

The Fragility of Our Moral Standing to Blame

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ABSTRACT. The question I address in this article is why, and under what conditions, a person can lose her moral standing to blame others for their actions. I defend two related claims. The first is that blaming is justifiable in fewer cases than we might expect. This conclusion depends on my second claim: our moral standing (or authority) to blame is more resistant to moral luck than moral responsibility (or blameworthiness) is often assumed to be. I consider different kinds of loss of standing to blame and focus on a specific kind: what has been called (and I will call) *tu quoque* arguments ('you have no moral standing to blame me because you did the same'). Then, I focus on the relationship between some specific cases of *tu quoque* and moral luck (and, more precisely, circumstantial moral luck). I defend the claim that the success of the *tu quoque* argument (and the corresponding loss of moral standing) is immune to moral circumstantial luck. From this claim I try to follow a number of considerations oriented to establishing the scope of moral standing and suggest a unifying view that accounts for my previous analysis and, at the same time, rescues some features of our commonsensical practice.

KEYWORDS. Moral responsibility, moral blame, moral standard, moral luck, circumstantial luck

I. INTRODUCTION

It might seem plausible at first sight that, if you are blameworthy for having performed a wrongful action, any other person is allowed to blame you for that action. However, there are cases in which this is not true. It can happen that you are blameworthy for something and, at the same time, some specific person has no right to blame you. The reasons for this can be several. One possible reason is that that person lacks moral standing (or moral authority) to blame you. The question of why, and under what

conditions, a person can lack moral standing to blame is the fundamental issue of nonideal ethics I want to address in the following pages.¹

My purpose is to defend that the moral standing to blame others is substantially more problematic than we might expect. The reason for this is that the relationship between moral responsibility (or blameworthiness) and moral luck (specifically moral circumstantial luck) is different from the relationship between moral standing (or authority) to blame and moral luck. Whereas moral blameworthiness is deeply affected by circumstantial luck, moral standing is not, or at least not as deeply, affected. In order to explain and defend this view, I proceed as follows. In section II, I offer some important distinctions around the concept of blame and blameworthiness. I also discuss different theories on the nature of blame and suggest the particular account I will assume in my argument. In section III, I explain different kinds of loss of standing to blame and focus on a specific and problematic kind: what has been called (and I will call) *tu quoque* arguments. I then explain some theories that account for this specific kind of loss of moral standing and develop my own account of the matter (section IV). In section V, I focus on the relationship between some specific cases of *tu quoque* and moral luck (and, more precisely, circumstantial moral luck; section V). In section VI, I defend the claim that the success of the *tu quoque* argument (and the corresponding loss of moral standing) is more resistant to circumstantial luck than blameworthiness. It follows a number of exploratory considerations oriented to establishing the right scope of moral standing (section VI). In the last section (VIII) I use those considerations to suggest a unifying view that accounts for my previous analysis and tries, at the same time, to rescue some features of our commonsensical practice. A brief conclusion presents some final reflections.

II. BASIC DISTINCTIONS

Recent literature has made progress in understanding the concept of moral blame and in advancing plausible accounts on the normative

questions about blaming (what has been called the ‘ethics of blame’).² One important contribution has been to call attention to several distinctions between elements that are often conflated or wrongly identified. For my purpose, it is crucial to distinguish the three following phenomena:³

- i. An agent A is blameworthy for having performed action (or omission) X under circumstances C.
- ii. An agent B affirms a judgment of blameworthiness, according to which A is blameworthy for having performed action (or omission) X under circumstances C.
- iii. An agent B blames (or expresses blame to) A for having performed an action (or omission) X under circumstances C.

Some remarks on this distinction are in order. I take the concept of A being blameworthy for X in C as referring to a fact about A. Such a fact holds (or does not hold) regardless of how other persons (or A him or herself) actually react, or what they actually think or do as a consequence. It is a fact about A’s moral worth in connection to his or her doing X in C.⁴ Kant famously said that the last murderer before the dissolution of society should be put to death. This is certainly very controversial. But it seems to me not controversial to claim that such a murderer is blameworthy, even if nobody remains alive in the world to punish him or to blame him, or even to know about his deed. We can certainly link the fact of A’s blameworthiness with people’s disposition.⁵ For example, we might claim that A is blameworthy if and only if A can, given some conditions, be *legitimately* blamed by others. In this case, A’s blameworthiness is not a metaphysical fact of A, independent of our practice of holding people responsible (or blameworthy). Still, it remains a property held by A. If A is the last murderer in society he is blameworthy for his action, although nobody can *in fact* hold him blameworthy. It remains true that he could correctly be blamed (or held responsible) by someone under appropriate conditions.

The second phenomenon, B’s judgment that A is blameworthy for X in C, is a judgment or belief about a fact: the fact that A is blameworthy

for X in C. In that sense, it may be true or false. In a weak sense, judgments of blameworthiness are a kind of evaluation, and people may be more or less competent moral judges for that evaluation. But the competence involved is epistemic. It is about whether my factual beliefs are true or false, and about whether my moral beliefs are true or false. B's judgment that A is blameworthy for X in C may be false for several reasons. It may be false because A did not do X in C, or because doing X in C is not wrong, or because A did X under some excusing conditions. B's judgment can also be justified or not, depending on whether B has enough evidence that A is blameworthy for X in C. And, as is the case for beliefs in general, justified judgments of blameworthiness can be false and true judgments of blameworthiness can be unjustified.

