

Constraining Condemning*

Roger Wertheimer

I

Judge not . . . ! Condemn not . . . !¹ That preachment has been prominent in more than one good book, but not thus far in the pages of modern ethical theory. We and our theories might be edified by attending more thoughtfully to this teaching.

It's a dark saying, understood or misunderstood, accepted or rejected, in diverse ways and degrees. Is it a judgment against all judgment? A condemnation of every condemnation? That smacks of paradox and is made doubly bedeviling when proclaimed by paragons of justice and judgment.

One common quick way with the conjunctive injunction against judging and condemning is to treat it as a stutter, taking the judgments condemned to be only condemnatory judgments. That reading seems reasonable since condemning looks ugly and optional, while judging looms as a human necessity.

In its broadest sense, judging is integral to any genuinely cognitive activity, something any dog does daily despite its incapacity for condemning. Brute judging is something dogs can't keep from doing, and neither can we. Nor can we cease our higher-order judging, not without abandoning all autonomy. We can't regulate our beliefs, desires, emotions, and actions by reasoning while unmotivated by valuations and justifications.

Nor can we judge only about or for ourselves, and not also about others, not while we're liable to interact with others and to decide what we'll put up with and what we'll protest. We can't object to anyone's antics without passing judgment.

Abstaining from all value judgment is not a live option. And skimping on favorable ones seems willfully unkind, for people can be properly pleased by praise and honor. Being criticized may be less fun; still, we sensibly welcome fair criticism. How else can we learn and grow, or hope to keep touch with reality?

* I am grateful for the many useful criticisms from John Cooper, Jeffrey Reiman, Bredo Johnson, and the audiences at the numerous schools and symposia at which ancestors of this article were presented.

1. Compare Matt. 7:1-3; Luke 6:36-38.

By contrast, although condemning all condemning is paradoxical, much criticism of condemnation is platitudinous. For many well-known reasons, condemning is a suspect activity, a nasty business and a dangerous game, fraught with risks and costs of diverse kinds, social and intrapsychic (not to mention karmic and cosmic).

But how can we avoid condemning unless we pretend nothing is truly condemnable? How could we stay conscious yet deaf to the wrongs howling round us? And after conceding their reality, how could we abjure condemning them without abandoning all concern for the victims and respect for ourselves?

Ours is a culture conflicted about condemnation. Though much condemned, it's rarely much understood. Unsympathetic ethics instructors, frustrated by pandemic student queasiness at condemning that paralyzes moral judgment, dismissively diagnose the condition as ill-digested antiobjectivism, some virulent strain of relativism, subjectivism, noncognitivism, or nihilism. Yet, clearheaded layfolk balk at condemning because they deem it really, objectively wrong. They may insist that mere mortals can't rightfully condemn, but not that God can't. Let's not forget that condemning has been condemned by heroes of our ethical heritage, and without doubting the objective truth of our core moral convictions.

II

To evaluate condemnations fairly, we must understand what they are, what makes something a condemnation. The vast literature on morality says very little about condemnation's composition. Much needs saying since condemning is almost as complex as it is common and crucial to our lives.²

Condemnations belong to one of three distinct but interrelated species: directive, attitudinal, and expressive. "Directive condemning" is an act sentencing some agent to suffer a punishment. Punishments, in the strict sense, are a distinct class of penalties, those called for and directed by a condemnation. Other penalties aren't explained by or expressive of condemnation as punishments are. But while condemning may command and cause punishing, it is not itself punishing and is completable without punitive consequence.

Put aside that attenuated sense of 'condemning' used in "Her deafness condemned her to a world without Bon Jovi," where the idiom connotes only a causing of suffering, a causing needing no intentions or evaluations or judgments. That's kin to talk of a boxer "punishing" his opponent. Our subject is condemning predicated on evaluative judging.

Directive condemning is motivated by a hostile attitude that may

2. Many of my claims about condemnation and punishment, made here bluntly, are elaborated more in my "Understanding Retribution," *Criminal Justice Ethics* 2 (1983): 19-38.

exist where one lacks the power or intent to punish. The “attitudinal condemning” may be manifested, instead or in addition, in “expressive condemning,” linguistic acts (inner or outward) that don’t direct punishments, but rather *express* and (putatively) justify the hostile condemnatory attitude that motivates directive condemning. Or one may maintain a condemnatory attitude without performing any specific condemnatory acts, but only harboring a wish that the condemned suffer some ill fate, perhaps unspecified.

