



## Damned Lies

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A popular saying distinguishes lies from damned lies: this paper asks about the difference. It does so as a way of considering the variety of lies told by former President Trump and the variety of ways in which his lying was wrong. Specifically it focuses on the manipulative aspect of lies, the grave and malicious damage that a lie may do to particular person, and the ways in which lying degrades and undermines conventions associated with human communication in various specific areas of discourse. Some of these ideas are found in Kant's moral philosophy, and Kant's views on lying are examined sympathetically and in detail. Many of President Trump's lies were banal and self-serving. But they underline our sense of a common world and the importance of truth as a touchstone in politics as in everyday life. Trump's lies about the 2020 election are given special attention in light of the point that his duty was not so much to convey accurate information--we have other sources for that--but to perform the formal task of \*affirming\* the results in order to allow the political system to continue operating.

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# Damned Lies

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Figures often beguile me, particularly when I have the arranging of them myself; in which case the remark attributed to Disraeli would often apply with justice and force: “There are three kinds of lies: lies, damned lies and statistics.”

– Mark Twain’s *Own Autobiography: The Chapters from the North American Review*

## I. DONALD TRUMP AND HIS DAMNED LIES

What makes something a *damned lie*? It’s an odd question, but I want to use the phrase as a lens for examining the wrongness (and variations in the wrongness) of lying in a number of different areas of public life.

Towards the end of his (first) presidency, headlines in several op-ed pieces talked about the “damned lies” of President Trump. Paul Krugman had a column in the *New York Times* titled “Lies, Damned Lies and Trump Rallies.” John Nichols wrote that “The President’s Damned Lies Are Killing Us.” And way back in 2018, the *National Catholic Reporter* headlined an opinion piece “Lies, Damned Lies, and Presidential Tweets.”<sup>1</sup> It’s a familiar phrase, and it sounded good. But what were they getting at? Is “damned lies” anything more than rhetoric? Our authors offered no insight into what they meant. The phrase “damned lies,” which appears only in titles but not in texts, is evidently just an expression—a way to denounce the former President’s lying.<sup>2</sup> The phrase looks like it’s meant to pick out a particularly egregious kind of lie—qualitatively different from ordinary lies. But Krugman et al. didn’t tell us what a lie horrendous enough to be damned would consist in.

Donald Trump, we know, is a liar—not just in the sense that he has told lies (which most of us do sometimes), but in the sense of being an inveterate lie-teller, thousands upon thousands of lies, a man whose propensity to falsehood is one of the leading

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<sup>1</sup> Krugman 2020. Nichols 2020. Winters 2018.

<sup>2</sup> This is true generally of scholars’ employment of this phrase: the only use of the word “damned” is often in the titles of their articles (Nash-Marshall and Mahdessian 2013; Ringquist and Dasse 2004; Arico and Fallis 2013).

hallmarks of his character. Here too, terminology is interesting: the transition from particular wrongdoing—telling this or that lie—to “liar” as a settled character trait.<sup>3</sup> An analogy: in Shakespeare’s *dramatis personae*, the roles in a play sometimes include characters designated simply as “Murderer”<sup>4</sup>—for example, the First Murderer, the Second Murderer, and what Kenji Yoshino calls the mysterious Third Murderer in Act III of *Macbeth*.<sup>5</sup> Now a murderer is not just someone who commits a murder, as Macbeth himself does in Act II. A murderer is someone who is known for it, good at it, available for it; murder is his job or status; it’s the most important thing you need to know about him. And so with Trump’s mendacity. He didn’t just tell a few lies as politicians are wont to do. He made himself into a *liar*, one who could be expected to go on lying, whose word could never be trusted.

Trump observers have compiled lists of thousands (actually tens of thousands) of the lies he told while in office, padded a little by claims described as “misleading” and “debatable” rather than outright falsehoods.<sup>6</sup> What are we to do with this staggering heap of lies? It is probably not much use as an undifferentiated mass. Perhaps we should explore some distinctions.<sup>7</sup> “Lies, damned lies...” suggests the crude beginnings of a taxonomy of seriousness. But a taxonomy organized on what basis?

I looked it up. I entered “damned lies” on Google and JSTOR. Infuriatingly, every single result referred me to the *bon mot* quoted at the beginning of this essay and attributed variously to Mark Twain, Benjamin Disraeli, and numerous others,<sup>8</sup> to the effect that *there are lies, damned lies, and statistics*. And I got lots of discussion of statistics, but not a peep about what “damned lies” might mean—i.e., about what might distinguish damned lies from ordinary lies, on the left-hand side of the quotation, and from statistics on the right. “Damned lies” turns out to be just something you say before you say “statistics.” To complicate matters, many of President Trump’s lies were *about* statistics: Covid statistics, economic statistics, voting statistics, inauguration crowd

<sup>3</sup> Per Augustine’s discussion, mentioned in Frankfurt (2005, p. 58).

<sup>4</sup> The dramatist personae for *Macbeth* lists minor roles such as “Lords, Gentlemen, Officers, Soldiers, Murderers, Attendants, Messengers, the Ghost of Banquo, and other Apparitions.”

<sup>5</sup> Yoshino 2011, p. 166.

<sup>6</sup> “In four years, President Trump made 30,573 false or misleading claims” (*Washington Post* Fact Checker 2021).

<sup>7</sup> For an interesting taxonomy, albeit one oriented mostly to the issue of criminalization *vel non*, see Morrison (2009).

<sup>8</sup> I am told that no version of the aphorism has been found in any of Disraeli’s speeches or published writings. For a comprehensive discussion of its possible origins, see University of York Department of Mathematics (2012).

statistics; and so on. But I don't think this is what Mark Twain (or Lord Beaconsfield) had in mind. Trump didn't just use statistics to deceive; he lied about the statistics.

## II. KINDS OF LIE

Let's try figuring it out ourselves. We might start from the easy end: lies that are probably *not* damned lies. If we get some of these out of the way, we may see our way through to more serious distinctions.

### A. White Lies

When I acknowledged that most of us sometimes tell lies, I meant (mostly) white lies—lying to spare another's feelings, e.g., about their clothes or the draft they hope to publish. Sometimes these lies work because the *liee* (the recipient of the lie) is somewhat complicit in the deception and the contours of lie-etiquette are well known to all parties. The liee is not relying informationally on what is said, only looking for routine assurance. Even if this is not true in all cases, I assume “white lies” are not damned lies. But there may be lies that are *not* white lies but do not fall into the category of damned lies either.

### B. Fibs

Consider the little word “fib,” which I think is used more in English English than American. *Merriam Webster* defines it as “a trivial or childish lie.” (Sometimes the Twain/Disraeli aphorism is recorded as the suggestion that “[t]here are three degrees of untruth,—a fib, a lie, and statistics.”)<sup>9</sup> The childishness may refer to a silly impulse to tell lies (say, to pander to one's own vanity) like President Trump's fibs about the weather and the number of people at his inauguration. There is something banal, rather than damnable, about much of Trump's lying. But that doesn't mean his lies were not a matter of concern. The lies themselves might not have mattered: who cares whether it rained on Trump's parade? But the childishness can also refer to the liar's failure to understand that his fibs may destroy his credibility. Like Hilaire Belloc's Matilda, the liar learns that occasionally they need their word to be taken seriously:<sup>10</sup>

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<sup>9</sup> “Sir Charles Dilke was saying the other day that false statements might be arranged according to their degree under three heads, fibs, lies, and statistics,” according to a report in *The Bristol Mercury and Daily Post*, for Monday, October 19, 1891 (cited in University of York Department of Mathematics 2012).

<sup>10</sup> Belloc 1918, final stanzas.

That Night a Fire did break out—  
 You should have heard Matilda Shout!  
 You should have heard her Scream and Bawl,  
 And throw the window up and call  
 To People passing in the Street—  
 (The rapidly increasing Heat  
 Encouraging her to obtain  
 Their confidence)—but all in vain!  
 For every time she shouted ‘Fire!’  
 They only answered ‘Little Liar!’”

I think a great many of Trump’s lies are fibs—they are falsehoods about his own achievements and mostly it is their petulant vanity that offends us. They are easily exposed, though this does not mean large numbers of people do not believe them.

