

# WHEN CAN WE JUDGE?

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## ABSTRACT

YUJIA SONG: When Can We Judge?  
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This paper is an inquiry into the ethics of moral judgments. Judging is an activity, which has special moral significance because it deals directly with the workings of the moral system. A lot has been said about the person being judged – how we can determine whether an action is wrong or whether the agent is responsible, for instance. But not enough attention has been paid to the person making the judgments. In this paper, I will explore these questions: Do we need a standing to make moral judgments? What does it amount to? What is its basis? I will argue that there are at least three important criteria: knowledge, stake, and purity, and that each has an independent basis. To judge only when one has proper standing is to fully appreciate the role of the self in a moral community, and how the self is to relate to the other.

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## INTRODUCTION

In this paper, I try to lay out some answers to these questions: Do we need a standing to make moral judgments?<sup>1</sup> What does it amount to? What is its basis? (And in the course of working out the answers, I also hope to figure out what is so bad about being moralistic.) The paper is an inquiry into the ethics of moral judgments. A lot of interesting questions can be raised in this area. As Gerald Cohen puts it, “The question, ‘Who can say what to whom?’, goes largely unexplored in contemporary moral philosophy (Cohen 2006, p.118).” I cast my question as one about the speaker’s “standing” to make a judgment because the notion of standing, or position, is often invoked when we talk about whether it is appropriate for a particular person to judge.<sup>2</sup> It deals mainly with the qualities, behavior or attitudes of the speaker who is judging (who), but it will also tie together some aspects of the content of judgment (“what”) and the relation between the speaker and the one being judged (“whom”). I will argue that there are at least three important criteria: knowledge, stake, and purity, and that each has an independent basis.

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<sup>1</sup> I am here only concerned with judgments about *other* people and their actions. The question of whether we are always in a position to judge ourselves is no less interesting, and deserves separate treatment.

<sup>2</sup> For the most part, I take the making of judgments, or judging, as expressing the judgment in the context of a conversation with someone else. I will therefore refer to the person who judges as the speaker.

## SOME PRELIMINARIES

First, what do I mean by moral judgments about other people? They are essentially evaluations of others' character or actions.<sup>3</sup> They are normative in nature, and the norms we appeal to are moral ones, as opposed to, say, aesthetic ideals or social etiquette. Thus, the judgments could be about whether an action is right or wrong, whether the agent is responsible for the action, whether she is a good (or kind, brave, etc.) person, whether she ought to have done something different, whether she is blameworthy or praiseworthy, so on and so forth. These are, strictly speaking, different kinds of judgments. I chose to group them together so as to focus on the moral issues surrounding the act of judging itself, which are, presumably, shared by judgments with different content.<sup>4</sup>

More than just evaluating people or their actions, we are also trying to achieve some ends *in* making the judgments, and *by* making them. Itself a response to an action or event, the judgment conveys attitudes of approval or disapproval. It also sets off various other responses, including but not limited to: reflecting on one's own actions, character or principles as part of one's own moral development; revising one's relationship with the one being judged; urging the wrongdoer to change her behavior; praising or showing

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<sup>3</sup> This dichotomy is a simplified depiction of many possible objects of judgments, which include actions, goals, roles created or taken up, outcomes of actions and their further consequences, attitudes, dispositions, habits and traits – Peta Bowden and Emma Rooksby list these as objects of condemnation, but they can well be objects of moral judgments in general (Bowden & Rooksby, p.244).

By “other people,” I mean anyone except oneself. They can be one's friends or coworkers, or total strangers. They may be in the same community or from a different time or place.

<sup>4</sup> The downside is that I would not be able to address requirements for standing that are particular to certain kinds of judgments. Someone qualified to criticize an action may not be in a position to blame, or to condemn.

gratitude for good deeds; calling for appropriate punishment or reward; informing and educating a third party; deterring or encouraging certain behavior in others; affirming or challenging the moral standards of the community; and shaping political, legal or social decisions.

Judging is an activity, just like all the other things about which we make judgments. It is within the realm of morality. We have fairly strong, albeit conflicting, convictions regarding the practice -- about when it's inappropriate to judge, or even stronger, maybe bad to judge. It is worthwhile to examine this practice just as it is worthwhile to examine our other actions and make judgments about those. The practice of judging has its special moral significance because it deals directly with the workings of the moral system. It sheds light on values as we reaffirm or question them; on where the agents stand in the moral community, in relation to each other, and how they measure up to our moral standards; on the mechanisms we employ to enforce moral rules, including punishment, reward, and other kinds of public responses to right or wrong actions.

How should we go about judging judgments? (The judgments I will focus on in this paper are negative ones. By negative judgments, I mean negative evaluations of agents or their actions, expressions of disapproval, blame, condemnation and the like. We are not typically bothered by positive judgments, perhaps because negative judgments tend to have more noticeable and serious consequences.<sup>5</sup> Besides, emotional reactions accompanying negative judgments -- such as disappointment, anger, and resentment -- tend to be more intense and disruptive of normal relations.) One suggestion is to model our approach to making ordinary moral judgments -- what are we looking for when we

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<sup>5</sup> In fact, we often use the word "judge" to imply a negative assessment, as in "I'm not judging you." I am not sure how well my arguments apply to positive judgments, but it will nevertheless be interesting to carry out the same project on them as well.

judge? Part of it is the outcome of the action. Following this idea, some philosophers tend to focus on the *effects* of “infelicitous” judgments, those made by speakers who do not in fact have proper standing to judge. They argue that the failure to meet the requirements for proper standing renders the judgment ineffective, unhelpful for achieving their intended purpose – be it to reform the offender or rally support from third-party outsiders in condemning her.

