SOCIAL CONSTRAINTS ON MORAL ADDRESS

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The moral community is a social community, and as such it is vulnerable to social problems and pathologies. In this essay I identify a particular way in which participation in the moral community can be constrained by social factors. I argue that features of the social world—including power imbalances, oppression, intergroup conflict, communication barriers, and stereotyping—can make it nearly impossible for some members of the moral community to hold others responsible for wrongdoing. Specifically, social circumstances prevent some marginalized people from engaging in what Stephen Darwall calls "felicitous moral address" (Darwall 2006). We should think of some members of the moral community as having "second-class moral citizenship" in ways that parallel second-class political citizenship. The injustice of second-class moral citizenship can be understood by drawing an analogy with Miranda Fricker's notion of "epistemic injustice" (Fricker 2007). Fricker's account of how people can be undermined in their capacity as knowers can be extended to show how people can be undermined in their capacity as makers of moral claims, which can be called "claimant injustice".

The paper has eight sections. In §1, I situate the view in relation to some of the existing literature on moral responsibility and moral agency. In §2, I show that if we take a broadly Strawsonian approach to moral responsibility, we should be prepared to place as much emphasis on the social practice of holding others responsible as we do on the eligibility criteria for being responsible. In §3, I argue that Darwall's "second-personal" framework for understanding moral address and accountability can be used to show why so many members of the moral community are, in practice, unable to hold others responsible for serious moral wrongs. In §4, I uncover barriers to moral address in a real-life case study of a Hmong refugee family navigating the health care system. In §5, I sketch the general mechanism by which social barriers inhibit moral address. In §6, I flesh out the account by drawing an analogy between Fricker's epistemic injustice and "claimant injustice". In §7 I show that the account can illuminate one aspect of what went wrong in the Trayvon Martin case. Finally, §8 shows how

the view differs from a closely related view discussed in the feminist moral psychology literature, and responds to a few worries.

1. Community, Agency, and Responsibility

I will assume a broad and inclusive notion of "moral community", as comprising those beings who interact with each other morally, or who affect or are affected by each other morally. In principle this could include agents and non-agents; persons and non-persons; humans and non-humans.[1] Philosophers sometimes draw the boundaries of the moral community more narrowly, to include only moral agents.[2] Whether the community is construed broadly or narrowly, moral agents are arguably its most active members, and for that reason and others they may be of special philosophical interest. The socially marginalized people discussed in this paper all qualify as moral agents on standard views of moral agency, and the view I defend would apply equally to a moral community comprised only of moral agents. Indeed it would be impossible to show how social constraints inhibit full participation in the moral community without discussing moral agency, so that is where we must begin.

On one standard view, a moral agent is anyone who has the capacity to be morally responsible, and/or to be legitimately *held* morally responsible, for her actions. The prevailing view of moral responsibility is that it requires "the capacity to understand, apply, and/or respond to moral reasons", a capacity that allows us to enter into a relationship with fellow moral agents marked by the reciprocal exchange of reasons (Shoemaker 2007, 70-71). As moral agents, we explicitly or implicitly make moral demands of one another, and hold each other accountable for failures to live up to those demands. We hold each other accountable by expressing what Strawson called the "reactive attitudes"—blame, indignation, resentment, etc.—and by participating in associated social practices (Strawson 1962/2008). Responsible moral agents are those who are proper targets of these reactive attitudes and practices.

On this picture, in order to know who belongs in the narrowly-construed moral community—the "club" of moral agents, as Shoemaker puts it (2007: 70)—we need to know who is capable of moral responsibility. In recent decades we have seen philosophers move away from considering the idealized, prototypical, or perhaps mythical "normal adult", and instead look more closely at the hard cases, those whose status as moral agents is less certain. These non-standard agents display interesting combinations of aptitudes and deficiencies with respect to the capacities that underlie moral agency—that is, the capacities that would make them fitting objects of reactive attitudes, judgments, and practices. So philosophers and moral

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[1] Depending on how "affect or are affected by each other morally" is cashed out, a variety of animals and perhaps even insects and plants might count as members of the moral community in the broad sense. I wish to remain agnostic both on whether it would in fact include those beings, and whether it would therefore be too broad. Neither matters for the primary argument in this essay, which focuses on humans.

[2] Shoemaker (2007) seems to favor the narrower conception, but shows how fuzzy the boundaries of agency, and thus the moral community "club", are. McKenna (1998) seems to favor an even narrower construal wherein agency is necessary but not sufficient for membership in the moral community.

psychologists have examined psychopathy;[3] autism;[4] Tourette Syndrome;[5] intellectual disability;[6] children, adolescents, and those abused as children;[7] nonhuman animals;[8] addicts;[9] kleptomaniacs;[10] and other interesting cases, including most recently babies[11]. The aim is to chart the fragile boundary between agents and non-agents. For instance, some argue that psychopaths are not moral agents, others that they are, and others yet that they have a *degree* of moral agency, albeit not full-fledged agency. In another example, Shoemaker argues that adults with some intellectual disabilities are members of the club "*to some extent*" due to their being sometimes eligible for moral responsibility in the "accountability" sense, if not the "attributability" sense (2009, 457).

One tentative lesson from this research, taken collectively, is that moral agency comes in degrees; we should not just ask whether any person is or is not a moral agent, but rather look for new ways of conceptualizing the diverse ways that people can participate in the moral community.[12] Another lesson, articulated recently by Shoemaker, is that moral responsibility involves not just reason-responsiveness but also the right kind of motivation, and moral address involves not just the exchange of reasons but also complex emotional reactions (Shoemaker 2007, 106). The boundaries of the "club" of moral agency should not be drawn so as to exclude people whose aptitudes and deficiencies render them eligible for some forms of moral address but not others. Real-world moral agency is messy.

But just as real-world variations in psychological capacities render ascriptions of moral agency messy, so too must real-world variations in *social* circumstances and relations render full participation in the moral community messy. Even the prototypical "normal" adult, whose moral agency is not in question, can be constrained from full participation in the moral community in interesting ways by social factors like stereotyping and oppression. (Indeed, those whose capacity for responsible agency is itself in doubt due to psychological or developmental differences are often even *more* vulnerable to these social factors.) Whereas the moral agency literature typically focuses on barriers to someone's being held responsible for their *own* actions, my focus is on whether some socially marginalized agents can hold *others* responsible for theirs—not just in the sense of regarding them as responsible, but in the sense of directly expressing attitudes of resentment and indignation and participating in practices of blame, punishment, negotiation, shunning, and the like.

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[3] The literature on psychopathy is too vast to cite, but see especially Greenspan (2004), Watson (1987/2004), Shoemaker (2007), McGeer (2008), and Maibom (2008).
[4] See, e.g., Shoemaker (2007), and McGeer (2008).
[5] See Schroeder (2005).
[6] See Shoemaker (2009) and Vehmas (2011).
[7] See Baird (2008) and Buss (1997).
[8] See Beauchamp (1999).
[9] See Watson (1999).
[10] See Arpaly (2003).
[11] See Bloom (2013).
[12] The idea that moral agency comes in degrees is rarely explicitly articulated, and certainly would not yet seem to be the consensus view. The idea that moral *status* comes in degrees has been explicitly articulated in, e.g., DeGrazia (2008) and Little (2008).

