

# Bracketing: Public Reason and the Law

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## 1 Introduction

The call to bracket or set aside a set of considerations is commonplace in everyday life as well as in legal and political philosophy. For concreteness, consider the following scenarios:

**Admissions committee** An admissions committee is asked to set aside whether or not a student can afford tuition when making a decision about whether or not to admit him.

**Town hall meeting** The chair of the meeting says that right now, while discussing the proposal, we should only take into account its merits, and bracket the practical questions about implementation until later on in the discussion.

**Inadmissible evidence** You're a member of a jury. A witness comes up to the stand and says, 'the defendant admitted to me privately that he committed the murder.' The judge interjects and says, 'the witness's testimony is hearsay evidence and is not admissible in court. Please bracket what you have just heard when you come to a verdict about the defendant.'

**Public reason constraint** Yujhan is in favor of higher taxation on account of Catholic teaching about social justice. Public reason theorists think that when making decisions about political and social rules, Yujhan should set aside his controversial religious judgment.

In the above cases, some considerations or set of considerations are thought of as inappropriate or irrelevant for a particular set of purposes, while not in general. The instruction to bracket is something that we, as agents, are asked to comply with.<sup>1</sup>

In spite of how widespread instructions are to bracket or set aside some considerations, there are few accounts of what the call to bracket really requires of us. I argue that the intuitive epistemic gloss on bracketing — that bracketing is about excluding certain propositions from our belief set — is untenable on account of either leading to epistemic incoherence or us having to remove too little or too much. Instead, I argue

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<sup>1</sup>This of course raises interesting questions about whether we, in fact, are capable of conforming with instructions to bracket. Given space constraints, I will not be addressing these issues here.

that to bracket means to refrain from treating certain propositions as premises in practical reasoning. Here, I will defend the practical reasoning account of bracketing against similar concerns, arguing that bracketing isn't about propositions that one should remove from a set of reasons for action, but about what from the set one can treat as a premise in practical reasoning. In the paper, I will mostly use the inadmissible evidence case as a way of spelling out the views under consideration. In the final section, I will briefly address what I take to be the upshots of the bracketing account for public reason theories.

## 2 Bracketing as epistemic

Let's return to the inadmissible evidence case. You hear a witness testify that the defendant privately admitted to committing the murder. The judge tells you that this witness's testimony is hearsay evidence, and that in the jurisdiction you are in, this testimony is inadmissible evidence. You are to bracket this information for the purposes of coming to a verdict. One way of thinking about this is in terms of a simple counterfactual: go back to where you were epistemically before you ever heard the hearsay testimony at all, and form the beliefs that you would have in these circumstances. The simple counterfactual, then, looks as though it involves contraction of your belief set: just remove all the new beliefs you formed on the basis of the witness's testimony and you will be back to your initial state. Then, the judge says, reason on this basis.

The legal system, the thought goes, cares about you coming to a particular verdict of guilty or not guilty. It wants to ensure that you come to this verdict, whatever it may be, on the appropriate subset of what it is that you believe (i.e. what you believe about the evidence that is admissible for the purposes of the legal trial) rather than on the basis of all of the things that you believe.

### 2.1 Simple contraction

Here, the model is contraction on one's belief set.

**Contraction** Take the set of propositions in your belief set and subtract the ones that you are told to bracket <sup>2</sup>. Form beliefs and continue reasoning on the basis of the propositions that remain in your belief set.

Here is the gloss on the judge's instructions: go back to the set of beliefs that you had before you heard the relevant testimony, and come to a judgment about the witness's guilt on the basis of that initial belief set. You initially believed a set of propositions  $K$ . After hearing the witness's testimony, you picked up several new facts (i.e. the content of the witness's allegation, the fact of the allegation itself, facts about what the witness's speech patterns, etc.) that are added to your initial stock of beliefs. Your new belief set is just  $K$  and all of these new propositions ( $p_1$ ,  $p_2$ ,  $p_3$ , et al) and all of the entailments that follow from the newly expanded belief set.