The third concept requires a more detailed explanation. There are at least four elements that have been, with different emphases, associated with blame: moral sanction or punishment, moral assessment of character, moral impairment of personal relationships, and reactive attitudes or emotions. I will not try to balance these elements or offer an alternative approach. The following comments should suffice to explain my conceptual commitments.

I will assume that blame is not essentially an act of sanctioning or punishing. I think moral punishment is contingent to blaming. When we indignantly object or reproach someone for having done something we find wrong or outrageous, it is not necessarily our intention to produce harm or suffering to that person as a consequence of his or her culpability. And this is independent of our preferred theory of (moral) punishment, retributive or consequentialist. We do not necessarily want to cause a 'hard time' for the objectionable person because he or she deserves it. Neither are we seeking his or her having such a hard time to deter him or her (or others) from doing the same in the future. In fact, it is perfectly intelligible to blame persons we do not know personally or have any contact with at all (including dead persons) (Smith 2013, 30).⁶

I also take blaming to be more than merely assessing the moral character of an agent (although it may implicitly contain such an assessment). Moral evaluation (or assessment) is what we do when we make a judgment of blameworthiness. In that case, we are affirming, claiming, that a person is blameworthy for having done something. Similarly, when a teacher assesses or evaluates a student, she is claiming that the student has or has not acquired certain knowledge or ability. There is, of course, a normative element in every evaluation. In this case, we assume that there is a minimal threshold of knowledge or ability that is necessary to pass the evaluation. However, the evaluative claim may be true or false: the teacher may mistakenly believe that the student did not reach the threshold, or that he or she did. The case of moral evaluation is, in this sense, relevantly parallel to epistemic and other kinds of evaluations. Moral blame is different: blaming is not just *affirming or saying* that someone is blameworthy; it involves some kind of additional component that operates at the levels of attitudes and emotions.

T. M. Scanlon's view of blame is an attempt to go beyond the sanction and evaluation approaches. According to Scanlon, to blame a person "[...] is to judge him or her to be blameworthy and to take your relationship with him or her to be modified in a way that this judgment of impaired relations holds to be appropriate" (2008, 128-129). Scanlon includes evaluation (or judgment of blameworthiness), but adds a crucial personal element: when B blames A for doing X, B is affirming to A that her relationship to *him* has been impaired. One problem with this account is similar to the one suggested before with the sanction view. It seems too personal to account for many instances of blaming that are common in our everyday moral life. We blame persons (politicians, religious leaders, terrorists, etc.) we are not and will never be personally connected with. We simply do not have any personal relationship that can be impaired.⁷

Without trying to offer a positive defence, I will assume hereafter that when we blame we are expressing something that can only be placed

at the level of attitudes, emotions, and feelings. In this way, I am endorsing some usual tenets of the Strawsonian concept of blame as reactive attitude, which has been more recently developed by R. Jay Wallace (1994; Strawson 1993 [1962]). According to this approach, the practice of blaming is constitutive of our moral relationships, because it allows us to see ourselves as moral agents, i.e. persons whose actions are not indifferent to each other.⁸ We react to the actions and attitudes of others according to the nature of those actions and attitudes, and there are appropriate and inappropriate ways of reacting. Indignation, resentment, and similar emotions are (or can in many cases be) the appropriate way of reacting to actions that are morally wrong or disrespectful. Reacting in these ways means having the fitting kinds of negative attitudes and emotions.

It is worth noting that, whereas the punishment account of blame sees blame as a public speech act, the other views mentioned consider blame essentially as a purely private phenomenon (or are at least compatible with considering blame as purely private). Of course, these private accounts can also recognize a public, conversational, dimension of blaming: uttering a judgment of blameworthiness, affirming in public that the relationship has been impaired, or expressing the appropriate negative emotions. There have also been attempts to develop the idea that blaming is *essentially* discursive and communicative. According to Miranda Fricker, “[...] communicative blame” is a speech act, whose aim (or illocutionary point) is to “make the wrongdoer feel sorry for what they have done” (2012, 72), and whose perlocutionary point is “[...] to prompt a change for the better in the behavior (inner and outer) of the wrongdoer” (2012, 173).⁹

I am inclined to think, with Fricker, that blame is an essentially public, expressive practice. In any case, I will be interested in this public dimension of blame, regardless of whether the idea of purely private blame is more fundamental or derivative. In my view, however, Fricker’s claim that the point (or justification) of blame is to produce remorse in the blame recipient, and a change of attitudes and behaviour, does not

seem entirely accurate. We should distinguish two different aspects of blame: the aim of blaming and the function of the practice of blame. The aim of blaming someone for an action is simply to express fitting reactive attitudes or emotions of disapproval (normally as verbal recriminatory expressions). This is not necessarily accompanied with the intention to produce some specific effects on others (including the blamed person), such as remorse or guilt, or to punish the blamed person, or to produce a change in their behaviour or moral consciousness. In fact, I can blame someone knowing that my expression will produce no effect whatsoever in the recipient's conduct or feelings. It is true that we do not express blame to entities that are not able to understand our expressions of blame. We do not blame animals or babies. The blame recipient must be able to feel remorse and to change attitudes or ways of behaviour. But this does not mean that we are *aiming* at such feelings or changes, or that we are blaming *in order to* produce those effects.

On the other hand, expressions of blame have a relevant function in a moral community: the function of contributing to a system of moral interactions, which, when it is properly exercised, has some of the consequences mentioned before: feelings of remorse or guilt arise in wrongdoers, they are somehow informally punished for their acts, and the whole system of moral norms is reinforced or sustained.