As Angela Smith (2007) has argued, the relationship between someone's *being* responsible and our *holding* her responsible is not straightforward; we sometimes have reason not to *hold* someone responsible even though she is responsible. Such reasons might include social reasons, for example that we don't stand in the proper relation to the wrongdoer or the victim, a matter of what Smith calls "standing" (Smith 2007: 478). What I plan to argue is that this phenomenon is more insidious than Smith lets on. Social factors can systematically exclude some moral agents from engaging in the kind of interpersonal address necessary for holding others responsible, not because the agent lacks the right kind of standing, but because her legitimate standing is not *recognized* by a wrongdoer who is in a position of relative power or social esteem. People who cannot engage in moral address to the same degree as others face a kind of second-class citizenship in the moral community. This will remain the case until the relevant social barriers are removed or until adequate workarounds are made available. In the meantime, philosophers who are interested in the contours of the moral community have much to learn from examining the messy social details of our non-ideal world.[13]

2.   A Strawsonian Framework for Holding Responsible

According to P.F. Strawson's famous view of moral responsibility, responsible agents are the proper subjects and objects of certain interpersonal reactive attitudes and the practices that express them. The attitudes and practices associated with holding someone responsible are not justified by some prior theoretical judgment about whether the agent was responsible. Nor are the attitudes and practices justified by their effects, as a consequentialist theory would hold. Rather, to be a responsible agent just is to be a legitimate participant in a self-regulating moral community marked by these practices. The view is perhaps best captured in Gary Watson's plainspoken summation: "to regard people as responsible agents is to be ready to treat them in certain ways" (Watson 1987, 256).

Strawson divides the reactive attitudes into three classes. First are the "personal" or "participant" reactive attitudes, which we hold toward others insofar as they act toward us with either good will or ill will. Strawson's paradigmatic examples are gratitude, which is directed toward others who show us good will, and resentment, directed toward those who show us "ill will or indifference or lack of concern" (Strawson 1962/2008, 15). In the case of these personal reactive attitudes, the subject of the attitude—call her the "reactor"—is reacting on her own behalf; the reactor is herself the victim or beneficiary of good will or ill will. But we also react on others' behalf. So the personal reactive attitudes have analogues, which Strawson calls "sympathetic or vicarious or impersonal or disinterested or generalized analogues" (15). These vicarious reactive attitudes reflect the expectation that others will show good will "not simply towards oneself, but […] towards all men" (16). The vicarious analogue of resentment is moral indignation or disapprobation. If an aggressive driver cuts me off, I am

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[13] There is not space to defend the non-ideal approach to moral theorizing that motivates my examination of real-world failures of moral address in this paper. For such a defense, see Charles Mills' "'Ideal Theory' as Ideology" (2004).

resentful; if he cuts off the little old lady in front of me, I am indignant. The third and final class of reactive attitudes, the "self-reactive" attitudes, are those agents have toward themselves insofar as they are themselves (potential) aggressors or benefactors, or as Strawson puts it, "those on whom the demands are made" (16). These include guilt, shame, "feeling bound or obliged", and "feeling compunction" (16).

How, on this Strawsonian picture, might things go wrong? That is, how can we explain someone's failure to be a moral agent by appealing to reactive attitudes and their proper expression? For Strawson, answering this question means giving an account of the conditions under which a person might fail to be a proper *target* of the reactive attitudes. In isolated cases, a person might fail to be fully responsible for a particular action; perhaps she doesn't know what she is doing or can't help it—for example, she trips or is pushed into another person (8). The reactive attitudes would not be warranted in such cases, or at least we might negotiate them away once we have heard the agent's excuse. In other cases, an agent's suitability as a target of our reactive attitudes is more broadly in question. Perhaps the agent is faced with abnormal circumstances—for example, unusual stress or hypnosis (8). Such circumstances would cause us to suspend our reactive attitudes toward her behaviors to the extent that they are explained by the circumstances, but would not cause us to completely suspend all interpersonal expectations of her. In the most extreme group of cases, when the agent is "psychologically abnormal" or "morally undeveloped" (9), our reactive attitudes are "profoundly modified", and we must take an "objective attitude" toward her, treating her as an "object of social policy" (9).[14]

This central part of Strawson's paper frames the debate about responsible moral agency in a way that focuses on *capacities* to the exclusion of social practices. Philosophers have thus asked: who counts as falling in this latter group of agents who are abnormal or undeveloped and therefore deserve to be treated with an "objective attitude"? But while questions about internal capacities are important, we should also be asking the corresponding external question: when do social or relational features undermine the practice of holding responsible?[15] Meaningful moral reaction—that is, holding others responsible—is just as central to participation in the moral community as is the capacity to perform actions for which one is legitimately held responsible. Imagine someone who is constantly being held responsible for her own moral failings, but is never able to hold others responsible for theirs. Her navigation through the moral community would be strangely lopsided. Even if we follow the standard view and say that her capacity to be held responsible is both necessary and sufficient for deeming her a moral agent, it is hard to deny that something is missing. Of course, in a real-life case, it is unlikely that such a person would *never* be able to hold others responsible.

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14 See Watson, "Responsibility and the Limits of Evil" (1987) for more discussion of Strawson's distinction.
15 Andrew Sneddon (2005) has argued, also via Strawson, that moral responsibility should be understood as an "externalistically construed" social competence rather than an "individualistically construed" one. I take his view to be consistent with mine, though ultimately aimed at answering a slightly different question. Like many others in this dialogue, Sneddon is interested in how to understand what it is to be responsible; I am interested, rather, in how to understand the relationship between being able to hold others responsible and being oneself a member of the moral community. Both of us, though, see "external" social relations as being crucial to answering our respective queries.

Rather, what we will find is that the barriers to moral address arise in predictable ways following patterns of social marginalization.

There is support for this view in Strawson's framework, if we consider that although the reactive attitudes are something that can be *felt*, they serve their regulative function in the moral community only if they are *expressed*. Strawson uses the term "practices" countless times in the essay, but never articulates the relative importance of expressing the attitudes versus merely feeling them. On this question he is frustratingly vague. He does claim, though, that reactions are "transactions" we carry out with one another (5). This is evidence that his framework is meant to be centrally about how we *interact* with one another and not merely about how we feel about one another.

Susan Wolf is a contemporary Strawsonian who makes the role of practices a bit more explicit. She begins her book *Freedom Within Reason* (2009) with the following passage.

> To be accorded the status of a responsible being is to be regarded as the appropriate object of a certain range of attitudes and judgments *and as a legitimate participant in a certain range of practices*. The range of attitudes I have in mind includes pride and shame, gratitude and resentment, respect and contempt. The range of judgments includes the judgment that one is worthy of respect or contempt, that one ought to be proud or ashamed, and so on. *And the range of practices includes praising and blaming, forgiving, excusing, rewarding, and punishing according to rules designed to make these practices expressions of the above sorts of attitudes and judgments*. (Wolf 1990, 3, emphasis added)

Wolf uses the ambiguous term "participant" to describe the morally responsible agent. A practice like punishment involves at least two kinds of participant: the punisher and the punished. Perhaps Wolf intends only to refer to the object of the practice, i.e., the punished; after all she is discussing the conditions for being a "responsible being". But if being responsible is a matter of being legitimately held responsible, then someone in the moral community needs to do the holding. *Holding* responsible, I claim, is just as much a paradigmatic activity of moral agents as *being held* responsible.

