

**SELF-REFLECTION IN POST-CRIMINAL SOCIETIES:
FROM DENIAL TO MORAL RESPONSIBILITY**

by

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Introduction

“One has the moral obligation to be responsible for one’s actions and for one’s words but also for one’s silence.” Roberto Bolaño, *The Last Interview & Other Conversations*

Mine is a study of the ethical challenges faced by individuals in societies transitioning from where there are “no rules to guide us in resisting evil” to the rule of law (Bernstein 224). More precisely, it is a normative analysis of a large segment of the population who collectively deny their responsibility for mass crime. Their predominant response is silence and their attitude may be understood as that of indifference toward the suffering of the community of victims. I refer to them as bystanders and hold that their motivation to live a ‘normal’ life in ‘times of abominations’ constitutes a moral choice. This moral choice is informed by the rejection of universal moral norms and in their stead the acceptance of a ‘perverted ethics’ largely defined and executed by the ideologues of war, perpetrators of crime and their collaborators. They can thus be conceptualized as voluntary, albeit sometimes unintentional, participants in mass crime.

Post-criminal societies relevant for this study are Nazi Germany and Milošević’s Serbia, because they comprise a particular sub-type of transitional societies, which are faced with an extraordinary burden.¹ Besides being in transition from a non-democratic to a democratic regime, these are societies whose recent past is marked not ‘merely’ by ‘standard’ authoritarian type of non-recognition or violation of human liberty, but is rather singled out by long-lasting, systematic, violations of the right to life and basic human dignity, with, in the words of Larry May, the “added dimension of the loss of group identity for the survivors” (Genocide 90). Nazi

¹ Mine is not a comparative study of these two cases. I will also occasionally reference the case of South Africa during the apartheid.

Germany and Milošević's Serbia exemplify what Nenad Dimitrijević has aptly termed 'collective crime'². Mainly, each represents a case where subjects – or, more precisely, those subjects in whose name the regime acts – maintain symbiotic relations with the regime, substantially different from other criminal states.

Fear and abandonment mark the last nineteen years for the community of victims whose loved ones disappeared in the 1992 Sjeverin massacre.³ The fate of the Serbian citizens of Bosnian descent remains outside of the scope of the moral universe of concern established in Serbia today. In the 1990s they were subject to systematic terror and intimidation, which resulted in ethnic cleansing and a significant decrease in the Bosniak part of the population. Today, the overwhelming majority has still not returned to their homes and the government of Serbia has done nothing to create a secure environment conducive to their return. In the village of Sjeverin, only nine of eighty pre-1991 Bosniak households remain yet the perpetrators of ethnic cleansing, murder and arson still walk the streets of many towns in Sandžak freely. Belgrade has taken no action against them, and the scope of the ethnic cleansing is denied institutionally.⁴ Serbian nationalist celebrations of the destruction of Bosniaks still occur. In July of 2004, prior to commemoration of the ninth anniversary of the Srebrenica massacre, groups of Serbs walked the streets in Priboj singing songs glorifying war criminals and insulting the victims.⁵

2 See detailed analysis in Chapter One.

3 The first serious crime on the territory of Sandžak was committed on 22 October 1992, when sixteen citizens of the Republic of Serbia and of Bosnian decent, who were making the daily journey from Sjeverin to go to work in Priboj were taken from the bus: Mehmed Šebo, Zafer Hadžić, Medo Hadžić, Medredin Hodžić, Ramiz Begović, Derviš Softić, Medhad Softić, Mujo Alihodžić, Alija Mandal, Sead Pecikoza, Mustafa Bajramović, Hajrudin Sajtarević, Esad Džihić, Ramahudin Čatović, Idriz Gibović and Mevlida Koldžić. They were taken to Višegrad, where they were tortured and, it is presumed, killed on the banks of the Drina. Their bodies have never been found. One day before his brother Ramahudin was abducted in Mioče, Sabahudin Čatović was abducted from his front yard in Sjeverin, and nothing has been heard of him since. For more information about the Sjeverin massacre, see (Youth Initiative for Human Rights "War Crimes in Serbia: Sandžak Case").