Even fibs may be damned in the sense that fibbing redounds catastrophically on a person’s honor. Some thinkers have said this about lying in general, in which case all lies are damned lies. According to Francis Bacon, “There is no vice that doth so cover a man with shame” than lying.<sup>11</sup> Immanuel Kant spoke of the dishonor that accompanies an individual lie—“a worthlessness that must make him contemptible in his own eyes.”<sup>12</sup> He said that “[b]y a lie a human being throws away and, as it were, annihilates his dignity as a human being.”<sup>13</sup> Now this has to be hyperbole—Kantian dignity is supposed to be inalienable. But the fervency of the condemnation is evident, and Kant seems to think that the impact on the liar’s own character matters more than the damage to others that lying may do. At any rate, the Kant/Bacon view is too general to be much help in answering our question. (We will explore several other aspects of Kant’s multi-faceted view of lying later in this essay.)

### C. Barefaced Lies

Many of Trump’s lies were barefaced (or bald-faced) lies, told in circumstances in which it was immediately evident that his statements were false, so that actual deception was out of the question.<sup>14</sup> (“Sharpie-gate is the best-known example.)<sup>15</sup> “Barefaced”

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<sup>11</sup> As quoted in Bok (1978, p. 262).

<sup>12</sup> Kant 1797a, pp. 552–3 (6:429).

<sup>13</sup> Kant 1797a, p. 553 (6:430).

<sup>14</sup> For some discussion about whether such bald-faced lies really count as lies, see Arico and Fallo (2013, p. 792).

<sup>15</sup> “President Donald Trump was the one who used a black Sharpie marker to alter an official

can mean brazen, impudent, and shameless.<sup>16</sup> But it need not be stupid. The patent contempt for truth that a barefaced lie conveys can be seen as a way of grooming the liee to receive further misstatements, making it blatantly evident that the rules of assertion are no longer what they were, and gambling that the display of such a patent intention to deceive can sometimes be politically useful.<sup>17</sup>

#### D. Bullshit

Philosopher Harry Frankfurt has distinguished between lying and bullshitting. A bullshitter doesn't care about truth or falsity: he just talks without regard to the veracity of what is said. Telling a lie, by contrast, "is an act with a sharp focus." A liar "is inescapably concerned with truth values. In order to invent a lie at all, he must think he knows what is true. And in order to invent an effective lie, he must design his falsehood under the guidance of that truth."<sup>18</sup> I believe a considerable number of Trump's lies are bullshit in Frankfurt's sense—just things he says, without any regard at all to the truth (except that he wants his audience to take them on board and "believe" them). I think we can put most of these to one side, although we should bear in mind that lying can also beget bullshit and help it become a dominant mode of discourse. (I will talk more about this in Sections VIII-IX.)

#### E. Falsehoods Believed to Be True

What if a person says something false which they believe to be true? That can't be a damned lie, can it? Some accounts—subjective conceptions—present a lie as by definition a misrepresentation of what is in one's mind, in which case a statement of the kind just mentioned would not count as a lie, for one accurately conveys the state of one's own beliefs. Some even say that the whole point of human communication is to convey our subjective beliefs and feelings to one another, and lying is wrong only because it interferes with that.

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National Oceanic and Atmospheric Administration map to include Alabama in Hurricane Dorian's trajectory during an Oval Office presentation" (Stracqualursi 2019).

<sup>16</sup> *Oxford English Dictionary* on "barefaced"—meanings 2 through 4. Sometimes the term is "bald-faced."

<sup>17</sup> For the paradoxical result that, in certain political circumstances, a lie that flies in the face of common knowledge can accredit the liar as authentic, see Hahl, Kim, and Sivan (2018).

<sup>18</sup> Frankfurt 2005, pp. 51–2.

I am not convinced. I try to stay away from picky analytic discussions of the exact definition of lying.<sup>19</sup> But I think that too much emphasis on the subjective element may distract us from the real problem with lying. When a person knowingly lies about whether it rained during the inauguration ceremony in 2016, he certainly misrepresents the contents of his mind. He believes it did rain, but he says it didn't. But, if that matters, it matters because his words misrepresent the weather not because they misrepresent his beliefs. And our account of the wrongness of lying should have to do with people's need (if any) to know about the rain. False statements, then, are problematic because the hearer becomes convinced that something *in the world* is the case which is not. I mustn't exaggerate: occasionally what's at stake may be what's in the speaker's mind—as in one's answer to the question “Do you love me?” But mostly we speak to one another to describe the world and we ought to take responsibility for the objective veracity of what we convey.<sup>20</sup>

This is important because Trump may certainly have come to believe some of his own lies—especially his claims about the outcome of the 2020 election. On the subjective conception, after a while his repeated assertion “I won, bigly” would cease to be a lie because he had made himself believe it. We would have to credit him with honestly conveying the contents of his mind. But that lets the former president off the hook too easily. In circumstances where truth matters, one has a responsibility to keep one's beliefs in good order. If we distinguish reckless from negligent from reasonable failures in regard to this responsibility,<sup>21</sup> we ought to say that often (though not always) a person who comes to believe his own lies has wandered into the territory of aggravation, not excuse. But it is the blameworthiness of his action that is aggravated not its wrongness *per se*.

## F. Other Forms of Deceit

Humans can deceive each other in all sorts of ways, by creating false impressions or encouraging inferences, not just by lying. Deception is usually wrong, but there may be something about a “lie direct” that is specially enraging.<sup>22</sup> Bernard Williams says that

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<sup>19</sup> However, for a helpful example see Carson (2006). Carson talks about wider and narrower definitions of lying, as does Sunstein (2021, p. 23). Probably the phrase “damned lies” clusters in the narrower range of these definitions.

<sup>20</sup> Whether or not it counts as lying, culpably negligent misrepresentation is wrong for the same reason.

<sup>21</sup> For these distinctions, see Sunstein (2021, p. 3).

<sup>22</sup> I will spare the reader the Shakespearean taxonomy of the Lie Direct, the Lie Circumstantial,

people think “there is something peculiarly odious and insulting about a lie as contrasted with other forms of deceit,” having to do with the special trust and dependence elicited by the giving and receiving of an assertion.<sup>23</sup>

I mentioned earlier that when newspapers and blogs list President Trump’s thousands of lies, they often include statements by him that they class as “misleading” — often exaggerations of one sort or another. We should be alert to the difference between these and outright lies, while accepting that even in this category of merely misleading claims, Trump seems to have outdone his predecessors by orders of magnitude.

### III. LIES IN POLITICS

“Damned lies” might seem a strange thing to say about the words or tweets of a politician. Doesn’t all politics involve lying? Shouldn’t anyone with a deontological aversion to lying stay out of the political kitchen, because their scruples are unlikely to stand the heat of the mendacity that is sometimes required? Hannah Arendt opened her essay on “Truth and Politics” by saying “No one, as far as I know, has ever counted truthfulness among the political virtues.” She went on: “Lies have always been regarded as necessary and justifiable tools not only of the politician’s or the demagogue’s but also of the statesman’s trade.”<sup>24</sup> Bernard Williams, who thought more about this than most moral philosophers, concluded that in the ordinary life of a well-ordered community a politician must expect to

find himself involved in ... such things as: lying, or at least ... the making of misleading statements; breaking promises; ... temporary coalition with the distasteful; sacrifice of the interests of worthy persons to those of unworthy persons; and (at least if in a sufficiently important position) coercion up to blackmail.<sup>25</sup>

Williams went on: “To refuse on moral grounds ever to do anything of that sort is more than likely to mean that one cannot seriously pursue even the moral ends of politics.”<sup>26</sup> These are not white lies he’s talking about; they seem to be politically necessary lies that no doubt enrage the liees when the falsehoods are exposed.

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the Counter-Cheque Quarrelsome, the Reproof Valiant, the Reply Churlish, the Quip Modest, and the Retort Courteous — from Touchstone’s speech at end of *As You Like It*.

<sup>23</sup> Williams 2002, pp. 118–9.

<sup>24</sup> Arendt 2006, p. 223.

<sup>25</sup> Williams 1979, pp. 62 and 59.

<sup>26</sup> Williams 1979, p. 62.



If there are such necessary lies in politics, why do we pretend to be so shocked—*shocked!*—by the lying of President Trump? Maybe fervent moral condemnation should be confined to personal life. In *Truth and Truthfulness*, Williams alluded to what he called

a moderate version of Machiavelli’s thesis: the responsibilities of government are different enough from those of private individuals to make governmental virtue a rather different matter from the virtue of individuals—in particular, as he rightly pointed out, from the virtue of individuals who are being protected by a government. Any government is charged with the security of its citizens, a responsibility that cannot be discharged without force and secrecy. It will be lucky if it can discharge it without deceiving someone, and if that does not already include the citizens, it is very likely that it will come to do so.<sup>27</sup>

But very few of Trump’s lies fell into this category of what was necessary for national security or for boosting citizens’ morale. One or two perhaps: Trump has claimed that his early prediction that Covid-19 would shortly just disappear was intended to prevent public panic.<sup>28</sup> Mostly their motivation was to make him look good to his supporters.