As Wolf points out, the reactive practices in question—praising, blaming, forgiving, excusing, etc.—are undertaken "according to rules designed to make [them] expressions of" the attitudes and judgments. In order for the practices to serve this expressive function, presumably they require some outward manifestation, whether through language ("I forgive you"), looks (evil eye), gestures (shaking your finger), or actions (giving a gift). These practices are fundamentally social, and their success or failure is thus socially determined. A moral community member's ability to hold others responsible will be constrained by features that are both beyond her control and external to anyone's psychological capacities. To see why, it is helpful to examine the kind of equal standing that may be necessary for successful Strawsonian "transactions", a standing that is as much social as moral.

3. Moral Address and Second-Personal Standing

Stephen Darwall, another contemporary Strawsonian, has argued that moral reasons are fundamentally second-personal: they get their force from a kind of standing or authority that we have to make claims and demands of one another as free, rational, and equal members of the moral community.

> A *second-personal reason* is one whose validity depends on presupposed authority (hence accountability) relations between persons and, therefore, on the possibility of the reason's being *addressed* person-to-person. Reasons addressed or presupposed in orders, requests, claims, reproaches, complaints, demands, promises, contracts, givings of consent, commands, and so on, are all second-personal in this sense. They simply wouldn't exist but for their role in second-personal address. (Darwall 2004, 46)

Darwall's view gives us the grounds for the legitimacy of reactive attitudes. As free and equal persons, we can authoritatively demand that others treat us with good will, and not with ill will. When others treat us poorly, we express reactive attitudes toward them as a mode of *moral address*.

But moral address depends on the presumed equal standing of those doing the addressing and those being addressed. Drawing on earlier work by Gary Watson (1987), Darwall claims there are "normative felicity conditions" on moral address:

> …[R]eactive attitudes invariably address demands, and, as Gary Watson notes, there are 'constraints on moral address' that must be presupposed as normative felicity conditions of addressing a demand (1987: 263-4). 'To be intelligible,' Watson points out, 'demanding requires understanding on the part of the object of the demand' (264). The point is not that making a demand is unlikely to be effective unless its object has the capacity to understand it. It is rather that reactive attitudes are 'forms of communication' that are simply unintelligible in their own terms without the presupposition that their objects can understand what is being said and act on this understanding. The point is an Austinian one about the felicity conditions of a speech act or quasi-speech act (transposed, albeit to a normative key). Even if expressing reactive attitudes to those who lack the requisite capacity, like very young children or the insane, causes them to behave desirably, reactive attitudes there 'lose their point as forms of moral address' (265). The effectiveness of moral address is a matter of perlocutionary force, whereas addressees' having (and being assumed to have) the capacity to recognize and act on second-personal reasons is, I claim, a felicity condition of its distinctive (normative) illocutionary force. (Darwall 2006: 75)

Darwall's point is that to be felicitous, moral address must succeed not merely in the sense of being effective in influencing others (its perlocutionary force), but rather in the sense of constituting a meaningful demand as intended (its illocutionary force).[16] A reproachful comment made toward a young child in the right tone of voice might effectively scare them into stopping what they are doing, but this would not be a case of successful moral address unless the child had whatever capacities are necessary for understanding and acting on reasons.

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[16] The distinction is originally from Austin (1962). See also Langton (1993) and Hornsby (1994).

Such address would be merely effective, not felicitous. Felicitous moral address is reciprocal: the person addressed must be a proper target of reactive attitudes, the person addressing must have the authority to make claims, and the success of the address depends on each one's recognizing the other's standing via a kind of mutual respect.

Darwall makes explicit that Strawson's reactive attitudes are not simply internal cognitive or affective states, but also interpersonal speech acts—ways of enforcing a communal order. This view—that holding responsible is a kind of speech act—has also been recently defended by Colleen Macnamara, who claims, "We hold another accountable when we perform a communicative act with a distinct internal aim, mode of achieving it, and success conditions" (2011: 90). For instance, the speech act she calls "reproof" is successful just in case it "is met with full first-personal practical uptake of the ought violation" (90). I want to suggest that we take the Watson/Darwall/Macnamara point one step further, and acknowledge the role that complex social dynamics play in the success or failure of these speech acts and practices. When an attempt at moral address is infelicitous—when it fails to be intelligible, or carry its intended meaning, as a *demand*—it may not be because the object of the demand (the violator) *can't* recognize and act on the reasons being addressed; it may be because he *won't*. And the fact that he won't may spring from an unjust social dynamic, such as one in which his accuser is a member of a group that historically has not been treated as morally equal. In the messy non-ideal world, while it may be a necessary condition on felicitous moral address that the addressee has a baseline capacity for guiding himself by second-personal reasons (what Darwall calls "second-personal competence" (2006: 75-76)), it is by no means sufficient. Attempts at moral address between otherwise second-personally competent agents fail *all the time*.[17] In the next section I describe a case of this phenomenon in some detail.

4. Social Obstacles to Moral Address: The Case of Lia Lee

Anne Fadiman's nonfiction book *The Spirit Catches You and You Fall Down* (1997) recounts the struggles of a family of Hmong refugees living in California in the 1980's. The Lee family—dad Nao Kao Lee, mom Foua Yang, and their eight surviving children—escape from the CIA-supported "Secret War" in Laos and the terrible conditions of a Thai refugee camp only to wind up crowded into a small apartment in Merced. They do not speak English, are illiterate in their native language, and are innumerate. In Laos, before the war, they had lived a simple self-sufficient farming life in a house with mud floors and no plumbing or electricity. They did not have regular access to modern medical care, nor any knowledge of modern science. They subscribe to an animistic worldview involving spirits, ancestors, shamans, and ritual animal sacrifice.

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[17] I don't mean to suggest that Darwall's view entails that normative competence alone is always sufficient for felicitous moral address. I only mean to suggest that its insufficiency in some real-world cases is philosophically interesting. For the view that moral competence is not always necessary for moral blameworthiness, see Talbert (2012).

The Lees' youngest daughter—Lia, born in the U.S. in 1982—develops an uncontrollable seizure disorder as an infant. The family attempts to utilize the local health care system in addition to traditional remedies. The parents, reportedly like most Hmong parents, are uncommonly caring and relentlessly devoted to their daughter. But the doctors cannot get the parents to comply with a complicated drug regimen. So, without informing the parents in advance, the physician in charge asks a judge to put Lia in foster care when she is still a breastfeeding toddler. Authorities remove her from the home; it is nearly a year before they decide she can be safely returned to her parents' care. Lia's separation from her parents is just one turning point in a devastating saga. Ultimately she suffers a brain injury, leaving her in a persistent vegetative state at the age of four. The parents cared for her in this condition, at home, until her death in 2012 at the age of thirty.

The case of Lia Lee is usually studied as a cautionary tale about "cultural competence" in healthcare and the limits of parental authority. Let us read it instead as a case study in the limits of *moral address*. The parents in this case are members in good standing of the moral community—indeed, full-fledged moral agents who are responsible for their own actions. Yet, I will argue that the parents were unable to engage in moral protest when authorities took their child away; I don't mean that they were ineffective in reversing the bureaucratic process, which many parents may have been, but rather that they could not even get across that this was a violation, an overreaction, a failure to show them good will. Why is that? It certainly is not due to some *internal* incapacity on the part of the parents. Nao Kao Lee and Foua Yang seem to be of normal intelligence, capable of typical affective responses, capable of modulating their behavior in accordance with reasons, capable of interacting productively and peacefully with other people, and capable of protecting their children from harm. Nothing internal to their psychology remotely resembles the deficits or atypicalities that philosophers have examined as disqualifiers for full moral agency.

