and thus Colin cannot comply with both. In order to generate a problem for the Double Ought View, we thus need to assume a stronger principle, according to which it must be possible for agents to comply with all oughts together. Call this the *Global Compliance Constraint*:

Global Compliance Constraint (GCC): If A ought to ϕ_1 in virtue of reason R_1 , ..., and A ought to ϕ_n in virtue of reason R_n , then A can [ϕ_1 for the reason that R_1 ..., and ϕ_n for the reason that R_n].

⁴⁸ See Lord (2015, 35–38) for a defence of this principle.

The Global Compliance Constraint is a strong assumption, but it is not far-fetched. It is not implausible to think that it must be possible for agents to do everything they ought to do in a non-accidental manner, and that this requires the possibility to comply with all oughts together.⁴⁹ It also follows from (OICC), together with the fairly plausible agglomeration principle:

Agglomeration: If A ought to ϕ , and A ought to ψ , then A ought to [ϕ and ψ].

Suppose, for the sake of the argument, that the *Global Compliance Constraint* is true. This rules out the *Double Ought View*. Notably, it is *logically* impossible to comply with both an exclusionary reason and a first-order reason subject to it, so even if the *Global Compliance Constraint* requires merely the logical possibility of global compliance, it rules out the *Double Ought View*.

What does this mean for the Balancing View? One possibility is to apply P2* and say that the exclusionary reason defeats the excluded reason. We would have to reject the Balancing View. But what would justify this reply if not the kind of higher-order chauvinism that I rejected above when arguing against the *Immunity Principle*? My argument applies here as well. If the *Global Compliance Constraint* rules out that it could both be the case that you ought to save the child and that you ought not to act for altruistic reasons, then assuming that the higher-order reason is immune against defeat by a lower-order reason implies that you ought to let the child drown. Nobody can seriously maintain this view.

The alternative is this. If the *Global Compliance Constraint* is true, we have to construe compatibility cases as cases of competing reasons. While it is possible to conform to both reasons, it is not possible to comply to both, and given the *Global Compliance Constraint*, this means that they are in competition. Consequently, we have to broaden the conception of an alternative that figures in (BV)_{ALT} and (CD) by including options as alternatives that are compatible but cannot both be supported by sufficient reasons one complies with.

On this revised version of the Balancing View, there will be no relevant difference between compatibility cases and incompatibility cases, for all cases of higher-order conflict are cases in which co-compliance is impossible and the reasons in question compete. The Balancing View entails that the

⁴⁹ There are strong parallels between the Global Compliance Constraint and the *Possibility of Responding Correctly to Reasons (PRR)*, according to which necessarily, if A has decisive reason to ϕ_1, \dots , and A has decisive reason to ϕ_n , then it is possible that A has decisive reason to ϕ_1, \dots , A has decisive reason to ϕ_n , and A responds correctly to her decisive reasons. I argue for this latter principle in Kieseewetter (2016). However, in the context of defending PRR, I understand ‘responding correctly to a decisive reason’ basically as ‘conforming to the decisive reason while believing that it holds’. Since one can respond correctly in this sense without complying, and one can comply without responding correctly in this sense, the principles are logically independent. The argument for PRR that it must be possible to conform to a decisive reason while understanding that it holds, does not support GCC.

stronger reason wins, no matter whether it is the higher-order or the lower-order reason. If we assume that the balance of reasons supports ϕ -ing, the corresponding conception of defeat again entails that there cannot be an undefeated exclusionary reason not to act on a balance-tipping reason.

To sum up, I have argued that exclusionary reasons do not undermine the Balancing View – neither in incompatibility cases, in which agents cannot conform to both the first-order and the exclusionary reason, nor in compatibility cases, in which conformity to both is possible. In incompatibility cases, exclusionary reasons against acting on balance-tipping reasons are defeated by stronger reasons for incompatible actions. This principle of defeat may be denied by holding that higher-order reasons are immune against being defeated by lower-order reasons. But this *Immunity Principle* is untenable. In compatibility cases, exclusionary reasons against acting on balance-tipping reasons are possible. However, they don't undermine the Balancing View, as the right thing to do in such cases seems to be to conform to both reasons. This *Double Ought View* might be denied by appeal to the *Global Compliance Constraint*, which requires that agents must be able not only to conform to, but also to comply with all oughts they are subject to. But if this constraint holds, the question is still open which reason prevails: the stronger one or the one with the higher-order content. The latter view faces the same problem as the *Immunity Principle*. And the former view does not support a rejection of the Balancing View, but rather an adjustment of the relevant concept of an 'alternative'. Exclusionary reasons, then, pose a problem for the Balancing View only on assumptions like the *Immunity Principle*, which fetishize the higher-order content of reasons. These assumptions have no evident plausibility and should independently be rejected because of their unacceptable normative implications.

§5. The relevance of exclusionary reasons

If what I have argued is correct, the possibility of exclusionary reason poses no threat to the Balancing View. One might wonder whether this robs such reasons their significance. Why should we continue to theorize about such reasons, or take them at face value?

The first and obvious answer is that exclusionary reasons are relevant for determining the balance of second-order reasons and thus relevant for the question of whether or not we ought to act for certain first-order reasons. As we have seen, we seem at least sometimes accountable for the reasons for which we act, and we seem to be able to validly promise not to act for certain reasons. There is thus a normative question about whether we ought to act for a certain reason, which cannot be answered without taking into account the relevant exclusionary reasons that we might have. Such reasons are

relevant for what ought to be done, insofar as what ought to be done might itself be an act of the type ' ϕ -ing for the reason that R' (or refraining from it).

