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[Ori J. Herstein](#), [Ori J. Herstein](#)

**Institutions:** [King's College London](#), [Hebrew University of Jerusalem](#)

**Published on:** 01 Dec 2017 - [Philosophical Studies](#) (Springer Netherlands)

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*Citation for published version (APA):*

Herstein, O. J. (2017). Understanding standing: permission to deflect reasons. *PHILOSOPHICAL STUDIES*, 174(12), 3109-3132 . <https://doi.org/10.1007/s11098-016-0849-2>

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# Understanding Standing: Permission to Deflect Reasons

Ori J Herstein\*

*Forthcoming in PHILOSOPHICAL STUDIES (2017)\**

## 1. Introduction

Given that his own army has been suspected of using chemical weapons (Steinvorth 2010), there is something problematic in the autocratic President of Turkey, Recep Erdogan, condemning Syrian dictator, Bashar Assad, for using chemical weapons and demanding that he stop. Although right, Erdogan lacks *standing* to do so. Accordingly, while Assad obviously has numerous overwhelming reasons to cease his heinous acts, Erdogan's hypocritical demands and condemnations, which appear to be among those reasons, are somehow discountable.<sup>1</sup> But how or in what sense are they discountable?

Standing norms regulate when one is at liberty to interfere in the affairs of another – be it through action or the giving of reasons – and how those interfered with may react to an intervention performed without standing. Namely, the addressee or target of such an intervention may deflect it. A

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· Hebrew University of Jerusalem & King's College London. For their helpful comments on previous drafts I am grateful to Stephen Darwall, David Enoch, Anna Finkelstern, Alon Harel, Miguel Herstein, Michael Ignatieff, Uri D. Leibowitz, Timothy Macklem, Joseph Raz, Irit Samet, Eloise Scotford, Assaf Sharon, Re'em Segev, Matthew N. Smith, Lorenzo Zucca and the anonymous referee for *Philosophical Studies*. I am also thankful for comments from participants at King's College London's Legal Philosophy Workshop (March, 2014) and of the annual Analytic Legal Philosophy Conference (Oxford, 2014).

· The definitive version of this article is to appear in *Philosophical Studies*, and will be available at <http://www.springer.com/philosophy/journal/11098>. Please refer to the published version.

<sup>1</sup> To be clear, Assad may *not* discount the reasons Erdogan is *pointing out to him* – that Assad's actions are heinous. All that Assad may ignore is Erdogan's demands and condemnations as reasons *in and of themselves*.

key feature of standing norms is that having standing to intervene turns on *ad hominem* facts about the intervening party and not on the independent validity or rightness of her intervention.

The types of *ad hominem* conditions determinative of standing to interfere are, of course, many and diverse. The paper focuses on three general and very different types of practices of standing, grouped under the headings of *tu quoque*, *age tuum negotium* and 'know thy place'. Instances of these practices involve: *X* (e.g., Erdogan) seemingly giving *Y* (e.g., Assad) reasons to  $\Phi$  (e.g., *condemnation* and *demand* as reasons to *cease targeting civilians*) yet – because of certain facts about *X* (e.g., Erdogan's *hypocrisy*) – the practice is that *Y* may *appropriately deflect* those reasons. What is typically deflected in such practices are interventions in the form of directives, which are speech acts that constitute what I call 'directive-reasons', that is reasons to do as one directs because one directed it.

The question is: what is the normative structure of this *putatively appropriate deflection* of reasons typical of practices such as *tu quoque*, *age tuum negotium* and 'know thy place'? The qualifier 'putatively' is used to signal that the focus is on the normative structure of *practices*, rather than on arguing for the moral appropriateness of these practices (for stylistic reasons I will avoid repeating the term 'putatively'). By 'deflection' I mean: to reject out of hand, ignore, brush off or discount without substantive deliberation on the merits of the deflected intervention. The term 'appropriate' or alternatively 'okay' is used with the purpose of describing the legitimacy of the deflection, which is assumed in practices of standing, without committing to a specific picture of the normative structure of these practices: Is the deflection required? Justified? Permitted?

At the end, the paper argues that practices of standing best fit what I call the 'exclusion model', according to which the putatively appropriate deflection typical to practices such as *tu quoque*, *age tuum negotium* and 'know thy place' takes the form of a permission to disregard certain types of reasons. Other models the paper explores and then rejects are what I call the 'alteration model' (e.g., given Erdogan's hypocrisy his intervention invites yet does *not require* attention), the 'invalidation model' (e.g., given Erdogan's hypocrisy his intervention is normatively *weightless*), and the 'competition

model' (e.g., Erdogan's hypocrisy is *reason* for rejecting his intervention).

Beyond gaining understanding into the nature of the much neglected normative category of 'standing' and more specifically into these pervasive social practices, the implication of vindicating the 'exclusion model' (or even the 'alteration model') and of rejecting the 'invalidation model', which is the model implicit in much of the literature, is the disaggregation of norms of standing from norms of validation with which they are often mistakenly conflated, mainly norms of (normative) power and authority. Thereby establishing 'standing' as a significant and independent normative concept and revealing a conceptual space for *valid* yet *deflectable* directives (for example cases involving states holding valid authority to direct their citizens, yet still lacking the standing to so direct). The implications for moral, political and legal philosophy are many.

The question of whether or not practices of standing – such as *tu quoque*, *age tuum negotium* and 'know thy place' – are justified is left to another occasion. Before we hold them up to assessment we first need a fuller and more nuanced understanding of the structure of these common practices.

## **2. The Phenomena**

### **2.1 Practices of Deflection**

*Tu quoque* ('you too' or, more loosely, 'who are *you* to say'), *age tuum negotium* (loosely, 'mind your *own* business'), and 'know thy place' (hereinafter collectively referred to as 'TAK') are general categories allowing for many variations and appearing in countless everyday practices. While very different from each other, all involve people behaving as if it were *appropriate* to *deflect* as well as block and/or criticize what otherwise seem like valid and rightful interventions. Moreover, all these practices typically exhibit qualities of standing norms, as the grounds for the appropriateness of the deflection, blocking and/or criticism have to do more with facts about the intervening party than with an evaluation of the independent rightness or validity of her intervention.

Circumstances of *age tuum negotium* involve appropriate deflecting, blocking and/or criticizing interventions on the

basis of the intervening party being an outsider to or lacking a stake in the underlying transaction, relationship, context or circumstances in which her intervention is situated. For example, even if the U.K. government should abolish its monarchy, France campaigning, urging, asking or demanding of the U.K. government to do so seems out of place. It is simply not France's business, which is why it seems appropriate for the U.K. government to deflect and simply ignore France's demands in its deliberations on the matter. The same would presumably not be true for similar interventions by the Scottish Parliament, which does hold a stake in the debate over the future of the British monarchy.<sup>2</sup>

Cases of *tu quoque* involve moral inconsistency or hypocrisy. '*Tu quoque*' refers here to a family of practices involving appropriate deflections of hypocritical interventions. Types of examples include but are not limited to cases involving: a person guilty of past wrongdoing similar to the wrongdoing of others with whom he now critically interferes (like the Erdogan example); a claimant or accuser who previously wronged the party he is now criticizing, urging, accusing or making a claim against; a claimant or accuser who has acted or is acting wrongfully in the same factual context or transaction for or in which she is now critically interfering with others; and cases involving double standards, wherein one is blocked from furthering or applying a standard or position that is inconsistent with the standard or position one holds in relation to or has applied to similar cases.<sup>3</sup>

For example, even assuming that emperors of Rome must consider the prescriptions of imperial advisers and Roman noblemen, Caligula's bloodstained record as an emperor seems to disqualify him from directing others on how to govern, which is why it would presumably be appropriate for likewise deficient emperors, such as Nero, to dismiss Caligula's valid requests and demands for improvement. Accordingly, it is okay for Nero to respond to an intervention of his uncle Caligula with "Who are *you* to criticize anyone?!" and then simply ignore him. Moreover, prior to or during Caligula's intervention it would be appropriate for Nero to

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<sup>2</sup> Briefly on everyday instances of *age tuum negotium* see Duff (2010); Smith (2007); Wertheimer (1998).

