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Disclaiming Responsibility, Voicing Disagreements, and Negotiating Boundaries

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We often say and do things that disclaim responsibility for what we have done in the past. I call these acts ‘disclaimers’, and argue that they serve the purpose of challenging third-party attributions of responsibility in a community governed by norms of mutual accountability. Claiming responsibility for action is a primary mode in which agents express self-respect and take a stand in front of the relevant normative community. Insofar as self-respect partially depends on social recognition and is vulnerable to relations of powers and social attacks, the normative capacity for claiming and disclaiming responsibility for action is similarly vulnerable. My contention is that disclaimers enable mutually vulnerable agents to protect their sphere of agency, reaffirm self-respect, and press demands of recognition.

In Sections 12.1 and 12.2, I set the background for discussing the activities of claiming and disclaiming responsibility for action, focusing on the normative powers of mutually dependent practical subjects. In Section 12.3, I explain how disclaimers function as normative powers, and focus on their apologetic and disowning functions. In Sections 12.4–12.6, I contend that denials function as disclaimers. While the debate focuses on evasive and wrongful refusals to take responsibility for action, I argue that one of the paradigmatic functions of denials is to press moral demands of mutual respect and recognition (Section 12.5), even vicariously (Section 12.6). Under this capacity, denials are crucial modes of exercising and defending one’s responsible agency, not only by rejecting misplaced or wrongful ascriptions of responsibility but also by disputing their grounds. Such disputes may voice disagreements so divisive as to raise the question of the standards of membership in the relevant normative community. In Section 12.7, I highlight

various ways in which disclaimers of responsibility may have a normative impact on the normative dynamics of membership. Insofar as disclaimers can positively alter the dynamics of membership and are conducive to normative changes in the relevant normative community, they should be acknowledged as fundamental modes of ethical and political empowerment.

12.1 Responsibility and rational accountability

Responsibility belongs in a complex conceptual cluster which is structural of communities governed by norms. I will be using the term ‘normative community’ in the most abstract sense, so as to refer to any community which is defined and held together by norms of various kinds. It is an open question whether even in this abstract sense, the normative structure of any such community should include moral norms as its basic constituent.¹ I call ‘moral community’ the abstract model of a community regulated by norms of respect and mutual recognition of equal moral standing.

Responsibility marks specific kinds of systemic normative relations where multiple rational agents are bound to interact, and thus are vulnerable to one another in several overlapping ways. I call ‘practical subjects’ such embodied, interdependent, and mutually vulnerable rational agents. These subjects (practically) interact interdependently. First, they depend on one another in the pursuit of their individual goals, ends, and plans. Individual agents design and undertake plans whose success is dependent on the collaboration of others. Second, practical subjects depend on one another for the pursuit of shared plans, which result from shared deliberation and joint intentions. Third, practical subjects are capable of bonding and reacting emotionally to others and to their action, addressing others emotionally and engaging others in an emotional exchange.

Remarkably, practical subjects depend on each other in peculiar ways because their dependence on others is mediated by reasons: they interact rationally with one another. They govern and modulate their interactions and interdependences by exchanging reasons and partaking in shared reasoning. Because they are capable of rational interaction, they are mutually rationally accountable: they are required to account for the action and

¹ The problem of the legitimate standards of membership is importantly related to the debate about the nature of the rule of recognition in law; see Hart 1961, Shapiro 2009, and Bagnoli ms.

activities on the basis of reasons that others could understand and share. Insofar as they are rational agents, such subjects have various normative powers, that is, capacities for generating reasons and shaping their agency. Because of their normative powers, practical subjects can alter their standing and normative relations to other practical subjects, and the relevant normative community. Among such capacities is the capacity to make claims and to disclaim.

In what follows I take practical subjects to have normative standing, which amounts to saying that they *have* claims, that is, they are entitled to make claims against other practical subjects who disregard their standing, or claim that they have such standing respected and properly acknowledged.² Responsibility for action is one large domain that practical subjects can claim against somebody who has denied, undermined, distorted, or alienated their agency. For the purpose of this chapter, I will assume without argument that the legitimacy constraint on the normative activities of claiming and disclaiming is marked by mutual respect and recognition of equal moral standing.³ However, the discussion of disclaimers does not enter the question of what validates them. My main contention in this chapter is that disclaiming is a normative activity, with a significant normative impact precisely because it can be exercised by practical subjects who are kept at the margins of the validating process, for reasons that have to do with their social standing rather than their capacities or normative standing.

In some cases, practical subjects may not be fully aware of their normative standing, and so they may have claims and yet not be able to make them.⁴ Or, they may distrust so deeply their social context that they are unwilling to make claims, or to claim responsibility for something that is theirs. In a just political realm, citizens view themselves as free in that ‘they are viewed as capable of taking responsibility for their ends and this affects how their various claims are assessed’ (Rawls 1985: 243). It is arguable that a conspicuous form of injustice consists in the lack of proper recognition or distortion of one’s sphere of responsible agency. My point will be that

² On the link between self-respect, dignity, and the activity of making claim/disclaiming, see Feinberg 1970. This account bears similarity to Joel Feinberg’s theory of claims and rights, but it is not an adaptation of it. While I identify practical subjects as those subjects with the rational capacities and moral powers to have claims, I do not think these powers coincide with those of right-holders.