There is nothing wrong with this line of argument except that it does not tell us the whole story. Something needs to be added to fully explain the force of our “discomfort” with “infelicitous” judgments. Ineffectiveness is a good reason for discouraging an action, but we wouldn’t be as concerned if it’s the only reason. The key lies somewhere else. We can see this from how we judge other actions. The consequences of the actions surely matter; we consider it a greater wrong or a worse matter when a reckless driver kills a person than when the driver knocks one off from her bike without injuring her.<sup>6</sup> But when we judge other actions, we pay attention to what is wrong in the action, or in the intention, of the agent. Lying is bad not only because it harms the victim, but also because the liar intends to harm the victim or treating the latter as a mere means to reaping benefits for herself. Similarly, if we think the person making infelicitous judgments is more than being foolish or violating social norms, if we think there is some moral deficiency in the judging, then we should look for something beyond the ineffectiveness. So while I do not disagree with the argument from ineffectiveness, I think there is more to our resistance against “infelicitous” judgments.

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<sup>6</sup> This point may be debatable, and it’s the job of those who appeal to the ineffectiveness of infelicitous judgments to explain just why the consequences matter, and more, why being merely ineffective (which is not producing any consequence at all) is somehow bad.

Another feature of our judgments is that we also take into account the context in which the action took place. Morally salient features of an action can vary with its context. Hence, there is no fixed formula for what standards we should apply and how we can apply them in any given case. Instead, we need to weigh different values and principles against each other, sensitive to the particular facts about the case. Rarely do we get straightforward application of a pre-determined set of rules. Similarly, even though I think in general we need a standing to judge, it is defeasible. Sometimes a moral transgression may be so reprehensible – the Holocaust, for example – that condemnation (a form of judgment) should be called forth from every member of the community even though not all of them meet the criteria for standing.



## A MIDDLE GROUND

When I ask, “When is it all right to make moral judgments about others?” the assumption is that there are limits on the permissibility of our acts of judging -- who can make the judgment, what kind of judgment can be made, to whom the judgment can be made, and so on, in a given context.<sup>7</sup> The question was raised initially to address the problem of moralism: what is wrong with being too quick to judge, or judging people indiscriminately?<sup>8</sup> But once the question is raised, I see it as addressing a broader problem. When we start thinking about the question, we feel the pull in two opposite directions:

(A) Some would say, “We’re all free to judge (people or their actions)!” while

(B) Others say, “We shouldn’t judge (people or their actions).”

Those with moralistic tendencies stand closer to position (A), while opponents of moralism may go as far as the other extreme and claim that we should withhold judgments of others altogether.<sup>9</sup> If I can sketch out something of an answer to the question, some progress would also have been made towards resolving the problem of moralism.

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<sup>7</sup> The scope of my paper does not allow for a full treatment of all the aspects of moral discourse relevant to judging. But I think the primary subject of my paper, the standing or position the person needs to have, deals with some of the most important aspects.

<sup>8</sup> The charge against moralism usually targets negative judgments and the accompanying I’m-better-than-you attitude (Fullinwider, p.109).

<sup>9</sup> Again, as I mentioned before, my focus is on judgments made in public, not in the sense that they are broadcast to a wide audience, but in the sense that they are communicated to someone other than the speaker herself.

The position I am going to defend lies somewhere between the two extremes. For it to take shape, it is helpful to consider some of the main reasons or assumptions behind the two positions:

(A1) A relatively naïve reason for (A) may be that there is nothing wrong with stating the truth (in cases where we get the facts right, apply relevant moral standards correctly, and arrive at a straightforward, noncontroversial conclusion), or short of that, expressing our genuine beliefs and opinions. It is perfectly all right to state the proposition, “It is raining outside,” as a report of the current weather. If all we are doing when we say, “It was wrong for Andrew to lie to his friend,” is to express a belief (or maybe even truth) in the same way as we describe the weather, there seems to be nothing wrong about the statement being expressed by just anyone.

Granted that it is debatable whether moral statements by themselves are factual propositions (or disguised imperatives or of other kinds)<sup>10</sup>, moral judgments as we use them constitute actions. When we utter a judgment, we are at the same time *doing* something (except, perhaps, when we theorize using thought experiments).<sup>11</sup> More than making a statement about the morality of some action, we are at the same time expressing our disapproval, blaming the agent, condemning the agent, or performing other actions. Cohen emphasizes the distinction between the locutionary and illocutionary aspects in certain moral statements (Cohen 2006, p.120). The locution, or the proposition, may be morally innocuous, especially if it is true; but the illocutionary act of the statement may be objectionable. If making a judgment is seen as an action, the truth of its content alone

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<sup>10</sup> I am inclined to say that moral judgments are not factual propositions. They come with practical import, whether or not they are expressed in public. I have more to say on this in a later section on private judging.

<sup>11</sup> In fact, this is true of most of our assertions. Thus, those who hold (A1) are mistaken about the role of assertions in general.

does not guarantee the permissibility or appropriateness of the action.<sup>12</sup> In Cohen's words, "being in a position to utter a well-grounded truth does not suffice for being in a good position to condemn (ibid, p.121)." The proper standing requires more, as I will discuss in the next section.

Advocates of (B) can object that (A1) is too optimistic. They are skeptical that we can ever reach the truth about the matter we are judging, hence (B1): we do not know and cannot know enough to ensure the soundness of our judgments. So we should avoid judging. The concern expressed in (B1) is reasonable. A lot of times we have only limited information about a situation. Some particular features of the situation, such as the intention of the agent, may just be epistemically inaccessible to us or even metaphysically impossible for us to know. In addition to not having the right facts, we are also prone to all sorts of biases that cloud our judgment. Or we may not know how to apply moral rules to the situation. All these and other factors make us incompetent judges.