4 See (International Crisis Group "Serbia's Sandžak: Still Forgotten" 36).

5 Ibid.

In the fall of 2004, I visited Sjeverin to meet one of the families who had lost two sons, Ramahudin and Sabahudin Čatović, in the 1992 kidnappings. The father, Ramiz, said something to me then, which has continued to haunt me over the years. He told me that, after the news broke out about the Sjeverin massacre, although he had received many letters of support and condolences from people all over the world, he was sorry not to have received a single one in Serbian, the only language he understands. At the time he shared this with me I was struck; I did not understand why he wanted to hear from people whose collective had caused him so much suffering. I understand today that a letter from one of ‘us’ would have meant to Ramiz and his wife that their compatriots care, that they are not alone in their search for truth and justice, and above all else that we are – in our infinite shame – sorry.

I evoke this memory to highlight an empirical fact – after mass crime, the victim seeks a response from her compatriots who share their identity with the perpetrators. Bad moral luck might limit our choices but it does not define them. Our collective identities are changeable. My study is about those who fail to challenge – on the level of judgment and/or action – the ethical stance of their collective, which they share with the perpetrators. It is a study of individual moral responsibility in the production of collective harm during and in the aftermath of mass crimes.

As Ruti Teitel observed, “Transitions appear – almost by definition – to imply periods of historical discontinuity” (69). In one important way, the fall of the criminal regime implies a potential for a (normative) discontinuity. It creates a possibility for change, but the continuation of the ‘criminal ideology’ threatens to undermine this potential. The moral norms that guide the behavior of bystanders today are those which mitigated the crimes of the past. If we consult any of the number of sociological studies of the attitudes of ordinary citizens toward the perpetrators and the victims of yesterday’s harms, we will observe that even when facts about crimes are

established, many citizens often continue to deny the relevance of these facts, or the facts themselves. It is precisely this avoidance that allows the criminal ideology to subsist.

Yet, although the literature on the topic of responsibility for mass crime is vast and spans many academic disciplines, ranging from political science, history, sociology, to philosophy and psychology, etc. the importance of bystanders for transitional periods remains insufficiently explored. Bystanders are treated in the literature as ‘new’ citizens of the democratizing regime but their importance for achieving justice in transitional periods remains understudied. In both, literature on the topic, and in practice, the concept of bystander seems to lose its normative power after the criminal regime falls: bystanders of yesterday are citizens of today. This misstep consequently undermines the transitional justice efforts aimed at dealing with not only criminal and political, but also with the moral burdens faced by societies transitioning from mass crime to democracy. The problem becomes exposed when bystanders to yesterday’s crimes cease to be treated as such in transitional contexts. Understanding them as *citizens* of democratizing regimes equips us poorly to distinguish between transitional agents of change and agents who stand in the way of change. A detailed theoretical analysis, supported by empirical evidence, of bystanders’ behaviors and roles in the transitional period, however, immediately suggests that the ‘upgrade’ of the concept of bystander to the concept of citizen of the new democratizing regime unjustifiably and mistakenly relieves these persons of moral duties; unjustifiably, because their behavior, beliefs and attitudes under the criminal regime created special duties for them. To refrain from ascribing responsibility to normal human adults fully capable and competent to fulfill their moral duties is also to irrevocably undermine their equality and dignity. Establishing moral responsibility, then, when appropriate and justifiable, is a matter of upholding norms of universal morality.