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<sup>2</sup>There may be multiple optimal ways to do this according to AGM

## 2.2 Objection to simple contraction

But here's the concern with simple contraction: it will require you to get rid of some beliefs that you are entitled to keep in your set. Consider the following:

**Strange voice** Say that the witness who testified in court has a very strange voice.

It would be quite odd if at some point well after you heard the witness testify, you were not permitted to have any beliefs about the witness's voice. Imagine that afterwards, during a break in jury deliberations, someone turns to you and comments 'that's quite a funny tone of voice, huh?' It seems strange that you would not be able to have any beliefs at all about the voice of the witness simply on account of the judge's bracketing instructions.

This is just to say that there is an overall constraint on what the judge's instructions on bracketing amount to: if the judge is telling you to contract on what was in your belief set once you have heard the hearsay testimony, the contraction that ought to occur needs to be more or less conservative. Information is valuable. Changes to what counts as part of our belief set after bracketing needs to be conservative so that we don't lose information that we are otherwise entitled to retain.

## 2.3 Contraction revised

Fine. The defender of the epistemic contraction account might think that above we have only shown that there are concerns with bracketing too much of what propositions are in our belief sets. If we go all the way back to the initial belief set that we had before encountering the witness at all, then we lose information that it is permissible to retain. But, we might think, this is just a reason to not bracket all of the new propositions that we got once we heard the testimony. What we need is an account of what propositions in particular we ought to bracket, some indication of what propositions are 'case relevant' and as such need to be set aside. But specifying what it is that we are supposed to bracket doesn't get any easier. Either we bracket too little or too much, and in either case, the result is an incoherence in the resulting belief set. Let's see how this works.

Imagine that before the witness ever comes to the stand, part of your original belief set  $K$  contains the fact that the witness would never lie under oath. Once you heard the witness's courtroom claim that the defendant admitted guilt, on the basis of what's contained in  $K$ , and plausible views about testimony, you form the belief that the defendant admitted guilt. Then the judge tells you to bracket the relevant hearsay testimony. There are two different propositions that you could be asked to strike from your expanded belief set:

1. The defendant admitted guilt.
2. The witness said that the defendant admitted guilt.

The more problematic proposition from the judge's perspective is (1). Imagine you only contract your initial belief set by removing (2), but you still use the fact that the

defendant admitted guilt privately as a basis for coming to a verdict of guilty. While you have cut out the mediating influence of the witness, it still looks as though you have treated the hearsay testimony as evidence in a way that is impermissible; the judge after all wants you not to come to a conclusion about the defendant's guilt on the basis of the witness's private admissions. And that appears to be just what you have done.

Whatever propositions you are asked to bracket, (1) will have to be among them. This leaves us two options: either contracting our belief set only by (1) and retaining (2) or removing both (1) and (2) from our belief set. Unfortunately, neither strategy will work.

#### 2.4 Bracket too little or too much

If you contract your belief set only by (1) and retain (2), you may be able to get to the belief like (1) in a roundabout way. Let's say that your original belief set also includes the following two propositions:

3. The witness would never lie under oath.
4. The witness is speaking under oath.

If you have these beliefs in your belief set, the combination of (2), (3), and (4) can allow you to just inferentially get to (1), the problematic proposition that the judge wants you not to reason on the basis of. The point is that just bracketing (2) in this case would lead you to incoherence.

In this instance, and in conformity with at least some models of belief revision like AGM, you would be required to strike at least two propositions from the set of (1), (2), (3), and (4) in order to have a coherent belief set. Assuming that the judge definitely wants you to strike (1), let's turn to the possible combinations of propositions that you could strike and it will become clear that striking each set has its own strangeness.

Let's say that the judge is requiring you to strike (1) and either (3) or (4). This seems weird for two reasons. The first is that striking either (3) or (4) looks like it would fail the 'information is valuable' constraint. You are suddenly being asked to remove propositions from your belief set that may well be both acceptable and relevant to your assessment of the defendant's guilt. Perhaps you need to know that the witness is under oath and wouldn't lie under oath to take the remainder of his testimony into account appropriately. The second reason is even more basic: it seems from what the judge has said, that she just wasn't interested in propositions like (3) and (4) at all. It would be odd if in spite of what the judge tells you to strike—namely things that you have learned on the basis of the witness's testimony—you are actually required to also strike some things that you had in your belief set prior to hearing the witness's testimony at all. What the judge has told you seems to be altogether silent about whether or not the witness is speaking under oath or whether the witness would lie in these circumstances.