In a strict sense only agents can be condemned, for only agents can, in a strict sense, be punished, for only such a thing can suffer. But by a further extension we speak of (attitudinally and expressively) condemning actions, motives, intentions, character traits, situations, relationships, and so forth, judged evil. We condemn actions and the rest, as we punish actions and the rest, by condemning and punishing agents (or making them liable to condemnation and punishment) for performing, possessing, or producing the action, motive, situation, and so on. Still, the ultimate objects of condemnations and punishments are agents.

Directive, attitudinal, and expressive condemnations are sufficiently interlinked and alike to permit speaking generally of condemning. All condemning is a response to and aimed at something judged wrong, evil. Condemning is explained by two judgments presumed to justify it. First comes a criticism, a finding of wrongfulness, evil, guilt. Atop that comes a second-level judgment that some negative response to that evil is justified. These judgments needn’t be expressed. Nor need they be valid. Only the condemner must presume them to be valid—or present herself as presuming: performers of public rituals of condemning may deny it’s deserved, but they can’t deny it openly while performing the ritual.

Condemnation rests on evaluations but isn’t reducible to judgments, cognitive acts, and propositional attitudes. It’s essentially emotional: condemning is a hostile attitude or an act motivated by and manifesting that attitude. By contrast, evaluating, criticizing, disparaging, and the like are cognitive (or constative) acts; they needn’t involve feeling, willing, or wishing. Though they may, they don’t *essentially* express an affective attitude that can motivate a directive. There’s no such thing as criticizing someone *to be* something or disparaging her *to do* something.

In this, expressive condemning is closer to ordering or requesting someone to do something. But directives need audience-agents, whereas expressive and attitudinal condemning can be done in the heart and be completed there. (So too even with directive condemning when the condemner intends to be the punisher.) Genuine directives indicate what is to be done and who is to do it. Attitudinal and expressive condemners favor some suffering for the condemned, but they needn’t direct anyone to inflict it. Nor need they intend any harm: we can condemn persons dead and past, forever out of reach.

Both commands and criticisms can express emotions or desires, but

they needn't. You can disapprove or direct some harm without any antipathy, and you can candidly criticize or command without caring at all. You may judge that someone deserves to suffer and decide that another is justified in punishing him, despite your disinclination to do it yourself. You may think it a fine thing that he suffer, yet give not a fig if he doesn't.

But you can't condemn without giving a damn. Not that you must personally give a damn when you aren't personally condemning, when you speak from the office of an authority and express *its* attitudes. Still, there's no condemning by the authority without *its* giving a damn.³ So, too, you may unawares be guilty of condemning by association or allegiance with other condemners, just as other acts and attitudes get so attributed.

But barring some background of borrowed hostility, you can keep from condemning, despite your credal commitments, by wishing no evil for the wrongdoer. And you may cease your condemning, not only by ceasing to judge him guilty, and not only, while judging him guilty, by judging him now deserving of no more suffering, but also, despite judging him still deserving of suffering, by ceasing to wish him to suffer.⁴

Condemning is directed by cognition of fact and value, but cognition alone can't drive it. Condemning can be soft- or half-hearted despite a firm conviction of culpability, and wrathful while pocked with uncertainty. Condemning can be a public ritual performed by mouthing formulae in a formal setting. Yet the rite declares itself more than mere ritual; it bespeaks an emotional and volitional attitude. What looks like criticism, disapproval, or disparagement doesn't fail to be such from lack of a feeling or wishing, but what otherwise looks like condemnation doesn't qualify without a wish for its object to suffer and caring whether it does.

The root of condemning is in damning, an act akin to cursing a thing, swearing at it, declaring a wish for a fate: that its object suffer. As a wish it may call upon numinous powers for its fulfillment and vindication. Condemnation may make demands upon no one but the world.

Yet it also makes a claim of objectivity, impersonality. We cancel an utterance's condemnatory appearance by modestly claiming to voice merely idiosyncratic tastes and preferences. Vengeance and vindictiveness may be purely personal, reacting against sheer insult to self, unjust

3. Some theorists balk at talk of states or other artificial persons "literally" having emotions and feelings, but such talk is no more metaphorical than that of their having beliefs or a will or performing intentional actions. If a nation can declare and wage war, it can be hostile.