³ This proposal belongs in a larger project centered on a constructivist account of normativity and rational justification, but does not build on it. On the normative principle of respect as a fundamental mode of recognition of persons in the moral community, see Bagnoli 2007.

⁴ Feinberg 1970: 620.

disclaimers are distinctive normative resources that practical subjects fruitfully activate to counter circumstances of injustice.

12.2 Claiming responsibility

Claiming responsibility for one's actions is a primary mode in which rational agents express their self-respect, take a stand as practical subjects, and represent themselves as entitled to make specific claims, requests, and demands. Claiming responsibility for something is a normative activity, with normative effects. Normally, in the deliberative perspective, claiming responsibility for action is tantamount to authorizing it, or taking care of its consequences. But claiming responsibility can be something one does against somebody else. This is the sort of normative power that practical subjects can exercise when their agency is denied, underappreciated, inadequately acknowledged, or simply misunderstood. In such cases, practical subjects are entitled to make claims that their agency be properly recognized. In other cases, instead, claiming responsibility for action amounts to showing that the proper conditions of agency are satisfied so as to be given credit as an agent.

However, there might be disagreements about the criteria for responsible agency. Such disagreements may be quite deep and depend on or overlap with disagreements about membership in the relevant community. In fact, the history of human communities shows that agency and moral membership have been defined in a wide variety of ways. Such differences affect the criteria for validating the claims to responsible agency.⁵ This is just another way to say that norms of respect for responsible agency are normally vulnerable to social conditions and relations of power.

I hope to show that particular acts of claiming and disclaiming responsibility for action are normative acts by which one attempts to overcome such vulnerability, by altering the boundaries of the relevant normative community. By looking at some paradigmatic scenarios, we gain a fresh perspective on the dynamics of membership in communities governed by norms.⁶ To

⁵ I use the term 'validity' as justification within a system of rules; see Feinberg 1970: 622. I will not enter the debate about the proper criteria for such moral validation, though I specified at the outset the grounding role of mutual respect and recognition.

⁶ I treat disclaimers and denials as 'normative acts', that is, as 'acts of will', rather than as speech acts or unconscious mechanisms. Correspondingly, I take disclaimers to be the proper object of investigation of a normative theory of action, rather than of speech acts theory,

better identify the normative scope of disclaimers, let us consider the contrast between *taking* and *claiming* responsibility.

12.2.1 Taking responsibility

In taking responsibility, one confronts the outcomes of one's agency, e.g., the untoward consequences that one did not anticipate or could not prevent. Typically, practical subjects are required to take responsibility for something unfortunate or bad, e.g., something that happens because of their negligence. Generally, and especially when one has not planned everything carefully, one is morally expected to respond to others for what one has done—perhaps irresponsibly, but also absent-mindedly or even unknowingly. Sometimes, one has to take responsibility for something one did not do oneself, as when one takes responsibility for one's child's misbehavior. One is expected to take responsibility for things that merely 'follow on' one's action, even though one did not fully intend them and could not prevent them, as e.g., in a viral contagion. In taking responsibility for the unintended and unpredictable effects of one's action, one shows oneself to be aware of one's surroundings, of one's messy agential domain, but also of the larger domain of causal interactions in which one's action is embedded. Correspondingly, one is regarded as the appropriate target of moral complaints and reactive attitudes also if one is reluctant to take responsibility for something one did not actually do, that is, something merely following on from or arising out of one's action. Thus, taking responsibility for agency is a normative activity that situates practical subjects in a broad domain of practical and causal relations, in which the intentional exercise of their agency is not central.

12.2.2 Claiming responsibility

By contrast, in claiming responsibility, practical subjects call attention to their own agency, avowing or endorsing the action for which they claim responsibility. In doing so, the claimants address the relevant normative

linguistic phenomenology, or psychodynamics. This inquiry is compatible with naturalistic explanations of reactive attitudes and of their function in the life of normative communities such as, e.g., McGeer 2010.

community. We may think of the novelist claiming responsibility for her novels previously signed with a *nom de plume*. The primary function of claiming responsibility for action is that of signalling a relation of authorship between the agents and their action, which can be externally undermined. The claim of authorship can be misplaced, ungrounded, or even wrongful—as in the case of Walter Keane, who took credit for Margaret Keane’s own paintings, by posing as their author.⁷ In doing so, he wronged Margaret Keane who later reclaimed her works, taking ownership of them but also claiming them as her creation, and hence reaffirming her agential authority. Her claiming authorship is also an act of redress, in that it responds to her husband’s wrong.

12.2.3 Claiming recognition

In claiming responsibility for one’s action, one takes a stand in front of other practical subjects and assesses one’s status as an agent capable of responsible agency. Thus, claiming responsibility for action is a normative activity in which the agent always implicates a normative community. On some occasions, the agent explicitly addresses the relevant community by directly making claims to it, e.g., in order to enter it and be recognized as a peer member. A case in point is that of a terrorist claiming responsibility for a bloody terrorist attack. In claiming responsibility for the attack, the terrorist means to attract attention to his political agenda.⁸ But there are cases in which the terrorist does not claim the terrorist attack only to communicate an agenda and make it publically visible. Rather, this act forces a novel political actor in the political arena. It is questionable that a demand for recognition pressed through violent and retaliatory means could be found valid.⁹ This is a divisive issue, which I cannot explore here, but I want to flag the relation between making claims and demanding recognition. My contention is that, at least in some cases, the primary function of making

⁷ See Parfrey and Nelson 2014.