Nor does it help if you are required to contract your expanded belief set by both (1) and (2). Imagine, for instance, that after the case is being discussed, someone on the jury

tells you that they had trouble hearing the witness on the stand. They ask whether the witness in question during the hearsay testimony had mentioned your mother admitting guilt. You answer, ‘No, the testimony was about the defendant admitting guilt.’ Have you reasoned on the basis of a belief that the judge wanted you not to? It seems like the answer is no. But if you are required to bracket (2) and form the beliefs that you would have had without proposition (2) or the conjunction of propositions (1) and (2), the answer is yes. But that seems implausible.

It looks, then, that you are in a bind: you are either required to bracket too much or too little on the pain of incoherence. If you bracket too little, you can get the troublesome propositions back with a bit of inferential reasoning. If you try to avoid this, you end up bracketing too much and losing information in your belief set that is valuable.

This generalizes across other cases. If any time we are asked to bracket, we are being asked to contract our belief set for the purposes of coming to some verdict/decision by a proposition or set of propositions, the worry is that we will be subject to the too little-too much worries.

### 3 Bracketing as non-epistemic

If the most intuitive account of bracketing as epistemic— the simple and modified counterfactual accounts— fail, where does that leave us in understanding how we are to conform with the judge’s requirements? Here there are two plausible alternative views: one is that the judge’s instructions are constraints on our actions and the second is that the judge’s instructions are constraints on what we treat as reasons for actions. I will address the former only briefly, as it will become clear early on why this is a mischaracterization of the judge’s view.

#### 3.1 Constraint on actions

On one view, what the judge is telling us is not about what propositions we can believe or reason from but about what it is that we are not supposed to do. Perhaps the judge is telling us not to decide on the question of guilty-not guilty by weighing the hearsay testimony. That is, to the extent that our decision about the victim’s guilt is voluntary, we are not to make that decision by weighing certain considerations that we acquired by way of the hearsay testimony. But while this is presented as a point about what we are not supposed to *do*, the instruction amounts to a constraint on our process of reasoning as we come to an action-related conclusion. This is an argument I’ll address in greater detail in the following section.

If the view is about what it is that we can permissibly *do* and not about our reasoning about what to do, perhaps the judge is telling us what kinds of considerations we can appeal to when justifying our verdict. Here, the judge is saying something like ‘Come to whatever decision you want about the defendant, but when you talk about why it is that you prefer one of these outcomes over another, just don’t mention the propositions that you acquired on account of the hearsay testimony.’ This, however, seems like it is

too weak to be the constraint that the judge had in mind. Imagine that you privately came to the verdict ‘guilty’ on account of hearsay testimony. In jury deliberations, all of the considerations that were produced telling in favor of such a verdict was called into question, and you agreed that this evidence was weak. Nonetheless, you held on to the verdict of ‘guilty,’ because of the hearsay evidence. Wouldn’t a fellow juror be right to tell you – if she suspected that you were making this decision on the basis of the hearsay testimony and no other considerations– that you had failed to conform with the judge’s instructions? If so, the judge’s instructions are more naturally read as not about what actions or decisions you can arrive at, but what you should factor in in the process of arriving at these very decisions.

### 3.2 Constraint on practical reasoning

As I suggested earlier, the most natural gloss on thinking about bracketing as an action-related injunction leads to what considerations we ought to consider for the purposes of deliberation. When the judge tells you to bracket the witness’s hearsay testimony, the judge is telling you something about the appropriate decision procedure that you ought to take. You may have thought, after hearing the witness’s hearsay testimony, that you had reason to pay attention to (that is, use as premises) certain new propositions that entered into your belief set. You thought that the content of the witness’s testimony gave rise to new propositions that would be permissible to use for your own practical reasoning about whether or not the defendant is guilty. The judge however, tells you that while you can retain the new propositions in your belief set and form whatever judgments you want to on this basis, you can’t treat either these propositions or their entailments in your deliberations about a verdict.