Why might someone who is eligible for full moral agency be unable to hold others responsible—unable to participate in a reciprocal exchange of reasons and reactions? The first hindrance seems obvious and trivial: the language barrier. Yet insofar as the exchange of reasons and reactions typically happens via *moral address*, this is an important barrier. Those who are wronged or witness a wrong and do not speak the same language as the wrongdoer will be unable to register their resentment or indignation.

There are workarounds: gestures, tone of voice, bureaucratically filed complaints, physical violence, interpreters. But in complicated real-life situations like those faced by the Lee family, even a highly skilled interpreter will struggle to get the wronged parties and the wrongdoer to a level of common understanding necessary to convey reactive attitudes in a felicitous way. At one point in the Lees' saga, after her brain injury, hospital staff were trying to tell the father that they thought Lia was dying; the father understood them to mean that they were going to kill her, or at least that they wanted her to die. As one doctor is quoted saying,

> "All those verb tenses! Lia will die, Lia might die, Lia has a ninety-five percent chance of dying. Those nuances would be very confusing through an interpreter. And if the parents thought the people at [the

hospital] were saying Lia should die, maybe they were right. I imagine there were a lot of people here who thought that […] it would be better for her if she did die." (Fadiman 1997, 178)

In response, the father simply grabbed his child and took off to the stairwell to take her home, pulling out her feeding tube along the way. What he intended as an expression of justified reactive attitudes appeared to the hospital staff as an irrational and potentially dangerous act of defiance. He was trying to blame them for their callousness, and to protect his daughter. Instead, he was yet again put in the position of being the one who is to blame. (Once home, Lia's condition improved, her parents managed to feed her without the tube, and instead of dying within days as the doctors predicted, she lived for twenty-six more years. Amazingly, the parents' reluctance to adhere to medical instructions was vindicated, albeit not in a way that cast doubt on the anti-epileptic regimen the doctors recommended when she was younger.)

The language barrier was compounded by what we might call a "concept barrier". As one doctor put it, "The Hmong simply didn't have the same concepts that I did. For instance, you can't tell them that somebody is diabetic because their pancreas doesn't work. They don't have a word for pancreas. They don't have an *idea* for pancreas" (Fadiman 69). The Hmong and their doctors had completely different explanatory frameworks for illness. The Hmong animist understanding of a seizure was that a spirit catches you and you fall down. Yet the Lee family was happy to give Western medicine a chance to prove itself. When Lia was an infant, her parents tried to give her the prescribed anti-epileptic medications; they regularly brought her to the ER. But when the medicines didn't seem to work or caused bothersome side effects, the parents would change or discontinue them without permission. They were doing what they believed was in their child's best interest, and to convince them otherwise might have required hours or perhaps years of education. Some of the doctors seemed to view the parents as stupid rather than merely uneducated, and as stubborn and standoffish rather than overwhelmed. The asymmetry of power and knowledge left the parents with little recourse when the doctors or authorities did something to which they morally objected.

So when officers from Child Protective Services come to take Lia from her home without any warning, the dad, Nao Kao, simply acquiesces. He actually threatens to assault the *translator* the officers bring with them, who is a Hmong woman he sees as complicit with the authorities. She is relatively equal to him in social standing—somewhat higher on account of speaking English, yet perhaps lower on account of being female. But Nao Kao does not muster any outward expression of reactive attitudes toward the officers themselves, presumably out of an expectation that his objections would fall on unresponsive ears. To be clear: nearly everyone Anne Fadiman interviewed about this case, including members of the refugee community and numerous American doctors familiar with the details, thought that taking Lia away from her parents was an unjustified overreaction, albeit well-intentioned. So the issue here is not just that things aren't going Nao Kao's way; the issue is that a prima facie *injustice* has been committed against his family, and yet he is effectively silenced, unable to participate in the sort of moral address we expect between persons of equal moral standing. We can see the social nature of the silencing by comparing his reaction to the translator to his reaction (or lack thereof) to the officers.

The social factors that hinder the felicitous expression of reactive attitudes in this case are adding up: a language barrier, a concept barrier, a power imbalance, lack of shared factual knowledge, and attitudes of mistrust and suspicion. Indeed, it gets worse. Fadiman uncovers evidence of xenophobia and unveiled racism among members of the community, including the medical community (though not the principal husband and wife pediatricians engaged in Lia's care). One doctor says to her, "I am totally disgusted by the breeding rate … You or I, we can't conceive of the degree of ignorance. They're almost a Stone Age people" (73). The local people seem to think that the refugees came to the U.S. to take advantage of the welfare system, rather than to escape a war in which they fought for the CIA. Some locals viewed the Hmong as lazy, greedy, and dirty, manifesting classic racist tropes that were not just false but nearly the opposite of the truth. The Hmong just wanted to be left alone. Some were told they would be given all the benefits of U.S. military veterans, but instead found themselves unable to farm, unable to find meaningful work, and stuck navigating impenetrable and demeaning bureaucracies.

It is therefore not surprising that Nao Kao felt that he had no standing to protest when authorities came to remove Lia from the home. He described the situation this way:

> "The police came to take Lia away. [The translator] told the doctor that we didn't give Lia any medicine and that is why the doctors got mad and they came to take Lia away. I was very angry. I almost killed the translator. I said, This is my child and I love her. The police said for six months Lia is government property." (Fadiman 1997, 82)

The mother, Foua Yang, who was not home at the time, also described her reaction in terms that emphasize her powerlessness:

> "When I came home my husband told me that they took the baby and he said that they didn't tell him where they took the baby. I didn't know any English so I didn't know what to think or what to say. I told my elder relatives, but they said, Well, if those people came to take her, then you can't do anything. I cried so much that I thought my eyes would go blind." (82)

One way of reading this situation is that the parents simply did not believe they had any legal claim to keep custody of their daughter. Or perhaps they just regarded it as improper or dangerous to challenge authority figures. But I think the most illuminating explanation of what happened centrally involves their marginalization as members of the moral community. They had a justified belief that they had been morally wronged, but, despite being full moral agents, they were powerless to hold anyone accountable for the wrong. They felt they could engage in moral address with members of their own community—including the translator—but not with the authority figures. My point here runs parallel to, but is distinct from, a point about legal or political power. I am not arguing that marginalized groups have less legal or political power than dominant groups (though this is true). Rather, the claim is that they have less *moral* power. A moral agent ought to be able to engage in moral address, either verbally or via participation in social practices, but moral address is only felicitous when the parties have equal standing based on mutual respect.

5. When Moral Address Fails

So what has gone wrong? Can we abstract away from the particulars of the Lee case, and isolate the structural obstacles to felicitous moral address? Two structural obstacles are revealed in the Lee case:

> (1) the dominant group or individual does not recognize the moral standing of the marginalized group or individual, and

> (2) the marginalized group or individual (justifiably) believes that either they do not in fact have moral standing or that the dominant group/individual does not recognize their moral standing.[18]

The Fadiman book provides ample evidence that the dominant group—in this case, American doctors, nurses, and child welfare authorities—does not recognize Hmong families in general and the Lee family in particular as having full and equal moral standing. From their perspective, the best explanation of the parents' "noncompliance" with medical orders is that the parents lack the knowledge, ability, or willingness to do what any good parent should do in these circumstances. Fadiman writes that the doctors consider the dad to be "a stone wall" who is "sometimes deliberately deceitful"; the mom is "either very stupid or a loonybird" (47). Both are considered to have "defects of intelligence or moral character" (47). The Hmong were known for being "passively obedient" in person, to protect their own dignity, before going home and ignoring doctors' advice (68). This combination of being superficially deferential but substantively noncompliant no doubt contributed to an atmosphere in which authority figures viewed and treated the Hmong more as children than as adults.