<sup>3</sup> For examples of *tu quoque* see Cohen (2006); Duff (2010); Friedman (2013) and Todd (2012).

stop Caligula in his tracks by saying, for instance, “Shut up! *You* of all people have no right to go there.” It is okay for Nero to deflect and block Caligula’s intervention because of Caligula’s hypocrisy, notwithstanding the fact that as a nobleman of Rome Caligula’s requests and demands carry weight. Notice that had *exactly the same* intervention come from a more competent ruler or a nobler person, let’s say from Nero’s adopted father Claudius or from his tutor Seneca, Nero would not have been permitted to dismiss it without first deliberating on its merits.

A third category of cases involves circumstances I label ‘know thy place’. Here the appropriateness of deflecting an intervention turns on the intervening party lacking in a certain status or position required to intervene. For instance, certain criticisms are only permissibly delivered among members of the same ethnic, racial or national group or among friends or family members, not by outsiders. This is not because one’s compatriots or friends have a personal stake in the matter, but rather is a feature of their relation to the subject of the intervention. Personal achievements, excellence or virtue can also ground the status required for intervention. This is possibly what people sometimes have in mind when speaking of ‘moral authority’. For example, there are certain interventions into our affairs that we feel we must entertain when delivered by mentors, elders or heroes that we would reject offhand without any substantive deliberation if delivered by anyone else.

As indicated, practices of *TAK* share some common features. One party sets out to intervene in the affairs of another, where the intervention may come in the form of physical interference or of a – among other speech acts – claim, demand, accusation, condemnation, request, question, insistence or urging. Yet, because of certain facts about the intervening party – that she is, broadly speaking, meddling, intervening hypocritically or lacking the requisite status – it is appropriate for the party who is the subject of the intervention to deflect the intervention. Moreover, in such cases deflecting an intervention is considered appropriate even if, were we to disregard any issues of *TAK*, such deflection would be considered inappropriate. The question is: *what is the normative structure of this ‘appropriate deflection’ of interventions predicated on the aforementioned facts about intervening parties?*

A further feature typical to all three categories is that intervening under conditions of meddling, lack of status or hypocrisy involves some sort of wronging against the intervention's target. We can detect this wrongness in the critical reactions of addressees to those who, for example, direct them hypocritically or officiously. For instance, “who the hell are *you* to demand that of me!”; “*you* stay out of it!”; or “mind your own business!” are responses we tend to bark rather than say. And we view such reactions as appropriate, even though they involve negative, aggressive and even hurtful emotions and behavior, such as annoyance, criticism, indignation and anger. Most importantly, we ground the justification for such reactions in the intervener's meddling, hypocrisy or lack of status. Further indication of the wrongness of intervening under the aforementioned conditions is that often our reason for avoiding doing so is our sense that it would be wrongful and would expose us to legitimate criticism and even aggression. Finally, when intervening under conditions of *tu quoque, age tuum negotium* or ‘know thy place’ we tend to ask for permission, implicitly and even explicitly apologize and often even directly admit our wrongdoing. We say things such as ‘I know it’s none of my business, but...’; ‘I apologize for speaking out of place, yet...’; or ‘I will understand if you completely ignore what I have to say, however...’. These qualifications appear designed to preempt criticism and to mitigate or at least acknowledge the wrongness of the intervention. Accordingly, to intervene under conditions of *TAK* seems intrusive, disrespectful and generally wrongful to the party being interfered with.

*TAK* are therefore complex practices. First, they delineate conditions for when intervening with others is permissible and when one ought not to intervene. Relatedly, intervening where one shouldn't wrongs the subject of the intervention. Second, practices of *TAK* determine conditions under which deflecting or blocking an intervention is appropriate. Here I will focus on explaining the normative nature and structure of this ‘appropriate deflection’.

Of *TAK*, it is instances of *tu quoque* – specifically cases of hypocritical blaming or condemning – that has attracted the most attention. This literature has primarily highlighted and focused on explaining the apparent wrongness of this specific type of hypocrisy (Duff 2010; Friedman 2013; Wallace 2010; Smith 2007; Tadros 2009). In contrast,



although arguably the most practically significant feature of practices of *TAK*, the literature has surprisingly focused far less on exploring the deflecting feature of these practices and practically not at all on how practices of *TAK* involve the deflection of reasons and undermine the giving of reasons, arguably the most salient feature of *TAK* practices and of standing norms more generally.

## 2.2 What Is Deflected? – Directive-Reasons

### 2.2.1 *Focusing on the Giving of Reasons*

I said that *TAK* practices involve the deflection of 'interventions', which of course come in many forms, including physical interventions as well as the giving of reasons, including reasons for actions, beliefs and emotions.<sup>4</sup> Consider the following example involving appropriate deflections of different types of reasons. A young boy is annoyingly picking on another child playing in the park. A stranger troubled by this scene does one of the following: firmly picks up the boy and sets him down a few feet away; shames the boy; gives the boy a sermon explaining about differentiating right from wrong; or commands the boy to stop.

Arguably under such circumstances it would have been appropriate for the young boy to say "You're not my father" and to ignore the man's intervention, and for the boy's parents to say, "Even if he was misbehaving, *you* had no right to *do* (or say) that! That is *our* job." Notice that the incredulous boy and his angered parents are not claiming that the boy should not have been removed, shamed, educated or ordered to stop. On the contrary, they agree that those were appropriate interventions in response to their boy's conduct. Rather, the boy's and the parents' point is that only the parents are of the requisite status to do so.

Thus, although meritorious, the stranger's intervention was an intrusion into the parents' and child's protected domains. So that even if the stranger acted rightly, or even if his shaming (giving of a reason for *emotion*) was fitting, or his sermon (giving of a reason for *belief*) true or his command (giving of a reason for *action*) valid, it was not his place to do

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<sup>4</sup> On types of reason see Parfit (2001, p. 18); Scanlon (1988, p. 17).

so, and accordingly his intervention was vulnerable to deflection and criticism.

In what follows I focus on understanding practices of *TAK* through exploring cases involving the deflection of interventions that give reasons for actions and, to a lesser degree, emotions, that is on the deflection of what I call '*directives*'. The deflection of reasons for belief is left unexplored, although I believe the following analysis applies, *mutatis mutandis*, in the epistemic case as well.