III. THE LOSS OF MORAL STANDING

Imagine that Adam is blameworthy for having done X in circumstances C, and Bertha can legitimately affirm a judgment of blameworthiness of Adam (even in public, perhaps). However, Bertha is *not* in the moral position to *blame* him (in the sense of performing the speech act of expressing indignation and other negative moral emotions). As we have seen, affirming that Adam is blameworthy means simply uttering the descriptive statement conveying that Adam has done something wrong and has no excuses. On the contrary, blaming Adam would imply communicating a

certain attitude or emotion condemning or expressing indignation for Adam having done X in C.

What does it mean that Bertha is not ‘in the moral position to’ blame Adam? In a very general sense, we may conceptualize the idea simply by saying that Bertha has a moral reason against blaming Adam. However true, this is too general. There might be very different kinds of moral reasons against blaming Adam (even if Adam is blameworthy and Bertha’s judgment of blameworthiness is justified). One kind of reason focuses on the target of blame (in this case, Adam). For example, it might be that Adam deserves to be forgiven. A second kind of reason is consequentialist: it might be that blaming him produces catastrophic consequences (on Adam or on others). A third kind of reason focuses on the objector (in this case, Bertha). Some features of the objector might prevent her from being in a morally appropriate position to blame others (or a specific person, say, Adam). One feature of the objector that makes blame inappropriate is her own (previous) faulty behaviour. Examples abound. A thief who is robbed is not in the same moral position as an honest person to complain about the robbery or to blame the thief. In this kind of case, we can say that the reason why Bertha’s blame to Adam is inappropriate is Bertha’s loss of moral standing to blame Adam. Bertha has lost her authority to blame or admonish Adam if she commits the same kind of transgression he has committed, or is in some way implicated in the transgression committed by Adam. Gerald Cohen has insightfully analysed the case of an Israeli ambassador who condemned Palestinian terrorist acts although he admitted that “[...] the Palestinians have some legitimate grievances [against Israel].”¹⁰ According to Cohen, that ambassador is morally ‘disabled’ to condemn such acts.

Compared to the other kinds of moral incapacity, this case is peculiar in one sense: the reason why Bertha is now disabled to blame Adam is related to her own fault. Other forms of moral incapacity do not imply the existence of wrongfulness attributable to the objector. This feature is extremely relevant in the case of the incapacity to blame. There must be

some connection between Bertha's fault and the fault performed by the person she wants to (but should not) blame (Adam). Cohen distinguishes two kinds of connection. In the first, Bertha is disabled to blame Adam for his fault because she is (or could be) blameworthy for the same kind of fault (Cohen calls this kind of moral disability *tu quoque*). In the second kind, Bertha is disabled to blame Adam for his fault because she is somehow involved in Adam's fault (Cohen calls this rejoinder 'you are also involved') (Cohen 2006, 123).

The 'you are also involved' argument can have different forms, since a person can be involved in the fault made by another person in different ways. One relevant way is that in which Bertha does not leave Adam any reasonable alternative to doing the wrong action. This might be, according to Cohen, the case of the Palestinians, who are (or we can think they are) driven by Israel's military superiority to choose terrorism as the only way to fight for their (justifiable) cause. Suppose we believe (as it seems plausible) that any act of terrorism is wrong. This being so, Palestinians are blameworthy and many of us can blame them for their acts. However, those who (allegedly) have driven Palestinians to commit those acts might be disabled to blame.

The *tu quoque* argument is different from the 'you are also involved' argument in one crucial way. In the 'you are also involved' case, the loss of moral standing to blame suffered by Bertha (the objector) requires that she be actually involved in the wrongful conduct performed by Adam (the blamed person). In the standard form of *tu quoque*, the objector's loss of standing is also based on an actual fact (the fact that she is culpable for the same kind of wrong as the objected person), but there needs to be no causal connection between Adam's fault and Bertha's. The connection is just one of similarity.

Cohen's analysis of these two arguments is enormously illuminating. Note, however, that the names *tu quoque* and 'you are also involved' are misleading. These expressions refer to a rejoinder that the blamed person might make to the objector. But we should distinguish between

the lack of moral standing that Bertha may suffer as a consequence of having done the same wrong as Adam (or of being involved in Adam's wrongdoing) and Adam's right to defend himself from Bertha's accusation. There is no inconsistency in claiming that Bertha lacks moral standing to blame Adam and, at the same time, Adam lacks moral standing to appeal to a *tu quoque* rejoinder in order to downplay or rebut Bertha's blame. The focus of my interest is on Bertha's standing (or lack of thereof), not on Adam's standing to react to Bertha's blame in some or other way. Still, in honour of Cohen's insightful contribution, I will use his expressions.

IV. REASONS FOR (ACTUAL) *TU QUOQUE*

Let me ask now why people may lack moral standing to blame in cases of *tu quoque*. As we will see, an answer to this question depends heavily on our account of the nature of blame.

Gerald Dworkin believes that moral criticism (or blame) is a kind of sanction, “[...] a way of giving someone a “hard time”” (2000, 187). The function of sanction or punishment is to motivate a change of character or action. In the case of legal sanctions, the transgressor is (or others are) allegedly deterred by the punishment itself, not by the expression of punishment. Therefore, it is not necessary that the criminal see the punishment as legitimate. In the case of moral sanction, the motivational effect can only take place if the criticized person has respect for the person who is criticizing. But only persons who did not commit the same fault are going to be respected. Therefore, a rational requirement of blaming is to be innocent. Although this view assumes a theory of blame that I have rejected (the sanction view), there is something interesting to rescue: “[...] when the person who calls attention to my character fault suffers from the very same fault, this puts him on a par with me – with respect to this fault at least” (Dworkin 2000, 187). I will come back to this idea of equality (or being ‘on a par’) below.