After talking to members of the dominant group, Fadiman is convinced that when she meets the Lees for the first time she will find them "silent, obtuse, and almost pathologically lacking in affect" (93). Instead, working with a highly skilled translator and meeting the family on its own terms in their home, she finds them to be "smart, humorous, talkative, and energetic" (97). Perhaps the doctors were judging the Lees uncharitably. Perhaps the Lees had been hiding their congenial natures. One thing is clear: the Lees did not believe that their full

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[18] The belief that one does not have moral standing might be seen as a debasement or disavowal of one's basic dignity, or as akin to what some have called "servility" (Hill 1995; Superson 2010). My point is a different one. I am not saying that the wronged person lacks autonomy or lacks moral responsibility for her own actions, or lacks agency. My point is just that, with respect to a particular context involving particular social facts or interpersonal relations, the wronged person has the reasonable belief that she does not have standing or that it will not be recognized, which is not the same as believing that she does not *deserve* standing. Having this belief—that one lacks standing in a certain context of moral address—could straightforwardly explain why one is unable to make felicitous moral demands without entailing any debasement or disavowal of one's own dignity.

moral standing was recognized. This is not an abstract philosophical analysis of the situation; it is something the Lees directly perceived:

> Ever since they had arrived in the United States, the Lees had been meeting Americans who, whether because of their education, their knowledge of English, or their positions of relative authority, had made them feel as if their family didn't count for much. Being belittled is the one thing no Hmong can bear. (Fadiman 1997, 96-97)

My view is that when the first of the two obstacles I articulated is present—that is, when the dominant group does not recognize the marginalized group's moral standing— attempts at moral address will be infelicitous. That is, such attempts will fail to get across their intended meaning, fail to be heard as demands. (This is different from saying they will be ineffective, though they will presumably also be ineffective, and may even be counterproductive.) When the second obstacle obtains—that is, when the marginalized group (justifiably) believes that it lacks standing or that its standing will not be recognized—victims of wrongdoing and similarly situated bystanders will sometimes either not bother engaging in moral address, or attempt it in a halfhearted way that is unlikely to succeed. In other words, they will self-silence. If instead of self-silencing they boldly persist in engaging in moral address, then, if their belief that their standing is not recognized turns out to be true, they face the first obstacle and their demands will fall on unresponsive ears and be infelicitous. In other words, the first obstacle results in an ordinary case of infelicity, while the second obstacle usually results in a kind of self-fulfilling prophecy of infelicity.[19]

There are many reasons an agent might believe she lacks standing. When the belief is based on a perception of widespread bias against her group or problematic power dynamics, we can attribute the resulting failure of moral address to the social conditions. Of course, someone might occasionally believe, falsely and for no good reason, that she lacks moral standing or will be regarded as lacking it. Perhaps she has pathologically low self-esteem, or a kind of baseless paranoia that everyone is out to get her. In such a case, she may or may not be able to engage in felicitous moral address, but I don't think it would be a case of *social* constraints on moral address. In the cases I am interested in, the failure of moral address can be traced to underlying general social pathologies and inequalities.

Indeed, it is important to be clear about the precise relationship between the social factors and the failure to achieve felicitous moral address. When I say that a marginalized person's moral complaint may "fall on unresponsive ears," what I mean is that her attempt at addressing a demand via her second-personal authority goes unrecognized—not in the trivial sense in which it might go unrecognized if the wrongdoer happened to be wearing earplugs at the time, nor in the familiar sense in which the wrongdoer has some psychological incapacity

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[19] Dotson (2011) has distinguished two types of *epistemic* silencing that oppressed groups experience, which she terms "testimonial quieting" and "testimonial smothering". The two obstacles I have identified do not line up neatly with Dotson's two categories, but her "smothering" (2011: 244) is pre-emptive and self-imposed in the same way that I have suggested can happen when a moral agent foresees that her standing to make claims will go unrecognized.

to recognize or act on moral reasons. Rather, the marginalized person's moral demand is *ignored, misinterpreted, underestimated, rejected, or silenced.* These responses can be traced, causally, to the background social conditions and the nature of the social relationship between the parties, which bear on whether the marginalized agents are recognized as valid makers of claims. It need not be traceable to any conscious or even unconscious *belief* that the marginalized group is inferior. This is precisely what makes it so insidious: it does not necessarily require that the addressee have straightforwardly discriminatory attitudes toward the individual or the social group. In the Hmong refugees' case, the cultural, linguistic, and conceptual differences created an environment of mutual unintelligibility and suspicion, which by itself may have hampered felicitous moral address even without racism and xenophobia. When racism and xenophobia were also in the mix, it simply made it all the more certain that in the face of mutual unintelligibility, Americans were unlikely to apply a principle of charity in interpreting the words and deeds of the outsiders.

Similarly, it is important to be clear about the way in which attempts at moral address might fail "preemptively" for social reasons. We need not think of this as a *mistake* that the marginalized agent is making. It may, rather, be a warranted defense mechanism or coping strategy. The marginalized person sees or predicts that her claim will not be recognized as valid, due to her standing not being recognized as equal, and either withholds the claim or puts it forward in an awkward or self-undermining way. This lowers the stakes. Perhaps when her claim is rejected or ignored, it will sting less. The wronged party is thinking two steps ahead in the conversation; she knows it is going to be tough to hold this socially dominant person responsible, because she has been here before.

Now someone might object: if the wronged party does not bother expressing her reactive attitudes because she believes she won't be heard, then she is acting on a merely prudential concern about the results of engaging, and this is a consideration of the "wrong kind"—it does not bear on whether the reactive attitudes are fitting, only on whether expressing them is likely to get the agent what she wants. But I want to claim that the felicity conditions on moral address are more than just fittingness conditions for reactive attitudes. For resentment to be fitting, it is necessary that the wrongdoer is capable of showing good will, but fails to do so. But for the *expression* of resentment to be a felicitous speech act, it is also necessary that the wrongdoer recognize the speaker's second-personal authority—her equal moral standing. If the speaker justifiably believes or can detect that her standing is not recognized and chooses *on that basis* not to speak up, then she has not acted on a "wrong kind of reason" but rather has simply predicted, or foreseen, that her demand will not carry its intended meaning. She has foreseen that her demand will fail to have its distinctive "illocutionary force". The social dynamics can poison the pragmatic context, and the infelicity of the agent's demand becomes a self-fulfilling prophecy. To be sure, self-silencing out of simple *fear of retaliation* is something different altogether. But in many cases it will entail or at least accompany the prediction of infelicity.

To see what is going wrong when moral address fails, it can be helpful to contrast it with paradigmatic cases of success. Christine Korsgaard captures successful moral address in this striking vignette:

> If I call out your name, I make you stop in your tracks. (If you love me, I make you come running.) Now you cannot proceed as you did before. Oh, you can proceed, all right, but not just as you did before. For now if you walk on, you will be ignoring me and slighting me. It will probably be difficult for you, and you will have to muster a certain active resistance, a sense of rebellion. But why should you have to rebel against me? It is because I am a law to you. By calling out your name, I have obligated you. I have given you a reason to stop. (Korsgaard 1996, 140)

This passage is situated in Korsgaard's broader argument about the relationship between self-reflective agency and the normative authority of the moral law.[20] But if we can be permitted to separate the passage from its context for a moment and just imagine the scene, we can see that it might unfold in a far less touching way. Notice that it is already built into the vignette that a social relationship can modulate the force of a moral claim: the stranger merely stops in their tracks, but the beloved comes running. These aren't so much receptions of the speech act as consequences of it, though. It is presupposed that the speech act, the calling out, is felicitous. The hearer either comes running, stops, or chooses to rebel but thereby *needs an excuse*, which is only necessary because the speech act succeeded. What if the speech act failed altogether? The analogous vignette illustrating the social obstacles I've described would be a rather somber scene:

> I call out your name, but you don't stop. (If you have contempt for me, I make you run away even faster.) You can proceed as you did before, because I don't matter. It's as though you didn't even hear me. Maybe next time I won't even bother to call out your name.