Though the practice of politics may be a domain from which lies cannot wholly be excluded, in some political respects lying is a mortal threat to democracy. Accountability requires truthful accounting by politicians to their principals. Sunstein is right when he remarks that “leaders who lie cut the legs out from under democratic processes.”<sup>29</sup> And hard lessons were learned in places like socialist Czechoslovakia when truth had been more or less abandoned as a touchstone of governance to the detriment of any shared sense of reality in the political community.<sup>30</sup> (More on this in Sections IX and X.)

#### IV. HOW IT IS SAID

We sometimes get help figuring out what a phrase means by thinking about how we would hear it said—cadence, emphasis, emotional tone, etc. I assume that the expostulation “That’s a damned lie!” was well-known—was a *thing*—around the time

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<sup>27</sup> Williams 2002, p. 207.

<sup>28</sup> “‘We had to show calm. The last thing we can show is panic or excitement or fear or anything else,’ Trump told reporters at the White House on Wednesday. ‘I’m the leader of the country, I can’t be jumping up and down and scaring people,’ he later said to Fox News’s Sean Hannity” (Golgowski 2020).

<sup>29</sup> Sunstein 2020, p. 9.

<sup>30</sup> Havel 1990.

that whatever wag it was came up with the saying “Lies, damned lies, and statistics.” I imagine that “That’s a *damned* lie!!” was something one said quickly, loudly, in tones of barely controlled fury and outrage, in response to a falsehood that did something like impugn one’s honor or that of a friend or relative. The point of saying it would be to make clear that this was not just any lie, that the falsehood that had just been uttered was to be denounced loudly and immediately, as utterly wrong, to block at once the grave harm that it might do, with the perpetrator left in no doubt as to our reaction. “That’s a damned lie!!” would be one step away from a suit for defamation, a challenge to a duel, or something of that sort.

### V. DAMNED LIES: *OTHELLO*

So, is the word “damned” in “damned lies” just an intensifier? The dictionary lists this as one of its uses—the word is “[u]sed profanely as a strong expression of reprehension or dislike, or as a mere intensive. Now usually printed ‘d— —d’. In the southern U.S., a common epithet prefixed to *Yankee*.”<sup>31</sup> It certainly sounds like an intensifier, and one of great vehemence, in Act V, scene 2 of Shakespeare’s *Othello*, when Emilia denounces her husband for having told Othello that Desdemona was unfaithful to him:

Emilia: But did you ever tell him she was false?

Iago: I did.

Emilia: You told a lie, an odious, damned lie; / Upon my soul, a lie, a wicked lie.

“A wicked lie,” not just because there was not the remotest justification for it, but also because of the harm it was calculated to do. “Damned” might just convey that wickedness; but it might also convey something more frightening. Othello himself said (falsely) of the dying Desdemona that she is “like a liar, gone to burning hell.” We may think that’s an appropriate destination for Iago. That’s a more or less literal sense of damnation, which perhaps we should explore.

### VI. DAMNATION BY PERJURY

One possible implication identifies damned lies with old-fashioned perjury. One takes an oath before testifying to invoke God’s judgment on what one says. The oath represents the witness’s acknowledgement that a perjurer will be damned, in the relatively straightforward sense of “[d]oomed to or undergoing eternal punishment;

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<sup>31</sup> *Oxford English Dictionary* entry for “damned” (adjective), meaning 4a.

condemned or consigned to hell.”<sup>32</sup> In its early manifestations, the testimonial oath was a sort of self-curse whereby the witness would call damnation upon him- or herself if it turned out they were lying. In pre-Reformation Zurich, for instance, an unmarried woman alleging paternity would have to swear in the following frightful terms:

If I swear falsely and unjustly, then ... God the Son, my Redeemer shall no longer come to my aid when my body and soul in the last end are separated from each other; ... the sacred and bitter suffering and death of the Lord Jesus Christ ... shall be lost to me and I shall find no consolation for it in all eternity and my sins shall not be purified or washed away by the precious blood of Jesus Christ; ... God shall never help me when I stand as a perjurer on the Last Day or Judgment ... and my body and soul is judged before the severe Judgment of God and I shall be thrown into the glowing fire, prepared for the devils and all damned, and be robbed of the joyful sight of Eternal Grace....<sup>33</sup>

Having sworn thus and then identified a particular young man as the father of her child, she could expect the court to find conclusively in her favor. No man could plausibly rely on an argument that a petitioner was willing to risk such damnation just in order to get at him.<sup>34</sup>

There are all sorts of problems with testimonial oaths. The church was never happy about the way they represented God as coercible for human purposes: as though once the oath was taken, God would *have to* damn the perjurer. That smacked of magic.<sup>35</sup> On the other hand, secular thinkers were worried about the circumstances of testimony which in capital proceedings would pose a person’s mortal survival against their eternal peril. Cesare Beccaria spoke of the

palpable contradiction between the laws and the natural sentiments of mankind, in the case of *oaths* which are administered to a criminal to make him speak the truth, when the contrary is his greatest interest ... Why should a man be reduced to the terrible alternative, either of offending God, or of contributing to his own immediate destruction? ... all laws are useless, and, in consequence, destructive, which contradict the natural feelings of mankind.<sup>36</sup>

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<sup>32</sup> *Oxford English Dictionary*, meaning 2a of “damned.”

<sup>33</sup> Silving 1959, p. 1354 n178.

<sup>34</sup> Silving 1959, p. 1335.

<sup>35</sup> Silving 1959, pp. 1330 and 1332.

<sup>36</sup> Beccaria 1764, *ch. XVIII* (“Of oaths”).

(This is one of the sources of the traditional privilege against self-incrimination: the privileged refusal to answer questions that would pose this dilemma.) Immanuel Kant, whom we have already encountered and who, as we shall see in a moment, is reputed to be an absolutist about lying, opposed the compulsory use of oaths in court—i.e., people being forced to speak truth on account of their superstitious “fear of an all-seeing, almighty power whose vengeance they would have solemnly called down upon themselves in case their declarations were false.” “[M]ere fairy tales are the incentive in taking oaths,” Kant said.<sup>37</sup> The general moral case against lying (whose Kantian versions we will examine in Sections VII-IX) ought to be enough.

So perjuries are damned lies. We can get insight too from considering the penalties the law has historically provided for perjury. Blackstone spoke of “the opinion of Cicero, derived from the law of the twelve tables, “*perjurii poena divina, exitium; humana, dedecus.*” (The crime of perjury is punished by Heaven with perdition, and by man with disgrace.)”<sup>38</sup> The common theme is stigmatized exclusion—damnation in the sense of dismissal—from the realm of the trustworthy. Lying under oath was a disgrace that had consequences and Blackstone observed that that disgrace might include “banishment, or cutting out the tongue ... never more to be capable of bearing testimony ... perpetual infamy.”<sup>39</sup>

Well, Trump’s lies were (mostly) not perjuries.<sup>40</sup> As I have said, hundreds of them were just silly fibs, easily exposed and born of pathological vanity. But I am going to persevere with the perjury idea just a little bit longer, because it may yet help us get to the bottom of this category of “damned lies.”

## VII. VICTIMS OF LYING

According to Blackstone, perjury was mostly not a capital offense, though the death penalty was proposed where it was used to procure somebody’s execution: “It has sometimes been wished, that perjury, at least upon capital accusations, whereby another’s life has been or might have been destroyed, was also rendered capital, upon a principle of retaliation.”<sup>41</sup> This invites us to consider the victims of a lie and the relation of that consideration to its damnable character.

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<sup>37</sup> Kant 1797a, pp. 448–9 (6:303–4, MM §40).

<sup>38</sup> Blackstone 1765, bk. IV, ch. 10.

<sup>39</sup> Blackstone 1765, bk. IV, ch. 10.

<sup>40</sup> But see Zhao (2019).