### 2.2.2 Directives

Following (and expanding on) J.R. Searle and D. Vanderveken's terminology, I take the term '*directive*' to stand for a broad spectrum of speech acts. Among others, urging, permitting, asking, suggesting, prohibiting, requesting, requiring, demanding, advocating, commanding, ordering, insisting, blaming, condemning and claiming are all speech acts that may incorporate a directive (Searle and Vanderveken 1985, pp. 55-56). Directives govern and guide or are at least intended to do so. Directives, therefore, hold themselves out as normative, because in directing we purport to trigger, generate or give reasons. Notice that directives are not pieces of advice. They do not point out reasons but rather they *are* reasons for actions and emotions. Note also that '*directives*' include imperatives (e.g., orders, commands) but are not limited to imperatives (e.g., requests, urgings). Finally, a terminological point: The action a directive purports to be a reason for is a '*directive-action*' and the agent to whom a directive is issued, that is a directive's addressee, is a '*directive-subject*'.

Cases of *TAK* often involve the deflection of interventions that take the form of directives. For instance, when Caligula blames Nero for being a bad emperor he not only expresses his negative reactive emotions to Nero's conduct but also aims to actively give Nero reason to change his ways (i.e., a reason to act) as well as a reason to feel remorse, shame, responsibility and purpose (to improve), which are fitting emotional reactions to blaming. Yet, given Caligula's hypocrisy, it would be appropriate for Nero to deflect both interventions.

### 2.2.3 Directives and Directive-Reasons

Given that directives are speech acts that purport to be reasons for their directive-subjects, the next stage is to clarify what sort of reason they are. A (valid) directive is the reason that it purports to be: a reason for the directive-subject to perform the directive-action *because of the directive*. Let's call such reasons 'directive-reasons', so that a directive to  $\Phi$  is a reason-to- $\Phi$ -because-of-the-directive'. For example, in asking you to  $\Phi$  I intend for the request – *my asking* you – to be a reason for you to  $\Phi$ . Similarly, in ordering you to  $\Phi$  I intend for *my order* to be a reason for you to  $\Phi$ .

Accordingly, directive-reasons are not only reasons for conformity but also reasons for compliance. To *conform* with a reason for action is to perform that action under the conditions in which that reason is a reason for performing that action. To *comply* with a reason for action is to perform the action not only in conformity with the reason but also (also) out of awareness of and because of the reason (Raz 1990, pp. 178-179). In other words, to conform with a reason to  $\Phi$  one must  $\Phi$ . Yet to comply with a reason to  $\Phi$  one must  $\Phi$  (also) *because* of that reason. So that if one  $\Phi$ s, and thereby *conforms* with a directive to  $\Phi$ , yet in so doing one does not also *comply* with the directive – i.e., does not  $\Phi$  (also) *because* of the directive – then one does not fully satisfy the directive-reason. For example, if I ask my friend to  $\Phi$  then I do not only intend for my friend to  $\Phi$ , but also that he  $\Phi$  *because* I asked him to  $\Phi$ . If my friend  $\Phi$ s regardless of my request but for some other reason entirely, then he does not fully satisfy my directive, even though his actions conformed to my directive. Mere  $\Phi$ -ing does not fully satisfy my request because the request was not only that my friend  $\Phi$  but also that he  $\Phi$  because I asked him to. It is therefore no surprise that mere conformity can offend.

Of course not every directing utterance succeeds in giving a directive-reason. That is, not every directive is valid. A valid directive is in fact the reason that it purports to be: a reason to do or feel as the directive directs because of the directive. It is possible and even common for people to utter directing statements that do not constitute *valid* directives. That is people can fail in their attempts to give directive-reasons. Left unexplored here is what exactly grounds the validity of directives: when does directing others to  $\Phi$  in fact give those

others a directive-reason to  $\Phi$ ? Conditions determining whether a directive is valid vary, and can include, among other conditions, relations (between the issuer of the directive and her addressee), consent (to be subject to the directives of another) and respect for those issuing a directive. And authoritative directives have their own grounds of validity.<sup>5</sup> Here I just assume that directives are, at times, reasons.

Regardless of what grounds the validity of directives, designating a directive as valid entails that a directive is a directive-reason of *some* normative force or weight.<sup>6</sup> The normative weight of a directive-reason varies depending on the specific directive and its context. In contrast, an *invalid* directive is devoid of any normative weight (as a directive).

I remain agnostic as to the meta-question of the nature of the relation between the act of making a directing illocution and the reason the directive constitutes. Are we, as issuers of (valid) directives, the source of such reasons? That is, do we 'create' reasons for each other? Which is perhaps the view of Stephen Darwall (2006). Or, do our directing illocutions simply 'trigger' directive-reasons? Under the latter view, the normative force of directives derives from a norm or some antecedent-reason external to us, so that our performance of directing speech acts is a *factual* condition for triggering a directive-reason under that norm or antecedent-reason.<sup>7</sup> Here I use the term '*giving-reasons*' with the hope of bypassing the debate.

### 2.3 What Is *Not* Deflected

Directing speech acts at times do more than just direct. While often the giving of a *directive-reason* is the product of a directing speech act (such as urging, permitting, asking, suggesting, prohibiting, requiring, demanding, advocating, commanding, insisting, blaming, claiming and condemning),

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<sup>5</sup> On the grounds of the legitimacy and validity of directives of *political* authorities see Rawls (1986) (reasonable consensus); Christiano (2004) (democracy); Locke (1690) (consent); Raz (1986) (instrumentalism).

<sup>6</sup> I use (normative) 'weight' and 'force' interchangeably, as stylistically fitting.

<sup>7</sup> On 'antecedent-reasons' and related ideas see Enoch (2014).

frequently the same speech acts also involve *additional* types of reasons.

Practices of *TAK* make appropriate deflecting *only* the *directing* features of speech acts. A source of mischief in the application of *TAK* practices is that at times people falsely claim that hypocrisy, meddling or lack of status make appropriate deflecting *all* reasons featured in directives that were issued under conditions of *TAK*. To understand the deflecting function of standing practices such as *TAK* we should, therefore, clarify what is and what is not subject to this appropriate deflection. Accordingly, we should distinguish directive-reasons from other types of reasons relating to or involved in directives.

Directives of course do not exhaust the reasons for or against a directive's subject performing the directive-object. Even if a directive is valid and, therefore, generates a *directive-reason* for compliance with the directive, there may be other reasons – independent of the directive – both in favor of and against conformity. Such '*independent-reasons*' obtain regardless of whether or not a directive is even issued.

In contrast, directive-reasons do not exist independently of the performance of the directives that generate them. The reason given by the issuing of the directive *is* the claim, the demand, the request etc. For example, an audience's cry of "Encore! Encore!" is a form of asking or encouraging a performer to continue playing, generating or giving her *new* (directive-) reasons to extend her recital; reasons that did not exist prior to the request. In this respect (valid) directives are (normatively) performative, as they introduce something, which I labeled 'directive-reason', into the normative landscape that was not there prior to and independently of them.

Some speech acts *reference* what I just referred to as 'independent-reasons', that is they point out reasons that exist independently of being pointed out. For instance, '*expressives*' such as communications of regret, wishes, disdain, objection, approval, hate and love manifest or express the speaker's sentiments or attitudes (Searle and Vanderveken, pp. 58-59), which of course exist regardless of their expression. Such sentiments, attitudes and emotions are often reasons for action or for emotions. For example,

the enjoyment of the audience is reason for the performer to extend the recital, independently of whether or not the audience expressed its pleasure (e.g., “Bravo!”). Here the expressive merely points out or manifests the audience’s enjoyment out to the performer.

Another type of speech act that references independent reasons is what we may call ‘evaluative-assertion’. *Assertions*, such as testimony, prediction, argument or hypothesis convey degrees of the speaker’s belief or attitude as to the truth-value of the propositional content (Searle and Vanderveken, 54-55). ‘*Evaluative-assertions*’ convey the speaker’s belief or attitude as to the *value* of a state of affairs. Here too the reason referenced in the speech act – the value – is independent of its assertion.<sup>8</sup> Van Gogh’s paintings, for example, were a great artistic achievement even before anyone pointed out their value.