This remake is melodramatic. But does it not characterize the plight of someone like Nao Kao Lee, who felt voiceless in the face of child welfare authorities and intimidating medical professionals?

The idea here is that much of what goes on in the moral community goes on between members who are in practice unequal, even if we stipulate their equal basic dignity, their "full-fledged" moral agency, and their bona fide membership in the "club". Their capacities are normal, but their activities are constrained.

6. Epistemic Injustice and Claimant Injustice

Miranda Fricker's book *Epistemic Injustice* (2007) names the phenomenon wherein an agent is undermined *as a knower* because of background social conditions. The failures of moral address I have described thus far can be illuminated by making an analogy between the

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[20] I am grateful to an anonymous referee for pointing me to this passage in Korsgaard. For discussion of this argument and related Kantian themes, see Darwall 2006, Ch. 9, especially p. 234n34.

injustice imposed on knowers and the injustice imposed on moral agents, specifically in their capacity as participants in the practice of holding others responsible.

Fricker identifies two kinds of epistemic injustice—"testimonial" and "hermeneutical". Taking them in reverse order, *hermeneutical injustice* is "the injustice of having some significant area of one's social experience obscured from collective understanding owing to hermeneutical marginalization" (Fricker 2007: 158). The idea is that a person is both harmed and wronged by a gap—a "hermeneutical lacuna"—in the collective conceptual resources for understanding a situation. The paradigm example is a woman who is sexually harassed before the concept of sexual harassment was prevalent, and is thus unable to understand what is happening to her in a way that illuminates its distinctive wrongness. Perhaps she tries to explain, but is not understood because of "situated hermeneutical inequality" that arises from her marginalized social identity—she is thus excluded "from the pooling of knowledge" (162).

The Lee family may have suffered directly from hermeneutical injustice insofar as they faced what I termed earlier the "concept barrier": they did not share the same concepts as the American medical professionals and child welfare authorities, and as such they were not able to achieve mutual intelligibility even with the assistance of interpreters, nor able to comprehend fully what was happening to their daughter.[21] They faced conceptual "gaps" about anatomy and physiology; about social norms regarding the authority of expertise; about ideas like appointments and schedules; and about parental rights and responsibilities. These gaps only come to constitute a hermeneutical injustice in Fricker's sense when they are related in the right way to the family's social identity, and when they inhibit their ability to understand what is happening to them. Arguably, these conditions are met in the case. With the right teacher and interpreter, the Lees may have been taught the basic neurobiology of seizures. But the background social conditions would make such an endeavor seem absurdly unrealistic. The social marginalization of the Hmong community members made it such that working around the "gaps" was prioritized over filling them in. The Lees were hermeneutically unequal both in their ability to contribute to the pool of shared knowledge and in their ability to draw from it. Medical anthropologists or sociologists may yet discover new terms and concepts for the kind of friction that occurred between these well-meaning parents and their well-meaning medical providers, so as to provide both sides, but especially the relatively powerless Hmong community, with a non-patronizing understanding of what went wrong. The term "cultural competence," which emerged too late for this case, only scratches the surface.

The other type of epistemic injustice is "testimonial injustice": a wrongful prejudice in which a speaker is afforded "less credibility than she would otherwise have—a *credibility deficit*" (Fricker 2007: 17). Testimonial injustice sometimes occurs in particular local contexts that lack "structural social significance". For instance, a scientist might have a credibility deficit with respect to the referees at a particular journal who hold a "dogmatic prejudice" against the scientist's methodology. Fricker deems these cases "incidental" because they are not entangled with other injustices (27). What she is really interested in are *systematic testimonial injustices*, which

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[21] I thank an anonymous referee for urging me to point out the relevance of Fricker's work and the fact that this is a case of hermeneutical injustice in particular.

"are produced not by prejudice *simpliciter*, but specifically by those prejudices that track the subject through different dimensions of social activity—economic, educational, professional, sexual, legal, political, religious, and so on" (27). Her name for this injustice is *identity-prejudicial credibility deficit* (28). The credibility deficit is often perpetuated via prejudicial stereotypes.

As with hermeneutical injustice, we might consider testimonial injustice as a direct explanation for part of what went wrong in the case of the Lee family. We might say, for example, that sometimes agents have credibility deficits with respect to *moral* testimony, on account of prejudices associated with their social identity, resulting in what we could term *moral epistemic injustice*. The idea would be that an agent knows *that something is wrong*, but cannot felicitously testify to that effect when her hearer does not recognize her credibility.

This may be part of what is going on in the case of the Lee family, but I do not think it is the central issue. For instance, when dad Nao Kao witnesses his daughter being removed from his home and is powerless to stop it, it is not quite right to say that his *knowledge that Lia's removal is wrong* is being discounted by authorities who doubt his credibility. This would be a strained interpretation; Nao Kao's status as a *knower* is not what is being undermined. The child welfare authorities, having already decided to remove the child, are not even in the business of adjudicating or negotiating with Nao Kao over what is true, nor in appraising him as a giver of knowledge. Rather, it is his status as a *maker of claims* that is going unrecognized. Correspondingly, it is not his credibility—his believability—but rather his *agency* that is most interestingly undermined. To be clear, though, it is not his agency in the traditional sense of the capacity to be held responsible for one's actions. No one would hesitate to hold Nao Kao responsible for his *own* actions. Rather, it is the other side of the agency coin—the practice of holding others responsible—that Nao Kao cannot seem to cash in.

What we need, it would seem, is a notion of injustice that is the moral agent's analogue of testimonial injustice. "Agentic injustice" would be ambiguous between the capacity to be held responsible and the capacity to hold others responsible, so for lack of a better term we might call it "claimant injustice". *Claimant injustice* occurs when social prejudices or structural inequalities undermine a moral agent's ability to engage in felicitous moral address—to make moral claims, to call out wrongdoing, to judge or condemn others for their action, to hold responsible, to seek redress, to blame or punish, or to participate in any of the social practices associated with the participant and vicarious reactive attitudes.

Epistemic injustice burdens knowers *qua* knowers. Claimant injustice burdens moral agents *qua* moral agents. Interestingly, many cases of epistemic injustice lead to or even constitute claimant injustice, because someone who is not taken seriously as a knower is thereby unable to adduce evidence of wrongdoing. A claimant who has been wronged, and whose attempt at moral address is mediated by a formal process—such as calling 911, filing a police report, or testifying against someone in court—may be unable to hold the wrongdoer accountable precisely *because* she suffers from a credibility deficit that undermines her testimony. One of the ways we hold wrongdoers accountable is, quite literally, by *testifying against them*; in such cases testimonial injustice and claimant injustice may overlap.

Fricker says that the distinctive wrong of epistemic injustice is the harm done to the knower "in her capacity as a giver of knowledge" (44). The capacity to give knowledge is part of the capacity for reason, and the capacity for reason is part of what makes us human.