Transitional justice mechanisms such as trials and truth commissions by design focus on the victims and the perpetrators; this is rightly so, for criminal and political accountability as well as public testimony of the community of victims constitute building blocks of justice. However, to ignore the moral norms that guide the behavior of the majority of the population is to ignore the harm this population produces against the community of victims in the transitional period (T2). Ignoring the relevance of the concept of bystander at T2 is to ignore the second moral collapse this segment causes. This strategy of transitional justice practitioners and theoreticians is informed by the intent to identify the perpetrator and to extinguish any notion of collective guilt. The strategy, while necessary, is hardly efficient. The point being that the majority of the population has come to accept, justify, rationalize, and normalize the norms which directly contradict the norms that guide transitional justice efforts. I aim to show that in both cases referenced, where entire collectives were prosecuted by groups, transitional periods cannot achieve normative transformations unless the moral responsibility is added to the criminal and political aspects of transitional justice.

I realize that some of the claims made in this study are controversial, but I nevertheless attempt to defend them. These are my main claims: (1) The concept of moral responsibility for mass crime must cover transition-specific harms, its agents and the duties that arise from it; otherwise, it will become unable to serve as a guide in answering the question ‘How did the moral collapse happen?’ (2) To properly assess moral responsibility for mass crime the units of analysis ought to reach beyond actions and their consequences, to include attitudes. The attitudes taken to be relevant here are generally those that both produce serious harm in society and that require acceptance by many individuals in a community together in order to be effective, e.g., attitudes such as racism, sexism, and anti-Semitism. I hold that this step is crucial if we are to

understand the nature of the harm produced by bystanders, which is characterized by omissions to act, failures to respond, and an overall absence rather than a presence of harmful actions. (3) Unintentional participation is as important as intentional participation in the production of harm. As Hannah Arendt successfully argued in *Eichmann in Jerusalem* evil deeds do not require evil motives. (4) The assessment of bystander's moral responsibility should hinge upon the bystander's relations with the community of victims; this relationship is more significant morally than is their relationship with the perpetrators. (5) Unlike regime crime, the context of collective crime requires a transition-specific conceptualization of bystander, which I aim to provide in this study. (6) And, finally, I claim that the context of mass crime does not alter individual responsibility in the way moral relativists argue – it maybe limits our choices for action, provides us with a set of unacceptable choices (thereby creating moral dilemmas), tests our internal resolve, questions our beliefs, but it nevertheless cannot abolish our ability to distinguish between right and wrong.

The most general assumption underlying my hypothesis that bystanders have a moral duty to respond to the community of victims and the society at large in the aftermath of collective crime is that: (1) Moral norms are universal from which it follows that (2) Human beings have equal moral worth and because of it they are entitled to equal moral respect and protection of their rights (Kekes 9), and (3) Human beings ought to be treated as ends and never as means to an end (Kant). With this in mind, I raise four general questions: First, did bystanders violate any, or all, of these universal moral demands? Can they be identified as a sub-group by their failure to meet such universal moral standards? Is their failure different at T1 and T2? And, finally, if they indeed violated moral universals, can they be held responsible for this?

I hypothesize that bystander's moral responsibility derives from the following moral predicament – due to their preference for 'life as usual', which in the particular criminal context obtained the meaning of both passive and active forms of the support for the regime – others have suffered at the hands of those who share our collective identity. Given that this inequality was established during the collective crime, some people had rights which others did not have, which among other things meant that some people were authorized to deny basic human rights of some other people, the task of the transitional community is to re-establish moral equality. I thus claim that the important way to achieve this is for the bystanders to assume duties for bringing this normative change about.

I additionally hypothesize that bystanders are causally responsible for the harms suffered by the community of victims during as well as in the aftermath of mass crime; the loss of life, property, life chances, etc. are directly caused by perpetrators, while humiliation, fear, loneliness⁶, and abandonment⁷ are caused by the wrong moral attitudes and (in-)actions of bystanders. More pointedly, in the last instance, it is the perpetrators who cause physical death, but it is the bystanders who participate in bringing about what Claudia Card refers to as 'social death'. The act under moral scrutiny is the omission to help or prevent harm, or the failure to act on one's moral obligations and duties (to relieve suffering is our prima facie duty). And, the attitude under moral scrutiny is indifference toward the mass atrocities perpetrated against the victims, who are simply not human enough to matter. I argue that where the control (freedom from interference of others) and knowledge conditions (factual ignorance) obtain, attitudes instead of actions should be the primary units of analysis.