⁸ For instance, when ISIS claimed responsibility for the Strasbourg attack in 2018, French minister Christophe Castaner rejected this claim, arguing that it was opportunistic. Extrapolating from this case, we can say that novel political subjects forcing their way into the political arena may profit from claiming responsibility for acts actually authored by other subjects.

⁹ See Section 12.3 on the contrast between excuses and disclaimers.

claims about one's responsibility for action is to call for moral and political recognition.

This contention allows for a number of complications about the ways in which the claim is pressed. For instance, the terrorist might admit that any terroristic action is morally forbidden but claim that his particular case is excused by special mitigating circumstances,¹⁰ such as ongoing conditions of marginalization, oppression, or systematic and normalized wrongdoing. By contrast, the terrorist may appeal to such circumstances as fully justificatory. Justifications are importantly distinct from excuses, in that they are advocated by agents who take full responsibility for an action they consider morally permissible.

To wit, these paradigmatic cases show that claiming responsibility for action is a normative act adopted when one stands in need of affirming one's self-respect, because of a perceived danger of having one's agency disregarded, undermined, challenged, or distorted. These are ways in which the claimants intend to respond to wrongs. In all such cases, claiming responsibility for action is both a *defensive and reactive normative act*, in the broad sense that it aims to establish or protect one's sphere of purposive agency, against somebody's wrongs, or in response to some perceived external challenges. In some cases, the challenges are to the very status of agents as legitimate claimants demanding appropriate recognition. But the demand itself can be misplaced, and the way to press it wrongful. Thus, to say that one has normative powers to claim responsibility for agency is not to say that one has a valid claim to it.¹¹ Claims have to be validated by proper justificatory procedures to effectively generate appropriate normative changes. Yet, making claims is not without normative force. In fact, claims may be said to have normative impact even before validation, insofar as they demand attention and are directed to the relevant normative community. Even when claims are invalid or misplaced, they put others in the position to respond to them, e.g., by considering whether they are indeed valid. At the very least, claims generate an obligation for the relevant normative community to enter the validation process, and start a normative negotiation. By pressing claims, claimants change their normative relation to the respondents.

¹⁰ Excuses belong in the broad category of extenuation; see Austin 1956.

¹¹ Feinberg holds that claims have a *prima facie* normativity, in the sense that they can be not yet validated, invalid, or misplaced; Feinberg 1970: 621, and 624 footnote 6. This qualification indicates that claims are not to be held equivalent to rights, but it should not be taken to mean that claims have no normative force altogether.

12.3 Disclaiming responsibility

If responsibility for action can be claimed, it can also be disclaimed. Like claims, disclaimers of responsibility are normative acts, which are the prerogative of practical subjects, that is, of agents with normative standing. Yet, they are not merely the negative sides of positive claims. Attention to disclaimers brings to light the normative dynamics through which practical subjects gain or regain normative standing. Through the investigation of the normative functions of disclaimers, we appreciate that normative powers are often activated in reaction to wrongs and we gain a better understanding of the normative resources that help construct a more inclusive normative community.

However, disclaimers represent a non-homogeneous category of normative acts, which are best studied by examining their paradigmatic cases. My main contention is that disclaimers are powerful normative tools for altering membership in the relevant normative community, and I discuss the central cases in Sections 12.4–12.7. In this section, instead, I will consider some functions of disclaimers that seem to overlap with exemptions, excuses, justifications, and disavowals.

12.3.1 The apologetic function

On some occasions, the function of disclaimers can be apologetic. Suppose Angela inadvertently enters into a private garden and when she realizes that she has done so, she steps back, disclaiming the trespass: ‘Oops. I had not realized this was a private space, so sorry!’ In this case, the disclaimer is sufficient to retract the trespass. By disclaiming the act, Angela intends to take back what she just did. Inadvertency here is a plea for excuse.¹² There are more controversial cases in which the agent’s disclaimer is critical and contestable.

Suppose Nora apologizes for stepping on Lea’s foot inadvertently, but Lea refuses to accept her apology by insisting that it could not possibly have been inadvertent. The dispute is over whether Nora’s act was intentional. Nora’s disclaim is perceived as insincere, and hence her apology is rejected.

¹² Inadvertency can be an aggravating circumstance; e.g., when it follows on culpable negligence, it is better described as reckless lack of proper attention and vigilance. The issue can be a matter of degree; see Austin 1957, §7, and footnote 9.

Furthermore, in Lea's eyes, it is simply outrageous that Nora disclaimed having purposefully stepped on her foot. Nora's disclaimer adds to the original act, instead of discounting it as inadvertent.

On a modified scenario, suppose that Nora and Lea are national representatives at a formal meeting on climate change, in which their respective countries take opposite sides. As they are approaching the stage for a press interview, Nora steps on Lea's foot. Though Nora apologizes immediately, she accompanies her words with a defiant smile. Lea understands that Nora's apology is hypocritical and her act is aggressive rather than inadvertent. She bears the responsibility to respond compatibly with her political function as a public officer. Upon deliberation, Lea decides to accept the hypocritical apology and put the unpleasant event behind, so as not to compromise their meeting.¹³ This is to say that at least in some paradigmatic scenarios whether the apologetic function of disclaimers is carried through depends on the response of the respondent, which can be motivated by moral, political, or pragmatic reasons.