> No wonder, then, that being insulted, undermined, or otherwise wronged in one's capacity as a giver of knowledge is something that can cut deep. No wonder too that in contexts of oppression the powerful will be sure to undermine the powerless in just that capacity, for it provides a direct route to undermining them in their very humanity…When someone suffers a testimonial injustice, they are degraded *qua* knower, and they are symbolically degraded *qua* human. (Fricker 2007, 44).

Fricker here suggests that epistemic injustice causes degradation and dehumanization, and is even deployed strategically toward that end. Surely it is also a *consequence* of pre-existing dehumanization: if you have already been dehumanized, your credibility is easy to discount. The same vicious cycle operates for claimant injustice. To be constrained from full active participation in the moral community is itself dehumanizing; and the features attributed to groups via dehumanizing stereotypes—such aggressiveness, deviousness, irrationality, or passivity—are themselves deployed to rationalize the further curtailing of those groups' participation in the moral community. In other words, dehumanization begets dehumanization. Attempts to dispel such undermining stereotypes are hampered by the undermining effects of epistemic injustice. A member of a marginalized group who tries to testify to the inaccuracy of stereotypes about that group must overcome the credibility deficit of testimonial injustice. And if she tries to forge a counter-narrative about the group's struggles, she may be held back by a lack of shared conceptual resources—hermeneutical injustice. Epistemic injustice and claimant injustice thus interact with one another in a perverse feedback loop.

In the next section, I briefly show how this account of social obstacles to moral address can explain one aspect of what went wrong in another real-life case, the case of Trayvon Martin.

7. Trayvon Martin

Whereas the case of Lia Lee unfolded over years and involved numerous actors and variables, we can see the effect of social constraints on moral address by looking at a much simpler contemporary case. Trayvon Martin was a seventeen year-old African American boy visiting his father in a gated townhouse community in Florida in 2012. Trayvon was walking back from the store at 7pm on a rainy evening and was spotted by George Zimmerman, a twenty-eight year-old neighborhood watch volunteer with a license to carry a concealed weapon. There had recently been burglaries in the racially diverse neighborhood, for which some black teenagers had been arrested. After spotting Trayvon Martin, Zimmerman calls 911 and reports that Martin looks "real suspicious" and is "up to no good". Against the advice of the dispatcher, he gets out of his car and follows the teenager, saying, "they always get away" (Francescani, 2012). During some sort of physical altercation, Zimmerman fatally shoots

Martin. After some delay, Zimmerman was charged with second-degree murder, but a jury found him to be not guilty.

In this tragic case, the focus has mainly been on whether the killing was legally justified as self-defense. Morally speaking, though, the case becomes interesting well before any shot is fired. Freeze the action at the moment when a teenager realizes that an adult man is following him for no clear reason on a dark and rainy evening. We have no reason to believe that Zimmerman announced who he was or what he was doing following the boy, or attempted to engage him in any kind of civil or neighborly dialogue. (Indeed, we know that Zimmerman regarded the teenager in a distinctly un-neighborly way.) Already, Trayvon Martin has reason to be confused and fearful and alert. But he also has reason to be *resentful* and to morally confront Zimmerman—to assert his moral claim against interference, to demand an explanation for why the man is following him, and to express the reactive attitudes that would be a fitting response to someone who is, to use Strawson's term, *failing to show him good will.*

And yet, it is not clear that Martin really has the option to engage in moral address in this way. His interactions with Zimmerman do not occur in a vacuum, but rather in a historical and social context in which the fact that he is young, male, and black means that he is liable to be stereotyped, mistrusted, and mistreated. In this context, even without knowing that his stalker has a weapon, Martin starts out extremely vulnerable, on the losing end of a power imbalance. His words and behaviors are unlikely to be interpreted charitably. He has reason to believe that he either does not have, or will not be recognized as having, equal moral standing to George Zimmerman. And given what we know, it is reasonable to conclude that Zimmerman did not at the time recognize his equal moral standing.

I have argued that *claimant injustice* occurs when a moral agent cannot engage in felicitous moral address, either because the dominant agent does not recognize his moral standing, or because he reasonably believes he lacks moral standing or will be regarded as lacking it. The first condition is clearly met in this case. It is unlikely that anything Trayvon Martin could have said or done would have met the felicity conditions for speech acts and practices expressive of the moral resentment it would have been appropriate for him to feel. He tried: according to the testimony of the friend he was on the phone with during the confrontation, his last words were, "What are you following me for?" followed moments later by "Get off, get off!" (Alvarez 2013).[22] We know that there was no uptake of his speech act, because we know how things turned out. Some have claimed that Martin "attacked" Zimmerman; this is hard to believe, but even if it were true, we could see it as the teenager resorting to the only kind of "reactive practice" that seemed remotely likely to keep him safe, in light of the background context. As if to confirm the suspicion that any attempt at a reactive practice would be both infelicitous and dangerous, the result was that Trayvon was killed. Had his attempt to assert his equal moral standing been felicitous, he might have survived. Recall Korsgaard's vignette: "If I call out your name, I make you stop in your tracks." Trayvon Martin did not know George Zimmerman's name, but nevertheless he called out to him, as was

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[22] I'm grateful to an anonymous referee for reminding me of the significance of Trayvon Martin's last known words here.

eminently reasonable of him to do. His inability to make Zimmerman stop in his tracks, given the social background facts, shows that this was a case of claimant injustice.

If my reading of the Lia Lee and Trayvon Martin cases is plausible, it suggests a pessimistic view of how marginalized and stigmatized groups fit into the moral community. If you cannot participate in practices that hold people accountable for their ill will toward you, but you can nevertheless be held accountable yourself, is your exercise of moral agency not unfairly lopsided? To the extent that participating in these practices is a central component of moral community membership, *huge swaths of humanity are walking around with something like second-class moral citizenship*. While this may seem obvious to the folks who experience it, it paints a far darker picture than is normally found in the moral philosophy literature on agency and responsibility.

8. Worries and Objections

Summing up, I have tried to show that some constraints on participation in the moral community are put in place by "external", social facts, rather than "internal", psychological incapacities. These social constraints operate by making moral address infelicitous on account of the addressee's power over, disrespect for, or failure to charitably interpret, a marginalized agent or her proxy. Call this "claimant injustice". Two general mechanisms that make such address infelicitous include the wrongdoer not recognizing the victim or bystander's moral standing, and the victim or bystander reasonably believing that either the wrongdoer will not recognize their standing, or they do not having standing. The upshot of claimant injustice is not that those who are marginalized cannot be morally responsible for their own actions, but that they cannot hold some people responsible for theirs. In other words, their social standing asymmetrically affects their status as potential victims of and rectifiers of wrongdoing, rather than their standing as potential wrongdoers. Holding people responsible for their actions is a central way that moral agents participate in a reciprocal, self-regulating moral community. So when subgroups of the moral community are systematically or structurally thwarted from engaging in moral address because of their social identities, they take on a kind of second-class moral citizenship.

One potentially worrisome feature of the view is that it may seem to entail that, if the oppressors believe you lack moral standing, you do lack moral standing.[23] "Moral standing is in the eye of the oppressor" might be the slogan version of this worry. (Similarly, one might worry that the view entails that if the agent herself believes she lacks standing, she does lack standing.) The worry is that the view papers over an intuitively sound distinction between *correctly* believing that someone lacks standing and *mistakenly* so believing. This would seem to give the oppressor not only a troublesome kind of power, but also a puzzling infallibility. The answer to this worry is that we can maintain a distinction between *possessing* moral standing and having it be *recognized* for the purposes of moral address. Moral standing may be based on a kind of intrinsic dignity, or on a kind of normative competence, which no one can take away

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[23] I thank an anonymous referee for raising this concern.

from you simply by wishing it so. Moral *address*, however, is relational. My view is that if the addressee believes you lack standing, moral *address* is less likely to succeed.

