

technical legal terms such as *formula*. In the context of advice to Nero, this is not surprising, but its broader implications are brought out by a consideration of similar ideas in *De Ira*.

For the relevance of such a personal history to the capacity of the sage to act as a moral judge had been of interest to Seneca for some time. In a familiar passage of the treatise *De Ira* (1.16.6–7) the same collocation of ideas occurs. Here Seneca is arguing that the judgement on misdeeds which is required should be carried out in a spirit of quasi-judicial calm and control. Violent emotions are not needed to stimulate the judge to take action. His interlocutor suggests, 'A readiness to anger is needed for punishment.' But Seneca replies (tr. Procopé):

Tell me, does the law seem angry with men whom it has never known, whom it has never seen, whom it hoped would never exist? That is the spirit to be adopted, a spirit not of anger but of resolution. For if anger at bad deeds befits a good man, so too will resentment at the prosperity of bad men. What is more scandalous than the fact that some souls flourish and abuse the kindness of fortune, when no fortune could be bad enough for them? Yet he will view their gains without resentment and their crimes without anger. A good judge (*bonus iudex*) condemns what is damnable; he does not hate it.

'Tell me then. When the wise man has to deal with something of this sort, will his mind not be touched by some unwonted excitement?' It will, I admit it. He will feel a slight, tiny throb. As Zeno says, the soul of the wise man too, even when the wound is healed, shows the scar. He will feel a hint or shadow of them, but will be without the affections themselves.

The good judge envisaged here is a wise man, for only such a person is free of the passions relevant to his situation. And the wise man, in dealing with provocations to anger, will be like that good judge; he will still feel something in his soul, a reminder of the passionate and foolish past which he, like the judge of the treatise *De Clementia*, has had. Like that judge, he will act with an awareness of his former self and its failings. In judging others without anger he will remember his own fallibility.

In fact, this whole section of the treatise *De Ira* (1.14–19) is built on the model of the judge. Consider the description of the *aequus iudex* at 1.14.2–3 (tr. Procopé):

What has he, in truth, to hate about wrong-doers? Error is what has driven them to their sort of misdeeds. But there is no reason for a man of understanding [*prudens*] to hate those who have gone astray. If there were, he would hate himself. He should consider how often he himself has not behaved well, how often his own actions have required forgiveness—his anger will extend to himself. No fair judge [*aequus iudex*] will reach a different verdict on his own case than on another's. No one, I say, will be found who can acquit himself; anyone who declares himself innocent has his eyes on the witness-box, not on his own conscience. How much humaner it is to show a mild, paternal spirit, not harrying those who do wrong but calling them back! Those who stray in the fields, through ignorance of the way, are better brought back to the right path than chased out altogether.

The *prudens* here may or may not be a sage yet; but he is certainly someone in a position of authoritative judgement who acts under two constraints: he must be fair, using the same considerations for his own case and others; and he must act in the light of his own fallibility and proven track record for moral error. Anyone who has ever been in need of forgiveness<sup>8</sup> must extend to the objects of his judgement the kind of well-rounded consideration which makes possible his own forgiveness. He will not act in light of what he can get away with (with an eye to the witness box, believing that no one can *prove* that he has erred) but on the basis of true self-knowledge, in honest realization of his fallible character. As Seneca says in 1.15.3, this judicious attitude is a key to making the educational purpose of punishment succeed. He does not say why this should be so, but it is not hard to see what he has in mind: if the person punished believes that the judge is even-handed and fair-minded, he or she is more likely to avoid the kind of recalcitrance often provoked by the perception of a double standard. In the chapters which follow (1.17–19) reason's judgement is preferred to that of a passion like anger in large measure because the rational

<sup>8</sup> *venia*; the term is used differently than in *Clem.* above.