For our purposes, what we should notice is that *expressives* and *evaluative-assertions* at times *also direct*. Not all directives are issued explicitly (such as in the case of ‘close the door!’ or ‘please do me a favor’). At times speech acts direct by implication. Very often that is the case in expressives and assertions of evaluations. For example, in addition to expressing his sentiments, asserting his displeasure with Nero’s style of leadership is Caligula’s way of implicitly directing Nero to change his ways. In fact, often the primary motivation for an expressive (positive or negative) is to convey a corresponding directive, rather than to simply express or point out one’s attitudes or sentiments. Evaluative-assertions also often implicitly convey a directive. In asserting that Nero’s leadership is cruel and irrational Caligula most likely does more than merely convey his negative evaluation of Nero’s leadership. That is, Caligula is not only pointing out to Nero that he is a shambolic emperor and correlatively has reason to act differently, Caligula is also *implicitly* directing – asking, demanding, urging etc. – Nero to change his ways. That is,

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<sup>8</sup> I pose ‘belief’ and ‘attitude’ as alternatives to signal agnosticism as to matters of the cognitivism – non cognitivism distinction. For the cognitivist perhaps what I call ‘evaluative-assertion’ is a sub-category of what Searle and Vanderveken refer to as ‘expressives’. Here I keep them distinct.

he also gives Caligula a *directive-reason* in addition to giving him a reason to *believe* that he is a horrible emperor.

There are also speech acts that traverse the three categories – expressing, asserting and directing. Blaming is one example. Another is condemnation. Condemnation, which featured in the Erdogan example, *asserts* the wrongness of the recipient’s conduct, *expresses* one’s discontent with the recipient and with his conduct, as well as *directs* (claims, suggests, or demands) the recipient to desist from his wrongdoing as well as *urges* third parties to take certain actions against the recipient (unlike blame, condemnation is inherently public). Moreover, like blaming, to (validly) condemn is also to give directive-reasons for a certain set of attitudes or emotions (again, both to the subject of condemnation and to third parties). Accordingly, these (and only these) *directing* features found in complex speech acts like blaming and condemnation are subject to practices of *TAK*.

Although practices of *TAK* only disrupt *directive*-reasons, at times people nefariously deploy these practices to negate *all* reasons for carrying out the directive-object. Such cases very often tend to involve expressives or evaluative-assertions performed under conditions of *TAK*. For instance, what gets deflected is not only the directive-reason constituted by the expressive but *also* the reason found in the attitude or emotion that the expressive merely conveys. Another example is where a reason that is given by some value that is merely asserted in an evaluative-assertion is deflected, in addition to deflecting the illocution’s implicit directing features. Such conduct clearly runs afoul of the practice because it negates reasons that are independent of a directive due to circumstances regarding the issuer of the directive. For instance, returning to the example given at the outset, that it is appropriate for Assad to deflect Erdogan’s hypocritical condemnation – in its function *as a directive* – does not of course entail that Erdogan’s *evaluation* of Assad and of his conduct as despicable is mistaken, or that Erdogan is wrong about what Assad must do. All that is entailed is that Assad need not do so for the reason that *Erdogan demanded* it.

### 3. The Explanans

Let's recap. We find in our everyday practices a wide array of cases – which I roughly grouped under the labels *TAK* – in which deflecting directives is considered appropriate where certain facts about the person issuing the directive obtain. Very generally, these facts include hypocrisy, lack of status and somehow being an outsider to the matter. What is deflected are the *directive*-reasons purportedly given by those issuing the directives under the aforementioned compromising conditions, that is reasons to do as the directive directs because of the directive. In contrast, other types of reasons often involved in directing illocutions, such as reasons referenced in directives yet not given or generated by these directives, are not subject to deflection. Finally, at least in some instances in which we witness this sort of deflection, were we to view the deflectable directive in isolation from the conditions of *TAK*, the directive would seem perfectly valid. That is, such directives would be the directive-reasons that they purport to be. Accordingly, conditions of *TAK* appear to disrupt the normativity of directives.

But what exactly is the nature of this disruption? How does this common practice of appropriately deflecting directives work? Returning to the examples given thus far: the *condemnation* of atrocities by world leaders seems, in the normal case, a reason for ceasing the atrocities; the *prescriptions* and *requests* of the noblemen of Rome normally should carry some weight with the Emperor; and an adult *demanding* that a boy stop picking on another child seems to provide the boy with reason to do so. What then happens to the normativity of directives in cases of standing such as *TAK* that makes deflecting them appropriate?

#### 3.1 Model I: Invalidation

A view implicit in much of the relevant literature is that conditions such as *TAK* are part of the grounds or conditions of the *validity* of directives (Cohen; Friedman; Scanlon 2008, pp. 175-176; Smilansky 2006; Duff, 2001, pp. 185-188). According to this view, in addition to all other conditions for succeeding in issuing a *valid* directive, which vary from case to case, one must also not direct others hypocritically, without the requisite status or as an outsider. Accordingly, the reason it is appropriate to deflect the directives of



Erdogan, Caligula, the man scolding the child in the park and the French government is that these directives are simply invalid. Those who utter them simply fail to give the reasons that they attempt to give. So while Assad has reasons to cease the atrocities, Erdogan's hypocritical condemnation does not count among those reasons. And while Nero must give regard to the reasons found in the prescriptions of his fellow noblemen of Rome, this is not the case for the urgings of Caligula, because although a nobleman of Rome *his* urgings are weightless (that is, invalid). And although it should consider the position of the Scottish Parliament regarding the British Monarchy, the British government may deflect offhand similar demands when voiced by the French government on the grounds that they are normatively weightless, because it is just not France's business.

Although I think intuitive for many, closer inspection reveals that the invalidation model fails to capture a key feature of *TAK* practices and of standing generally. Demonstrating this takes some doing, especially given that many seem to naturally gravitate towards the invalidation model. Basically, I show that directives can project normative force and feature in our reasoning even when issued under conditions of *TAK*; that is even when issued without standing. I argue from two different types of cases. I call the first "waiver" and the second "traces."

### *3.1.1 Against the Invalidation Model: Waiver*

In cases like those appearing in the various examples given above, although it would be appropriate or okay for directive-subjects to deflect directives issued under the conditions of *TAK*, they nevertheless have the *option* of taking such directives into account and of relying on them as a guide for their actions. For example, a good friend may say, "I'm sorry, I know I'm the last person who can ask this of you but..." or "I know it's none of my business, yet..." To which one may respond, "We're friends, don't worry about it," and then go on to consider the friend's request as a reason for compliance with the request, the friend's hypocrisy, or lack of status, or meddling notwithstanding. Or think of parents pleading with their young *adult* daughter not to take up smoking. If the parents were also smokers it seems that their daughter could deflect their plea on account of their hypocrisy. Yet, sensing the force of the parental plea, were the daughter to decide to comply – not to smoke

*because her parents asked* – and not to exercise her prerogative to deflect her parents’ hypocritical request, there would be nothing irrational in doing so.<sup>9</sup>

In order to rationally function as a reason, directives must have *some* normative force for agents to be guided by. Acknowledging that directive-subjects may rationally guide their conduct based on directives issued hypocritically or through meddling or without the requisite status entails that directives issued under such conditions have normative force, yielding the conclusion that such conditions are not conditions of invalidation, as they obviously do not void or condition a directive’s normativity.