In response, proponents of (A) can point to the fact that (A2) we cannot help but judge, and moral judgments are integral parts of our life. As I have noted before, we judge for a variety of purposes: for our own benefit, as we assess others to help ourselves think about what to do in similar situations; to determine how we will interact with others in the future; to reform those who have done wrong; to seek reparation for the victim; to

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<sup>12</sup> Two points here: 1. The paper does not settle the question of whether "infelicitous" judgments are impermissible or inappropriate.

2. Cohen seems to suggest that a moral judgment can have only the locutionary aspect and not the illocutionary aspect (Cohen 2006, p.120-121). He claims that the distinction helps explain a statement like this, "I know that what he did was wrong, but I'm not in a position to criticize him." The first half is a mere locution, but the second also has an illocutionary force. With the distinction, we can say that the speaker is in an epistemic position to make a true statement, but not in a moral position to criticize the other. I doubt we ever make pure locutionary moral statements in our conversation. But then how can I make sense of the statement in Cohen's example? I can think of two ways to go about it. First, the speaker could mean that he is in the position to make one kind of judgment that does not involve criticism of the agent, but not in a position to make a different kind of judgment, that of criticism. Alternatively, the speaker could mean although she has made a judgment, she decides to take it back as she realizes she does not have the proper standing.

shape public opinions on important moral issues, and so on. We rely on judgments to navigate through our personal and social life.

The middle ground may then be that although perfect knowledge is not required, we do need to be competent enough to make sound judgments. Yet, proponents of (B) have still other things in mind: (B2) we should mind our own business instead of pointing fingers at others. What good does it do to intrude upon other people and meddle in their affairs? In addition, (B3) we are not morally perfect; we have our own flaws and do immoral acts too. It would be hypocritical to criticize flaws in other people while assuming that we somehow occupy a superior position.

The opponents may go one step further than (A2), and claim that (A3) being a moral agent means not just making sure one does the right thing, but holding others to the demands and expectations that the community makes on its members. They can argue that some actions may be so abhorrent that it would seem wrong not to condemn them. As part of the moral community, everyone has a duty to uphold its values and principles. “[L]ack of judgment,” as Bowden and Rooksby argue, “abets the moral drift and excuse-making that undermine the ethical fabric of society (p.256).”

I think both (A2) and (A3) are strong reasons for preserving the practice of judging, but (B1) through (B3) remind us that judging is at least not always a good thing. Thus, I take position (B) to suggest some of the limits we should place on judging.

### **THREE CRITERIA**

The discussion of position (B) yields three plausible criteria:

- (1) “Knowledge” – The speaker should have sufficient knowledge and capacity for making a fair and informed judgment.
- (2) “Stake” – The speaker should have some sort of stake in the matter about which she is making the judgment..
- (3) “Purity” – The speaker should not be a hypocrite.

#### **1. Knowledge**

The strongest charge against someone to the effect that she is judging without proper standing is that she does not have the requisite knowledge to make a sound judgment. To some, it may seem to be the only legitimate criterion, which grounds the other two I have proposed. I do not think this is true, but often times, worries about the speaker’s “stake” and “purity” (or rather the lack thereof) can indeed be traced back to a concern over the speaker’s epistemic position in relation to the matter she is judging. Compared to the other two, the “knowledge” criterion is quite uncontroversial. The real work in constructing an ethics of judging consists in coming up with additional criteria and justifying them on independent grounds. The hard question we face is that given a good epistemic position to make judgments, what more, if anything, is needed to allow one to be in the position to judge at all.<sup>13</sup> The assumption, then, is that the “knowledge”

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<sup>13</sup> Wertheimer, for instance, argues that unlike “empirical, mathematical, or other judgments whose prerequisites are purely epistemic,” moral judgments have (immediate) social and political implications

criterion is necessary, but not sufficient for a proper standing to judge in the moral realm. The criterion is in this sense privileged, or prior to the other two, which can be seen as building upon it.

I have packed a range of elements into this criterion. They are supposed to help us pick out those who are in a good epistemic position to judge the moral issue at hand. To borrow Dworkin's words, we want to make sure that the right person is one who makes "accurate, fair and reasonable" judgments (Dworkin, p.186). To that end, we look for the following things in the speaker: knowledge of the case (with sufficient breadth and depth regarding relevant details), basic understanding of morality, good reasoning skills, the willingness and ability to take on different perspectives, open-mindedness, an awareness of possible biases and readiness to minimize their effect, and the ability to keep one's emotions in check.<sup>14</sup>

To be sure, perfection in the requisite knowledge and other qualities is not necessary, not the least because it is simply impossible. Also, how strict we are with the criterion can vary with the context. The severity of consequences can be a factor to consider. The judgment of a professor about whether a student has done something wrong (plagiarized) and whether she is responsible for the action can produce serious consequences: the student could be suspended, or even expelled. Similar judgments made by her classmates, however, have much less impact. In addition, the degree of

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(Wertheimer, p.498). Hence, epistemological considerations alone cannot settle the question of whether we are in a position to make moral judgments.

Cohen brings the same point across with his comment on a famous quote by Voltaire. Whereas Voltaire said, "I disagree with what you say, but I shall defend to the death your right to say it;" Cohen's position is closer to "I agree with what you say, but I shall attack your right to say it" (Cohen 2006, p.115).

<sup>14</sup> It may be argued that precisely because the speaker has a "stake" in the matter, it is impossible for her to be disinterested and impartial, or to contain her emotions. I agree that those with direct involvement need not be subject to such high demands, compared to others with less of a "stake." The basic idea is that the judgment cannot be completely arbitrary.

involvement in the case can also matter. The victim of a robbery is considered to meet the criterion even though she is clearly partial to her own interests and her judgment charged with emotion. But from a witness, we would expect a more objective stance.