Built into this account of what the judge’s instructions amount to, is a picture of practical reasoning that comes from Aristotle. It will be helpful to get clear on this, that is, on what it means to treat a proposition as a reason for acting before we continue to discuss this gloss on the judge’s instructions. Aristotle famously outlines what he calls the ‘practical syllogism’, and recently, the schema has been expanded on by a number of philosophers of action.<sup>3</sup>

Here is one instance of the kind of reasoning that takes place:

- (i) I am going to boxing practice.
  - (ii) In order to go to boxing practice, I need to get on my bike.
- ∴ (iii) Therefore, I’ll get on my bike.

When we are practically reasoning, on this model, we take certain propositions, like (i) and (ii) and use them inferentially to bring us to action. This is what leads to the puzzle in interpreting Aristotle’s account of practical syllogisms; it at least seems superficially strange that we can start from premises with propositional content and yield

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<sup>3</sup>See for instance [1], [5], and [6]

an action that lacks propositional content. While there are some interesting moves here (e.g. suggestions that the conclusion is an intention with propositional content rather than an action, ways of thinking about the kind of necessity relationship Aristotle had in mind as governing the relationship between premises and conclusion, etc.), these are not important for our purposes and we shall set them aside for the time being.

The point is merely that what it means to treat something as a reason for action means to have as premises certain considerations on the basis of which we are able to proceed to either form intentions or in order to get all the way to action. We won't be concerned too much with how exactly we spell out what the premises and conclusion are for practical reasoning in the inadmissible evidence case, the point of turning to the Aristotelian example was just indicating that sometimes in our process of reasoning to a particular-action related conclusion (in the inadmissible evidence case), we will need to weigh up a number of propositions that feature as premises for practical action. The judge in his instructions, on this view, is not saying anything about the action-conclusions we arrive at or what propositions we have in our belief set, but what propositions feature as reasons for acting in our deliberations about the verdict.

#### 4 Objection: same problem as epistemic gloss

Above, I have suggested that the problem with the epistemic account of what propositions we can leave in our belief sets has to do with specifying what we can permissibly contract from our belief sets without resulting in us losing too much knowledge or not bracketing the very same problematic propositions that the judge wanted us to eliminate in the first place. But, based on the account of practical reasoning I have given above, it may look like the very same considerations are operative. Just as we have a propositional set that counts as our belief set, and it will be difficult to contract on this set cleanly because we'll either lose too much information or too little, so too can we think of our reasons for action as a set of propositions. If this is true, determining what should stay in and what needs to be removed from the propositional set in order to maintain coherence will be just as much a problem here as it was on the epistemic gloss.

Let's see how the concern applies. Imagine that before you heard any of the witness's hearsay testimony, you had a set of propositions that counted as your (normative) reasons for action R. Included in the set were a number of propositions: e.g. That the DNA evidence was non-existent, that the defendant had a plausible alibi, that there were other people who may have shared the defendant's motives, etc. When you get the hearsay testimony (before the judge's instructions), just as your belief set expanded to include a new series of propositions, your set of reasons for action also expanded. What the judge's instructions tell you is that you should strike a certain set of case relevant propositions from the set of your normative reasons. And if again, we are forced to remove certain propositions from our normative reasons, it will be difficult to spell out precisely which claims are barred from the appropriate propositional set. Recall, for instance, the two propositions that you could be asked to strike from your expanded set of reasons for action:

1. The defendant admitted guilt
2. The witness said that the defendant admitted guilt

Now it is clear, as above, that if the judge is telling you to strike propositions from the set of reasons for action, you'll need to strike at least (1), otherwise you would very easily be able to deliberate and come to a verdict of 'guilty' on the basis of the hearsay testimony. But, it also seems that you will be required to remove (2) from the propositions that factor into your judgment, otherwise you would just end up being able to similarly get to a verdict of 'guilty' in a roundabout way, perhaps if some of your other reasons for action included propositions that the witness is an honest man and likely to tell the truth under oath, etc.