In the case of Scanlon, the idea is that when I blame someone while being guilty of the same fault, the ‘normal moral relation’ between us has already been impaired by me: [...] insofar as these normal expectations and intentions, my own conduct already reveals me to be a person who cannot be a participant in these relations. I cannot be trusted in exactly the same way that you cannot. So there is something false in my suggesting that it is your willingness to act in ways that indicate untrustworthiness that impairs our moral relationship” (Scanlon 2008, 176-177).

Wallace’s argument against blaming others for things we have done ourselves (he calls this ‘hypocritical address’) is particularly interesting. According to Wallace, blaming for the same fault that we have done is impermissible because it denies equal standing of others: “[...] the hypocrites arrogate to themselves a higher level of protection from opprobrium, insofar as they refuse to engage in the kind of critical self-scrutiny that would lead them to acknowledge that they have engaged in wrongdoing of just the same kind” (Wallace 2010, 332). When we blame others, says Wallace, we are implicitly committing ourselves to critical self-scrutiny (2010, 326). Hypocrites violate this commitment, “[...] caring deeply about the immorality of others even while they remain indifferent to the very same moral values and requirements in their own conduct” (2010, 327). By acting in a morally objectionable way, we are waiving our right to moral protection from negative reactions (like resentment or opprobrium). Claiming such a protection (by not acknowledging our own similar fault) implies a violation of an elemental principle of equal treatment.

However, I think Wallace’s proposal does not go to the heart of the problem of *tu quoque*. If Wallace’s account is right, the objector could regain her standing to blame others by subjecting her own behaviour to the same critical address. However, this is not how the *tu quoque* argument works in our moral practice. Acknowledging (or criticizing myself for) my own faults does not restore my moral standing to blame others, regardless of how sincere such self-blame might be. Imagine that Adam and Bertha are siblings and have the moral duty to take care of their elderly parents.

However, both fail in this respect. Now Bertha indignantly blames her brother for his failure: “how is it possible that you never visit them, never call them, etc.?” He angrily answers: “you cannot criticize me: when is the last time you called or visited them?” Then Bertha says: “yes, I acknowledge I never visit or call them. That is terrible and I am very sorry about that.” Does this ‘critical self-scrutiny’ release Bertha from her moral disability to blame her brother? This kind of self-scrutiny can certainly be very important in order to evaluate actions (or omissions) and to engage in a change of moral attitudes and behaviour. But as long as Bertha does not actually change her actions towards their parents, she lacks moral standing to blame Adam. It is irrelevant whether she is willing to be self-critical or to repent for her failure. Note that, if she does exercise this kind of self-scrutiny, she is granting equal standing to her brother: she is not claiming protection from social disapprobation or opprobrium for her and denying her brother the same protection. Still, they are *both* disabled to express moral indignation, resentment or blame to each other. Bertha certainly could exercise something like ‘collective self-blame’, for example, by saying: “we are both terrible with our parents and should therefore feel deeply guilty for that.” But what she would not be entitled to do is to direct a blame expression towards Adam. Compare this situation with one in which Dora, a very good, affective, daughter, blames Adam for abandoning his elderly parents. Dora’s moral standing is qualitatively different from Bertha’s. The crucial point of moral standing is precisely the difference between Bertha and Dora. And such a difference does not disappear by Bertha’s expressions of repentance or self-scrutiny.

The main question now is: why is Dora in a different position to Bertha? At least in the case of direct expressions of indignation or reprobation for a serious moral wrong, what makes Dora different has to do with the fact that Dora is, at least in what concerns the kind of action at stake (in this case, caring our elderly parents), better than Adam (and Bertha). In my view, blaming implies (among other things) saying “you are not as good as me in this respect. This is why I can admonish you for

what you have done.” This kind of moral superiority that is conveyed in the speech act of blaming is what provides Dora moral standing to reproach Adam. I admit that there are other kinds of reactions that we might also call ‘blame’ and that might be performed by Bertha. My aim is to focus on one specific (and very usual) kind: the reaction that only Dora is allowed to have, not Bertha. In this specific sense, blame and self-blame are qualitatively different phenomena, since I cannot be, literally speaking, inferior to myself.¹¹

If this is plausible, the failure of blaming without moral standing does not rest on violating equal treatment or equal concern (by denying the objected person her immunity from moral criticism while demanding such immunity for myself). The point is rather that doing so treats the objected person as if she were morally inferior to me, while in fact we are equally faulty (remember Dworkin’s idea of being ‘on a par’, mentioned above). Acknowledging my own moral fault does not allow me to regain my moral standing to blame others, because it does not make me regain the kind of moral superiority that is necessary to have such moral standing.

Two important clarifications of this account are in order. The first is that the difficulty to regain moral standing by acknowledging a previous fault or by having attitudes of repentance or remorse should not be seen as implying that a person that acknowledges her past wrongs cannot have other important things to say and to teach others (especially to those who committed similar wrongs). For example, that person might well have epistemic advantages. She may know better about detecting (the same kind of) moral wrong, and also about how to change and improve moral attitudes and patterns of conduct. Still, this is different from blaming others. Secondly, we should not understand the concept of moral superiority as implying that, by blaming someone for X in C, I am considering myself a superior human being in all respects in comparison to the person I am blaming. I am just implying that, at least concerning the kind of behaviour at stake (doing X in C), I am somehow better. This is compatible with being inferior in many other respects. And this is also compatible with

considering all moral agents as equal in a more fundamental sense: as being equally fallible persons, who can act better or worse in different circumstances.