The facts about the case are not restricted to “who did what to whom.” Depending on the kind of judgment a speaker wants to make, they can also include the agent’s motives and intentions, and sometimes her dispositions. Equally important but often neglected are the circumstances in which the wrongdoing took place – the relationship between the agent and the person(s) whom her action was targeted at or affected, the expectations and obligations involved in that relationship, external factors that influenced the agent’s decision or directly contributed to the outcome, other individuals who participated in the action and are liable for shared responsibility, and so on. Judgments can be skewed when we neglect these situational factors and assume that the agent acts in a vacuum, her action and its consequences merely a product of her own will (and/or her dispositions). Rather, the context in which an agent acts partly shape what she does (Williams, p.434).

For the judgment to be fair and reasonable, the speaker needs to be willing to reflect on her own views so as to identify and minimize possible biases. It also helps to be open to other points of view, with which she can then compare her own and revise her judgment if necessary. Some may worry that taking on alternative perspectives, especially the perspective of the agent, could lead the speaker to err on the side of leniency. I do not think this has to be the case. If a better understanding of a case provides the speaker with more mitigating factors, the judgment is only fairer (if the mitigating

factors are indeed legitimate ones).<sup>15</sup> Infallibility is not required in judging, but those who judge too easily forget that they are not infallible.

The importance of the “knowledge” criterion is evident in the positive consequence: it ensures a high probability of a fair and correct judgment, which in turn helps fulfill the purposes of the judging. The speaker speaks to the agent and/or third-parties, who are inclined to accept nothing less – in fact, they demand more – than an accurate and fair judgment.<sup>16</sup> Although the criterion does not guarantee the truth of the judgment, the audience is at least willing to pay attention to what the speaker has to say.

If we probe further, we can find something valuable in the *intention* of striving towards “accurate, fair and reasonable” judgments. In making the judgments, we want to treat the agents as our equals (as we restore their place in the moral community). Our carelessness with getting the judgment right would be a reflection of a lack of concern or respect for them as fellow moral agents in a community. We want to minimize the chance of causing harm to individuals because of a false judgment. We are indeed thinking of consequences here, but in our thinking, we show a deep regard for other moral agents as we try our best to prevent unnecessary and undeserved harm to them.

## 2. Stake

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<sup>15</sup> Thaddeus Metz argues that there is no tension between judging (retributively) and understanding: “upon understanding another agent and his actions, one never thereby finds reason not to judge him retributively; instead, coming to understand another invariably helps a judge to ascertain precisely what is retributively warranted (p.222).”

<sup>16</sup> To Williams, the importance of taking different perspectives not only rests on its contribution to better judgments. The readiness to engage with other perspectives also fosters communication between the speaker and her audience (Williams, p.437). Williams emphasizes that the perspective of the “culprit,” in particular, should not be neglected (ibid.). Since he does not explain how taking that perspective may affect the content of the judgment, I take him to mean that it is at least useful in engaging the agent in the conversation and taking the judgment seriously.



When someone is being judged, she can often retort by saying, “It’s none of your business.” The implication seems to be that we can judge only if we have some “business” in the matter. It is easy to see that in the case of a murder, the family of the victim can rightly condemn the murderer; or in the case of someone intentionally hurting her friend, the latter can rightly blame the former. But if we know neither of the two friends but only overhear this anecdote at a party, or if we read in the news about a girl who got an abortion, we may sometimes wonder whether we are “in a position” to judge.

There are two senses in which we can be said to have a “stake” in the matter. First, we can be directly involved in it (e.g. a victim); or have a relationship with the agent, which could potentially be altered as a result of the action (e.g. a friend or colleague); or are somehow affected or potentially affected by the action (e.g. neighbors of a reckless driver, or the victim’s family). Second, regardless of our attachment to the facts of a case, we can be attached to the moral principles or standards that are violated. In the first kind of scenarios, we have a personal interest that can be advanced by judging. In the second kind, there is a communal interest, shared by all members of the public, in reacting to a violation against the whole community. Obvious examples include murder, theft and breach of public trust. In other cases, we may consider the particular moral standard that is broken to be so critical to the community that we have an interest in preserving it, by denouncing the action and calling for punishment, or simply expressing our disapproval. Therefore, we may view honesty as a fundamental moral value and take an interest in a student’s forged college application.<sup>17</sup>

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<sup>17</sup> It seems then the class of actions in which we have absolutely no “stake” is rather small. One example might be of two friends addressing each other with demeaning names, perhaps as a joke. However, a speaker need not think that some rules (e.g. keeping one’s promise, or helping others if one can) are so

Is the “stake” criterion then a legitimate requirement for standing? Many may suspect that its force is derived from its relation to the other two criteria. On the one hand, the retort that the speaker has no stake in the matter often is just another way of saying the speaker does not understand the situation well enough to judge correctly. Had the speaker been involved in it (as a victim or witness, for example), she would have been in a better position to appreciate the details of the act and the situation in which it is done. Therefore, in the case of the girl who had an abortion, a speaker may have strong reasons for why the girl did something wrong, based on what she can gather from the news article and on her own considered opinions about abortion. But her knowledge of the case is extremely limited. Her judgment may be false, or at the very least too simplistic to count as a fair response to the action.

A lack of “stake” can also make us less aware of our own situation than we should be. Upon reflection, some people may hesitate to judge the girl because they are not sure whether they themselves would choose otherwise if they were put in the same circumstances as the girl. Being so far removed from the reality of the case makes it easy to forget the second criterion, that we need to make sure we are free of a similar kind or degree of moral flaw as that which we detect in the person we are judging or her action.

However, I do not think that the concern about the “stake” can be reduced to that about the other two criteria. For one thing, the extent to which we have a stake affects the kind of judgment we can make.<sup>18</sup> Take the example of someone lying to her friend. We

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fundamental as to require constant avowal from members of the community. Then she would consider herself to have a “stake” when she hears about a violation.