## 5 Response: Not about our normative reasons for action, but about what we treat as a reason for action

The objection sees the judge's instructions as about what propositions we can include in the set of our reasons for action. Just as we have a belief set that consists of a number of propositions, the thought goes, we also have a set of propositions that count as our normative reasons for action. When the judge tells you to bracket the inadmissible evidence, the judge is requiring that certain propositions that we had in our reasons for action set need to be deleted. But, we might think, this is just a mistaken picture of what the proposal concerning reasons for action amounts to.

The judge doesn't seem to be telling you that certain propositions that counted as among your reasons for action just aren't reasons for action for you *at all*. The judge's instructions are more qualified. That is, while the judge doesn't want certain considerations to factor into your judgment about whether or not the defendant is guilty, we can imagine other circumstances where it would seem that the very propositions in question should factor into your reasons for action (e.g. when for instance someone asks you about what the witness said, it seems that (2) is very relevant). That is, even if you are not to use these propositions for the purposes of deliberating about the verdict, the witness's testimony does generate reasons for action that you can continue to use for other purposes. What is strange about this construal of what is required by the judge is that it involves a much broader deletion of something from your set of reasons for action. And that seems implausible.

### 5.1 Treating as a reason for action vs. being a reason for action

The proposal should be construed differently. You are not constrained in what propositions you would like to include in your belief set or in what propositions you include in your set of normative reasons for action. The judge is telling you what subset of your reasons for action it would be appropriate to *treat* as reasons for action. Here, the thought is, while the set of your normative reasons for action will be very large, the judge is placing a constraint on what propositions you can use inferentially as premises

when deliberating about what verdict to deliver. Let's see how this works a bit more closely: you have a set of propositions that count as your normative reasons for action. But when you are going through practical reasoning, the thought goes, sometimes it will be inappropriate to treat all of your normative reasons for action as premises for the purposes of practical reasoning. There could be a number of reasons why this is so: something may count as amongst your set of normative reasons for action, but you don't know that it does, or perhaps there are practical reasons not to treat something as a reason for action for a particular set of purposes. Take the following examples to motivate the thought:

**Surprise party** It is my birthday, and a friend suggests that while she can't join me for dinner, that we should meet for a drink later in the day. In ordinary circumstances, including today's, I would really not want to meet her in some particular neighborhood for a drink at the hour that she suggests. Unbeknownst to me, though, she has organized a surprise party for me. Maybe I even have some indications that she might be planning something, but I don't know this. As it were, I happen to really enjoy surprise parties.<sup>4</sup>

In the above case, it seems plausible that amongst my set of normative reasons for action is that my friend is throwing me a surprise party. But, it would be inappropriate for me to act on this: I don't know, after all, that she has planned a surprise party, and if you want, I may not even justifiably believe it. That is, I have a normative reason for action that comes apart from what I am entitled to use as a premise for the purposes of practical reasoning.

**Wishful thinking** I am stranded on a cliff and need to get across the other side or I will go hungry for days. But, as it happens, I know that I am very likely to die if I jump across the cliff. I also know that if I reason on the basis of this knowledge, I am even more likely to die than if I just properly ignore the facts about my very high likelihood of death in jumping.

In this case, the thought goes, amongst my set of normative reasons for actions is that I am very likely to die if I jump across the cliff. But, the thought goes, if I reason on the basis of this knowledge, the practical consequences would be worse than if I didn't. Perhaps, then, I should not treat what I know is one of my reasons for action as a reason for action in my deliberation about what to do.

**Promising** I tell you that I will be at your jazz performance this evening. Then, another friend invites me to see a Rachmaninoff concerto at the same time, and I prefer Rachmaninoff to jazz.

On some views of promising, after I promise that I will be at the concert, it would be inappropriate for me to enter into deliberation about the content of what it is that

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<sup>4</sup>[4]

I have promised and re-weighting all of the normative reasons that tell for and against going to the concert, just including my promise as one such reason. The thought is, that once I promise, the promise renders irrelevant or inappropriate some of my normative reasons for action, such that I no longer ought to treat them as reasons for action, even though, at some level they continue to retain their normative force. That is, it is not as though suddenly, because I have promised, that another friend has invited me to see Rachmaninoff provides no new reasons. There are new reasons, they are just not reasons that it would be appropriate to treat as premises in my practical reasoning about what to do.