<sup>41</sup> Blackstone (1765, bk. IV, ch. 10) on capital nature of perjury in France: “But it is to be con-

Victims fall into two categories. Let me use *Othello* to illustrate. There is first the person who is lied to, the *liee*, like Othello the man manipulated by Iago's lies. The liee is made to act on what he is led to believe is accurate information, and he is brought to act in this way for the purposes of the liar. This understanding of victimization is roughly Kantian in character: it condemns a manipulative failure to treat the liee as an end in himself.<sup>42</sup> (This is different from, though not unconnected to, the Kantian argument discussed in Section I that the liar also misuses his own personhood and so undermines his own dignity.) As Cass Sunstein puts it in an illuminating essay on the wrongness of lying, "Kantians think that what makes lying wrong is not that it causes more harm than good, but that it treats people disrespectfully, even with contempt."<sup>43</sup> In this category, Othello is manipulated maliciously, to his own doom, by Iago. He would not dream of harming Desdemona if the facts were not as Iago stated them to be; and Iago's hope was that, once his (Iago's) lies had done their work, Othello would find out that he (Othello) had done Desdemona this ultimate injustice and go to his doom with that knowledge.

Less dramatically (and speaking of Sunstein), we must also include in this first category of "victim" the person who is manipulated paternalistically *for his own good*. We must, anyway, when such a person is deliberately given misleading information to lead him towards choices that the manipulator considers to be for the liee's own good.<sup>44</sup> They remain the liee's own choices, but they are framed by someone else's arrogant assumption that he has to be misled in order to choose rightly. It is worth repeating, however, that not all nudges involve misleading the person being nudged; and so not all nudges are disrespectful in this way.

Secondly, there is the person who may be affected—adversely or beneficially—by a lie told to someone else. The clearest case is the person a lie is told *about*. So, for adverse impact, we have the case of Desdemona, mortally harmed though innocent by the

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sidered, that there they admit witnesses to be heard only on the side of the prosecution, and use the rack to extort a confession from the accused. In such a constitution ... it is necessary to throw the dread of capital punishment into the other scale, in order to keep in awe the witnesses for the crown; ... so naturally does one cruel law beget another." He compared this unfavorably with "the genius of the English law, where the [facts are] openly discussed between witnesses on both sides, and the evidence for the crown may be contradicted and disproved by those of the prisoner."

<sup>42</sup> Korsgaard (1986, p. 334) says that a Kantian should find it "horrifying."

<sup>43</sup> Sunstein 2020, p. 7.

<sup>44</sup> See the discussion in Waldron (2014). There is a brief discussion of paternalistic lies in Sunstein (2020, pp. 5–6; 2021, pp. 28–9).

impact of Iago's lies upon Othello. Emilia damns these as murderous lies, and such a lie might be thought damnable on account of the particular malice it involves. This is the category for which (according to Blackstone) certain commentators regarded perjury as deserving capital punishment.<sup>45</sup> Recent proposals to criminalize lying—outside the perjury context—have focused on egregious lies that cause serious harm.<sup>46</sup>

But also we have to consider again the possibly *beneficial* impact of lying on a third party. In the best-known hypothetical (whose details we will consider in Sections VIII and IX), we posit a fugitive who can be protected from murder only by the lies of a person who falsely answers a potential murderer's inquiry as to the fugitive's whereabouts. Can such a prospect of benefit justify a lie? Since it is impossible to conceive of a moral analysis of lying that would accord no significance to the *harmful* impact of a lie (on someone like Desdemona), surely a complete evaluation should allow for possible benefits as well. This seems to point us in the direction of a general cost-benefit approach, of the sort proposed by utilitarians: lying is justified whenever all the good that it does (including the harm it prevents) outweighs all the harm that it causes (including the good that it prevents).<sup>47</sup>

On the other hand, if there is to be a *non*-utilitarian account, it must treat some of the harms arrayed in this calculus (like the harm of Othello's being manipulated or the harm of Desdemona's being misrepresented) as decisive sources of wrongness, not fungible with or able to be added up and traded off against other costs and benefits (like Iago's malicious delight, or the saving of the fugitive). My point is that a non-utilitarian account may still take certain harms into account; what distinguishes it from a utilitarian analysis is that it regards the harms it highlights as decisive, not to be offset in a cost/benefit analysis.

Did Trump's past lies victimize anyone in particular? I'm sure some did: Hunter Biden springs to mind, and Alexander Vindman, and Vice President Pence in the last few days of the administration. It will help also to distinguish between direct and indirect victims. Sometimes the victims are not necessarily those whom the lies are told about. Trump's lie that there was a large reserve of Covid-19 vaccination doses available had an impact on those who later needed vaccinations and couldn't get them

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<sup>45</sup> When I was searching Westlaw for "damned lies," one of the few uses not associated with statistics was in an article by Davis and Leo (2012), suggesting that lies by law enforcement might be categorized as "damned lies" if their tendency was falsely to incriminate someone. See also Davis (2010) and Shealy (2010). Davis also talks of "damning damned lies"—i.e., lies that damn the suspect who is damnably lied about.

<sup>46</sup> See, e.g., Druzin and Li 2001, pp. 564 ff.

<sup>47</sup> Sunstein (2020, p. 4), quoting Henry Sidgwick.

because state and transition officials had been induced to make plans on the basis of false assurances they received from the outgoing administration.<sup>48</sup> And the former president’s continual lying about the outcome of the 2020 election motivated (arguably incited) violent rioting that posed a serious threat to people working in the US Capitol on January 6, including senators and representatives, as well as police officers sworn to defend them, all of whom were put in fear of their lives.

In Section IX, I shall consider harms that are even more diffuse and indirect than these—the harm that a continual torrent of lies by those in authority can do to our shared sense of the facts that constitute our common world. Before we get to that, however, we should pay some special attention to the impact of lying on speech and assertion in general.

### VIII. KANT ON DAMAGE TO THE SYSTEM OF ASSERTION

A number of philosophers have raised questions about the harm lies cause to mankind through structural damage to the system of human communication.<sup>49</sup> Writing in 1574, Michel de Montaigne didn’t use the language of “damned lies,” but he called lying “an accursed vice” because, as he said, “[w]e are not men, nor have other tie upon one another, but by our word.”<sup>50</sup> We are speaking beings. A lie takes the perpetrator out of the cooperative linguistic endeavor of the human race—or at least it puts him in a problematic free-riding relation to it. Our lies damn us in that sense of exclusion or constructive banishment.

Immanuel Kant took a similar position. As well as the arguments we have considered about using people as mere means and about degrading one’s own dignity, he was interested in the way that lying contradicts a central presupposition of communication. “Without truth,” said Kant in his *Lectures on Ethics*, “social intercourse and conversation become valueless. ... Lying makes it impossible to derive any benefit from conversation.”<sup>51</sup> That doesn’t sound very alarming: perhaps conversation is overrated. But I think Kant means to include all the need we might have to secure information from one another. In a short piece written towards the end of his life, Kant insisted on distinguishing this element of the wrongness of lying from any consideration of

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<sup>48</sup> Flaherty and Martinez 2021.

<sup>49</sup> See generally Grice 1991.

<sup>50</sup> Montaigne (1574) continued: “If we recognized the horror and gravity of an untruth, we should more justifiably punish it with fire than any other crime.”

<sup>51</sup> Kant 1963, p. 224.

the specific damage or benefit that might accrue to the parties immediately affected. A lie might or might not harm the person lied about; it might represent a failure to treat the liee as an end in him- or herself; it may save the murderer's victim. But it has also this characteristic that, by lying, "I bring it about, as far as I can, that statements (declarations) in general are not believed ... and this is a wrong inflicted upon humanity generally."<sup>52</sup>

Now, the 1797 essay in which Kant made this case is notorious, and its argument is often seen as a *reductio ad absurdum* of moral absolutism. The essay, entitled, "On a Supposed Right to Lie from Benevolent Motives," responds to a case made by the French *philosophe* Benjamin Constant suggesting, along lines we considered in Section III, that often in politics good consequences outweigh the wrongness of lying and society cannot possibly work if everyone tells the truth all the time.<sup>53</sup> Kant in response made what appears to have been an attempt to uphold the absolutist position by riffing on the old story (which I have already mentioned) about telling the truth to a murderer who is on the trail of an innocent victim.

A murderer, M, is chasing a potential victim, V, who is innocent of any wrong-doing. M has a weapon, say an axe. V runs into your house, crying "The mad axe-man is after me! The mad axe-man is after me!" You hide V in a closet. The murderer enters and says, "Where is V?" Perhaps you need not say anything. But if something has to be said, must you say: "He's in the closet"? Or are you permitted to tell M a lie, such as "V went that way" (pointing falsely away from the house)?