<sup>18</sup> This idea and the following discussion on blame and blameworthiness are derived from Scanlon’s account of blame in his book, *Moral Dimensions*.

can imagine the following scenarios with successively lower levels of involvement of the speaker:

(1.11) A lies to B. B talks to A about it.

(1.12) A lies to B. C, a mutual friend, talks to B about it.

(1.13) A lies to B. D, a friend of C's but not of A's or B's, talks to C about it.

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(1.1n) A lies to B. Y and Z, who do not know A and B at all, talk about it.

When B and A talk about the case in (1.11), B is effectively blaming A when she says, "It was wrong for you to lie to me; You shouldn't have done that." In making this judgment, B is not just expressing her disapproval of what A has done. As both the victim of the action and one party in the relationship impaired by the action, B indicates to A the recognition that that her lying reflects an attitude that violates the expectations of the friendship. In addition, the judgment expresses an intention to revise B's own attitudes and expectations for the relationship in light of this impairment (Scanlon, p.135-136). Contrast this with (1.13) where D says the same thing about A's action. D can add that A is "blameworthy" for her action, but the judgment of A is not blame, according to Scanlon. D does not have a relationship with A that can be impaired, nor is she in a position to revise her attitudes towards A. The most she can do in making the judgment is to recognize that A has violated the expectations of her friendship with B, and that B has reason to reconsider how to treat A and what to make of the friendship (ibid. p.145). Scanlon suggests that anyone can make a judgment of blameworthiness, no matter how

distant she is from the agent and action (ibid.). There may be cases, though, where the speaker is so far away that she cannot be sure of what is expected in the relevant relationship, and hence uncertain whether the action amounts to a violation of the expectations. But regardless of its effects on the relationship, the speaker may still be able to judge that the action is morally unacceptable, thereby expressing her disapproval of it.

The question still remains as to whether we have independent grounds for thinking “stake” is a legitimate requirement for standing. Let us again look at the abortion case. If the other two criteria are fulfilled, is it still possible for a speaker to want to withhold her judgment, with good reasons? Here are some more cases to consider:

(1.21) K has an abortion.

(1.22) K cheats on her boyfriend.

(1.23) K, a successful business woman, uses her connections to get a job for her daughter, who is not qualified for the position.

(1.24) K steals canned food from a local grocery store.

(1.25) K uses child labor in her factory and abuses the children physically.

(1.26) K commits large-scale atrocities against tens of thousands of people (e.g. genocide).

Assume the speaker does not know K at all. Compared with the rest, the speaker may feel more uncomfortable with making a judgment about K or her action in (1.21), and perhaps (1.22) as well. On the contrary, no one would have any reservation about denouncing the actions in (1.25) and (1.26). Actions in (1.21) and (1.22) seem to be more private, while those in the remaining cases, especially the last two, not only affect a larger number of

people, but also violate moral principles that are more fundamental to our society and to our humanity.<sup>19</sup>

When the action is distant from us (as in 1.1n), or concerns a private individual or private relationships (as in 1.21 and 1.22), judgments about the agent can seem “intrusive.” Compared to those of other kinds of actions, these judgments tend to be agent-focused and backward-looking, as the speaker does not have much of a stake in the matter. Judgments of more public actions can be agent-centric too, but they tend to move away from the particulars about the case to violations of certain moral principles in general.<sup>20</sup> Judgments of actions that involve the speaker can also be agent-centric and backward-looking, but precisely because the speaker has a stake, she has good reasons to sort things out with the agent. Still, her judgment is ultimately forward-looking, as she considers potential changes in her relationship and interaction with the agent.

Now, for those judgments that are purely agent-centric and backward-looking, in what sense are they “intrusive”? Surely the subjects of the judgments not need actually feel their personal space or privacy is intruded upon, for the speaker could be condemning K in (1.21) in front of her friends, not the girl. Then the “intrusiveness” must be in the act of judging – not in the effect – in the way the speaker treats the agent in the conversation (and in her mind too). I think not being “intrusive” is showing a (Kantian) sort of respect for others, seeing them as intelligent, responsible and autonomous decision-makers or moral agents. Respecting them as such is to recognize and

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<sup>19</sup> The number of people being affected is not necessary nor sufficient for a case to be more public. The brutal torture or murder of a few individuals show a lack of respect for humanity and human life that we all value and protect.

<sup>20</sup> We can also construe cases like (1.21) and (1.22) as public ones, concerned with issues such as the right of a human being and the value of honesty (and perhaps the institution of friendship). But when we see these cases in this way, our attention is no longer fixated on the agent.

acknowledge a kind of “sovereignty” they possess over the determination of their actions.<sup>21</sup> Wertheimer suggests that a judge is in no position to rule on a case if it is not properly brought before him (p.501). Analogously, an individual is in no position to make moral judgments about matters that she has no stake in; for to extend her “jurisdiction” unnecessarily would be to encroach upon others’ autonomous agency. Compare two speakers who both heard about a girl getting an abortion. Neither knows the girl. One considers the action wrong because she thinks the fetus has much right to life as the rest of us do. The other is ambivalent on the issue, but relishes in calling the girl careless and ignorant, and making remarks about her personal life. I think the former does have a “stake” in the matter even though she is not personally involved. As she engages with the moral problem, she confronts the girl’s decision with respect, but disapproves of it. The second speaker establishes no connection with either the case itself or relevant moral principles. Treating the girl rather as a subject for gossip, she thinks of her less as an agent exercising control over her own actions.