Considering that waiver is a feature of practices of *TAK* suggests that such practices operate under the assumption that conditions of *TAK* do not void directives. If all or even most directives issued under conditions of *TAK* were necessarily invalid, an implausible and revisionary conclusion would follow: that the very familiar practice of acting and deliberating on the force of directives issued under such conditions is irrational – because if directives issued under such conditions were necessarily invalid, there would be nothing in those directives to rationally guide one or to act upon.

Rising to the defense of the invalidation model, the interlocutor might claim that while it is true that the people in my examples are acting rationally, the reasons on which they are acting are not the aforementioned directives. And, accordingly, we can account for the examples without having to reject the invalidation model. Basically the interlocutor’s tactic is to flood the examples with different reasons for the same action, thereby making directive-reasons superfluous for explaining the examples.

For instance, returning to the example of the smoking daughter, the interlocutor may believe that we need not revert to directive-reasons to explain why the daughter’s behavior is rational. Perhaps the daughter’s reason for not smoking is to avoid causing her parents distress. Which certainly appears a weighty enough reason to color the daughter’s behavior rational without having to also rely on

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<sup>9</sup> By ‘irrational’ I mean open to rational criticism. Parfit (1986, p. 119)

directive-reasons. Let's call this objection 'distress.' Or maybe, even if we were to take the daughter's account of her own actions at face value – that she avoids smoking because her parents asked her to – we can still explain her actions without reverting to directive-reasons. Perhaps even if invalid, were she to ignore her parents' request she would cause them offence. Let's call this objection 'insult.' Both 'distress' and 'insult' appear to involve a plausibly sufficient (non-directive-) reason for the daughter to avoid smoking, regardless of whether she has any further (directive- or otherwise) reasons to do so.

However, neither objection nor the interlocutor's overall tactic will do. Notice first that the question is not whether we can play around with the example so that it accommodates the invalidation model, but rather whether my version of the example makes sense. Because if it does, then it gives strong reason to believe that the invalidation model is false. Notice also that the interlocutor's reformulation – the adding of non-directive-reasons to the example – demonstrates neither that the invalidation model is correct nor disproves the presence of directive-reasons in the example. Rather, it only demonstrates that we can color the daughter's conduct rational without reverting to directive-reasons. Which is consistent with the presence of directive-reasons in the example. For instance, perhaps it is a case of over determination.

The question, therefore, is whether *my version* of the example rings true. Is the interlocutor correct that *all* instances of the example are explainable without reverting to directive-reasons? If so, the 'waiver' objection falls short of knocking down or even weakening the invalidation model. Or, are there conditions under which it is natural, familiar, and sensible for the daughter to say that she decided not to smoke (also) out of compliance with her parents' request, their hypocrisy notwithstanding; that is, cases in which the most plausible explanation of why the daughter's behavior is rational features the parent's request as a directive-reason for action. If so, it gives strong reason to believe that the invalidation model is false.

Let's begin with 'distress,' according to which while the daughter may believe that she is avoiding smoking (also) because her parents asked her, in fact her real reason for doing so (perhaps even unbeknownst to her) is avoiding causing her parents distress. One thing counting against this

objection, given the example's formulation, is that it distorts what appears the most sensible explanation of the daughter's behavior – her reasons to avoid smoking is that her parents asked her to do so.

Moreover, we could set up a more fanciful version of the example that better fleshes out the presence of directive-reasons in the daughter's deliberations. Imagine the daughter has a twin sister who also wishes to take up smoking. Now while both daughters are aware of their parents' grave feelings as to the prospect of their children's smoking, only one daughter was actually pleaded with not to do so. Thus, while the parents' distress is reason for both daughters not to smoke, only one sister has the additional reason of having been asked. Now suppose that the parents' feelings are not reason enough to obligate the daughters not to smoke, as those reasons are overridden by competing reasons – for instance the daughters' enjoyment and sense of independence. It is only the extra normative force found in the request – the directive-reason – that flips matters in favor of a duty not to smoke. Accordingly, while one daughter may smoke the other mustn't.

Now what if the parental request was hypocritical? Under the invalidation model the two sisters stand in the exact same normative position *vis-à-vis* the matter of whether or not to smoke. But here's the rub. Let's assume that the sister who *was* asked not to smoke chooses to disregard her parents' hypocrisy and to take guidance from their request; and that she would thereby feel *obligated* not to smoke. Would she be thereby irrational? Would she be inventing a (directive-)reason and thereby also an obligation that are simply not there? Is the normative position of the two daughters really no different given the choice to waive the parents' lack of standing? I believe the natural answer to all three questions is "no". Given that we already accounted for the normative force of the parents' distress, acknowledging that the parents' hypocritical request is valid is the most plausible explanation for why the daughter's sense of obligation is rational and of the difference in the reasons that apply to each one of the sisters.

Now to 'insult.' Recall that the objection is that the daughter's reason for not smoking is not her parents' hypocritical request itself, but rather is avoiding the eventuality of insulting her parents were she to ignore their request. Thus, it follows that while the daughter may

rationally decide to avoid smoking *because her parents asked her*, this does not necessarily entail that in doing so she is acting out of *compliance* with her parents' request that is, is acting on a directive-reason. Rather, according to the objection the daughter's reason for not smoking is to avoid insulting her parents *given their request*. According to the interlocutor we can, therefore, explain the daughter's behavior – not smoking because her parents asked her – as rational without knocking down or even weaken the invalidation model.

But again, the question is not whether we can reinterpret the example so that it accommodates the invalidation model, but rather whether my version of the example rings true. So once again the trick is to add a little detail to the example while maintaining its plausibility. Assume, therefore, that the parents only care about their daughter avoiding smoking and couldn't care less why she does so – whether it is because she was asked or for any other reason. Under this version of the example the interlocutor cannot interpret the daughter's account of her own reasoning – that she is avoiding smoking because her parents asked – to mean that the daughter aims to avoid insulting her parents. Yet even having removed the risk of offending as a reason for doing as the parents requested, the daughter still seems rational in avoiding smoking *because her parents asked her to*. And the most plausible account of why that is, is that she is complying with her parents' hypocritical request. Meaning that she is acting on a directive-reason, thereby pointing towards the falsity of the invalidation model.

At this juncture, still attempting to save the invalidation model from my 'waiver' critique, the interlocutor might mount a new line of defense according to which – in the case of directives issued under *TAK* – the directive-subject waiving the invalidation is a necessary condition for the directive's validity. Following this amendment to the invalidation model, it follows that in addition to all other conditions of validity a directive is valid if and only if: (a) it was issued by a person who conforms with the principles of *TAK* or (b) if issued without such conformity, if the directive-subject willingly waives the directive's invalidity.

Yet the interlocutor's defense of the invalidation model does not cohere with the reasoning often leading to the waiver in the first place. When directive-subjects choose to be guided by directives that were issued under conditions of *TAK* they

often do so because of the normative force that they detect in the directive. For example, it is because it is the request of a good friend or the demand of one's mother (as opposed to mere acquaintances) that one chooses to overlook their hypocrisy or meddling and consider their directives on the merits. This demonstrates that the directive is considered valid *prior* to the waiver, as it is taken as a *reason for* the waiver.