Second, exclusionary reasons plausibly have an impact on the balance of first-order reasons in incompatibility cases. If conforming to a first-order reason is incompatible with conforming to an exclusionary reason, then an exclusionary reason counterbalances the first-order reason if it's not weaker and it defeats the first-order reason if it is stronger. In both cases, it makes a difference for what the agent ought to do on the first-order level.

Thirdly, I haven't rejected the *Global Compliance Constraint* or said anything about the normative implications of impossible co-compliance. If the *Global Compliance Constraint* is true, then exclusionary reasons have an impact on the balance of first-order reasons not only in incompatibility cases: they can counterbalance or outweigh first-order reasons even in compatibility cases. If the *Global Compliance Constraint* is false, exclusionary reasons still pose interesting normative questions about the relevance of the fact that we cannot comply with both of two reasons even though these reasons favour compatible options. For example, it seems *prima facie more costly* in terms of effort and attention to conform to reasons that one cannot jointly comply with, which might well be relevant for the question of how they weigh with other reasons. If I have equally strong reasons for the incompatible options of ϕ -ing and ψ -ing as well as a reason not to ϕ for the reason that favours ϕ -ing, then even though I could conform both to the reason for ϕ -ing and the exclusionary reason, the fact that I cannot comply with both might tip the balance in favour of ψ -ing, as it requires less effort to conform with the exclusionary reason if one ψ -s rather than ϕ -s. Exclusionary reasons will thus have an impact on the balance of first-order reasons in compatibility cases even if the *Global Compliance Constraint* is false.

The normative relevance that exclusionary reasons do *not* have according to this picture is the relevance of a *pre-emptive defeater*. In fact, the very idea that some reasons pre-emptively defeat other reasons, i.e. prevent these other reasons from making it the case that the agent ought or has sufficient justification to respond in the way supported by the reason, but not by outweighing or cancelling it, seems in conflict with the idea that one ought always to conform to the strongest reason. For it seems that pre-emptive defeaters have a point only when they are able to defeat reasons that are not weaker or even stronger, i.e. when they defeat *regardless of weight*. But if reasons that are not weaker or even stronger can be defeated, then, contrary to what the Balancing View says, one ought sometimes to conform to reasons that are not stronger (or may even be weaker) than competing reasons.

There is, however, something plausible about the idea of pre-emptive defeat, at least in the realm of moral rights. Consider Judith Thomson's much-discussed *transplant case*, in which a doctor has the

option of killing a healthy patient in order to transplant his organs to five other patients who would otherwise die.⁵⁰ It seems compelling to think that the healthy patient has a right not to be killed and that the right corresponds to a reason for the surgeon not to kill him that defeats all reasons for saving the lives of the other patients. Is this form of defeat a matter of outweighing? If so, it would seem to be an open question whether the surgeon is permitted to kill the patient in order to save more than five lives, but intuitively, it doesn't matter whether five, ten or twenty lives are at stake. The reason not to kill defeats the reasons to save, even though the reason that you have to save a person from dying has considerable weight, and even though the reasons for saving more people are typically stronger than the reasons for saving less.⁵¹

More generally speaking, common sense morality seems to incorporate deontological constraints and such constraints seem to involve reasons against performing actions that defeat competing reasons in a way that looks very much like pre-emptive defeat rather than cancellation or outweighing. This is a challenge for the Balancing View, which seems to have force independently of my argument against the view that exclusionary reasons are pre-emptive defeaters.

There is, however, a way of understanding pre-emptive defeaters that is consistent with the Balancing View. On this view, for a reason R_1 to pre-empt another reason R_2 is for R_1 (i) to be stronger than R_2 , and (ii) to prevent R_2 from *aggregating* with other reasons – and thus from outweighing R_1 *in combination with other reasons*.⁵² On this view, reasons can be protected from being outweighed by certain other reasons, and can in this sense be said to pre-emptively defeat them, in a way that is consistent with the Balancing View because it does not rely on the idea that weaker reasons can defeat stronger ones.

On the face of it, this proposal provides an accurate picture of the transplant case. The reason not to kill seems stronger than the reason to save another patient, but it also seems protected from being outweighed by a combination of several of such reasons. It pre-emptively defeats reasons to save by way of blocking their aggregation.

It remains to be shown, of course, that all plausible cases of pre-emptive defeat can be explained in this way, or, if not, that they can be explained in other ways that are consistent with the Balancing View. But this is clearly a project for another paper. What I hope to have shown is that exclusionary

⁵⁰ See e.g. Thomson (1990, 135), who draws on a similar case by Foot (1967, 24).

⁵¹ Number skeptics, such as Taurek (1977), would disagree, of course, that there is more reason to save the greater number, but this view is generally considered to be counterintuitive. Threshold deontologists, on the other hand, might insist that there is a number such that if the doctor can save N lives, she is permitted to kill. I hope it will be agreed, however, that the point I'm making applies already below any such threshold.

⁵² See Kiesewetter (2023, 209).

reasons do not undermine the Balancing View; that exclusionary reasons can nevertheless play a number of normatively relevant roles; that these roles are different from the role of a pre-emptive defeater; and that there are ways of understanding pre-emptive defeat that are independent of exclusionary reasons and consistent with the Balancing View.⁵³

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