Kant seems to have insisted that truth must be told to the murderer. "To be truthful (honest) in all declarations," he said, is "a sacred command of reason prescribing unconditionally..."<sup>54</sup> Most people find this idiotic,<sup>55</sup> perhaps evidence of the decline of Kant's mental powers towards the end of his life.<sup>56</sup> Kant is commonly held to have compounded the idiocy by going on to say:

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<sup>52</sup> Kant 1797b, p. 612 (8:426)

<sup>53</sup> Constant was responding to earlier claims by Kant, e.g., in *Perpetual Peace*, First Appendix (on whether honesty is the best policy in statecraft) (Kant 1996, 338–9 [8:370]). There is a good account of the Constant-Kant exchange in Holmes (1984, pp. 106–9).

<sup>54</sup> Kant 1797b, p. 613 (8: 427).

<sup>55</sup> Sidgwick: "if we may even kill in defense of ourselves or others, it seems strange if we may not lie, if lying will defend us better against a palpable invasion of our rights" (cited in Bok 1978, p. 301).

<sup>56</sup> Cf. Arendt (1982, p. 9): "[T]he decrease of his mental faculties, which finally led into senile imbecility, is a matter of fact."



If you have by a lie prevented someone ... bent on murder from committing the deed, then you are legally accountable for all the consequences that might arise from it. ... [I]f you had lied and said he is not at home, and he has actually gone out (though you are not aware of it), so that the murderer encounters him while going away and perpetrates his deed on him, then you can by right be prosecuted as the author of his death.<sup>57</sup>

This is of course preposterous as a legal proposition, and even as a moral claim it's pretty silly, though it rests on a plausible insistence that one who makes decisions turn on consequences must take some sort of responsibility for the way the consequences of his decision actually turn out.

Stephen Holmes says, rightly, that Kant's account is at best one-sided: we have a duty to tell the truth, but we also have a duty to save V, the innocent friend. "Kant resolved this normative dissonance," said Holmes, "by ignoring half our commitments."<sup>58</sup> We can agree with that, but if Kant's account is one-sided, we might as well look at what he makes of the side that he *does* consider. A potential murderer may not be entitled to the truth and a lie may save a life; but is there anything that can be said *against* lying in these circumstances?

Kant's position is that any lie—even one told from the best motives—detracts from the general veracity of statements and undermines trust and credibility. Now "detracts from" is a slippery phrase. It might refer (i) to actual results, i.e., to the empirical impact—if that can be measured—that each lie actually has on the enterprise of human communication. Or (ii) it might refer to a contradiction between what one intends and what one is relying on; a sort of implicit affront to reason. Seana Shiffrin says: "[T]he wrong of lying is that it operates on a maxim that, if it were universalized and constituted a public rule of permissible action, would deprive us of reliable access to a crucial set of truths and a reliable way to sort the true from the false."<sup>59</sup> Or (iii) it is a sort of free-riding: we are taking unfair advantage of the fact that most people tell the truth and consequently that most people are expected to tell the truth; instead of playing our part to maintain that state of affairs, we cynically exploit it.

Points (i)–(iii) are not the same; but they feed off one another and they deserve consideration in the light of Montaigne's suggestion that the speaker of a falsehood is

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<sup>57</sup> Kant 1797b, pp. 612–3 (8: 427). See also the analysis of a slightly different case of consequences in Kant 1797a, p. 554 (6: 431).

<sup>58</sup> Holmes 1984, p. 109.

<sup>59</sup> Shiffrin 2016, p. 23.

damned in the sense of having put himself beyond the pale of the communication that constitutes the fabric of human life. Kant, who seems to hold (i), (ii) and (iii) together maintains quite rightly that the underlying point is as true in the case of lies told to murderers as it is in any other circumstance.<sup>60</sup> When we speak to M, saying V went *that* way (pointing away from the closet where we know he is hiding), we are counting on M believing us. As he goes out, we say to ourselves, “Please, please, let him believe me.” And if V is saved, it is because M says to himself “These people wouldn’t lie to me.” We, the liars, are counting on the general credibility of statements as such. As Martin Jay puts it, “the default position has to be veracity as a norm if lying can function at all”<sup>61</sup> We have no other hope for the good we want to achieve in this case than the general credibility of statements. If M finds out that he has been misled, he may say to himself like “I will never trust anyone ever again”—which will be a problem the next time we want to divert him.<sup>62</sup> Maybe there won’t be a next time, so it doesn’t matter. Still our lie may contribute to a general decline in credulity. As a BBC publication puts it, “an untrusting world is ... bad for liars,” including well-motivated liars. “Lying isn’t much use if everyone is doing it.”<sup>63</sup>

The hard question is whether, if we take Constant’s side in this debate, we are prepared for utmost publicity for the position—signs posted on doors saying: “Truth will not be told to murderers,” etc.? Sissela Bok says we should use some sort of publicity requirement to test alleged exceptions to the rule requiring truth-telling.<sup>64</sup> I’m not sure she reckons with the fact that the benefit (to us) of lying to the murderer might not survive this test.

When we speak, the convention is that we tell the truth. There is “a default moral presumption of truthfulness in communication.”<sup>65</sup> Indeed, so deeply and broadly is

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<sup>60</sup> Shiffrin actually thinks the *moral* importance of communication may make it important to tell the truth “*even with, and perhaps especially with, wrongdoers*. The conditions of forging moral progress together seem to depend upon securing and protecting the lines of communicative trust” (Shiffrin 2016, p. 8; my emphasis).

<sup>61</sup> Jay 2010, p. 132.

<sup>62</sup> Cf. Korsgaard (1986, p. 329): “If murderers standardly came to the door and said: “I wish to murder your friend—is he here in your house?” then perhaps the universal practice of lying in order to keep a murderer from his victim would not work. If everyone lied in these circumstances the murderer would be aware of that fact and would not be deceived by your answer.”

<sup>63</sup> BBC 2014.

<sup>64</sup> Bok 1978.

<sup>65</sup> Shiffrin, 2016, p. 11.

this embedded in the use of language that it is barely describable as a convention.<sup>66</sup> It reaches into the very teleology of language. There would be little point to establishing the specific conventions (of meaning etc.) that constitute language if it were not for the sake of interactions structured by this presumption. That there should be such a general background presumption is obvious. To adapt an observation from Adam Smith:<sup>67</sup> in civilized society people stand at all times in need of information for their daily life, the pursuit of their interests, and the discharge of their responsibilities great and small, while their own individual senses and reasoning can secure only a tiny amount of the information they need.<sup>68</sup> Different persons will know different stuff: informationally we have what Williams calls different “positional advantages”: I can see this, you can see that; so we stand to benefit from exchange of information, from a division of epistemic labor.<sup>69</sup> A community whose members do not make a practice of pooling and exchanging information will do very badly. Such a practice involves people communicating to others what they know, what they have learned, and what they have figured out, either spontaneously or on request. That aspect of interactive well-being will founder if it is not associated with a norm of sincerity and veracity.

Sometimes ethical consequences are drawn from this on the basis of a sort of teleology or natural purpose of speech. Augustine said that “God gave human beings speech so that they could make their thoughts known to each other; therefore using speech to deceive people is a sin, because it’s using speech to do the opposite of what God intended.”<sup>70</sup> (This combines a teleological argument with what I called earlier a subjective conception of lying.) Kant said something similar but without reference to

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<sup>66</sup> Williams (2002, p. 70) critically cites David Lewis’s (1969) position: “David Lewis has said that the convention by subscribing to which a speaker uses a given language *L* is that of being truthful in *L*, where this means ‘to try never to utter sentences of *L* that are not true in *L*.’” Williams thinks the formulation is poor, but I am not sure whether he disagrees with the general idea of such a convention.

<sup>67</sup> Adam Smith (1976, p. 17, book 1, ch. 2) writes: “In civilized society [man] stands at all times in need of the co-operation and assistance of great multitudes, while his whole life is scarce sufficient to gain the friendship of a few persons.”

<sup>68</sup> Shiffrin’s version: “Given our mutual epistemic limitations and the complexity of the environment in which we find ourselves, we depend upon one another’s beliefs, knowledge, and reactions to our beliefs to construct a reliable picture of our world, so that we can navigate through it and understand who we are and where we are situated.” (Shiffrin 2016, p. 9) See also Tollefsen 2007, p. 277.