V. COUNTERFACTUAL *TU QUOQUE* AND MORAL LUCK

We have focused our attention thus far on cases in which the objector lacks standing to blame because she has *actually* been responsible for something similar or equivalent. However, the actual *tu quoque* is not the only possible *tu quoque* case. In passing, Cohen considers also a counterfactual form: Bertha lacks moral right to blame, not because she has done the same wrong (or a similar one), but because she *would* have done the same (or a relevantly similar) wrong in the same (or relevantly similar) circumstances (Cohen calls this form “You’d do this, or worse, if you were in my shoes” [2006, 15]).

Counterfactual *tu quoque* is a very common argument in our everyday moral discourse. Sometimes the objected person seeks an excuse (or even a justification) by claiming that doing the right thing was too demanding: “You should have been in my shoes. You would have seen how difficult it is to act as you are now requiring from me.” But other times the objected person acknowledges responsibility: “Yes, what I did is wrong, and I am blameworthy for doing so, but you are not the right person to blame me. You would have done exactly the same.” Remember the known example provided by Judith Thomson of two judges, Judge Actual and Judge Counterfactual: “Both are corrupt: both would accept a bribe if a bribe were offered and it was large enough. But neither has ever been offered any bribes. The defendant in a suit before Actual now offers Actual a large bribe, and Actual happily accepts it. If the defendant’s suit were being tried before Counterfactual, he would have offered Counterfactual the same bribe, and Counterfactual would have accepted it equally happily” (Thomson 1993, 206-207). Suppose that Counterfactual indignantly blames Actual. Actual is blameworthy for having received the

bribe, but Counterfactual is surely disabled to express moral indignation for this.

As Thomson's example clearly suggests, counterfactual *tu quoque* arguments are connected to a particular kind of moral luck: what Thomas Nagel calls (moral) "luck in one's circumstances" (1993, 65; I will call it 'moral circumstantial luck', or for short, 'circumstantial luck'). Circumstantial luck is the fact that our opportunity to perform the actions for which we are morally responsible depends on circumstances that are wholly beyond our control. Thomson offers the example of the judges precisely to illustrate this kind of moral luck. What she says about Actual and Counterfactual is that "[...] the moral records of Actual and Counterfactual are different: one took a bribe and the other did not. Moreover, they are not similarly culpable: one is guilty of bribe taking and the other is not. But do we regard Actual with a moral indignation that would be out of place in respect to Counterfactual? I hardly think so" (1993, 207). So, we might feel similar indignation towards both judges as persons, but they are not equally culpable or blameworthy. Circumstantial luck is therefore relevant at least on the dimension of culpability or blameworthiness.

A further example may help us to distinguish the role of circumstantial luck. Adam (now a betrayed husband) finds his wife Zara with her lover Wally when he gets home and, deeply outraged by the scene, kills Wally. However, if Adam had arrived just two minutes later, he would not have found Wally at home, not killed him, and, therefore, he would not be morally responsible for having killed him. Arriving just two minutes earlier or later may well be a matter of pure luck. However, it actually happens that Adam arrives two minutes before Wally leaves the house and, therefore, he kills Wally. Adam is blameworthy for doing so. Therefore, circumstantial luck plays an important role in blameworthiness.

There are some powerful reasons to accept the role of circumstantial luck in our attribution of blameworthiness. If we reject circumstantial luck for the case of blameworthiness, several damaging consequences follow. For example, we should be ready to claim that, if Adam (who

actually killed Wally) had arrived two minutes later (due to a slight delay of the bus) and not found Wally at home, he would have been as blameworthy as he is in the actual world. And everyone who, in Adam's circumstances, would have committed homicide is as blameworthy as Adam is. After all, it may very well be the case that many people have not killed her or his spouse's lover just because, as matter of luck, she or he has not been found in the adequate circumstances (yet).

There are few philosophers who hold that moral responsibility is completely immune to circumstantial luck.¹² Most believe that circumstantial luck in fact heavily influences our responsibility. I do not want to take sides on this extremely difficult issue. I will assume that circumstantial luck does impinge on our moral responsibility. However, I do want to claim that, even if we assume that moral responsibility is subjected to circumstantial luck, the loss of moral standing to blame is (or should be held to be) immune to it, at least to an important extent. In other words, I do think that the case of counterfactual *tu quoque* is a powerful tool to incapacitate people from blaming others, when they would have done exactly the same in similar circumstances.

What exactly does the idea that moral standing is immune to circumstantial moral luck mean? Let me clarify this by comparing the role of circumstantial luck in the cases of blameworthiness and lack of moral standing. Conceptually, the role is not identical but analogous. Claiming (as Zimmerman [2002] does) that moral responsibility (or blameworthiness) is not subject to circumstantial moral luck means that being (or not being) blameworthy does not depend on external circumstances over which the agent has no control. It depends only on what the agent would do under different possible circumstances. Similarly, claiming (as I do) that having (or not having) moral standing to blame is not subject to circumstantial moral luck means that having moral standing does not depend on external circumstances over which the agent has no control. It depends only on whether the agent is the kind of person who would perform (or not perform) the same kind of action under similar circumstances. Both

phenomena are, therefore, conceptually parallel. Normatively, they are not, in my view. While we have good reasons to accept circumstantial luck in the case of blameworthiness, we have good reasons to reject (or at least to constrain) circumstantial luck in the case of moral standing.