Moreover, assuming a directive that – but for issues of standing – would have been valid, why would the validity of that a directive – when issued without standing – depend entirely (or at all) on the consent of the directive's subject? The interlocutor's proposed patch for the invalidation model entails that the directive-subject's consent to be subject to the invalidated directive somehow (re)validates it. Yet I do not think the directive-subject's consent can fix issues of standing, at least not on its own and certainly not always. Exploring what grounds standing practices such as *TAK* goes beyond the parameters of this paper, which aims to capture the normative structure of standing practices, not their justification. Yet on the face of things it seems clear that these grounds likely include various values and interests that are at least not solely about the consent (or lack thereof) of directive-subjects. It is therefore likely that reasons other than consent are often also or perhaps even exclusively involved in determining when we have standing to intervene. Accordingly, a directive-subject's consent to be subject to a directive is most likely not, in and of itself, sufficient to ameliorate the invalidation – assumed in the invalidation model – of directives issued without the requisite standing; at least not always. The interlocutor's response to the waiver objection attributes to directive-subjects powers that they most likely often do not possess.

### *3.1.2 Against the Invalidation Model: Traces*

Also cutting against the invalidation model is the fact that when conditions of *TAK* make the deflecting of a directive appropriate we still sometimes find in our practices traces of the normativity of that directive (as a directive), suggesting that our practices assume that the directive *is* a directive-

reason, the appropriateness of its deflection notwithstanding. I next flesh out such traces.<sup>10</sup>

Let's return to the example of the smoking adult daughter. For now, assume that her parents are not themselves smokers. In the normal case, if parents worried about their child's health implore their young adult daughter not to take up smoking they give their daughter a directive-reason not to become a smoker. That is, the young woman has a reason (among many other reasons) not to take up smoking, which is that her parents asked. In some cases such a reason – when sufficiently weighty and in the absence of overriding reasons – would give rise to an *obligation* of the child to her parents not to take up smoking.

Now, what happens if the child nevertheless becomes a smoker, thereby breaching her obligation to her parents? Once breached, she cannot 'unbreach' the obligation – she already became a smoker. In such cases a new obligation would most likely arise – an obligation to do the *next best thing* in order to comply with the parents' request. For instance, the child would presumably be under an obligation to her parents to quit smoking. Quitting smoking is a second-best obligation because it only partially complies with the parents' directive. Only not having taken up smoking in the first place would have been fully compliant. To understand how the same fact/reason can ground different obligations one must realize that rationality allows for partial compliance. One can be more or less rational and compliance with a reason is a matter of degree (Raz 2004, pp. 189-193). Thus, once the first obligation is breached the best way to comply with her parents' directive not to become a smoker is forever blocked. Yet that does not entail that the parental directive ceases to project normative force or is entirely beyond compliance. Once the first obligation is breached a second obligation arises out of the *same* facts/reasons that grounded the first obligation. This second-best obligation is to do what is rationally possible – in the post-breach world – to best comply with the parents' directive. Breaching this second-best obligation would lead to a third-best obligation and so on down the rational line.

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<sup>10</sup> Taking inspiration from John Gardner's account of the relation between primary and secondary obligations. Gardner (2011). And from Raz (2004, pp. 189-193).

For instance, was the daughter to continue smoking she would then have obligations such as to smoke low nicotine cigarettes and not to smoke in her parents' presence. While fulfilling these obligations would of course not fully comply with her parents' request, it is still better than nothing and more rational *per the request*. Naturally at some point the only available compliance with the directive becomes so negligible that it is effectively of no normative significance and no further obligations arise out of that directive.

Now let's reintroduce conditions of *tu quoque* into the example. It turns out the parents are themselves smokers and have ignored their daughter's many past requests that *they* quit. Arguably, when confronted with her parents' directive regarding her own smoking the adult daughter is entitled to the *tu quoque* response – 'you too!' – deflecting her parents' directive. In other words, the daughter's obligation to her parents not to smoke would, in some sense, cease to bind her. That said, and this is key, it seems to me that even accepting the practice of deflecting hypocritical requests, the daughter's derivative third- and fourth-best obligations still apply to her, the parents' hypocrisy notwithstanding. That is, the obligations to smoke low nicotine cigarettes or not to smoke in front of her parents, do not appear appropriately deflectable.

The fact that, unlike her upstream obligations, the daughter's downstream obligations are not appropriately deflectable in this case does not cohere with the invalidation model. The most natural explanation of the daughter's downstream obligations is that they arise from the normative force of the parents' directive. That is, what grounds the daughter's obligation to her parents not to smoke in their presence include the fact that her parents asked her not to take up smoking. If the practice of *tu quoque* involved the invalidation of the request, it would follow that our practices would not recognize any trace of the normativity of the parents' supposedly invalid request. But if you accept my account of the example, which suggests that only *some* of the daughter's obligations deriving from the hypocritical directive are appropriately deflectable, it appears that our practice of *tu quoque* does allow for such a trace, as found in the daughter's undeflectable downstream obligations. The invalidation model does not, therefore, fit the whole phenomena of *TAK*.



### *3.1.2 The Invalidation Model: Conclusion*

Under the invalidation model standing norms are norms of (normative) power. Normative power is the ability to alter aspects of the normative landscape. For example, I have the ability to (normatively) bind myself to others through promising. The ability to command involves another type of normative power, often called “authority.” Our normative powers presumably include the ability to sometimes validly direct others, that is, to give directive-reasons. Under the invalidation model norms of standing are norms of power in that they condition the power to direct.

Notice, therefore, that rejecting the invalidation model suggests a somewhat radical conclusion, which is that (at least in our practices) norms of standing are different and can disconnect from norms of validity, such as norms of authority and other types of normative powers. Thus ‘standing’ is an independent and unique – and mostly overlooked – normative category. Accordingly, it seems possible, for instance, to hold the authority to issue valid directives and still, nevertheless, have one’s directives appropriately deflected on the grounds that one lacks the standing to exercise one’s authority.<sup>11</sup> In other words, validity and standing come apart.

### 3.2 Model II: Competition

Another possible explanation of the normative structure of the appropriateness of deflecting directives issued under circumstances of meddling, hypocrisy or lack of status is that these circumstances provide reasons not to act or deliberate on the reasons manifested in such directives. For instance, perhaps the apparent wrongfulness involved in directing under such conditions is reason to deflect those directives. Here the explanation of the deflection’s appropriateness is that it is a product of a competition of reasons, and that in some cases the reasons to deflect a directive-reason outweigh that directive-reason. In other words, here deflecting is appropriate because reason requires it.

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<sup>11</sup> I take Anthony Duff’s account of the state’s standing to hold criminals accountable as charting an instance of such a divergence of validity (in this case state authority) from standing (Duff 2010).

Competition has a different logic than invalidation. When a certain fact is taken as a reason against complying with a directive, that reason – following the logic of competition – may or may not outweigh the directive-reason. In contrast, if taken as a case of invalidation, that fact is a condition for the directive constituting a directive-reason of any weight.

Yet the competition model also fails to capture what we typically see in practices of *TAK*. This is apparent in the reasoning process that accompanies the deflection: (i) assessing whether the conditions of *TAK* apply, such as whether or not the party issuing the directive is sticking his nose into matters that do not concern him, and then (ii) reaching a conclusion about the appropriateness of ignoring the directive. That is, upon determining the applicability of the relevant circumstances of *TAK* one need not, and in practice mostly does not, incorporate into one's deliberations judgments on the weight or even the validity of the directive when determining whether or not it is appropriate to deflect it. The appropriateness of disregarding directives does not appear, therefore, a product of a clash of reasons for and against compliance with the directives. Something else is going on here that approves the deflection.