<sup>69</sup> Williams 2002, pp. 42–3.

<sup>70</sup> Augustine 420, #22. But cf. Talleyrand’s thought in 1807 that “speech was given to man to hide his thoughts” (cited by Jay 2010).

God: lying, he said, “is an end ... directly opposed to the natural purposiveness of the speaker’s capacity to communicate his thoughts.”<sup>71</sup> Sunstein, responding to a suggestion along these lines by Seana Shiffrin, argues convincingly that such essentialism cannot really explain the wrongness of lying.<sup>72</sup> One might as well say that that it’s wrong to use a chair as a table, because of what chairs essentially *are*.<sup>73</sup>

The consequentialist version of Kant’s systemic claim doesn’t seem to fare any better. For one thing, the claim tends to be exaggerated: Bill Simon argues convincingly that there is a tendency “to exaggerate the costs of lying to the ‘general level of trust and social cooperation’”; it is wrong, says Simon, “to assume that every discovered lie lowers incrementally the general willingness of people to rely on each other’s words.”<sup>74</sup> The presumption on which communication depends—the presumption of the veracity of assertions—is a public good of immense scale and significance. Think of all the statements that are made by the billions of speakers in the world every day, communicating accurate information to one another. How could a lie here or a lie there overturn such a colossal convention? We still believe people. How could we not? How could a few liars, even liars of Trumpish proportions, undermine an entire system of asseveration and belief? For another thing, it is not clear why this consequentialist element, such as it is, does not just take its place in an ordinary cost-benefit analysis, to be balanced, for example, against any advantages that accrue from lying.<sup>75</sup> An argument is consequentialist not just because it mentions an action’s consequences—even “Thou shalt not kill” does that—but because it integrates the evaluation of all of an action’s consequences into a single calculus. If Kant wants to resist that line of argument, he has to explain why the potential damage to human communication from lying is a special and decisive consequence, not to be traded off against other costs and benefits.

Perhaps the most convincing of the systemic arguments I mentioned portrays the liar as a free-rider on the veracity of others. This he undoubtedly is. But the unfairness of free-riding comes in all shapes and sizes; it is most clearly wrong when the free-rider is failing to make a contribution that is arguably necessary for the survival of the public good he is relying on. It is harder to figure out the wrongness or unfairness of free-riding when the offender is taking advantage of a secure convention, whose

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<sup>71</sup> Kant 1797a, p. 553 (6: 429).

<sup>72</sup> Sunstein 2021, p. 151 n. 9.

<sup>73</sup> Cf. Williams (2002, p. 106) says something similar: he rejects the view that essences “can show us how to behave when we have a choice about how to behave.”

<sup>74</sup> Simon 1999, p. 441.

<sup>75</sup> As Jay (2010, p. 71) put it, Kant seems to be moving here “in a subtly consequentialist direction.”

collapse is simply out of the question.<sup>76</sup> There is *something* wrong with that, but it is hardly damnable wrongness.

I have dwelt at length on these systemic questions, partly because of their intrinsic interest but partly too because of their relation to issues raised by the lies of Donald Trump. It is not hard to convey a rough impression that Trump's lying temporarily undermined the ability of political language in the United States to convey reliable information. Quotations from Kant and Montaigne seem to reinforce the conclusion that lies that do this are damnably wrong. We want to build the deepest and most serious case we can to condemn some of Trump's lies, and the systemic argument seems to offer something along those lines. (It seems especially promising inasmuch as its main proponent uses it to reinforce the wrongness of even benevolent lying—not that that's a consideration in Trump's case.) Unfortunately, it is hard to make the argument work, at least on the scale on which Kant and Montaigne offer it—the impact of lying on language and assertion *in general*. But we're not done yet. Maybe the damage that lies do—the damnable impact they have on the fabric of communication—is describable in other ways.

## IX. MODERATING THE KANTIAN CLAIM

Let us consider some more modest versions of the claim that lies affect the presumption of veracity. We might proceed in one or both of two ways. First, we might look at the impact of lying not on language-use in general, but in particular areas of discourse, like some areas of law or even certain areas of political practice. Secondly, instead of saying that the convention of veracity is vulnerable to *destruction* by our lies, we might contemplate its being vulnerable to *degradation*, whether in general or in one of these specific areas. That degradation might be a matter of great concern, even though language use in general remains resilient. And that might better enable us to understand the wrongness of many of Trump's lies.

### A. Specific Domains

The first point we have illustrated already with our discussion of perjury. We should consider the assertion-convention not just as a general principle governing everything

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<sup>76</sup> Pareto (1935, vol. 3, pp. 946–7) stated the logic fully and for the general case: “If *all* individuals refrained from doing A, every individual as a member of the community would derive a certain advantage. But now if all individuals less *one* continue refraining from doing A, the community loss is very slight, whereas the one individual doing A makes a personal gain far greater than the loss that he incurs as a member of the community.”

we say to one another in every field, but its operation in specific domains like courtroom testimony.<sup>77</sup>

And in fact, a case has been made that Immanuel Kant intended to confine his systemic argument about lying to the field of *legally significant declarations*. Kant scholar Allen Wood maintains that Kant meant to rely on the technical meaning of “declaration” (*Aussage, Deklaration, Latin declaratio*) in his 1797 essay.<sup>78</sup> The term means something like statements made formally in the course of legal proceedings, which, it is officially supposed, parties are entitled to proceed on the basis of. But it’s not just the parties immediately affected. As Wood puts it, “if someone lies in a court of law, ... it is not only his adversary whose right is violated, but the entire system of right, which must presume the truthfulness of declarations made in legal processes.<sup>79</sup> That’s why Kant thought himself able to say that

Truthfulness in declarations that one cannot avoid is a human being’s duty to everyone ... and though I indeed do no wrong to him who unjustly compels me to make the declaration if I falsify it, I nevertheless ... bring it about, as far as I can, that declarations in general are not believed ....<sup>80</sup>

If declarations (in the courtroom sense) are not believed, then the whole system of rights might be undermined inasmuch as we rely on courts and on testimony to sustain them.

Now it may seem odd to associate this relatively formalistic position with the story on p. 54, above, about the mad axeman (M) and his victim. A lot of contortion is necessary to make what M requires of us into a *declaration* in Kant’s sense; M has to be a rogue FBI agent or something like that.<sup>81</sup> Kant’s use of this hypothetical stems more from its

<sup>77</sup> It is interesting that Judeo-Christian morality forbids “bearing false witness” rather than lying as such (Arendt 2006, p. 297), though biblical moralists seem happy to extend it to all lying, just like they extend the Sixth Commandment to include fornication as well as adultery.

<sup>78</sup> Wood (2011, p. 99) says “this is quite clear from [Kant’s] consistent use of the term throughout his writings.... Sometimes Kant appends the adjective “solemn” (*feierlich*) to “declaration,” to emphasize the special significance of the term.”

<sup>79</sup> Wood 2011, p. 100. Also: “All these terms, in Kant’s vocabulary, refer to statements that occur in a context where others are warranted or authorized (*befugt*) in relying on the truthfulness of what is said” (Wood 2011, p. 98).

<sup>80</sup> Kant (1797b, 8:426) quoted by Wood (2011, p. 10).

<sup>81</sup> Wood (2011, p. 104): “Although the category of ‘declaration’ includes more than assertions made under oath..., it is no part of Kant’s theory to hold that just anyone who knocks on your door is automatically in a position to require from you a solemn declaration regarding the present whereabouts of some person.”

currency over the centuries in discussions of this sort than from its being any sort of helpful illustration.<sup>82</sup> But we can use a different story to test a similar point about the wrongness of lying within particular contexts. Wood asks us to imagine “what would happen if a witness [in a court proceeding] refused to take the oath without adding this qualification: ‘I will speak the truth, the whole truth and nothing but the truth, unless I am convinced that lying will result in a more just outcome, in which case I will feel free to lie.’”<sup>83</sup> Wood’s own considered view, he says, is the Kantian one: “Unless I think the legal process is illegitimate, or a mere sham, I think I had better tell the truth and be prepared to live with the consequences. Otherwise ... I am the one turning the process into a sham, by behaving according to a principle which, if generally followed, would bring all solemn testimony and all legitimate legal processes into discredit.”<sup>84</sup>

The point is that given what a trial is attempting to achieve, given the consequences at stake, and given the enormous temptations faced by the parties, there is reason to secure *testimony* as a specific domain of something like warranted truth-telling and to be solicitous of the many ways in which that domain might be undermined. If it is undermined, it may well be on account of the emergence of a small-scale practice of lying, to which occasional lies told by particular people make a pivotal contribution. True, a false witness can’t come into a courtroom and literally wreck such a convention, tearing it apart. But by lying under oath, he is, for the time being, as Kant puts it, doing what is required of *him* for that fragile localized convention to collapse.<sup>85</sup>

Another example is the particular obligation lawyers have not to make false statements in their dealings with a tribunal.<sup>86</sup> It is commonly said that this duty derives from each lawyer’s status as an officer of the court, a quasi-public official. By itself that’s not enough: there must be an explanation of why a tribunal peopled with officers who did not have this obligation (though they might have other obligations to the

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<sup>82</sup> Bok (1978, p. 39): “This is a standard case, familiar from Biblical times, used by the Scholastics in many variations, and taken up by most commentators on deception.”