12.3.2 Disowning function

In the next set of cases, disclaimers are used to disavow acts and refuse moral responsibility for past wrongs, on the ground that the action was performed under an evaluative framework that the agent no longer endorses. For instance, Tom is a diner owner leading a quiet family life until he is thrust into the spotlight after killing two robbers in self-defense and saving the waitress.¹⁴ The incident reveals that he had been a gangster associated with the Irish mob. Confronted by his wife, he rejects all allegations and denies past responsibilities, on the grounds that he is now a different person. His argument is that he bears no morally significant relations to his past. Such dramatic cases of disclaiming responsibility for the past point to drastic changes in view. The disavowing agents may regard themselves imputable and liable for the effects of their past action but not morally responsible for their past agency. In other cases, instead, the disavowing agents reject the standard of imputation and accountability of past wrongs, but recognize

¹³ Inadvertency can be the ground for plea or excuse, but not in this case. Excuses can be found unacceptable; see Austin 1957, §5.

¹⁴ The example draws from *A History of Violence*, a 2005 film directed by David Cronenberg and written by John Olson.

moral responsibility for past wrongs. In either case, these normative acts emphasize the corrosion of past evaluative standards and the emergence of others, and raise issues of integrity and diachronic rational self-governance.¹⁵

12.3.3 Disclaimers as interpersonal normative powers

In contrast to exemptions, disclaimers are applicable precisely because the agent retains full membership in the relevant moral community. In contrast to excuses, disclaimers do not appeal to the circumstances of action *external* to the agent in order to mitigate the ascription of responsibility, but invoke the agent's normative powers and agential capacities to challenge or counteract mistaken or wrongful attributions of responsibility for action. In contrast to pleas and justifications, disclaimers count as positive modes for defining the bounds of one's agency. In these cases, instead of mitigating the burden of responsibility by relating the circumstances of action that constrained the opportunities of action or diminished the agent's self-governance, disclaimers have empowering effects on the sphere of agency. Differently than pleas, disclaimers do not qualify the relation of authorship between the agent and action, but question the grounds of ascriptions of responsibility. As a consequence, disclaimers aim at a redistribution of specific responsibilities. When properly validated, they have the effect of switching responsibilities onto other agents, as shown in Sections 12.5 and 12.6.

The examples of this section are meant to emphasize that even when they have an apologetic and disowning function, disclaimers are markedly *interactive*: they are normative acts addressed to particular others as members of the relevant normative community. In particular, by treating withdrawals and disavowals as disclaimers, we appreciate that they are normative acts distinctive of and internal to communities governed by norms, rather than individual second-order volitions that shape one's mind or unconscious collective mechanisms.¹⁶

¹⁵ One should not take these cases as breaks of self-governance, necessarily. Disclaimers are typically accompanied by practical attitudes, such as, e.g., remorse, repentance, and guilt, which re-orient the agent toward the future. It is conceivable that at least in some diachronic conflicts, agents integrate and exercise their self-governance over time by engaging with such complex diachronic attitudes.

¹⁶ This account of the disavowing function of disclaimers departs from Frankfurt-style interpretations of disavowals and withdrawals as modes of making up one's mind and determining the boundaries of the self; see Frankfurt 1988: 18–19.

12.4 Denials as disclaimers

The interactive approach to disclaimers can be particularly useful in the case of disclaiming responsibility for past action, which is not motivated by disavowal. Current debates have privileged the defensive or self-serving functions of denials of responsibility for the past. By contrast, I want to call attention to denials as challenges to third-party misattributions of responsibility.¹⁷ Under this capacity, denials have a rather disruptive normative force because they critically engage the relevant normative community. Below I distinguish five scenarios which highlight different ways of denying attributions of responsibility.

12.4.1 Authorship denials

There are cases in which practical subjects deny third-party attribution of responsibility by correcting, supplying, or disguising information about authorship. In some cases, the agent does not want to take credit for something done by somebody else. For instance, one may say: ‘You should not thank me for this donation: it is my mum’s doing’. Or, one might want to point out that the effects of one’s action are produced unintentionally: ‘I wish this drawing exhibited my artistic genius, but in fact it is just an ink blot’. This sort of disclaimer may have moral grounds: the agent is required to refrain from taking credit for something she did not do, and may be reluctant to take pride in achievements that largely depend on luck. But there are also cases in which the agent disguises his agency and refuses responsibility for the sake of others, e.g., out of friendship and love—as *Cyrano de Bergerac* does.

12.4.2 Imputation denials

A prototypical category of denials aims to defend the agent against the accusation of wrong actions or the imputation of bad outcomes. Imagine two partners arguing about who started the fight. ‘I didn’t!’ is a defensive

¹⁷ My treatment of the normative function of denials departs from the approaches inspired by Freudian psychology, which focus on unconscious individual and collective mechanisms for neutralizing stressors, and simply set aside, reinterpret, or suppress threatening information; cf., Cohen 2001: 37ff., Murphy 2017: 143–4.

protest, which raises the issue of fairness in the distribution of responsibilities and demands a different distribution of responsibilities across the agents involved. The denial brings the question of justification into the open and demands that the case be reassessed on shared grounds. In this case, the protest calls for redistribution of responsibility, and to this purpose it calls attention to justificatory grounds for the attribution of moral responsibility which are assumed to be shared.