4. Among the more common human failings is relentlessly condemning someone long past the punishment we can approve. It's against this anger hardened into hatred that the injunction to hate not the sinner but the sin is most sensibly directed. Apart from hating its agent, hatred of an action, something unharmable, is an attenuated emotional attitude, like loving truffles.

or not. Condemning and punishing (even when directed against self) are political acts, presumed to be publicly sponsorable responses to wrongfulness.

Like a court's findings, condemning presumes to come from, be authorized by, some authority, a superior power. A servant can't condemn her master, nor can a child her parent, except by invoking or appealing to some higher power, her king or the gods or the moral law, a holy power. Picture the poignant fix Leonard Bernstein found himself in, forcing him to say: "Richard Wagner, I hate you, but I hate you on my knees."

Like a court's findings, condemnation is final and decisive, the last word on the subject within the authority's realm. Unlike a finding, condemnation is the last word before action, linking decision and deed, calling for a fate.

III

Like punishment, it is assaultive, expressing aggressive antipathy, anger, hatred, or disgust, not sheer displeasure or lack of sympathy. It's not a retreat indicating dread, nor a passivity displaying despair or grief. It's akin to declaring war, a holy war.

But not necessarily total war. Condemnation may feel absolute, annihilating when any rift is perceived as abandonment, but its aggressivity needn't demand destruction, perdition. Condemnation isn't defined by liters of blood lusted for. A condemner may hanker for the slightest of suffering: a quick squirm under a mild scold may suffice. Still, however temperate, condemnation is not what you'd call constructive criticism. Such criticism may accompany condemnation, but can't be it.

Most of our unofficial sanctions against immorality may seem more defensive than aggressive, tactical retreats from our assailants. We're rarely positioned to punish. Instead, we desert those who desert us, denying them our affections, our trust, our willingness to be around them, our sympathy. We may present those responses as hardly more hostile than a clerk at the Motor Vehicle Bureau denying a driver's license for failing the eye exam. Often, offended people (all too) insistently say things like: "I'm not at all mad at him; I just don't want to . . . with him." Such disavowals are symptomatic of a society anxious about anger. But what we dole out is not a bare denial of privilege. We're denying a vital good and a prior claim to it, depriving the condemned of a good anyone, or anyone in his position, would normally, legitimately expect to have. We may regret things have come to this, yet we withdraw some degree of elemental human sympathy and refuse the claim on it.

Any negative criticism is apt to be resisted, received with resentment, motivating retaliation, unless the reprovved accepts the criticism as fair, even if unhelpful. Condemnation is especially unwelcome. It's not a bit of information or anything useable. And its impetus can't be the condemned's improvement. The condemner may hope that the evil she

wishes for will have some benefit, and it may; yet the hostile wish is not born from the hope for benefit, but rather the other way around.

We reject condemnations of us, for they are rejections of us. The condemned is cut off, cast down, distanced, dissociated, denied a proper station. Consider what it means to condemn a building, declare it unsafe for folks to be around, and shut it off from human society.

Condemnation declares a subordination, a degraded social, political status. It rankles, assaults honor and pride. It's not an economic exchange between equals. It imposes costs that cannot be paid. You may pay a penalty imposed, but we don't talk of *paying a punishment*. You *undergo* punishments, the penalties imposed by condemnation. You don't undergo nonpunitive penalties, and you don't pay the condemnatory aspect of punishments.

So condemning is socially dicey. And, notoriously, the condemner puts her own soul in peril of the cruelties of self-consciousness. The condemner speaks with the same voice of authority as conscience and harkens to voices of guilt and remorse. For condemning is not brute hating and hurling of epithets. It's self-referentially evaluative, approving of its hostility. The condemner regards her hostility as justified by the justice of the criticism, justified in both its cognitive presumptions and its practical implications. The condemner is self-evaluative, susceptible to self-condemnation, to haunting by spirits of hostile self-conceptions.

IV

Condemning's costs are legion. Some are consequential costs peculiar to public condemning. Some consequences inhere in condemning in one's heart. Condemning can be impolitic or inutile like other aversive stimuli.