### **3. Purity**

The charge that “You did it too” or “You’re just as bad as I am” is a more common and forceful way to deflect judgment. A judgment made by someone with the same moral fault can be downright ridiculous, as Dworkin’s example shows: “Two burglars are breaking into a house. One says to the other, ‘You are doing something immoral and illegal.’ (Dworkin, p. 183)” The effect may not be as ludicrous in most of our ordinary conversations, but the sense of something being objectionable remains the

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<sup>21</sup> “Views on specific cases will vary, but some respect for the sovereignty of other states, societies, parents, and persons seems proper (Wertheimer, p.497).”

same. It also seems reasonable for the agent to resist being judged by the speaker, or for third-parties to refuse to join in the criticism with the speaker.

Some people see the speaker's own "moral impurity" as essentially an indicator of her failure to meet the "knowledge" criterion. The thought is that if the speaker has some moral fault but does not care to correct it, it shows she does not really know what is right or wrong. For if she did, she would have improved herself. It follows that someone with no real knowledge about morality is in no position to tell others where they did wrong. It is indeed possible for a speaker to be that ignorant. But it is much more common for a speaker to know perfectly well what is wrong, and yet never brings herself to change her ways. Dworkin also points out that having the same fault puts one in a better position to spot it in others (Dworkin, p.185). The speaker in this case is also more likely to have a better understanding of the other's fault – what it is like to suffer from it, what probably led to it, what factors can exacerbate it, and so on.

The "purity" criterion is about more than knowledge. It is a rather peculiar requirement if we look around for other kinds of judges – the art critics, wine critics, film critics and the like. A decent body of knowledge and a capacity to use that knowledge well pretty much suffices for their claim to authority in their respective areas. But no artist or wine maker or filmmaker would object to their criticism on the grounds that the critics do not meet their own standards, for most critics are unable to produce the sort of things that they demand from artists, wine makers and filmmakers. But we, the ordinary people making judgments about others, are expected to meet the moral standards we apply to others. Here lies the crucial difference between moral judging and certain other kinds of judging. Standards in morality bind everyone without exception, and our job is

to abide by the standards as much as we can. Of course we expect others to do the same as well. We may even have good reasons to intervene when we see others falling short considerably. Still we can never neglect how we ourselves are doing, as we look around at others.

It is hard to pin down exactly what is meant by the speaker's "impurity" or her being "no better" than the agent she is judging. Dworkin argues that for the speaker to be tripped by her own deficiency, she must share the same moral fault that she is picking out from the agent (Dworkin, p.185). Thus, someone with a record of lying would be in no position to say to another, "You should not have lied. It's bad."

Cohen questions this view, and proposes that both the "quality" and "quantity" of the fault matter (Cohen 2005, p. 5). He argues that if the fault falls in the same category, then the gravity of the fault affects the speaker's standing (ibid.). This would fit our intuition that a perpetual liar is not in a position to criticize another who tells lies only occasionally, but the reverse seems less unacceptable. Moreover, while it makes sense to check for the same kind of fault if the judgment is about the action, it is not unreasonable to examine the speaker's faults of different kinds and their degrees if the judgment is about the agent's character (ibid.).<sup>22</sup> When we compare a mass murderer and a person who sometimes cheats and steals a little bit, we may be inclined to say that the former is a worse person. Further, the "quality" account is inconsistent with Dworkin's explanation of the force of the charge (ibid, p.6). Dworkin claims that the speaker has no standing because by suffering from the same fault, she loses respect in the eyes of the person she is

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<sup>22</sup> The idea is that the judgment of character is a "full review" of the agent's character, taking the aggregate of all her merits and shortcomings. The judgment of a particular action, however, need not be affected by the speaker's fault in an entirely different respect. As Cohen puts it, "Can't I say that [it's wrong to treat beggars in a contemptuous way] even if I'm a bank robber who's willing to kill people for whom I have no contempt) who are in my way (Cohen 2005, p.5)?"



judging (Dworkin, p.187). Whatever this respect amounts to, it is clear that one can lose it by possessing faults of any kind. The identity with the agent's fault is not necessary.

When we challenge the speaker's standing on grounds of her "impurity," the assumption is that she ignores, or refuses to acknowledge, her own moral fault. She pretends she is better than she really is – a hypocrite she is. Hypocrisy is generally considered a moral flaw, but why is it? And why does it take away the speaker's standing?

One explanation is that the person being judged, or a third party being addressed to, has good reasons to dismiss a hypocrite's judgment. Since the judgment fails to achieve its purpose (e.g. to reform the agent, or to rally support from third parties), it should not have been made.<sup>23</sup> Dworkin argues along this line, contending that if someone loses a kind of respect from others because of her wrongdoing, then the hypocrite must likewise lose respect in the eyes of this agent she is judging (Dworkin, p.187). As a result, the agent does not care much about the speaker's disapproval of her (ibid.). But this "care" about the other people's attitudes serves as an important source of motivation for the agent to change her behavior. According to Dworkin, "sanctions of morality – censure, ostracism, blame, disapproval, disgust – operate effectively only when they resonate with the person being sanctioned (ibid.)." When the judgment fails to resonate with the agent, it is rendered ineffective.<sup>24</sup> Dworkin goes on to offer a slightly different account to make the same point. He argues that the agent who has done wrong breaks herself off from the moral community. By acknowledging the wrongness in her action and calling for proper sanctions, a speaker attempts to incorporate the agent back into the

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<sup>23</sup> One may also argue that in a case like this, the judgment cannot even be regarded as a real judgment, for it does not serve any evaluative function.

<sup>24</sup> A similar argument can be made for the ineffectiveness of the judgment in persuading third parties to join in the speaker's disapproval. Because of her own moral fault, the speaker loses respect in the eyes of both the agent and the third party, who would be reluctant to take her words seriously.

community. However, a hypocrite is incapable of doing such a job. With an equal or greater moral fault, she has diminished her own membership in the community. She is therefore in no position to bring another back to the community (ibid.).