<sup>83</sup> Wood 2011, p. 110.

<sup>84</sup> Wood 2011, p. 111.

<sup>85</sup> Kant said that, by lying, “I bring it about, as far as I can, that statements (declarations) in general are not believed” (Kant 1797b, p. 612 (8:426)). Kraut (1984, pp. 128–37) offers a fine exploration of the logic of this sort of position. (This is in Kraut’s analysis of the passage in the *Crito* where Socrates imagines the laws saying to him, “Can you deny that by this act you are contemplating [escape] you are intending to do all that you can to bring it about that the institutions of the city collapse.”) And by the way, it is not just the logic of “What if everyone did that?”

<sup>86</sup> American Bar Association (2007, Rule 3.3(a)(1)): “A lawyer shall not knowingly . . . make a false statement of fact or law to a tribunal.”

court) would work badly. We have to consider what is necessary if an institution is to be able to perform public functions oriented towards truth in what is otherwise an high-stakes adversarial context. Some of this has to do with the court's operations. A court's functioning is seriously impaired if the judge cannot count on not being deceived by what attorneys say to her. But it is also a matter of upholding the delicate balance between adversarial advocacy and truth-seeking. The rules acknowledge that advocacy is fierce, but they insist that doesn't mean uncompromising. And the worry is that this balance can be destroyed if practices of misleading the court take hold.

The courtroom may not be the only specific area where the integrity of an assertion-convention is at stake, or where lying and deceit can have significant systemic consequences. Some of the relevant domains are political. I know I said earlier (in Section III) that politics is not a particularly hospitable environment for truth-telling, given the ethical intractability of some of the tasks it involves. But speech is used in all sorts of ways in politics and, in some of those contexts, truth is both vulnerable and massively important. Perhaps precisely because of lying being otherwise endemic in politics, *some* areas of discourse and representation have to be carved out by custom and endowed with particular requirements of truth-telling.

Here's an example from British Parliamentary practice. Ministers may *mislead* MPs in their formal statements in the House of Commons, but there is a convention that they must not tell direct lies. In 1963 John Profumo, Secretary of State for War in the Conservative administration, was required to resign his Cabinet office and his seat in Parliament after he was obliged to admit having lied to the House when he said earlier that there was no impropriety in his relations with the 19-year-old model Christine Keeler.<sup>87</sup> The idea seems to be that this convention protects an oasis of truth-telling against a background otherwise dominated by well-known partisan motivations for mendacity. The thought is: surely there have to be at least *some* contexts where what is said can be relied on. Maybe the tabling of public accounts is another such area, and statements relating directly to matters of war and peace is a third.<sup>88</sup> But these conventions will certainly be vulnerable to overthrow and to various sorts of gaming, and it will not be fanciful to say—as it is fanciful to say of the general language convention—that any given lie will contribute considerably to the collapse.

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<sup>87</sup> Williams (2002, p. 109) provides the obligatory limerick: “What on earth have you done, said Christine. / You have wrecked the whole party machine; / To lie in the nude, / Well that is just rude, / But to lie in the House is obscene.”

<sup>88</sup> This third example is from Wood (2011).



The conventions I have mentioned are constituted by positive law or custom. But as a matter of critical morality in politics, we might also identify other areas of discourse that ought to be treated in this way or in which it would be good if, through custom, a strong and specific requirement of veracity were to emerge. On the basis of this understanding alone and even if no actual convention emerges to this effect, we might say critically that lying in such an area is a grievous form of political malfeasance. An example that springs to mind, given our experience over the past twelve months, would be a view that scientific statements on matters of public health be treated as special in this way: this again is both an area where we need trust and some assurance of truth-telling and an area that unfortunately has proved vulnerable to politically-motivated mendacity.

Another obvious example, also born of our recent experience, is the discourse surrounding the conduct and results of elections: publicly conceding a loss, acknowledgment of certified outcomes, and the taking on board of results of specific challenges. In the past this domain has been marked by a certain honor and scrupulousness among politicians, but that has proved vulnerable—to say the least—under the weight of thousands of falsehoods put about by former President Trump and his allies. It is something on which we need clarity and certainty. Should we call this last category of lies “damned lies”? It is not customary to do so. However, I think they are among the worst kinds of lie to tell. They are libels on democracy.

Notice that Trump’s election lies are important, not so much because we relied on him for information, but because as President he had a special role to play in the *affirmation* of knowledge that was received from other sources. We didn’t need Trump to tell us that he got fewer votes than Joe Biden in Arizona, Georgia, Michigan, Pennsylvania, and Wisconsin. The votes had already been counted (and recounted and certified). A candidate conceding electoral defeat doesn’t tell us what the election outcome *is*—people from CNN do that or various electoral officials—but *he affirms it and authoritatively marks and coordinates its dissemination*. That is a job that the electoral system needs to have performed by the candidate, particularly the losing candidate—its veracity strengthened since it will be done against interest, so to speak. The candidate’s affirmation of the result is a basis on which his followers can begin to reconcile themselves to his defeat and it marks a point from which the whole political community can move forward.<sup>89</sup> But no, instead of such affirmation, President Trump gave the country a torrent of lies about the outcome—day after day, for a couple of

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<sup>89</sup> John McCain’s concession to Barak Obama after the 2008 presidential election is one of the most important recent examples.

months, actually continuing to this moment—so that the functions that needed to be served by such an exercise of affirmational authority were frustrated (to say the least).

### **B. Degradation Rather than Destruction of the Assertion–Presumption**

It is no doubt fanciful to imagine that a lie can wholly destroy the assertion convention that governs communication generally. But the convention can be damaged or degraded.

So think of the following scenario. In place of scrupulous attention to truth, tolerance for lying might foster what Harry Frankfurt has referred to as “a slovenly indifference to the distinction between true and false.”<sup>90</sup> Getting used to lies, people will care less and less about veracity in both the making and the receiving of assertions; they will pay attention instead to other goals that saying this or that may promote. Dietrich Bonhoeffer put it this way: “Genuine words are replaced by idle chatter ... words no longer possess any weight.”<sup>91</sup> A form of words may sound good, so it is said and passed around; and that’s all that matters in its circulation.<sup>92</sup> It might induce something that resembles belief or something that performs some of the functions of belief—but that will be ephemeral and less will depend on it beyond the moment of its initial reception and the emotions that come immediately in its wake. Some scholars may make a virtue of this, talking proudly about post-truth epistemology and so on. Other people will be bewildered and disoriented.

Now, the slovenliness envisaged here will not apply to the truth of all statements: people will continue making and hearing many assertions on the basis of a good-faith presumption of veracity. But the line between statements whose veracity we care about and those where honesty is not really a matter of concern will be increasingly blurred. At best, everything comes to seem a matter of personal “opinion”<sup>93</sup>—which even an ill-motivated speaker is entitled to have—or worse still, something one just holds, asserts, and disseminates for political advantage.

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<sup>90</sup> Frankfurt 2006, p. 33.

<sup>91</sup> Quoted in Bok 1978, p. 285.

<sup>92</sup> Lies can even seem more plausible than truths, As Arendt (2006) put it in “Truth and Politics,” “Since the liar is free to fashion his ‘facts’ to fit the profit and pleasure, or even the mere expectations, of his audience, the chances are that he will be more persuasive than the truth-teller. Indeed, he will usually have plausibility on his side; his exposition will sound more logical, as it were, since the element of unexpectedness—one of the outstanding characteristics of all events—has mercifully disappeared.”