12.4.3 Implication denials

To be sure, implicatory denials are often used irresponsibly and self-servingly, but my point here is that they also play the valuable function of voicing and articulating disagreements about the normative standards for attributing responsibility in collective action. Sasha, a member of the Ω party, denies responsibility for a collective action undertaken by the Ω party leader, urging that moral responsibility for partaking in collective action is determined by one's explicit consent rather than by default membership.

Implicatory denials are particularly valuable in those cases of collective action in which an individual member of the group credited with the action did not exercise any agential powers. In some cases, it might be unclear whether and how the individual participated in the collective action. For instance, in the case of massively social actions, that is, actions that are characterized by the enormous scale of social mediation, the standards of attribution of individual moral responsibility are hard to define in an uncontested way. In some such cases, implicatory denials may be used to restate the boundaries of individual agency, and determine more precisely how the individual is implicated in the collective action (e.g., whether she is co-responsible, accomplice, or not involved at all).

Furthermore, implicatory denials can be used to press the case that at least some agential powers cannot be alienated and delegated to another (collective) body without that very basis of agential authority being undercut. Arguably, even in complex socially mediated forms of agency, there is a residual form of individual agency at play, which counts as the ground for individual responsibility for collective action. Not all agential powers can be delegated, and so not all sorts of individual responsibility for collective action can be forfeited or disclaimed.¹⁸

¹⁸ Some of these complications can be approached by distinguishing different concepts or dimensions of autonomous agency, e.g., those relative to self-governance and self-direction,

12.4.4 Action-description denials

One may try to avoid moral incrimination or to lessen the gravity of the accusation by changing the subject and deny that the action under moral scrutiny is what it seems.¹⁹ In this case, the denial challenges the content of the moral judgment of attribution, i.e., the action-description embedded in the attribution of responsibility and, consequently, the moral categorization and the deontic status of the action. In some cases, the denial is an *evasive* and wrongful refusal to take moral responsibility by adopting a self-serving interpretation of the action at stake. Take the example of an executive officer who protests: ‘I did not lie, I just withheld information’. A Turkish officer disclaims responsibility for the Armenian genocide, by denying that the killing of Armenians in 1915 constituted ‘genocide’.²⁰ Evasive denials are wrongful in more than one sense: they are dishonest, manipulative, offend the respondents, and wrongfully add to the victims’ already heavy burden by denying them the status of victims.

However, there are cases in which denials posit genuine moral challenges to the normative community by calling into question the description of the action under assessment as morally inadequate. Furthermore, they demand or provide a more perspicuous moral categorization of the action imputed to the agent. For instance, Maira disclaims her responsibility for murder by denying that miscarriage *is* murder. Likewise, a surgeon disclaims responsibility for killing a patient, by denying that draining his blood and replacing it with freezing saltwater to induce clinical death counts as killing him. Denials of such kinds articulate disagreements about the categorization of the action for which the agent is held responsible. They are key ways in which agents defend themselves from wrongful accusations, but they fulfill broader normative functions: by defining the matter of contention in terms of contrastive action descriptions they bring to the fore that the parties have different moral and epistemic perspectives. In so doing, the denials reveal

and others relative to authenticity, self-expression, and self-realization. While autonomous agency does not fully coincide with authenticity, lack of authenticity is a form of alienation which can signal lack of autonomy. Other complications arise in social contexts in which the deliberative work is hierarchically divided, e.g., because of the way in which delegation is organized; see Pauer-Studer 2018, Bagnoli forthcoming 2021.

¹⁹ This category differs from Cohen’s ‘interpretative denials’, in that it focuses on the way in which responsibility is disclaimed; see Cohen 2001.

²⁰ See, e.g., *The Blue Book, Political Truth or Historical Fact*, a 2009 documentary film by Gagik Karagheuzian.

the moral and epistemic divide between agents and respondents; or, again, as normative tools, through which agents dispute and respond to accusations. However, the role of such denials is not primarily diagnostic or epistemic but normative. When denials voice moral disagreements, their normative function is analogous to a protest and their normative impact is that they change the normative relations among the disputants.

12.4.5 Action denials

In contrast with the self-serving officers described in the previous section, revisionists do not deny the moral categorization or description of the Holocaust, but that the Holocaust ever took place.²¹ In analyzing denials of this sort, we should be mindful that there are different ways of denying the facts of the matter.²² Action denials are particularly upsetting because in denying that a wrong action took place, they also deny that anybody should take responsibility for it (e.g., as agents, witnesses, or bystanders). They deny the existence of victims, and deprive the victims of their normative status and of their place in a restorative scheme (e.g., they deny victims their entitlement to reparation, apology, compensation, and associated reactive attitudes).

While action denials are self-defensive, and can be deceptive and/or self-deceptive, deceptive denials are used defensively, in order to avoid punishment and sanctions associated with the third-party's attribution of wrong, or offensively, against the claims of the victims of one's wrongs. Self-deceptive denials protect oneself from self-reproach, regret, and a generic sense of failure; it may be that a measure of self-deception is always

²¹ Denial of historical facts can be adopted as a political strategy aimed at undercutting a given narrative of the past and making room for a contrastive narrative, as in the case of the ancient policy of *damnatio memoriae* consisting in systematically deleting the symbols of the past from the public space. Denying the past is not an evasive strategy in this case. On the contrary, it is a way of coming to terms with the past—judging its legacy as worthless or dangerous. Within this framework, denials function as aggressive strategies, equivalent to repression—as a term of politics, not psychoanalysis. This is where methodological differences between the analysis proposed here and Cohen's (2001) analysis matter most.