For example, a friend calls me up to ask that I drive her to the airport tomorrow. This is the same friend that routinely refuses similar favors. She is, in other words, a 'bad friend', but a friend nonetheless. Were I to turn down her request on account of her hypocrisy I would not be turning her down because I found that her hypocrisy is a stronger reason (against compliance) than the reason given by her directive (for compliance). Rather, it would be appropriate if I were to – once I identify the hypocrisy and without further reflection on the weight of her request – inform her that she is in no position to ask that of me and to simply disregard her request.

Moreover, had the process of deliberation in such practices involved counterbalancing the normative weight of, for example, the wrongness of the hypocrisy or of the meddling against the normative weight of the directive, the scope of the appropriateness of disregarding different directives – even if issued under similar conditions of hypocrisy or meddling or lack of status – would most likely have diverged between normatively weaker and stronger directives,

requiring disregarding more of the former type of directives than of the latter. This is because, all things being equal, normatively stronger directives would more often defeat the reasons for deflection than would weaker directives. Yet in practice we see no such deviation. This further suggests that the appropriateness of the deflection is not predicated on a competition of reasons. The normativity of ‘the deflection’ must, therefore, work differently. For example, normally a request to drive one to the airport packs more normative punch when made by a close friend than by a more distant friend. Still, if both friends regularly refuse favors to others, in practice the *tu quoque* response seems equally available against both of them regardless of the varying weights of their directives.

Finally, the logic of competition does not cohere with the possibility of waiving the option to deflect. Had the normativity of *TAK* practices been that of competition, deflectability would not have been a matter of discretion but of what reason requires on balance.

### 3.3 Model III: Alteration

The discretionary feature of *TAK* leads to a third model. Perhaps circumstances of *TAK* do not invalidate directives but rather merely alter their normative nature? Namely, maybe instead of constituting directive-reasons, directives issued under the aforementioned circumstances are what may be called ‘*optional-directive-reasons*’, that is directive-reasons that make their own normative force somehow discretionary. This could presumably explain the cases that were the downfall of the invalidation and competition models: cases involving a choice between either deflecting a directive (i.e., treating it as weightless) or incorporating the directive-reason into one’s practical deliberations (i.e., taking guidance from the directive’s actual normative force).

Seemingly incompatible with practices of *TAK*, reasons seem to have an ought-making or requiring feature. I do not mean by this that all reasons are overriding reasons or all-things-considered conclusive, only that when one has a reason to  $\Phi$  that reason is *part* of the normative landscape that counts in relation to whether or not one *ought* to  $\Phi$ . Yet, as described above, when we appropriately deflect a directive we behave as if that directive does not at all constitute a reason and is not at all a factor contributing to what we ought to do.

Nevertheless, as established above, this practice of deflection also seems to assume that the deflected directive is still a reason. How can this be?

Perhaps then what is assumed in the practice is that the reason constituted by a directive issued under circumstances of *TAK* is *altered*, losing the 'ought-making' or 'requiring' feature it would have had, all else being equal, but for the circumstances of *TAK*. Put differently, perhaps the transformed directives are still taken to count as reasons, only that they are discountable, so that part of the normativity of such directives is that directive-subjects are permitted to ignore them, even in the absence of any equally strong (or stronger) opposing reason. Accordingly, perhaps what explains the appropriateness of 'the deflection' is that under conditions of *TAK* directives are considered to lose their ought-making features, thereby making their own deflection permissible. This would capture both the deflection and the waiver features of *TAK*.<sup>12</sup>

But does this proposal even make sense? Is not a requiring or ought-making feature a necessary condition for counting as a reason? Some think not. For example, Jonathan Dancy distinguishes between what he calls 'preemptory reasons' and 'enticing reasons'. Preemptory reasons contribute to what one ought to do. In contrast, while enticing reasons count in *favor* of a certain action, they do not contribute towards making it what one *ought* to do. Thus, enticers count in favor of something, in the sense of making it attractive, without contributing to making it required. Accordingly, enticing reasons can be rationally discounted or ignored (Dancy 2004), even in the absence of weightier reasons.

In a similar vein, Patricia Greenspan distinguishes between "positive" and "negative" reasons (Greenspan 2007).

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<sup>12</sup> I can't claim allies for this view or for the view I endorse in the next section. However, some use the term 'standing' to explain the nature of hypocritical blaming or condemning, and some understandings of 'standing' are incompatible with the invalidation model. Those who I expect would endorse something along the lines of what I called the 'alteration' or the 'exclusion' models and would reject the invalidation model are Bell (2012) and Duff (2010).

Negative reasons count against, for example, certain actions. Positive reasons – that is reasons in favor of something – are normally explainable in terms of negative reasons – that is in terms of considerations against alternatives to the action that they require. Nevertheless, Greenspan recognizes a category of what she calls “purely positive reasons,” which are reasons that count in favor of something without counting against anything. Such reasons qualify or recommend a choice without disqualifying competing options. They are the sort of reasons that ground permissions, not ‘oughts’ and obligations.

Also helpful is Joshua Gert’s distinction between the “justifying” and the “requiring” features of reasons (Gert 2007). According to Gert one aspect of reasons is that they make certain actions irrational. This is the requiring or ought-making feature of reasons, as here reasons require (or contribute to requiring) that we not perform a certain action. According to Gert reasons can also permit. That is, reasons can make (or count in favor of making) a certain action rational. This is the justifying feature of reasons. It is possible, according to Gert, for a reason to justify  $\Phi$ -ing without requiring it. Gert gives the example of self-defense: it is normally impermissible to intentionally cause physical harm to others; however, if one is under imminent threat of physical harm one is *permitted* or is *justified* in defending oneself by harming one’s attacker. The threat does not, however, count in favor of requiring or making it so that one ought or must harm one’s attacker.

The position that a reason can lack an ought-making or requiring feature and still count as a reason is controversial,<sup>13</sup> yet even accepting some version of this position, I am not sure whether the alteration model fully captures the phenomena of *TAK* practices. That said, the alteration model does much better than the previous two.

As demonstrated above, when we choose to forgo the prerogative to deflect a directive issued under the aforementioned conditions, often our reason for doing so is the directive itself. For instance, the reason to grant the request of a nosey friend is that *she* made the request. In *some* such cases, when we choose to waive the issue of

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<sup>13</sup> See, e.g., Broome (2004).

standing, the way we engage with the directive is as if it obligates us, as opposed to merely making complying with the directive rational or counting in favor of complying. In other words, we comply with such directives out of a *sense of obligation* and because we think – often reluctantly – that we should, ought or must do so, *not* because we are somehow ‘enticed’ by the directive to choose to comply. Accordingly, in such cases the deflectable directives seem to do more than make compliance rational or even attractive; they also make it required.

For example, generally children ought to respect or at least consider their parents’ requests regarding the child’s safety and health, even if the requests are hypocritical. In the example of the smoking daughter I am tempted to respond to the defiant daughter whose parents’ hypocrisy enables her to ignore them by saying: “I know that you *may* ignore them, but you *mustn’t*.” Thus, while recognizing the daughter’s prerogative to disregard her parents’ plea we also believe that she ought not exercise that prerogative and that doing so exposes her to legitimate criticism.