Before offering an argument in favour of this claim, let us consider some examples showing the intuitive appeal of thinking that our moral standing to blame is immune to circumstantial luck. Imagine that Bertha expresses moral blame for Adams's killing Wally in circumstance C (finding Wally in bed with his wife). Adam (or someone else) claims that Bertha does not have moral authority to blame Adam, because Bertha would have done the same in C: she would have killed her husband's lover if she had found her at home with her husband. Let us assume that Bertha not having done the same is a matter of luck. If moral standing to blame were subjected to circumstantial luck (as we have assumed with moral responsibility), Bertha could reply that she *does* have moral authority to blame Adam, even if it is true that she would have done the same in C. She did *not* in fact do the same. Let us compare this with moral responsibility. If moral responsibility were not subjected to circumstantial luck, Bertha would be morally responsible for killing (assuming that the counterfactual claim "Bertha would have killed her husband's lover in C" is true). Since (we have assumed that) moral responsibility is subjected to circumstantial luck, Bertha is not responsible: she did not kill anyone. However, moral standing to blame is different. The fact that Bertha would have killed her husband's lover in C *does* seem to affect Bertha's moral standing to blame others for doing the same. The case is even clearer if we take Thomson's example of the corrupt judges. As Thomson says, Actual is culpable in a way that Counterfactual is not: we can blame Actual for having taken a bribe, but we cannot blame Counterfactual for having taken a bribe. Perhaps, as Thomson also claims, we might feel similar indignation towards both judges (assuming we know that Counterfactual is potentially equally corrupt). However, it would be completely out of place if Counterfactual expresses indignation to Actual for having

accepted the bribe. It is just a matter of luck that the suit has been tried before Actual, and Counterfactual would have done exactly the same.

If moral standing is not subjected to circumstantial luck and, therefore, we can only express blame to others when it is true that we would not act in the same way in similar circumstances, the question is whether we are ever allowed to blame, condemn, admonish, or express indignation to anyone. How are we going to determine how we would act in different circumstances? It seems that not only is the Israeli ambassador disabled to blame terrorists. Everyone is: can we be sure we would not act as a terrorist in the same situation as the Palestinians?

VI. WHY COUNTERFACTUAL *TU QUOQUE* IS IMMUNE TO CIRCUMSTANTIAL LUCK

I have suggested thus far that moral responsibility (or blameworthiness) is different from moral standing to blame in one important respect. Moral responsibility is arguably subjected to circumstantial luck, in the sense that we are not responsible for what we would have done in circumstances we did not in fact encounter. Moral standing to blame, on the contrary, is more immune to circumstantial luck: we do lose our standing to blame when it is true that we would do the very action we are condemning if we were subjected to similar circumstances. We might ask why this is so.

The main reason follows from my account on the general justification of *tu quoque* (section IV). Having moral standing to blame implies being morally superior (in some specific respect) to the objected person. Being morally superior or inferior is a trait of character. It means being the kind of person who, under certain circumstances, acts in certain ways and not in other ways. The actuality of the circumstances in which the objector has in fact acted is substantially irrelevant (it can be, as we will see, epistemically relevant). If the objector would have acted in the same way as the criticized person, the objector is not morally superior to the

criticized person and, therefore, is disabled to blame the latter. In that sense, counterfactual *tu quoque* is more fundamental than actual *tu quoque*. Actual *tu quoque* is effective because, with the objector having done the same kind of fault, we have a reliable hint that she is the kind of person who would act in the same way as the objected person in similar circumstances. But it is this last fact that actually counts to declare the objector disabled to blame in this case.

If this is the fundamental ground of the loss of moral standing in *tu quoque* cases, it is important to note that, although moral standing is immune to circumstantial luck (the good luck of not having actually been subjected to the same circumstances is not sufficient to have moral standing), it does suffer the crucial influence of what Nagel calls ‘constitutive luck’ (1993, 64). Suppose Bertha blames Adam for having killed his wife’s lover. Adam tries a *tu quoque* defense: “you would have done the same had you found your husband in bed with a woman.” But Bertha replies: “No, I wouldn’t do that. I’m not a violent person. I’m not the kind of person that is able to kill a human being.” Assuming this is true, we would not admit the following reply by Adam as appropriate: “But it is a matter of luck that you are not a violent person and I am.” Note that, if Bertha were a violent person, so that we have reasons to think that she would also kill her husband’s lover (in the same circumstances), Adam’s *tu quoque* rejoinder would be admissible and she would therefore lack moral standing to blame Adam. But if her character is pacific (so that we do not have reasons to think that she would kill), then it is not a good argument to say that she would have killed if she had had a different (violent) character.¹³

One might wonder what happens when Bertha blames Adams for Adams’s doing X, without Bertha having moral standing. As blaming without moral standing is a wrong action, my answer would be that, if Bertha has no excuses, she is blameworthy for doing so. Other persons (including Adam) would be allowed to blame Bertha for blaming Adam without moral standing, *provided* they have moral standing to do so; which

means: they are not persons who would blame others for doing X, without moral standing. And so on.¹⁴

VII. REFLECTIONS ON THE BOUNDARIES OF MORAL STANDING

If the *tu quoque* argument embraces both actual and counterfactual cases, the pressing question now is what the real scope of our moral standing to blame should be. A moral community needs criteria for appropriate blaming in a realistic context of severe epistemic limitations, especially about counterfactual scenarios. There are two implausible extreme views. If we think that we lack moral standing unless we actually did otherwise under similar circumstances, then legitimate moral blame will have to remain an exceptional attitude. If, on the contrary, we think that we have moral standing to blame wherever we have not actually done the same under similar circumstances (even if we have actually *not* been subjected to similar circumstances), then we will be able to blame others in cases where we do not think we should (Judge Counterfactual could blame Actual). Is there a principled criterion to establish the right scope? I do not think we can find a simple or algorithmic recipe in these matters. The following remarks are aimed as pieces of the picture that I offer in the next section as an exploratory proposal.