⁶ See e.g. Norman Geras

⁷ See e.g. Jean Améry

Bystander's roles and responsibilities are varied. Although they constitute a heterogeneous collective, they are united in two morally-relevant aspects of response to mass crime – (1) they withhold their obligations towards the community of victims and (2) they remain silent in the aftermath of atrocities. A normative conclusion follows from these empirical insights – by choosing to exclude the community of victims from their moral universe and by remaining silent in response to crime committed by members of their own collective, bystanders come to share in the upholding of the 'perverted group ethics'. Some do so intentionally, others not. The two empirically observable responses – lack of care for the victims and silence in the aftermath – are further identified as 'fitting' within the collective intent, largely formulated and executed by the ideologues, perpetrators and collaborators. I am not suggesting that the bystanders necessarily intend to commit or in different ways contribute to mass murder, but that their intentions relevantly overlap with those of the criminal regime. On my approach, bystanders are not responsible for what others have done, but for what they have done, what they have failed to do, and for what they have become (moral characters). Thus, besides legally and politically liable agents including the ideologues, the perpetrators of mass atrocities and their collaborators, all of which exclude the victims from their moral universe, bystanders who constitute the majority of the population, do the same. Bystanders are moral agents who share their identity with the perpetrators and who can be said to have failed to uphold universal moral standards either via wrong attitudes or wrong actions. Their behavior is voluntary (not the result of factual ignorance or external pressure) and is thereby attributable to them in the sense appropriate for moral responsibility.

I hold that a large segment of the population comes to share their common identity with the perpetrators, and not solely by birth (involuntary membership in the nation) but by choice.

They share this identity voluntarily in the sense that they fail to exercise their capacity to think critically about the moral facts of crime. I propose that they have the freedom not to participate in the collective crime. I argue that four sub-types of agents comprise the group of bystanders: (1) supporters, (2) ‘internal collaborators’, (3) ‘inner émigrés’⁸, and (4) transitional bystanders. This bystander typology enables me to distribute moral responsibility according to the contribution to harm of each participant. The first type can be said to participate in harm by upholding wrong moral attitudes and acting upon them; the second type remains passive but is also upholding wrong moral attitudes. Although the third and fourth types can be said to be upholding proper moral attitudes, they harm the community of victims in the transitional period via negligence (by remaining passive at T2). I will consequently argue, that all four types can be said to hold significantly overlapping intentions with the criminal regime, since each type shares the already mentioned two crucial characteristic – failing to aid the community of victims and remaining silent in response to crime.

I argue that the bystanders’ attitudes toward the community of victims – during the criminal project and in its aftermath – are the result of different forms of denial and are outwardly expressed in the form of silence understood as absence of appropriate and presence of inappropriate language. Mine is not a study of guilt, for as Hannah Arendt famously asserted ‘where all are guilty none is’. Also, it is not a study of forgiveness because as Geoffrey Scarre holds “not forgiving keeps at the forefront the wrongs of which human beings are capable. . .” (45). This study is rather motivated by demands of universal morality and its agents, including the community of victims.

⁸ I borrow these two terms: passive support or ‘internal collaboration’ and passive opposition or ‘inner emigration’ from Cohen (147).

I further argue that individual responses to mass crime are largely informed by relational dynamics that emerge within their collectives. Discussions about collective moral responsibility mostly focus on the question whether the whole community—or large parts of it—can be held responsible for the harms produced by particular group members in cases where not all group members caused the harm directly. In cases of collective crime, I argue that the majority of the population (but not the entire population) can be held responsible for the crimes committed in the past and the harms produced in its aftermath. Mine is a shared-responsibility approach to moral responsibility. That is, it is not individualist and it is not full blown collective.