Casual contingencies aside, the inherent nature of condemnation presents evaluational complexity and philosophical perplexity. A condemnation's motivation must include a complex justification that any assessment of the condemnation must reckon with.

That justification needs supplementation as the risks and costs rise, as we pass from condemning in the heart on to public condemning, then to condemning someone to suffer consequential punishment. Yet the deepest challenges to justifying condemnation don't depend on the severity of the penalty imposed or on any penalty at all.

Any penalty or criticism of someone wants justification just by being unwanted by its recipient. The beliefs motivating the criticism or penalty must be justified. Justifying condemnation and punishment requires that, and something more.

Penalties may be unproblematic when their motivations are purely pragmatic. We take for granted that organizations can control themselves with sanctions motivating compliance with their rules. Using carrots and sticks to motivate men needn't be worse than moving mules that way. It may be better. When people freely contract to conform to speci-

fied conditions and clear entitlements to levy penalties are established, we seem serenely autonomous rational actors whose machinations may be mapped in game theoretic terms.

But we're not playing games when we condemn. The sanctions within games are penalties imposed pragmatically, not punishments authorized by condemnation. Yet we can't play games and follow rules, unless we can get serious when things threaten to get out of hand and preclude the possibility of play. When we've stopped playing games and are pushed to the wall, what impels us is something prior to the rules.

Justifying rules won't justify condemnation. We don't play by rules when we condemn. Recall, agents in authority roles may condemn by following rules unfeelingly, but the authority's hostility isn't a result of its own or any other rules. So, too, condemning and punishing can be useful, serving diverse purposes, but we don't get enraged purposively, by pragmatic calculation.

Justification of punitive penalties is problematic because their origin and authorization is condemnation. Punishing is justified only because condemning to suffer is justified, and thus only because condemning at all is justified. The heart of the problem of punishment is in condemning in the heart. That's where the self-righteous hostility is housed.

That hostile wish isn't fully explained or justified by any cognition of value, or anything needed to justify a criticism or penalty. Of the manifold benefits of condemnations and punishments, most are brought by the criticisms and penalties apart from any animus. For other boons, like acquiring a conscience, experiencing and internalizing another's ill will may be helpful; but strictly, only the semblance of ill will need be seen or can serve any of our justifying purposes. The rancor itself and its pleasure from the penalizing need justification and can provide none.

Indeed, the rancor and its pleasure appear impossible to justify. Wishing evil malevolently, not for some benefit, seems at odds with all morality, irreconcilable with any kind of kindness, fellow feeling, or goodwill, let alone any love. That ill will seems reason enough to be rid of condemnation altogether, even when closeted, threatening neither the condemned, the condemner, nor their community.

V

That appearance is understandable but superficial. Condemnation is integral to morality, however antagonistic its ill will appears. Yet its compatibility is puzzling, as puzzling as how you can be angry at someone while loving him.

That condemnation is essential to morality is a large claim. And it's awkward. Our words 'moral' and 'ethical' rank among the most treacherous terms in any language. The face and domain of the moral shift with the foil we focus on: the legal, the religious, the aesthetic, the political, the scientific, the prudential, the customary and conventional, and so

forth. Morality isn't marked by the contents of first order do's and don'ts, for those may be matched in codes of law, etiquette, and games, and vary widely between moral codes.

What marks moralities is the emotional character of responses to immoralities. To acknowledge any kind of norm is to acknowledge the propriety of some kind of negative response to its violation. The appropriate kind of response differs categorically with the kind of norm. Legal systems, games, and the like prescribe behavioral responses. The distinctive responses to immoralities are emotional, like indignation, resentment, guilt, remorse, and (moral) shame, attitudes whose common core component is condemnation.

Condemnation defines morality: it shows what 'moral' means to us, by showing what immoralities mean to us. Not that, as some would have it, each judgment of guilt must preface condemnation or be frivolous, lacking sense or seriousness. That conception of morality misreads mercy as laxity. The linkage can be looser, but a wrong can't lose all liability to condemnation and still be a moral matter.

VI

So, liabilities to the costs of condemning must lurk within all moral thought, in making any moral judgments, so all moral thought puts us in jeopardy. That sounds a familiar refrain: with the knowledge of good and evil we get both the bitter and the sweet. Justice has a dark side, a source of much sorrow and the tempting pleasures of the moralistic.

