

your general to kill.' It invented three charges, having discovered grounds for none.¹⁸

When we consider letter 81 we realize how very risky a *rigida sententia* would be for anyone except a sage. Seneca holds the Stoic view that anyone except a sage is vicious and morally unreliable. So everyone except a sage needs to exercise his role as a moral *iudex* with a self-restraint that the sage would not need. Seneca's respect for the epistemic and moral limitations of ordinary human beings leads him to develop a model of moral judgement worked out in terms drawn from the practices and institutions of *iudices* in Roman society, a model that many of us might still find worth considering. Such judges seek fairness through self-knowledge; they find their way to clemency through reflection on the universality of human failings and the fact that they too share those faults; they work to rehabilitate others more effectively by not placing themselves on a moral pedestal; in unmanageably hard cases they refuse to judge and in others adopt a decision-making strategy designed to obviate the need for exact decisions about the motivations of others which they are in no position to make. The ideal judge and the ordinary judge share one important trait: as moral judges they need to have latitude to consider the widest possible range of relevant factors (though of course they will use this latitude differently). Both kinds of judge make independent decisions guided but not constrained by detailed legislation and the praetor's *formula* for the case.

So far we have, I think, at least *prima facie* evidence that Seneca was self-consciously and creatively exploiting aspects of the (to him) familiar notion of a *iudex* as a guide to reflection on the kind of rationality appropriate to situations which call for moral decision-making. This is an example of one of the ways Seneca's philosophical creativity emerges in his works. This project can also be observed in his exploitation of the corresponding notion of judgement itself, *iudicium*. I cannot range so widely over the corpus to illustrate this claim, but will simply focus on a small number of especially revealing texts.

¹⁸ Cf. 3.29.2 on *pertinacia*.

I want to recall, first of all, a passage to which I have already alluded. In *De Ira* 3.36 Seneca recommends the practice of daily moral self-examination, and in so doing he presents the review as an internal trial. He brings his awareness of his daily behaviour before an internal judge: *apud me causam dico* he says (3.36.2). There is, in the life of this metaphor, an internal trial at which a verdict can be reached. We might compare here the end of letter 28: 'So, as far as you can, bring charges against yourself, conduct an enquiry against yourself. First, play the role of prosecutor, then of judge and only then, finally, plead for mitigation. Be tough on yourself at last' (*Ep.* 28.10).

This internal judgement is described elsewhere as a *iudicium*. In *De Otio* 1.2–3, for example, Seneca laments the fact that our own *iudicia* are corrupt and fickle (*prava, levia*) and that in our weakness we remain dependent on *aliena iudicia* instead of on our own. There are, in fact, many places where Seneca contrasts this kind of internal judgement (whether of ourselves or of the morally significant factors we face in our life) to that of others, and these passages alone don't suffice to show that the legal model is alive and functioning. After all, *iudicium* is a common enough term in Latin for assessments, beliefs, and decisions of all kinds. Of slightly greater weight, perhaps, is *De Clementia* 2.2.2, where *iudicium* refers to the kind of settled and reflective judgement which confirms tendencies which are otherwise merely matters of *impetus* and *natura* (this is, I suspect, pretty much the sense that *iudicium* has in *De Ira* 2, where it used to demarcate passion from rational action and seems to have close ties (especially in chapters 1–4) to the earlier Stoic notion of assent).¹⁹

Another aspect of moral *iudicium*, its stability, appears clearly in the treatise *De Vita Beata*. Here Seneca articulates a contrast between judging and merely believing (1.4–5), in

¹⁹ Compare *Ben.* 2.14.1: *iudicium interpellat adfectus*. Also *Ep.* 45.3–4 where *iudicium* is contrasted to externally motivated *indulgentia*. Tony Long pointed out that *sunkatathesis* (so important in Stoic analysis of the passions) is originally a legal term for casting a vote at a trial. I have discussed this passage of *De Ira* in 'Seneca and Psychological Dualism', Ch. 2 above.