Accordingly, standing practices such as *TAK* – at their extremes – entail curious cases. Cases in which it is somehow appropriate to ignore and not do what one *ought not* to ignore and *should do*. In fact, such cases are the cutting edge of *TAK* practices and of standing norms more generally, providing for certain protective realms of choice even in the face of morality and reason.

The alteration model cannot account for these sorts of peculiar cases featuring in practices of *TAK*. Now some may understandingly find it tempting to view this ‘bug’ in the model as a ‘feature’, as it identifies the limitation in the practice rather than in the model, concluding that at their extreme standing practices are irrational because they assume liberty to do what one ought not to do – an irrationality that is reflected in the alteration model. Yet adopting this stance commits one to a highly revisionist view, depicting numerous everyday practices as irrational. Happily there is an alternative model that casts the full scope of *TAK* practices in a rational light, thereby saving the phenomena without slipping into contradiction and irrationality.

### 3.4 Model IV: Exclusion

How then to explain the normative structure of ‘the appropriate deflection of directives’ under conditions of *TAK*? Thus far we have evaluated three possible models: circumstances such as *TAK* (i) *invalidate* directives, (ii) *change* the reasons constituted by directives or (iii) give rise to reasons to reject the directives which *compete* with the directive-reasons. All three accounts fell short of fully capturing the phenomena. I now turn to a fourth and final model, explaining the nature of the ‘appropriate deflection’ in terms of ‘exclusionary permission’.

To understand what is an exclusionary permission it is best to first understand what an ‘exclusionary norm’ is, which is a second-order norm that gives second-order reasons not to be guided by (i.e., to exclude from deliberation) certain first-order reasons.<sup>14</sup> First-order norms give reasons to do (or deliberate, or believe or feel); second-order norms give second-order reasons, that is reasons that *relate to reasons* (not to actions, beliefs or feelings) (Raz 1990, pp. 39-40).

Here is an illustrative example of an exclusionary second-order reason and how it relates to first-order reasons. I promised my friend to join him at the pub this evening only to later receive a last-minute invitation to join another group for dinner. My promise to my friend is a reason for me to exclude the later invitation from my deliberations on what to do this evening even if, on the balance of reason, things would be better were I to disappoint my friend in favor of the dinner. My promise to go to the pub does not, therefore, defeat or outweigh the reasons to go to the dinner. In fact, it is stipulated that I have *more* reason to go to the dinner than to the pub. Rather, my promise functions here first as a reason to go to the pub and second as an exclusionary reason to exclude and not to incorporate into my practical deliberation those conflicting – even if weightier – reasons to go to the dinner. In addition to promises (Raz 1977, pp. 210-228), Joseph Raz also explains the structure of authoritative reasons in terms of exclusionary reasons (Raz 1979, pp. 37-52).

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<sup>14</sup> On ‘exclusionary reasons’ and ‘exclusionary norms’ see Raz (1990, pp. 40-48 and pp. 73-76 respectively).

Like exclusionary norms, exclusionary *permissions* are second-order norms. That is, they do not give reasons that compete with first-order reasons, such as reasons for actions or reasons to deliberate, but rather regulate the exclusion of some such (first-order) reasons from one's practical deliberations regardless of the normative force of those reasons. But unlike exclusionary norms, which *require* one not to be guided by excluded reasons, exclusionary permissions merely permit it (Raz 1990, p. 90). Raz, for example, explains supererogation as a form of exclusionary permission (Raz 1990, pp. 91-97).

The form of exclusionary permission best captures the structure of the *appropriate deflection* found in cases of standing, such as practices of *TAK*. What explains the appropriateness of the deflection of directives is that given the conditions of hypocrisy, or meddling, or lack of status, the subjects of such directives are *permitted to exclude* those directives from their practical deliberations, regardless of their weight or validity.

The appeal of this explanation of the structure of standing is twofold. First, unlike the competition model, the exclusion model accommodates the fact that practices of *TAK* make deflecting both appropriate and optional. Exclusionary reasons do not involve the exclusion of reasons based on their weight but rather on their type. Second, unlike the invalidation and alteration models, the exclusion model does not condition the appropriateness of the deflection on the invalidity of the deflected directive or on some deflation of the reasons generated by the deflected directive. Which is why the exclusion model can accommodate what the other two models cannot: that practices of *TAK* make appropriate deflecting (valid) directive-reasons, including even fully robust directive-reasons – that is 'ought-making reasons' and not merely 'good/rational-making reasons.'

Moreover, conceptualizing *TAK* practices in terms of second-order norms of permissive exclusion casts these practices in a rational light, making sense of and explaining in rational terms what are at times seemingly contradictory practices. According to the exclusion model *TAK* practices do not permit doing what on the balance of reasons one should not do, which is irrational, but rather *permit excluding* (as second-order norms) from one's deliberations – that is without conflict or contradiction – reasons that contribute to



determining (as first-order norms) what one should or should not do. Similarly for example to how promising or commanding *require* excluding certain reasons, even if weightier.

To conclude, practices of *TAK* share the structure of a permission to exclude even valid directives. The facts on which this shared structure of permission supervenes obviously differ wildly within *TAK* practices. Very generally, as we have seen, these facts include types of hypocrisy in cases of *tu quoque*, various instances of meddling in cases of *age tuum negotium* and lack of status in cases of 'know thy place'. My focus here has been on explaining what these very different sets of practices have in common as practices of standing: they all provide permission to exclude directives that were issued under certain compromising *ad hominem* circumstances.

#### **4. Justification and Conclusion**

My goal here was descriptive – to clarify the normative structure of practices of *TAK* and of the concept of 'standing' more broadly. Given that the practices exhibit the structure of exclusionary permission, the question now becomes whether or not such practices are justified. Demonstrating that they are is a tall order. How does morality or rationality give with one hand (capacity to give valid directives) what it taketh with the other (permission to exclude valid directives)? How are noncompliance and the ignoring of relevant reasons ever justified, certainly in the more extreme cases of excluding obligating reasons? In other words, are 'exclusionary permissions' more than just misguided *social* norms? Do they make moral sense? Or do they just risk resulting in people regularly failing to act on the balance of reasons? These questions regarding justification are important especially given the pervasiveness of *TAK* practices. Were such practices ungrounded the implications for many of our everyday practices and moral intuitions would be dramatically revisionary.

The grounds of standing practices begin, to my mind, with the values that such practices serve to protect through imposing duties of nonintervention. Now these values obviously vary with context and the specific standing norm – *tu quoque*, *age tuum negotium*, or 'know thy place'. Yet

they plausibly include values that are sensitive to intervention and intrusion, such as autonomy, privacy and valuable relations. Such values are to an extent content-free – identifying realms of noninterference even at the price of a measure of irrationality or normative error. Obviously developing an account of the grounds of *TAK* practices along these lines must await another occasion. Yet the point is that understanding the structure of the practice of standing makes salient the significance of accounting for its grounds.

Finally, recognizing that the normative structure of standing practices does not turn on invalidating directives but rather on their permissible exclusion, demonstrates something rather surprising: that norms of standing are not a sub-category of norms of normative power, such as authority. Standing norms are not, in other words, norms of validity. Accordingly, ‘power or authority to direct’ does not necessarily entail ‘standing to direct’, which establishes standing as a distinct and independent normative category as well as opens up a conceptual space of surprising implications. For instance, legitimate authority to command others, such as the authority held by legitimate state sovereigns, does not guarantee standing to so command and, therefore, opens the door for cases in which we may permissibly disregard – on the grounds of no standing – legitimate law.

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