Calls to cut out all condemning must come from spaces beyond good and evil, beyond all moral bounds, where the rule of retribution is no more. Such a call may echo through St. Paul's preaching that we are emancipated from the moral law, out from under it. Yet he taught that the law's eternal content is unaltered, still valid, and on a truer footing than before. His message is (readable as) radical without being fanatical, without repudiation of all retribution. Its spirit needn't be set against every condemnation.

Still, the wish to be rid of condemnation altogether is as natural as our fantasies of saintly serenity, our yearning to immunize love against rage. The wish is as natural as the wonder about how such opposed motives (and their aims and beliefs) can coexist. How we can contain the conflict within ourselves is indeed both a theoretical puzzle and an existential challenge, like our liabilities to self-deception and weakness of will.

Acknowledgement of our anger can feel like a confession of compromised love, but we only mask the conflict and make it unmanageable by denying its reality and disowning the bitterness we honestly feel toward someone despite and even because of our loving (and/or respecting) her. A punishing parent's anger may be softened by his bottomless love for his naughty child—or as easily be sharpened by it; but whatever

the sharpening, it comes from a friction, a clash of conflicting, coexisting attitudes. The doctrine that God is love explains His wrath, and limits it, but never denies it.

Angry hostility toward those who harm our beloveds—and thus toward beloveds who harm beloveds, and thus toward beloveds who harm themselves—can be proof of our love, not the clearest or surest, but a price of love justified by love's value (a price oft inflated by minting too much of that coin).

Yet, while condemnation may be explained and justified as a normal, natural, not unreasonable expression of love, it can't be thus necessitated, fully explained or justified, not so long as forgiveness is available. The possibility of mercy, pardon, or forgiveness seems to imperil any justification of authentic condemnation and punishment, for all the goods of discipline, deterrence, rehabilitation, and the rest are attainable with criticisms, penalties, and the semblance of anger, but without real animus.

Of course, true forgiveness cannot say "There's nothing to forgive": the magical power of forgiveness presupposes the propriety of condemnation. But how can condemnation's rancor be truly righteous if we could as well forgive?

VII

Put aside now the conundra of the consonance of ill will with morality to consider another puzzle. While condemnation may be deserved, obviously you should withhold it when you (mistakenly) believe the target innocent. Or when you lack sufficient knowledge or understanding of the material facts, when, for example, you're unequipped to put yourself in the subject's position. What perplexes is that you may be wrong to condemn, even in your heart, despite your having all the knowledge justifying another in condemning the same agent.

Consider the limitations on outside interference in the internal affairs of another nation, community, family, or individual's life. While we condemn an authority's decisions that violate our moral standards and applaud resistance by subjects of its realm, our acknowledgment of its sovereignty may restrain our assistance of that resistance. Views on specific cases will vary, but some respect for the sovereignty of other states, societies, parents, and persons seems proper. At one end, resort to force may be denied for all but horrific domestic oppression. At the other end, even support of rational persuasion (e.g., contributions to political campaigns) by foreigners may be meddlesome. At times we may only root from the sidelines for one faction. Other times, any voicing of condemnation is ill advised.

The proprieties of overt acts pose severe moral dilemmas but no serious threat to moral realism or objectivism. Constraints on silent judgment and condemnation of persons outside our sphere are another mat-

ter. Extracognitive constraints threaten to compromise the objectivity of judgment. And they are less amenable to (e.g., contractualist or consequentialist) rationales plausibly applied to actions capable of harming or benefiting.

And, if there be arrogant presumptuousness in moral judgment, it's not readily renounceable. The truly immoral can't but be condemnable. Howling injustices cry out for condemnation. And the egalitarian entitlements recognized by orthodox moral epistemology provide all of us a post at the moral point of view. Rather than judgment being presumptuous, not enlisting in the chorus of the righteous seems remiss, irresponsible, an act of amoralism, coldhearted apathy, or cowardice. Publicizing and acting on our moral beliefs may sometimes be objectionable, but bare judging must be permissible, if not required.