Cohen takes issues with the notion of respect Dworkin invokes. My main problem with Dworkin's account, however, is quite different. I think the account, drawing on the relation between the speaker and her audience, and between individual moral agents and the moral community, is quite plausible. But it is not the whole story yet. As I mentioned earlier, the outcome of an action matters to what we make of the action, but it is not the only factor. No doubt we tend to discourage people from offering help that does not actually make a difference (or even aggravates the problem), but we would not hold against an ineffective action like that with as much force and disfavor as we usually do against a hypocrite's judgment.

Besides, whether the judgment is effective is ultimately left to the audience. While we can reasonably expect the agent or third party to reject a hypocrite's judgment, other considerations may trump the concern with hypocrisy so that the agent (or third party) thinks it is overall better to heed the judgment. Sometimes she may even be compelled to do so. For example, when country M accuses country N of mistreating its minority groups, country N may retort that country M is doing just the same. But the discrimination may be so severe that it may seem unacceptable for N to simply disregard M's criticism. While N does have some justification for the disregard, it appears to be nothing more than an excuse for not correcting its behavior. Yet, even if N pays attention to the M's judgment, it does not change the fact that M is not in the position to criticize N in the first place. In any case, it can at best be established that hypocrisy of the speaker

tends to undermine the effectiveness of her judgment. But part of what is wrong with her judgment is located in her making of it, quite apart from how well the judgment will turn out to accomplish its aim.

One way to explain the wrongness is by appealing to the principle of fairness. Cohen points out that when the speaker is being hypocritical, she is inconsistent in applying moral standards (Cohen 2005, p.8). Instead of applying them universally, including to herself, she selects some individuals and ignores others. There may be various reasons why she would do this. She may have a malicious intention for pointing out another's fault, or she may simply enjoy the sense of superiority implied in the judgment. Such intentions surely count against the action of judging. But even in cases where they are absent, the inconsistency shows that the speaker is not treating the person, whom she is judging, fairly.

Perhaps we could also say the inconsistency indicates a lack of seriousness about the kind of issue she is judging, about the particular moral rule she herself violated, or the moral value that she herself didn't care about. This seriousness could potentially impair her ability to make sound judgments, but the wrongness of it does not depend on that. It seems plausible to say that one does not have the standing if she is not serious about that which she is to judge, even if she can make good judgments. But what exactly is this seriousness? A serious moral agent, in my view, is one who cares about morality and heeds its demands. A fundamental demand of morality is simply to be moral. Maybe this would explain the idea that we should make sure we meet (our) moral standards first before setting eyes on others. It could also explain why someone who has conscientiously repented and amended (or made good efforts to amend) her wrong would be in a better

position to judge. Similarly, someone who has yet to rectify her fault but sincerely acknowledges it and determines to change her ways is in a better position than she would otherwise be.<sup>25</sup> Unlike the hypocrite, they have shown their seriousness. It also explains Cohen's point that the "quality" of the fault has greater relevance to our evaluation of a judgment about the action, while the "quantity" of fault should also be considered for a judgment about the character. We can see this in the case of a robber, who is willing to kill innocent people to get what he wants, may still be serious about giving due respect to people regardless of their social status.<sup>26</sup> On the other hand, someone with a greater number of moral faults (and/or to a greater degree) is likely to be less serious about morality in general.

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<sup>25</sup> Mere recognition of their own fault would not do, for the recognition reflects the speaker's knowledge, but not necessarily her seriousness about morality. I have argued that knowledge alone does not suffice for the proper standing.

<sup>26</sup> I have doubts about this example given by Cohen. If the robber does not care about the value of human life, it is a little hard to believe that he cares about the dignity of other humans.

## **JUDGING PRIVATELY**

Much of what I have said about judging publicly (that is, making judgments as part of a conversation with other people) is applicable to judging privately (making judgments but keeping them to oneself). A major difference between the two is that the stakes can be much lower when the judgment is only private. Whereas publicly made judgments have a larger scope of impact, directly affecting the audience and feeding into the wider public discourse in the community, private judgments seem to affect the person who harbors them. Since the speaker (who speaks only to herself) need not worry about the public consequences of her judgments, the requirements for standing are observed less strictly.

But only “less strictly.” I do not think there should be no requirements at all partly because the sphere of influence of private judgments extends beyond the speaker herself, and partly because the judgments can still be inappropriate or impermissible even if there were no negative consequences. The latter point mirrors my discussion of public judgments, for I argue that they can be unacceptable on two counts: unfavorable consequences and objectionable intentions.

Moral judgment, whether privately or publicly made, has a built-in practical aspect. It is tied to “action, attitude, and what we think ought to be done (Finlay, p.205).” Finlay argues that in uttering a moral judgment, a speaker (i) expresses a favorable or unfavorable attitude, (ii) possesses a motivational state to act in a certain way, and (iii) exerts influence on the motivational attitudes of others (Finlay, p.206-207). I agree that

all three aspects of practicality apply to publicly made judgments, but I think (i) and (ii) apply to private judgments as well. When someone says to herself, “Kate was wrong to reveal my secrets to others,” she is holding an attitude of disapproval towards her friend, Kate. And the judgment motivates her to revise her expectations for Kate’s friendship, and adjust the ways in which she acts around Kate (for instance, avoiding sharing more secrets with her). She need not make her judgment known to Kate, but once she has made it, she will act accordingly. Since she treats Kate differently now, Kate is affected by her judgment, although indirectly. Other people may also be affected, as the speaker’s revised attitude towards Kate is likely to manifest in her interactions with her other friends. Therefore, the person making private judgments is hardly the only one affected by it. Since the judgment is accompanied by certain attitudes and motivations, it can still influence others through her actions.