Another worry is that the account is old news. It is no great discovery to point out that social facts, and in particular facts about power imbalances, lack of respect, and oppression, are relevant to our understanding of agency and responsibility. There is a lot of excellent work in moral philosophy and feminist moral psychology that focuses on precisely this point.[24] Yet the point is always made in terms of whether the agents on the losing side of oppression or inequality are eligible to be held responsible for their *own* actions. For instance, Paul Benson (2000) asks whether "Charlotte," a woman in the 1880's, can be a full moral agent despite having internalized various oppressive, sexist norms and beliefs. The question posed about her agency is not whether she has the moral standing to hold people responsible, but rather whether she has the moral standing to be held responsible.

Benson advocates for a "self-worth condition" on moral responsibility—we must have adequate self-worth in order to be legitimate participants in moral dialogue, eligible for being held to account for our own actions. My view and his share certain background assumptions about the reciprocal nature of moral dialogue; we are in agreement that "social relationships modify the kinds of moral dialogue that are possible" (Benson 2000: 83). And yet I want to remain agnostic on whether a sense of self-worth is a necessary condition on moral responsibility. More to the point, I do not think a sense of self-worth is either necessary or sufficient for being able to hold *others* responsible. No matter how deep one's insecurity, no matter how damaged one is by oppression, if one is able to stand up and make claims and have them be recognized as legitimate by the target, then moral address is possible. Of course, I've argued that agents sometimes justifiably believe that their standing will not be recognized, and this may render them unlikely to engage in moral address in the first place. But having this belief does not entail lacking self-worth. A prisoner, for example, might have a very high sense of global self-worth, while justifiably believing that his standing to make claims will not be recognized by oppressive guards or administrators.

Whereas the feminist literature on this topic often focuses on how the internalization of oppression affects the ability to assert one's moral agency, my view is that there is a serious problem for the moral community independently of (or in addition to) any problem caused by internalization. The Lee family need not *internalize* racism or xenophobia in order for those forces to impede them from engaging in moral address with members of the dominant community. If the folks to whom they are expressing reactive attitudes don't recognize their standing, they are out of luck. The phenomenon is in an important sense external to them. While there is an interesting feedback loop between "internal" psychological capacities and "external" social factors, the social factors alone can be sufficient for silencing otherwise capable moral agents. We see this in cases of sexual assault between soldiers (and between college students), where in order to hold the offender accountable the victim must navigate the military "chain of command" (or the academic one). Those with the greatest power to

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[24] See, for example, Calhoun (1989), Hill (1995), Buss (1997), Benson (2000, 2004), Narayan (2002), Brison (2002), Hay (2011), and Superson (2010, 2012).

resolve the case are also those with the greatest power over the victim. One needn't internalize oppression, or even be oppressed, to find it difficult to express demands in light of those background social dynamics.

Now, it might be objected that marginalized people *can* hold others responsible, it's just that they must do so via indirect forms of moral address, such as peaceful protests or even violence. Let me consider each of these in turn. Peaceful protests can certainly count as a felicitous expression of reactive attitudes. They might do so, for example, by bringing a case of wrongdoing to the attention of the moral community, making it clear just how seriously the wrongdoing is taken by the victims and bystanders, and demanding that the victims' second-personal authority be recognized. Of course, peaceful protests will not always be successful—they may be infelicitous, failing to get across their intended demand, or they may be merely inefficacious, failing to result in any meaningful change. (The hunger strikes by prisoners at Guantanamo Bay, for example, seem to have had little effect.) For there to be uptake, the wrongdoers themselves would need to be attuned to the protests in the right way. But even if we assume that peaceful protests can sometimes count as felicitous forms of moral address, I do not think this undermines the argument that large swaths of the moral community are stuck in a kind of second-class moral citizenship. After all, such protests are only necessary in the first place when smaller-scale forms of moral address have failed.

Trayvon Martin, for example, could not engage with George Zimmerman on terms of equality and hold Zimmerman responsible for showing him ill will. Martin's parents were left to seek justice for him vicariously, but got little traction. It was only after large public protests that Zimmerman was arrested and charged with a crime. Suppose we stop the chronology here and deem this a case of successful peaceful protest (setting aside whatever injustices may have come later in the judicial process). We might then think that, since the protestors were drawn largely from the marginalized community itself, this counts as a case of felicitous moral address, made by an active segment of the moral community successfully making moral claims. But something is clearly wrong when it takes hundreds or thousands of people to vicariously address claims on behalf of one person, or one family, who could not get traction alone. When your equal moral standing is respected and recognized, you can stand up to displays of ill will and demand recourse. But what does it say about your power in the moral community that you have to recruit thousands of others to stand with you? Cases of successful social protest like this are not objections to the phenomenon of claimant injustice, but consequences of it.

What is true of peaceful protest is true as well of violence: it may sometimes count as felicitous moral address, but if you need to resort to it, it's a sign that something is already wrong in the moral community. What's more, violence is prima facie morally problematic (even if it is sometimes fitting). Of course, in certain contexts, violence may turn out to be an especially meaningful way of addressing a claim.[25] Physical power can serve as a tangible proxy

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[25] See Superson (2010: 271) on using violence to assert one's dignity. See Darwall (2006: 83) on how behavior might be retributive without being retaliatory, and how retaliation undermines the dignity of both addressor and addressee. See Hay (2011) and Silvermint (2013) on whether the oppressed have an obligation to resist their oppression.

for moral power. For instance, in a domestic violence situation where children are being victimized by a parent, their ability to engage in moral address might be thwarted by the power dynamics and their sheer physical vulnerability. But when one of the children grows tall and strong enough to fight back in self-defense, using violence might then be the *best* way of expressing indignation—it might convey to the attacker a message that would have no uptake in verbal form.

The worry, though, is that in some contexts violence will carry the opposite meaning. It will say, "given that my equal standing is not fully recognized, this is all I can do" or it will cast the wronged person in a stereotyped role that in fact reinforces his or her marginalization. Consider, for example, a prison riot in response to genuine injustice. Such a riot may serve to perpetuate, rather than correct, the belief that the prisoners do not deserve full moral standing, and thus will undermine, rather than assert, their legitimacy as moral claimants. The social dynamics in real-world contexts—families, prisons, protests—are messy. What does or does not count as felicitous moral address will depend on features of the context.

What this essay has tried to illustrate is that the social context, while messy, ought not be ignored. That agents like Trayvon Martin and Lia Lee's parents are socially and politically marginalized is uncontroversial; that they are *morally* marginalized—marginalized *qua* members of the moral community—is something that only follows if we argue for the importance of the robust ability to engage in moral address, not just in theory but in practice. Thinking about moral community membership in this way calls into question the idealized picture of the moral community as being made up of agents who are always moral equals even as they may be unequal in various morally irrelevant respects. It suggests that the actual moral community is stratified. To be sure, these cases are not prototypical moral encounters. They represent societal failures—failure to provide the right services to refugees, failure to avoid racial stereotypes, etc. But that's precisely the point. Social failures will threaten the integrity of the moral community, because the moral community is a social community.[26]

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