VIII

Or so it seems to the moralistic and to much of moral theory. Minds more given to moral misgivings may be weighted with doubts about it, and without sinking into sands of moral solipsism. It's no retreat from objectivity to recognize that the first order of business in a proper court proceeding is the question of the court's jurisdiction to hear the case at all. That question is not whether our evidence and experience are adequate to render a reasoned verdict, but whether we have any right to be reviewing the evidence and ruling on it.

That question, "Who are we to judge?" makes little sense if moral judgment is just like empirical, mathematical, or other judgments whose prerequisites are purely epistemic.⁵ If morality justifies our judging when we know the material facts and can dispassionately consider the rights and wrongs, then our cognitive predicaments may be handled as elsewhere. But if moral judging is in some thick sense a judicial activity with extracognitive, "political" presuppositions and implications, then whether and when we can judge is itself a moral issue not resolvable by purely epistemological considerations.

That idea is anathema to moralists, sentimentalist and rationalist alike. The morally earnest, priding themselves on their boundless brotherly love or solemn sense of justice, are fiercely insistent on being obliged by unbridled fellow feeling or nagging calls of duty to judge and condemn any agent of injustice or creaturely suffering upon presentation of the facts.

Yet the legitimacy of their disinterested interest in others is not beyond suspicion. However authentic their compassion, does their impersonal concern for everyone's plight entail an entitlement to indignantly

5. Uncertainty about (subatomic) events may arise if our perceiving interacts with the events perceived, so the perceived becomes consequence as well as cause of the perceiving. The challenge to moral knowledge comes, not from a causal effect of perceiving, but from the practical import of judging.

seethe at anyone they fault? If not, if they have no right to be angry and harbor ill will, then they cannot rightfully condemn. And if they can't do that, how could their judgment carry real moral force and authority?

The hostility of condemnation certainly raises the stakes and thus the standards of evidence and certainty far beyond that needed for criticisms. Its range may be likewise confined. Matters that properly matter mightily to others can be too removed from the world of our legitimate concerns for us to be rightly enraged. Despite sharing the same knowledge needed for justified criticism, and despite unstunted sympathies for the victims, the propriety (let alone the possibility) of wrath toward the wrongdoer may be tenuous if our relation to the situation is. If the harm isn't gross or the injustice egregious (no crime against humanity), if our concern, though earnest, is idle, then high-minded indignation has odors of moral self-indulgence if it's unprompted by institutional or communal affiliations, or personal attachments or identifications with the victims, or some stake in the issues. Some matters—like other folks' intimate intrafamilial relations—may be none of your business, not your affair, no (proper) concern of yours, so, whatever your evidence and emotions, it is not your place to bear ill will. Persons with ties to the principals may have better claim to a concern that could justify ill will than persons connected purely by principles.

IX

Disinterested, impersonal impartiality is doubtless a judicial virtue. But whether one's judgments are likely to be right is secondary to whether one can rightfully judge at all. Judicial competence (jurisdiction) is not a matter of cognitive competence. Magisterial power is a regulative power, a power to make findings that license normative relations, distributions of rights and responsibilities. The legitimacy of an authority may be jeopardized if it lacks reason and understanding enough to be responsible for the care of its realm, but basically regulative power is legitimated by interests and political powers, not by cognitive prowess. It's an arrogance of intellect to presume that IQ or wisdom confers a right to demand that its judgments be deemed law, consulted and obeyed or be subject to contempt.

Questions of magisterial power may seem irrelevant here. But justifying a criticism is one thing; justifying hostility is another; and justifying condemnation differs from both, for there the judgments and attitudes are infected with normative reflexivity and regulative import. The condemner approves of her own hostility and presumes that other right-thinking judges should accept and share her ill will. She regards herself entitled by her own findings of fact and law to regard someone with (some degree of) enmity and withdraw normal entitlements for his violation of her own standards. That self-evaluative attitude may vary along many dimensions, and with it the quality of hostility. Yet, however mod-

est, that self-approval makes condemning radically more presumptuous than criticism and hostility are.

Condemning is justified only if justified in making its claims, including its claims to be justified. Condemning stands to criticizing much like claiming to know that S stands to simply claiming that S. In criticizing or claiming that S you may be only expressing your opinion. But when claiming knowledge or condemning, you claim to be in a proper position to judge. And unlike knowledge claims, the proper position for condemning has extra-epistemic sociopolitical dimensions, because condemnation alters sociopolitical relations.