I started my analysis from a simple intuitive assumption -- that there is something deeply troubling and wrong in the culture of silence developed in response to the recent sinister past; following Chandran Kukathas, a denial of the contemporary relevance of a past suffering implies not only that the past does not matter for us of today – it also implies that the difference between justice and injustice does not matter (167). My next assumption is that the character of the criminal past rules out the very possibility of a new beginning, which by definition would be free from the legacies of the past. Therefore, I assumed that mass crimes are not merely tragic events of yesterday. Their consequences shape transitional contexts to an extent that allows one to argue that the past has not passed. It follows that the criminal past cannot be simply eradicated or made irrelevant by a political choice of a new regime.

Why the bystanders? Because I assumed with Andrew Shaap that “only to the extent that members of an offending group recognize their complicity in sustaining an unjust regime and/or benefiting from the mistreatment of another group is it possible for a new and more just society to be created” (“Subjective”). If we consider that citizens have a duty to participate in institutions and processes that enable their state to act justly and effectively in transitions from criminal past,

moral questions concerning responsibility must be, as Jürgen Habermas argued, “discussed ... in the soft medium of public dialogue” (Double 31).

Thus, a further assumption is that the past is relevant for the present because of the presumed continuity in people's attitudes, values, behavior. The prevailing attitude toward crime is silence (this is what we saw in Germany and today in Serbia). Both of these cases demonstrate that ‘not knowing’ was a matter of choice. As Dimitrijević argues, “The ideological rationalization of crime was coupled with the individual rationalization of silence and denial: during the criminal regime both rulers and ruled behaved as if no crime had been taking place at all Relevance of this silence is not limited to the life-span of the criminal regime but it supersedes it” (“A Continuity” 16). I argue that a moral challenge is created due to the severity of the character of the collective crime from which the society is transitioning. Once silence is identified as a problem, the question remains whether this attitude can be justified. Larry May reminds us that “the knowledge requirement could be satisfied by a failure to know what any reasonable person would have known” (Genocide 127).

If we agree with Harald Welzer’s argument that only one single coordinate need be altered – social belonging that separates ‘us’⁹ from ‘them’ *to whom ‘our’ principles of morality do not apply* – to create conditions for complete elimination of the ‘other’ then, once the criminal project has ended, is it not only permissible but also necessary to investigate these inclusion/exclusion practices?

These considerations point to the crucial importance of the context. And more: they inform us that the transitional context is not an objective given. The cases mentioned provide us with the insight that the answer to the question what counts as the relevant context when

9 For more on why the bystanders ought to be bothered by their role in the criminal project and their attitude towards it afterwards, especially from an identity point of view see Chapters Three and Four.

choosing an appropriate strategy of ‘working through the past’ is itself a matter of interpretation. It is typically political and cultural elites who join together to offer an authoritative interpretative identification of the context. They do this led by some preferences and perceptions of the situation. I want to argue that their choices should be not only described and explained, but also evaluated as right or wrong. Thomas Scanlon points that “when we judge a person to have acted in a way that was morally wrong, we take him/her to have acted on a reason that is morally disallowed, or to have given a reason more weight than is morally permitted, or to have failed to see the relevance or weight of some countervailing reason, which, morally, must take precedence” (What We Owe 201).

In sum, the assumptions underlying my hypothesis about bystanders are: 1. Silence is their predominant response to collective crime, 2. In the transitional process the criminal past is treated as a problem of yesterday, 3. Their complicity with the criminal regime continues into the transitional period in the form of shared wrong moral attitudes, 4. Normative assessment of the criminal past is on the margins of public discourse, 5. Claims of factual ignorance are offered as excuses for inaction, 6. Exclusionary practice (of the community of victims) continues into the transitional period, and 7. The transitional context is interpreted as the wrong time to deal with the past (too much, too soon).