Second, private judgments can be morally unpalatable apart from possible negative outcomes, just like public judgments. The problem lies in how the speaker regards the person(s) she is judging, even though she is only speaking to herself. When she falls short of the three criteria and yet considers herself to be in a position to judge, she fails to accord the subjects of her judgment with proper respect. Nor does she see them as her equals in the moral community, who deserve (or rather, demand) fair and reasonable treatment by other members of the community.

Some may object that it seems self-defeating to demand that we be aware of the criteria for standing even when we judge in our mind. If we think about standing at all, it would almost always come after the fact. Few of us are ever so cautious that in most, if not all, cases, we would only realize that we do not in fact have the standing to judge

after we make the judgment. If the judgment has already been made, what is the point of worrying about whether we are in the position to make it in the first place? The point is quite simple. We can choose to reject the judgment or suspend it until we acquire the proper standing. One good thing about private judgments is that they are easier to retract than public ones.

## CONCLUSION

In response to the question, “What qualifies us to make moral judgments of other people?” I have discussed three criteria that I consider important for a proper standing. I certainly have not exhausted possible candidates for the criteria, nor is this the only way to approach the problem. I have examined three kinds of responses to an infelicitous moral judgment: “You don’t really know,” “It’s none of your business,” and “You’re no better.” We may have other reasons to resist a moral judgment. For example, as Cohen suggests, the speaker may be involved in the same action she is judging, or she may be (or perceived to be) insensitive to the other’s plight because of her background (Cohen 2005, p.12).<sup>27</sup> The basis for these and other alternative responses may be traced back to the three criteria, but they may not be. More work needs to be done to seek out additional conditions for proper standing, and of course, to assess the validity of the ones I have outlined in this paper.

Since the paper was motivated by reactions against simplistic views about moral judgments (and morality in general), I want to emphasize that the criteria I proposed are not meant to be yet another attempt at oversimplifying moral problems. That is to say, like many other moral principles, the criteria are not meant to be applied in a fixed, rigid manner. Rather, they alert us to aspects of judging that can carry significant moral weight, and they need to be used judiciously and creatively. On the one hand, the criteria themselves are flexible. For instance, whether a speaker has a “stake” in the matter can

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<sup>27</sup> A possible scenario of the latter case would be a poor shoplifter responding to a rich critic by saying, “It’s all very well for you to talk” (Cohen 2005, p.12).



depend on what kind of action is at issue, how serious a moral wrong it is, who is affected, how the speaker is related to the agent, and so on. The “knowledge” criterion also varies with the context of judging. We may think that certain public judgments demand a higher degree of accuracy than others because a mistake could incur high costs, personal or social. They could be judgments that determine what punishment is appropriate, or announce to the whole community what sort of person the agent is.

On the other hand, the criteria are defeasible. I have maintained that they are but some of the main factors we should take into consideration as we decide whether we (or anyone else) are in a position to judge. One other factor may be the role the speaker plays. Parents, for example, have an obligation to educate their children. Part of this obligation consists in teaching them what is right and wrong, which often requires judging the behavior of the children. Even though parents often share the same moral faults (e.g. lying), their role as parents overrides the “purity” criterion so that it is not only permissible for them to judge their children, but also obligatory.

I also want to note that satisfaction of all three criteria for proper standing does not necessarily guarantee an accurate and reasonable judgment. Even when a speaker is in a position to judge, there are still many ways things can go wrong. For one thing, an epistemically competent judge can still make mistakes in reviewing the facts or reasoning about the case. A speaker who meets the “purity” criterion may exhibit a self-righteous attitude, or a sense of superiority, that is no less disrespectful – compared to what is shown in a hypocrite -- to the person she judges.<sup>28</sup>

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<sup>28</sup> There is nothing wrong with the recognition that one has not committed the same mistake. But it is objectionable if one uses that fact as a basis for treating others as if they are inferior to herself, and refusing to regard them as equal fellows in a common community. Kant has a similar point in mind when he cautions that we should give help “as if our help is either merely what is due him or but a slight service of

In this paper, I have tried to establish a middle ground between two extreme positions on the permissibility of judging others. To be fair, both positions stem from serious concerns about morality. The problem is that neither is a good way to address those concerns. To judge when one is not in a position to do so is as much a failure as to refrain from judging altogether.<sup>29</sup> The position that allows for indiscriminate judging is right to assert individuals' obligation to uphold moral boundaries of the community. But it lacks a concern for others, ignoring potential impact of judging on them and failing to accord them with proper respect. The other position discourages all judging, largely out of consideration of others. Yet, it fails to recognize that part of being a moral agent consists in actively maintaining and shaping shared moral values and principles. Both positions have an inadequate view of the role of the self in a moral community, and how the self is to relate to the other. Here, what Bowden and Rooksby wrote about condemnation applies to moral judgments in general: "To condemn is to affirm another's agency and responsibility, and one's own, to acknowledge both of us as participants in a shared project (p.245)." The "shared project" can be seen as the practice of judging, or more broadly speaking, preservation of a community bound by moral values and principles. Through judging, we affirm our commitment to upholding the moral boundaries and expectations (or revising them when necessary). We also recognize that we and those we judge are all equally part of the community, and therefore, we should also show respect and fairness as we go about making judgments.

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love, and to spare him humiliation and maintain his respect for himself (Kant, p.198)." The fact that we are able to help shows that we recognize we are in some sense "better off," but that does not warrant a condescending attitude to those we help.

<sup>29</sup> One need not judge whenever one has proper standing. All I have tried to show is that one *can* judge if she is in a position to. It would be morally questionable when someone always stays away from judging even though she has proper standing, or when someone avoids judging in cases where the community calls for public judgment from its members.

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