The presumptions here are consequences of the costs of potentially condemning, but they're present in the posture of sitting in judgment, prepared to pass judgment, even where a favorable judgment is a foregone conclusion. That's why we're cautioned against judgment itself, not just condemnatory judging. When we, in the full sense, morally judge, we presume magisterial powers and prerogatives, for a finding of guilt licenses condemnations and disentitlements. For our findings to authorize our feelings, our findings of fact and law must be authoritative, controlling, and not just for us, for we presume the right to demand respect for our judgments and to rage at their defiance.⁶ The pretensions of praise and reproof alike may do the judged an injustice whatever the truth of the judgment. If there is a vice in condemnation, it's not a void of love, but rather that great ground-floor sin of pridefulness, which commonly underlies unloving.⁷

Criticism by outsiders, even when nonmoral, can be galling, for it may betoken contempt of the insider's intelligence: advantaged by his position, he should, if normal, be the better judge. What galls is not the imputation of fallibility. Sovereigns needn't pretend to infallibility (a godlike trait not sanely proclaimed without firm divine assurances). Judicial competence is not immunity to error. No judge's mere say-so makes a decision *de jure*, in principle irreversible by himself or subsequent judges.⁸

6. Some purely cognitive acts, without pretensions of regulative power to license condemnation, can be called "moral judgments" in virtue of their subject matter—just as the opinions and judgments of civilian spectators regarding a tribunal's deliberations and decisions can be called "legal opinions" and "legal judgments" because of their subject matter. The various species of moral judging and the primacy of the magisterial activity with its regulative import are discussed in a companion essay, "The Right to Judge Others" (forthcoming).

7. The pride is not in being righteous. The condemner need not presume herself holier than the condemned: that would preclude all remorse and self-condemnation. The charge of hypocrisy oft leveled against condemners is best taken as challenging whether the principles they pride themselves on are really theirs, the principles they live by.

8. Judging is not legislating. Rulers must judge but needn't legislate. To acknowledge the moral sovereignty of a person, parent, or people, their right to rule within their realm, is not to countenance moral legislation. Talk of legislating (enacting, adopting) moral rules

Criticism may insult a judge's cognitive skills without insulting her character or the dignity of her office, without an offense against sovereignty. Respect for someone's right to decide doesn't entail respect for her decision. You may think it a bad decision, foolish, unreasonable, even irrational—and she may allow that you're entitled to your opinion.

But question the morality of her decision, not an appraisal of skill and success but whether the decision is evil, unconscionable, then she can't so blithely acknowledge your right to your opinion, for condemnation denies her right to make that decision, her right to disagree with you in her own rulings. Here even to sit in judgment is to threaten an insult to sovereignty, an encroachment upon its domain. It threatens to diminish power and dignity, threatens honor and pride with righteous enmity, scorn, and contempt.

A sovereign can't so well deny your right to think what you will when you have some stake in her decision, for there you can't well avoid impassioned judging on the matter. A sovereign may insist on assent only from its subjects, and there it can hardly deny them the right to a judgment on the matter, albeit but one judgment be allowed.

But from hearts and minds without such interests as *entrée*, the threat of impartial disdain feels like an imperious intrusion that promptings of pure reason and impersonal sympathy don't excuse. They cannot plead that they do no more than acknowledge an entailment from principles they are obliged to uphold, for no magisterial office demands or permits a judge to rule on a case before it is properly brought before him.

All this suggests no specific guidance on when we may judge others, but only that the question is not foolish or simple. As with other general moral questions, neat formulas are bound to be dubious, fatuous, or vacuous. Here the modest ambition has been but to rescue the question from misconceptions and antiobjectivist taint. Confronting its challenge may inspire some revisions of metaethical theory, and perhaps of the practice of applied ethics, and of its teaching as well. Instructors of ethics might respond more sensitively to rhetorical askings of "Who am I to judge?" by recognizing that, despite teachers' frequent and sincere assurances to the contrary, students who balk at bandying their moral convictions in academic exercises know in their guts that we do all get judged by our moral judging, no less than our other morally freighted acts.

is unsalvageably befuddling, and useless for understanding how what people preach and practice can alter their circumstances and thereby sometimes justify what elsewhere would be unconscionable.