These lead us to the normative level of assumptions: 1. The culture of silence during and after mass crime cannot be morally justified, 2. Closing of the books on the criminal past is a moral choice based on wrong moral attitudes, 3. Acknowledgement of complicity is owed, 4. Acknowledgment is owed publically, 5. The proclaimed ignorance of the wrongdoings is willful (serves as denial and self-deception), 6. Inclusionary and exclusionary practices during the criminal project are group-specific and as such create collective problems in the transitional

period and 7. The transitional context marks a possibility of a normative change, which requires prioritizing according to the universally right moral standards (right is to be understood as Popper's nearing the truth concept, rather than as an ideal model).

On the metaethical level, I assume that universal moral principles¹⁰ were well known to the bystanders (the argument of T0¹¹), which they willingly and willfully rejected as binding. I will argue that they came to view the victims as not part of their moral universe where these principles remained to exert their force without interruption. I thus hypothesized that bystanders failed to uphold their own moral norms and in doing so became complicit with the criminal regime. This failure to remain faithful to universal moral standards they already knew and interiorized and succumbing to the criminal regime's propaganda grounds their duty toward the community of victims and the society at large to acknowledge their responsibility for the harms committed.

As we already saw, these assumptions reflect moral judgments that are entrenched within universalist views of morality; they rest on normative positions that hold that there are moral facts about the world we live in, which can be arrived at, and which hold true to all people equally ('hold true' in this context means that these moral facts provide reasons for people to act upon, or rather, motivate them into action). Moral truths are within our reach because moral knowledge is always accessible to us, through reason. Aristotle, Kant, Arendt and Nagel, would argue that – thanks to this uniquely human capacity to judge right from wrong – normal human adults have the capacity to arrive at universally applicable objective moral reasons. To arrive to the moral truth we only need ask ourselves can a given practice be justified to all those affected (Kant). Some practices may pass these tests but there are others that will not ever and anywhere,

10 Such as the principles of benevolence, paternalism, justice, etc.

11 T0 represents periods prior to Milošević's rise to power in Serbia and to Hitler's rise to power in Germany.

such as willful harming of innocent people. Some may accomplish the task, others may fall short, but still the objective moral reasons exist.

To be responsible then is to be accountable for what one does and what one is (for one's own moral character), and finally for one's inactions; we are responsible to ourselves and to others. This moral fiber of human relations rests upon the idea of political equality, the rights we acquire by birth, and the duties we have toward each other, as well as to ourselves. Moral norms that guide our behavior and conduct are unchangeable, objective and universal on this account. This view of morality and more specifically of responsibility is however not shared by all.

In Chapter One titled, "Conceptual Analysis: Crime and Responsibility", I introduce the concepts that underpin my argument and elucidate the theoretical background of my research. The theoretical meaning of many of the concepts introduced in this section is widely debated by scholars. Thus as the building blocks of my argument are introduced, starting from more general to more disputed, the normative background of the research crystallizes. Leaving the metaphysical issues in moral philosophy aside (the debate of free will vs. determinism), I assume that we have freedom of choice and thus my approach is that of the compatibilists. I begin with the elaboration of criminal regimes relevant for my analysis, followed by a discussion of universal morality. With that empirical and normative background, I identify the moral predicament of collective crime: perverted group ethics and bystanders. I then engage in the analysis of their moral responsibility. I further argue that individualist approaches to moral responsibility cannot account for the troubling questions about the interplay between individual and group behavior. I introduce the arguments of individualists and aim to show that to fully capture the dynamic nature of relations between the regime and its subjects (vertical), as well as among the subjects themselves (horizontal), a collectivist approach to moral responsibility is

required. And finally, I discuss the various theoretical implications of most prominent approaches to the issue of collective moral responsibility, from which I build my own model of shared moral responsibility.