Let us first revisit the concept of blame and its function in our moral practice. I have already tried to discover some hidden features of the practice, such as the attitude of moral superiority that is implied in blaming. I want now to suggest some further conversational implications of blaming. In order to see these implications clearly, let us think of cases of blame in which the objector (Bertha) reacts with strong indignation and resentment to Adam for his having performed X in C. What we have seen thus far by analysing the *tu quoque* defence is that, if Bertha did X in C, or if she would have done X in C, she lacks moral standing to blame Adam. Instead of looking at the objective requirements for having moral standing to blame, let us look at what Bertha is *saying* when she indignantly blames

Adam. When she blames Adam, she is also implicitly conveying that she has never done X in C, and (more importantly) that she would never do X in C; or, more generally, that she is not the kind of person that does X in C. Bertha might be lying, for example, if it is the case that she did X in C, or if (like Judge Counterfactual) is desperately waiting for the occasion to do X. In that sense, Bertha's blame may be more or less credible. But the important point is that, when she expresses blame to Adam's doing X in C, others (including Adam) may assume that Bertha is also claiming that she has not done X in C and would not do X in C.

At this point, one might object that when Bertha blames Adam for X in C, she might not be implying that she did not and would not do X in C, but something weaker, like, for example: "I have not done X in C and accept that, if I, at some point, do X in C, I will deserve to be blamed, as you do now." However, this implication is too weak, as it is trivial: it is quite obvious that, if Bertha does X in C at some point in the future, she will deserve to be blamed. The point is whether the mere fact that she has not done X in C in the past is sufficient to provide her with moral standing to blame Adam for having done X in C. It seems that, if Bertha's blame to Adam is sincere, she must have at least some hint that she, in the same situation, would not do X. If she were completely uncertain about how she would act, it seems advisable to suspend any attitude of condemnation. In other words, it seems that, before Bertha blames Adam for having done X in C, she should ask herself: "Would I do the same (X) in the same circumstances (C)?" If the answer is yes, it is clear that Bertha lacks moral standing and her expression of blame would be inappropriate. If the answer is "I really don't know," then, again, it would be inappropriate to blame. Up to this point, a scale of different degrees of certainty that she would not do the same begins. It seems that the blamer will have to accommodate the degree of harshness and conviction of her blaming to the degree of certainty about her counterfactual claim.

In fact, the counterfactual side of Bertha's implicit claim (that she would not do X in C) is beset by deeper problems. Bertha might mistakenly

believe (and be subjectively certain) that she would not do X in C, when in fact she would. Moreover, there are circumstances that an agent will never be subjected to, and it is thus impossible to know how she would act under those circumstances. How it is possible that we can have moral standing to blame in these uncertain cases therefore remains an open question. Let me suggest some criteria that may help to rescue the practice of blaming.

Assuming that, when we blame others, we are implicitly conveying that we did not do the same and would not do the same, I would go one step further and suggest that in blaming we are also committing ourselves, or promising, not to do the same under similar circumstances. This commitment, if credible, can help to provide moral standing in uncertain cases. In this regard, I draw on David Schmitz's account of what he calls a 'promissory notion' of desert (2002, 780). We can not only deserve something for what we have done in the past, but we can also deserve a chance. Our future actions will decide whether we have deserved the chance in the first place. Analogously, we might think that, by granting someone moral standing to blame (granting that she 'deserves' the permission to blame), we are granting the chance to 'earn' such moral standing by acting accordingly afterwards. According to this view, an objector (Bertha) would have moral standing to blame even if she has not been exposed to similar circumstances but commits herself before the objected person not to act in the same way under similar circumstances.¹⁵

One problem we still have to face is that there are cases in which the objector knows that she will never be under similar circumstances. For example, if Bertha has lost her parents during her childhood, she would never be in the position to blame Adam for mistreating or neglecting his elderly parents. Or imagine that I indignantly condemn terrorists but (or because) I will most probably never be in a situation in which performing terrorist acts could possibly be a meaningful option. In these cases, the promissory resort seems to fall short. It is quite easy to promise to act in a (per-hypothesis burdensome) way when I know I will never have the

opportunity to act in that way. How can we make the commitment implicitly involved in blaming credible in these cases?

In order to face this problem, we should say more about what it means to say that Bertha has performed (or would perform) a ‘similar’ fault in ‘similar’ circumstances. In many cases, it might not be clear when two moral faults are sufficiently similar to allow a legitimate *tu quoque* argument. However, there are clear cases: if I, a middle class citizen, do not pay my taxes, I would lack moral standing to blame you, a middle class citizen, for not paying yours. But if I am poor and you are not (or you are rich and I am not), the circumstances may not be sufficiently similar and, perhaps, I do have moral standing to blame you (even if my act of tax evasion is also blameworthy). It seems to be a hard problem to find criteria of relevant similarity.¹⁶ However, the fact that we are after a criterion of *relevant* similarity may help find some certitude about the scope of legitimate blame. It may be cases in which the objector has not been submitted to similar circumstances in a literal sense, but she has been submitted to circumstances that, in the relevant sense, are analogous. For example, suppose that Bertha has lost her parents and, therefore, we cannot affirm that she treats her parents rightly, or that she would treat her parents rightly if they were elderly. Neither can she meaningfully promise to treat her parents rightly. However, it might be that she does other things that are expressions of the same character as that of people who mistreat their parents. For example, suppose she mistreats other elderly people, or even her own children, or, in general, persons who depend on her in some way and are vulnerable. The other side of the coin is that, if she did not (and would not) treat vulnerable people disrespectfully, she may have moral standing to blame Adam, although she has not committed the same fault as Adam (mistreating her elderly parents).