<sup>93</sup> “The blurring of the dividing line between factual truth and opinion belongs among the many forms that lying can assume” (Arendt 2006).

None of this is inevitable, certainly not as a result of single lies. But someone like President Trump cannot say with confidence that his continual lying will not have an effect along these lines. And it is not unreasonable to count the possibility of effects like this as among the reasons that make some lies damnably wrong. Particularly when mixed with a poisonous form of political partisanship, mendacity such as Trump's is likely to be contagious, through misbegotten loyalty, fostering more lies and begetting more liars, not to mention complementing itself with his own counterpart accusations of untruthfulness—"Fake media," "Lying *New York Times*," etc.

## X. LOSING A COMMON WORLD

The expression is "damned lies," *plural*. Maybe the whole set of them is "damned," even though no one of them is. President Trump's lies while in office were distinguished by their quantity and effrontery. There were thousands of easily-exposed lies. We have considered in various places that sheer quantity might be a distinguishing factor—for example, in Section I, in classing Trump characterologically as a *liar*, which is not an appellation that applies to everyone who has ever told a lie. But there is another way in which the effect of repeated lies may cumulate, and that is in hounding out of common recognition certain truths about the world. I don't mean grand truths, principles, or axioms, but rather ordinary matters of fact—that *this* happened, that *these* people did the following, that *x* many people showed up, that *so-and-so* brought this about, that *these* individuals were humiliated, and so on—factual truths of which the shared awareness, record, and memory add up to comprehension of the state of things in our common world.

The argument here is due to Hannah Arendt, in an essay "Truth and Politics" that I have already referred to several times, published originally in the *New Yorker* to answer those who condemned her for reporting uncomfortable facts about Jewish leadership during the Holocaust in *Eichmann in Jerusalem*. Arendt, "[w]anting to find out what injury political power is capable of inflicting upon truth," considered the fragility and vulnerability of factual knowledge.<sup>94</sup> And she discussed this important contrast between factual truth and abstract scientific or mathematical truth. She said that if by some big lie we manage to eradicate knowledge of some of the laws of physics—e.g., by burning books and killing scientists—it is possible that at a later date that knowledge can be recovered. We can start again; a philosophical realist at least will think that the objective truth is there waiting for us and we can reason our way back to it. But

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<sup>94</sup> Arendt 2006, p. 231.

if we eradicate from the world knowledge or memory of what happened in human affairs, if we suppress all witness and traces of evidence of what someone did, as, for example, Stalin tried to suppress from Soviet history all witness and evidence of the fact that there was a man by the name of Leon Trotsky who played an important role in the Russian Revolution, then there is no reasoning back to such knowledge. That's the thing about human action and any particular exercise of human freedom: it *need* not have happened, but it *did*. Brute, contingent, unreasonable fact. Unless we keep alive the memory that *this* happened not that—that this contingency, which *need* not have occurred, *did* occur—then the knowledge can be lost irrecoverably forever. Once records, memory, and testimony have been destroyed or discredited, there is nothing on which our continued knowledge of such events can be based.

Some of what Arendt says is about the “annoying contingency” of facts—what she called “the intractable, unreasonable stubbornness of sheer factuality”—something that leaves a politician shaking with rage when a fact is presented as something he cannot debate about.<sup>95</sup> From one point of view, factual truths have an “infuriating stubbornness that nothing can move except plain lies.”<sup>96</sup> But removing them is exactly what lies *can* do.

The worst thing about this kind of lie is the way it undermines our confidence that we live in a common world, where we and our fellows orient ourselves to the same matters of fact. A common world is one where we can count on sharing the same understanding of what has happened and what is going on as the others around us. George Orwell, in his essay “Looking back on the Spanish War” (1968), wrote that: “Early in life I noticed that no event is ever correctly reported in a newspaper, but in Spain, for the first time, I saw newspaper reports which did not bear any relation to the facts, not even the relationship which is implied in an ordinary lie.”<sup>97</sup> He said the papers reported battles that never happened [and] silence over the killing of hundreds of soldiers...” The scale of the lies and the silences frightened him, because “the chances are that those lies, or at any rate similar lies, will pass into history... and after those who actually remember the war are dead, it will be universally accepted. So for all practical purposes the lie will have become the truth,” and the truth will have been lost.<sup>98</sup>

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<sup>95</sup> “During the twenties, so a story goes, Clemenceau ... found himself engaged in a friendly talk with a representative of the Weimar Republic on the question of guilt for the outbreak of the First World War. “What, in your opinion,” Clemenceau was asked, “will future historians think of this troublesome and controversial issue?” He replied “This I don’t know. But I know for certain that they will not say Belgium invaded Germany” (Arendt 2006, pp. 300–1).

<sup>96</sup> Arendt 2006, p. 303.

<sup>97</sup> Orwell (1942), cited in MacKenzie and Bhatt (2020, p. 226).

<sup>98</sup> MacKenzie and Bhatt 2020, p. 228.

In face of such lies, the person with the lingering memories will begin to question his own sense of what happened, much like someone faced with a friend's or partner's treacherous misrepresentation of things that happened in their relationship, which only the two of them could remember or know about. "Maybe I made this up; maybe we didn't share a common world after all. There's nothing to say that my 'memory' of what happened is better than theirs."

And when this happens throughout an entire community, then the very idea of facts becomes insecure. As Arendt put it, "the result of a consistent and total substitution of lies for factual truth is not that the lies will now be accepted as truth, and the truth be defamed as lies, but that the sense by which we take our bearings in the real world—and the category of truth vs. falsehood is among the mental means to this end—is being destroyed." All we can do under such circumstances is believe what we want to believe, or believe what we want people to think we believe, whether we believe it or not.<sup>99</sup>

## XI. CONCLUSION

The media had great success catching Trump out with his lies: more than 30,000 gleeful "gotchas!" But not all lies are the same: and not all Trump's lies are the same. Many were utterly banal. Probably no useful purpose is served by aggregating the total number, except perhaps for the characterological purposes explored in Section I. But a taxonomy may help.

We have explored a number of different accounts of the wrongness of lying, several of them held by the same person (Immanuel Kant). They are not necessarily rival conceptions. The wrongness of lying, like that of most serious wrongdoing, is multi-faceted and a good moral account should aim to do justice to all its aspects. At the same time, we have explored a number of different kinds of lies and circumstances of lying. I have tried to use the alleged contrast between lies and damned lies to open up our thinking about differences of kind among lies and the various facets of their wrongness. I found it an interesting way into the problem.

"Damned lie" is not a legal category and, though it sounds like a denunciation, it's not really a well-defined moral category either. On the other hand, it seems wasted as

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<sup>99</sup> Pollsters tell us that some high percentage of Republican voters believe that the 2020 election was stolen from President Trump. But the polls report only that the voters in question wanted the pollsters to *think* that that is what they believed: getting the pollsters to think that is an act of loyalty on the part of the voters. Whether the voters actually believed the election really was stolen—or indeed whether words like "actually" and "really" and "believe" have any grip any more—is another matter.

a mere intensifier. I have suggested three ways of thinking about lies that might justify some of them being put into this category, if indeed we claim it as a category.

One: we might equate damned lies with perjury, although the element of literal damnation no longer plays a significant role in our perjury jurisprudence. These days the administration of an oath is not a matter of magic invocation; it is nothing much more than a formal marker by which witnesses acknowledge that they are entering a realm of discourse specially constrained by an emphatic and enforceable requirement of veracity.

Two: we might equate damned lying with the sort of mendacity that deliberately aims at gravely harming somebody by manipulating someone else's view of them. This is exemplified by the grave harm maliciously aimed by Iago at Desdemona and Othello, damnable because it turns the victims' trust and credulity murderously against them.

Three: we might equate damned lying with mendacity that undermines the logic of assertion in areas where that is particularly important. Such lying is damned because it is at odds with the fundamentals of human community and interaction, both in the sense of free-riding on conventions that we need and in the sense of tending to degrade and undermine their application. I acknowledged that the logic of degradation and undermining probably doesn't apply to assertion in general. But it is not hard to see how it might apply in particular domains; not hard to see how such lies work outwards from that, to upend any shared sense of a common world among the targets of such mendacity. Trump's lies certainly fit into this third category. We have seen, however, that the kind of impact they have under this heading needs to be thought through quite carefully, and one has to be open to considering various ways in which the importance of communication in politics can be degraded.

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The author declares that he has no competing interests.

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