In Chapter Two, “The Conceptual and Normative Challenges,” I identify concepts relevant for any study of mass crime, mainly guilt, political responsibility and moral taint. I then proceed to defend my view that the concept of moral responsibility is better suited to address the questions of bystander-produced harms, given the already identified context of collective crime. Then, I introduce and analyze the practical implications of moral relativism for our conceptualization of agent responsibility in mass crime, which in turn affect how we understand the nature of mass crime. I briefly engage with three normative relativists and then propose a response to them.

In Chapter Three, “Moral Responsibility of Bystanders at T1,” I analyze how a segment of the population comes to form a group and how this group comes to constitute a collective relevant for ascription of moral responsibility. I then provide a detailed identification of the T1 context – focusing on Dimitrijević’s phases: preparatory, implementation and normalization phase. I then proceed to provide both: negative (factual ignorance and coercion) and positive identification (denial, self-deception, ethical position and silence) of bystanders at T1. I sketch out what constitutes T1-specific harm committed by bystanders, by focusing on judgment-sensitive attitudes, intentions and actions (or rather, omissions to act). I then provide arguments in favor of conceptualizing bystanders as a morally liable group at T1.

I hold that although excusing and exemption conditions¹² could be argued to have altered the way people behaved under the criminal regime, they cannot be used as explanatory factors for people's morally wrong attitudes. These morally corrupt attitudes held by the bystanders cause harm to the community of victims. Not to value persons as ends in themselves harms those persons without the existence of harmful actions. In T1, the group of bystanders commits harm against the victims and the society itself, through its attitudes and significantly overlapping intentions. The contributory harm is committed by the bystanders through negligence. As long as one intends to commit harm, and the other one intends nothing to jeopardize that intention itself, harm is committed. In short, the criminal intentions of the perpetrators are uninterrupted by the intentions of the bystanders.

In Chapter Four, "Moral Responsibility of Bystanders at T2," I undertake the analysis of the T2 context and its specific demands on moral agents. I aim to respond why bystanders matter in the aftermath of crime, by drawing on empirical evidence and identifying their group-shared characteristics including their guiding norms and prevailing attitude of silence in response to the criminal past. External factors, such as coercion, threat, and duress can explain why moral agents would not resist (through action or negative judgment) the criminal regime (T1). What is puzzling now, I argue, is to observe the same moral attitude from those agents towards the crime in the absence of those external factors (T2); that is when their actions (let alone deliberation) are undoubtedly voluntary. In this chapter, I ask what would then adequately explain the persistence of the moral attitude today (not disqualifying the crime as wrong) of this group of agents who

12 Excusing conditions obtain when a person acts under duress or coercion, when it would be unreasonable to hold her responsible for her actions. Exempting conditions obtain when moral demands cannot be placed upon a person due to lack of normative competence (people with intellectual disabilities and young children).

have full knowledge (about the crimes committed in the past) and who have full control of their individual autonomy? How should the morality of these agents be evaluated and to what end?

I provide both positive identification of denial in terms of ‘the act of speech’ and negative identification of denial in terms of silence, where I argue that bystanders engage in forms of denial whose outwardly expression is found in both, public narratives saturated with clichés, euphemisms, and silence. The focus of this chapter is to provide a coherent picture of the bystander roles in the transitional period. I thus sketch a relational model that aims to explain the importance of the group of bystanders in post-criminal societies. I present their roles from two different perspectives: the community of victims and the perpetrator group, in post-criminal societies transitioning to democracy. I do so in order to explicate the complex social dynamics that set the background of collective crime and for its legacies in the transition period. I then propose what constitutes a proper attitude of bystanders to the criminal legacies. I analyze what attitude entails a normative break with the criminal past, or what it means to have the proper attitude toward the criminal past. I argue this proper attitude is best understood as what Linda Radzik and Dimitrijević have called the ‘duty to respond’ in two senses: toward the community of victims and toward the society in its entirety. I follow up by elaborating in detail the content, the scope and the addressees of this specific duty.