²² One can deny that what happened really happened in a variety of ways: (a) by purposefully falsifying the evidence, discrediting authoritative sources, ignoring truthful testimonial sources, and dismissing crucial witnesses; (b) by dismissing or ignoring requests for explanation, denying the need for an explanation, or denying the audience's entitlement to an explanation; and (c) by lowering the standards of evidence, altering the standards of persuasion in a way that changes what constitutes the facts admissible in the context, and normalizing exceptions to the general practice of justification. Arguably, these are all strategies for falsifying the facts.

implicated in denials (e.g., self-deception about one's superior worth, special standing, or specific entitlements).

Debates have focused on denials as evasive maneuvers by which agents avoid taking responsibility, or as unconscious but self-indulgent stratagems to cope with guilt.²³ By categorizing denials as disclaimers, I mean to point out that denials play a larger role in the dynamics of normative communities governed by norms of mutual accountability. In the next two sections, I consider some paradigmatic cases in which denials fulfill positive normative functions and belong in a politics of empowerment.

12.5 Denials as demands

The standards for ascriptions of responsibility are shaped by the normative expectations of the normative community positioned to hold people responsible. Generally, the evaluations of morally responsible agency in the light of which one exercises one's own agency are formed outside the individual agent's sphere of agency and control. They also may reflect unjust social circumstances, and often do.²⁴ Because of the social and political inequalities internal to the normative community, people in unfavorable positions are more liable to feel alienated from their agency, and more vulnerable to bias when their responsible agency is under scrutiny. In the face of this, denials prove to be crucial normative powers: they can be exercised in response to situations in which the standards for the assessment of moral responsibility are corrupted, distorted, or biased. In this section and the next, I argue that they are empowering normative tools in that they put practical subjects in a new bargaining position. In such cases, they are specific modes of articulating and carrying on the struggle for recognition.

Here is an instructive example. During the civil war in Uganda, a group of women who were abducted and raped were accused of complicity, for

²³ See, e.g., Cohen 2001, Elster 2004, Murphy 2017: 143–4. Those relying on psychoanalytic theory conceive of denial as an unconscious defense mechanism for coping with guilt, anxiety, and other disturbing emotions aroused by reality. In cognitive psychology and decision-making, denials are also understood to work as unconscious mechanisms, along with mechanisms for monitoring, selecting, filtering, and modulating attention. They are often treated as part of high-speed cognitive models of processing information, in which useless information is deleted. When studied by using the neurological model of blind-sight, the question of responsibility does not arise.

²⁴ See Oshana 2018, Vargas 2018. As McKenna remarks, 'standards for a competent agent's acting from a reasonable quality of will are understood by reference to the expectations of the moral community positioned to hold responsible'; McKenna 2018: 38; cf., Bagnoli ms.

having facilitated these assaults.²⁵ At first, they did not challenge this charge, most probably for fear of retaliation, but possibly also because they felt powerless and uncertain about their normative standing. When the political and social circumstances became more favorable, these women started speaking up. They eventually denied any responsibility, in ways that well illustrate the complexity and multilayered normative impact of disclaimers.

On the one hand, the normative impact of such denial may be understood to be backward-looking. These women challenge the reconstruction of past actions and react against wrongful attribution of responsibility. More precisely, they challenge the grounds for the past imputation. Furthermore, by attacking the schema of complicity as an oppressive structure, they denounce multiple wrongs done to them (i.e., rape, unfair accusation, and normative abandonment), but they also make these wrongs intelligible and publicly visible. Correspondingly, they expose the wrongdoers as perpetrators acting on oppressive schemas, or as complicit bystanders contributing to normalized wrongs.

On the other hand, the normative impact of the denial is much broader, and forward-looking, since it generates obligations, demands correction, and arranges for future normative relations. By opposing resistance against an oppressive practice, the denial demands recognition of equal status, not only in a generic way, but in the specific ways required by the respective positions of the persons involved. In so doing, the denial attracts specific normative responses from the respondents, and generates specific obligations and normative attitudes. In short, it calls for the sort of moral and political attention and social recognition that proves to be a necessary step in exiting the state of alienation and normative abandonment to which marginalized and oppressed agents are confined. Furthermore, this kind of normative act advocates for a (fair) redistribution of specific responsibilities, and makes room for reparative and restorative practices.

However, we should not confine the normative impact of denials to the way they affect normative practices and inspire reforms. In fact, denials can be described also in terms of a profound alteration of the relation that practical subjects have to themselves and to others involved. Denials entail (and often mandate) a critical self-examination and self-appraisal, which changes

²⁵ This example is modeled on an actual documented episode in Uganda, related by Walker 2006 and Murphy 2017: 41.

the normative attitudes that the protagonists of these stories feel toward their past, themselves, and other victims.