## 5.2 Why prefer this account?

I have suggested that the proposal concerning reasons for action is about what it is permissible to treat as a reason for action rather than what counts as a normative reason for action. Here, the thought goes, by constraining what we can treat as a reason for action rather than what reasons for action we have, we can escape the initial objection. The reasons that we are disallowed from using in practical reasoning for a particular purpose can be used for other purposes. While I can't treat the hearsay testimony as evidence in my practical deliberations about the verdict, I can treat the hearsay testimony as a reason for other actions (e.g. answering questions about the voice of the defendant, telling you what the content of the testimony was, etc.). And since propositions don't need to be struck from the set of normative reasons for action, but just ignored for a particular set of purposes, the thought goes, we don't have to worry about losing our reasons for action. Very often we do not treat some of reasons for action as premises in our practical reasoning, as the above cases indicate, and what the judge is asking us to do isn't particularly unique.

Now that I have suggested that thinking about the judge's instructions as causing the deletion of our reasons for action fails to capture what it is that the judge is up to, I will offer a positive proposal: that the judge is telling you what it is permissible to treat as a reason for action. Then, I will argue that this new proposal is not vulnerable to the same worries about contraction that the epistemic account and the simple reasons-for-action account are. Finally, I'll discuss two objections to the view that I have offered: first, that there is an alternative account of what the judge's instructions amount to (namely, the generation of exclusionary reasons for action) that accounts for the data better, and secondly, that my proposal about the judge's instructions violates other plausible norms about when it is permissible to treat something as a reason for action.

## 5.3 Relation to exclusionary reasons

In defending this proposal, you might see it closely allied with what Joseph Raz calls 'exclusionary reasons.' An exclusionary reason, on Raz's account is a "second order reason to refrain from acting for some reason"<sup>5</sup> Here's one way of thinking about

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<sup>5</sup>[3, 37-40]

exclusionary reasons in relation to the case that I have been discussing above: when the judge tells you to bracket the hearsay testimony, the judge's instructions generate an exclusionary reason for action. This exclusionary reason for action, instead of simply outweighing or undercutting the reasons for action that I have which were generated by the witness's testimony, is a second-order reason, a reason about what it is permissible from amongst my reasons for action to treat as a reason for action for a particular set of practical purposes.

Whether or not the judge's testimony needs to itself count as a reason for action, or is simply a different kind of constraint on what certain circumstances permit us to treat as a reason for action is open. The point is simply that if one is sympathetic to Raz's account of exclusionary reasons for action, this view is compatible with what I have said thus far.

#### 5.4 Knowledge is sufficient to treat something as a reason for action

I have suggested above, that the judge's instructions are best thought of as offering a constraint on what we are permitted to treat as reasons for action in deliberating about the verdict. But, one might think, this just conflicts with some of our intuitions about what the sufficiency conditions are for treating something as a reason for action. Imagine the ideal case of hearsay testimony. As it happens, the witness has given a truthful account, and on the basis of testimony, the members of the jury— including you— come to know that the accused confessed his guilt just as the witness has presented. Some epistemologists argue that knowledge that P is sufficient for treating P as a reason for action. Take Jason Stanley and John Hawthorne <sup>6</sup>, for instance who hold:

**Knowledge norm** Knowledge that P is both necessary and sufficient to treat P as a reason for action.

The knowledge norm suggests that it is permissible for you to treat the hearsay testimony as a reason for action. But this seems to be in direct conflict with what I have said above: the judge is providing you with a constraint, over and above the constraint that you know that P, as to when it would be appropriate to treat P as a reason for action.