Focus on denials rather helps us appreciate that the normative powers of practical subjects are vulnerable to social conditions, but also susceptible to recovery. Among the conditions that undermine the normative powers of practical subjects, and undermine their status as right-holders, there is ‘fear that the legal machinery is broken down or corrupt and will not enforce one’s claim despite its validity’ (Feinberg 1970: 620). Fear and lack of trust in the institutional setting may be corrosive and generate not only lack of self-esteem, but also ‘normative uncertainty’ regarding one’s own status: under persistent discriminating conditions, practical subjects may easily come to doubt that they have indeed the powers, rights, and entitlements which have been consistently denied throughout their life. Thus, the acknowledgment of past alienating conditions requires agents also to revisit their prior submissive attitudes. Relevant changes can be evidenced by attending to the transmutation of emotions—e.g., from shame to rage; and correspondingly, by attending to the transmutation of self-representation—e.g., from powerlessness to a novel sense of entitlement, from the desire for unconditional revenge to the demand of compensation in a restorative schema, from fellowship based on victimhood to fellowship grounded on self-respect.²⁶ The process may be long and painful, but the point here is that damaged and wronged practical subjects may regain self-respect and reclaim their agency beyond the stereotypes of victimhood by denying wrongful misattributions of responsibility for action.

Denials put such practical subjects in a new bargaining position, from which they can negotiate their place in the relevant community and appropriate their political and moral roles, thereby laying the basis for entering reparative practices and undertaking self-reparative activities. To be sure, these demands stand in need of public validation and recognition. Pressing a demand is not sufficient for regaining full membership and social standing; but normative acts such as denials are decisive steps in the normative dynamics of recognition. Thus, we can say that denials are key empowering normative acts, via which practical subjects attract moral consideration and may secure a safe place in practices and relations of mutual accountability. The study of disclaimers shows that practical subjects may learn of or regain

²⁶ On the methodological relevance of the transmutation of emotions, see Elster 2004.

their status, worth, or standing as rights-holders through the experience of disputing the grounds of responsibility.

12.6 Denials as vicarious demands

The Uganda women described in the previous section acquired a new bargaining position from which to renegotiate the terms of membership in their community, by subverting the local practices of mutual accountability. In their story as told, the practical subjects engaged in the struggle for recognition by themselves. Could anyone have helped? Demands can be pressed vicariously, as illustrated by the example of Carola Rackete, captain of *Sea-Watch 3*. She was arrested after docking a migrant rescue ship without authorization in the port of Lampedusa.²⁷ She acknowledged having challenged the Italian authorities by docking without authorization but she denied any criminal responsibility, disputing the (wrong-headed) assumption that her humanitarian act constituted a crime by any standard. The captain's disclaimer of criminal responsibility on humanitarian grounds is a vicarious demand of normative attention on behalf of migrants, and correspondingly, a public act of accusation against various political institutions guilty of normative abandonment.²⁸ Rackete is a vicarious claimant and a vicarious accuser: she disclaims (criminal) responsibility but also denounces injustices of various sorts (e.g., criminalization of immigration and obstruction to humanitarian rescue), and forcefully demands a different distribution of responsibilities on behalf of the rescued (i.e., a just distribution).

Whether or not Rackete committed a crime is a more contested matter than it may appear. On the supposition that she did, most would be inclined to say that she is *excused* by the dire circumstances. But this line of defense raises the issue of the standard of acceptability of excuses. As an alternative, one could say that the ethical and political force of her disclaimer—and, correspondingly, the demand (of ethical and political attention) and the accusation (of normative abandonment)—all depend on a double description of the action. On this construal, Captain Rackete's decision counts as an 'act of transgression' by Italian laws, and as a 'humanitarian act' by ethical laws. But the double description raises a more fundamental issue about the bounds of the relevant community. Isn't the relevant community 'humanity at large' rather than the local community defined and walled by

²⁷ See Povoledo 2019.

²⁸ On the concept of normative abandonment, see Walker 2006: 20.

its national jurisdiction? These are crucial questions in assessing whether the disclaimers are valid, and also in understanding how they differ from excuses.

This example shows that the boundaries of any given community can be questioned and modified, in ways that affect the deontic status of actions and the moral quality of agents. Furthermore, disclaimers have the potential to shift the focus on the relevant normative community and change personal and political relations among practical subjects. They have the power to refocus the public narrative onto different normative nodes or clusters of values, with heavy consequences on the normative relations among the practical subjects involved. They may undermine the stability of the community insofar as they call into question the specific norms of recognition and membership that are in place. Insofar as norms of membership are importantly associated with loyalties, and partly shape the individual sense of identity, denials have a significant impact also on the integrity and agential unity of agents.

For similar reasons, denials may be thought to endanger the political stability of the community, insofar as they cause a rupture in the public narrative. However, such ruptures are best understood as internal to the normative dynamics of the community, that is, as steps taken by the community itself toward a public narrative, rather than failures to hold up a public narrative. Unlike evasive denials discussed in Section 12.4,²⁹ the examples discussed in Sections 12.5 and 12.6 show that denials may trigger or inspire profound and morally mandatory revisions. They are empowering normative tools in that they put practical subjects in a new bargaining position, from which they challenge the relevant normative community and renegotiate their place in it. In such cases, disclaimers are normative tools for disputing and altering the terms of membership. They are specific modes of articulating and carrying on the struggle for recognition.

12.7 The normative dynamics of membership

My argument has been that disclaimers represent a distinctive category of normative acts, by which individual agents challenge third-party attributions

²⁹ In the case of historical revisionism, the denial of historical events and of the involvement of specific people represents a serious attack not only on the community's standards of normative justification but also on its representation of its identity. This is why evasive denials discussed in Section 12.4 are kinds of wrongs that significantly impair the personal and political relations among members of the community.

of responsibility in defense of their purposive agency. In some cases, they call into question the grounds of attribution and expose them as corrupted or biased, thereby changing the normative relations among the practical subjects involved. In this final section, I want to consider how the empowering effect of disclaimers plays out in the acquisition of full membership. My contention is that disclaimers are normative resources for pressing societal transformation, which shed light on the plasticity of normative community.

Normative communities of any sort have rules and procedures for membership. Membership comes with entitlements, rights, and privileges, but it also comes with duties and obligations, all of which are protected by norms. Some of these norms concern agency. Indeed, the capacity for responsible agency figures prominently among the criteria for membership in the moral community. Normative communities also have rules and policies for exiting. Such rules often concern the loss of requisites for full membership. But the discussion of disclaimers shows that such requisites can be negotiated. Disclaimers enable members of a community governed by norms to voice disagreement and express dissatisfaction, directly or vicariously, about the very standards of membership.³⁰ What is the leverage of the claimants?

We may address this question in analogy with the way shifts in membership occur in corporations. Sometimes, dissatisfied members use their bargaining position by threatening exit. When exiting is costlier for the community than undergoing internal change and adjustment, members may threaten to use this option quite effectively. This threat may provide significant leverage in the case of prominent members of the given community, e.g., members who hold offices, with special authority and power. When the costs of exiting the community are higher on the side of individual members, instead, the exit option does not have sufficient leverage to induce normative change. Since belonging in a community governed by norms is also a matter of loyalty and identity, the costs of the exit option may be extraordinarily high, so as to make the exit option almost unthinkable.³¹ The two options (i.e., exiting, and voicing disagreement) are not mutually exclusive, and can be

³⁰ This section exploits Hirschman's discussion of the dynamics of membership in the case of organizations; see Hirschman 1970: 2–5. I take his discussion as a springboard to address transitions toward a morally inclusive community.

³¹ 'Exit is ordinarily unthinkable, though not always wholly impossible, from such primordial human groupings as family, tribe, church, and state'; Hirschman 1970: 76.

entertained as integral parts of a complex strategy that extends over time. Typically, the exit option is structured and regulated, e.g., by procedural rules of recognition of membership and citizenship, whereas the voice option is more informal, and can be adapted to different local practices. Both these options can be institutionalized, but they are also and at the same time individual prerogatives.³²

Communities governed by norms have mechanisms for regulating normative transformations, including rules and policies that discipline normative behavior by changing the grounds for membership in the relevant community. A general feature of such communities is that they have an interest in cohesion, and typically reinforce membership by sanctioning defection and fostering compliance and loyalty. Not all such fostering mechanisms are operationalized in terms of sanctions and incentives; some insist on profiling members. For instance, the domestication of dissenters is often achieved through the assignment of the role of ‘official dissenters’ so that their position is made explicit and predictable, and hence not threatening.³³ Social mechanisms of this sort are conservative, and thus encourage normalization. Arguably, such conservative mechanisms play a large part in accounting for the actual dynamics of membership in concrete communities.

Disclaimers can be thought of as a powerful normative to counter such mechanisms that retain membership by silencing divisive disagreements. They create channels through which members communicate disagreements, affect the norms governing recognition, and thus produce changes in membership. Whether and to what extent such normative changes are conducive to a more inclusive community will depend on the underlying rational justification. The point is that disclaimers may have a significant normative impact insofar as they press for demands of recognition, and open a negotiation about the legitimacy of such demands, which takes place in the interaction with the relevant normative community. While these interactions may build on mutual epistemic discoveries, the role of denials is not epistemic: they do not merely point to a set of interests and values that there is reason to promote or protect, but posit a new normative agenda. In some cases, they do so by renegotiating the standards of membership in the relevant normative community.

³² Rules for recognition and change can be understood as planning strategies; see Shapiro 2009 and, for a critique of this approach, Bagnoli 2021.

³³ Hirschman 1970: 115.

12.8 Conclusion

I have argued that disclaimers are unexplored normative resources for mutually vulnerable and mutually accountable agents, and deserve to be studied as key modes of demanding respect and appropriate recognition. Disclaimers articulate disagreements over ascriptions of responsibility, and propose new grounds for reassessing responsibilities and redistributing them across members of the community. Finally, they reorient future relations in the aftermath of wrongdoing, by generating new reciprocal obligations and responses, thereby setting the course toward a more inclusive community.³⁴

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³⁴ Earlier versions of this chapter have been presented as the keynote address of the Brave New World Conference at the Manchester Centre for Political Theory in 2018, at the Seminar in Practical Philosophy at Collegio Ghislieri—University of Pavia, at the Workshop on the Fabrication of Facts at the University of Modena, and at the V New Orleans Workshop on Responsibility and Agency in 2019. I would like to thank these audiences, and in particular, Carolina Arruda, Michael Bratman, Emanuela Ceva, Luca Ferrero, Giacomo Floris, Rahul Kumar, Michael McKenna, Elijah Millgram, Colleen Murphy, Miriam Ronzoni, David Shoemaker, and two referees for their helpful comments and suggestions. Research on this topic has been funded by MIUR - PRIN 2017; Project n. 20175YZ855_004; CUP: D44I19004190008

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