Contrary to first appearances, however, the account of bracketing I have provided is not inconsistent with views like the knowledge norm. Stanley and Hawthorne only require that knowledge is sufficient for action on *epistemic* grounds. The point is that the hearsay testimony is not epistemically deficient, and we are permitted on this basis to treat the testimony as a premise in our practical reasoning. But that is not to say anything about other constraints that we might have on when it is appropriate to treat something as a reason for action: sometimes, as in the cases of the surprise party, wishful thinking, or promising, we have reasons not to treat known propositions as premises in our practical reasoning. These could be moral or pragmatic factors. Perhaps the accused has a moral and legal right to be confronted with his witnesses directly and hearsay in

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<sup>6</sup>[2, 571-90]

these cases would impede upon this requirement. Or, there may be purely practical reasons not to rely on hearsay in general— the likelihood of jurors thinking that they have knowledge when they do not in fact, etc. We don't need to be committed to any particular moral or pragmatic reasons here, but just to think that there are some such reasons why we should bracket in particular cases is sufficient. This allows for the possibility both that it is in general epistemically permissible to treat something as a premise for practical reasoning if we know it and to think that there are practical and moral reasons we have not to do so, of the kind generated by the judge. <sup>7</sup>.

## 6 Conclusion and upshots for political philosophy

While I have mostly focused on the case of bracketing in legal philosophy, I will now turn briefly to the upshots of this account for public reason theories. Public reason theories following Rawls favor a constraint on what we ought to take into consideration for the purposes of making political or social rules. They argue that since the legitimacy of political action be justifiable by public, shareable reasons, we ought to bracket or set aside our controversial religious and evaluative commitments for the purposes of making political or social rules. On the view I have sketched, bracketing is about instructions on what we are allowed to treat as premises in our practical reasoning: in the simple cases of hearsay testimony, certain propositions can remain in our belief set and in our set of normative reasons, but we are not allowed to use them inferentially. As applied to the public reason case, the thought goes, what propositions we can treat as premises in our practical reason will be constrained similarly.

This account of bracketing captures something intuitively uncomfortable with any call to bracket: the reasons that we are not to treat as premises in practical reasoning don't cease to have their normative force, but nonetheless, we are not to rely on them. Unlike reasons that are defeated in more traditional ways (by being considered and outweighed by other reasons for action, or by being undermined) there is something unhappy about how such reasons play into our deliberations. We can feel the force of these reasons, but we are not allowed to use them in our day to day deliberations.

One interesting upshot of the account I have offered, though, is that it provides some insights into how it is that a public reason theory interacts with views in epistemology. Firstly, it seems that purely epistemic criticism of public reason theories— lines of argument suggesting that bracketing our deep evaluative commitments is impermissible because it leads to epistemic incoherence— are grounded on a misunderstanding of what bracketing entails. And, if the suggestion is that public reason theories lead to a kind of practical incoherence, more will need to be said to ensure that everyday cases where we act on only a subset of our normative reasons for action don't fall prey to the same line of objection.

But, what I have said here also extends to motivations for a public reason theory. While one might think that epistemic reasons alone could motivate why we ought to

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<sup>7</sup>For a similar point about the motivations for bracketing-like views in legal and political philosophy and their independence of epistemic concerns see Enoch (manuscript)

bracket, if bracketing is really a point about what normative reasons we can treat as premises for our practical reason, the justification for the public reason constraint will not be epistemic but either practical or moral. This, as has been argued before, ought to shift the discussion away from the terrain of epistemic-sounding language and into the more straightforwardly moral or political <sup>8</sup>.

## References

- [1] John Broome. Practical reasoning. In José Luis Bermúdez and Alan Millar, editors, *Reason and Nature: Essays in the Theory of Rationality*, pages 85–111. Oxford University Press, 2002.
- [2] John Hawthorne and Jason Stanley. Knowledge and Action. *Journal of Philosophy*, 105(10):571–590, 2008.
- [3] Joseph Raz. *Practical Reason and Norms*. Oxford University Press, September 1999.
- [4] Mark Andrew Schroeder. *Slaves of the passions*. Oxford University Press, Oxford ; New York, 2007.
- [5] Bart Streumer. Practical Reasoning. In Timothy O’Connor and Constantine Sandis, editors, *A Companion to the Philosophy of Action*, pages 244–251. Wiley-Blackwell, Oxford, UK, July 2010.
- [6] Sergio Tenenbaum. The conclusion of practical reason. *Poznan Studies in the Philosophy of the Sciences and the Humanities*, 94(1):323–343, 2007.

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<sup>8</sup>Ibid