A further problem is that similarity of circumstances (or similarity of fault), even under the understanding of *relevant* similarity, is not the only criterion of moral standing. It seems that there is a connection between the seriousness of the fault that a person did or would do, and its disabling

power (its capacity to remove or invalidate the moral standing of a blaming person). The more serious kind of fault we are ready to perform and, therefore, the more depraved our character, the more general is our moral incapacity to blame others. A serial killer is not in the position to blame others for almost anything they can do. Moral failures that are less catastrophic and more prevalent among normal people (breaking promises, cheating on taxes, being more or less negligent towards our relatives or friends, not contributing to beneficence, etc.) are more specific. In order to debunk an expression of moral blame with a *tu quoque* defence, it must be true that the objector has done (or would do) something similar under similar circumstances.¹⁷

It is worth noting that, in our real moral life, reactive attitudes that we comprise under the label of ‘blame’ are extraordinarily diverse both in nuance and intensity. We adjust the kind and intensity of our negative reaction according to several factors. One of those factors is our own moral record. Our moral record is also a matter of degree. The connection of similarity between our faults and the fault we are criticizing, or between the circumstances we have encounter and those faced by the blamed person, is also a matter of degree. The actual *tu quoque* case (I have committed exactly the same fault under similar circumstances) is clear and makes any kind of expression of blame inappropriate. But counterfactual *tu quoque* cases are much less clear and, therefore, our reactive attitudes should probably be more careful or less assertive.

One might finally wonder whether my account of moral standing is too harsh in that it leaves victims without due consideration. Imagine that Bertha blames Adam for hurting Carla. Even if Bertha lacks moral standing, she might think that Carla deserves acknowledgement and support, and blaming Adam might be a way of protecting Carla and future possible victims. Restricting the scope of moral standing to blame, according to this objection, might not result in an improvement of our moral community after all. However, I am inclined to think that, even if Bertha has no moral standing to blame Adam, Bertha is allowed to do many other

things. Among others, Bertha may inform Adam why his action is wrong, she may tell Carla (the victim) that Adam's action is wrong and he is blameworthy, etc. In this sense, the role of the judgment of blameworthiness, and of moral evaluation in general, is very important. The fact that Bertha is not morally able to blame Adam does not necessarily leave Carla without protection.¹⁸

VIII. TOWARD A UNIFYING VIEW

Let me take stock of the (seemingly disparate) reflections of the previous section and offer a final picture of the different cases of *tu quoque*. Imagine, once more, that Bertha indignantly blames Adam for his having done X in C. We can distinguish at least the following cases:

- i. Bertha has done X in C. This is a case of actual *tu quoque*. In this case, Bertha lacks moral standing to blame Adam.¹⁹
- ii. Bertha has never been subjected to C (therefore, she has never done X), but it is clear that she would have done X had she been subjected to C. This is a clear case of counterfactual *tu quoque*, and is equivalent to the previous (actual) case.
- iii. Bertha has never been subjected to C (therefore, she has never done X). However, she has been subjected to circumstances that are analogous to C and she has acted in morally reprehensible (and comparable) ways. Bertha lacks moral standing to blame Adam. However, depending on the strength of the analogy between circumstances and the comparability of the actions at issue, the *tu quoque* objection might have to be less assertive as in the previous case.
- iv. Bertha has never been subjected to C (therefore, she has never done X). But she has performed other actions that are substantially more serious than X. Again, she lacks moral standing to blame Adam. Again, depending on how much more serious was Bertha's failure, the *tu quoque* rejoinder should not be completely assertive.
- v. Bertha has never been subjected to C (therefore, she has never done X). It is uncertain what she would do in C, but by her expression of blame she is credibly asserting that she is not the kind of person that does X in C (or acts that are analogous to or clearly more serious than X) and committing herself to not doing X in C (or acts that are analogous to

or clearly more serious than X). In this case, Bertha has moral standing to blame Adam. However, her moral standing is not as strong as in the following case, since it depends on the credibility of Bertha's commitment.

- vi. Bertha has been subjected to C and has acted in a different, and morally superior, way. Bertha's action has been proof of character that is inclined to not doing X in C (or acts that are analogous to or clearly more serious than X). Furthermore, Bertha has not performed other actions that can be considered morally more serious than X. In this case, Bertha has full moral standing to blame Adam.

This classification is certainly coarse, because, as I tried to show before, there are degrees of confidence, credibility, similitude, and certainty. And these factors have (or should) impact on the kind and intensity of Bertha's legitimate expression of blame, and on the discrediting power of the *tu quoque* defence.

IX. CONCLUSIONS: REFLECTIVE BLAMING

We might wonder whether the kind of analytical work I have offered is helpful, when, at the end of the day, the practice of blaming works at the emotional, reactive level. Whether we are able to react in an appropriate way according to the extremely complex set of variables is ultimately a matter of moral sensibility, not of reasoning. It would be "one thought too many" to pretend that, in each occasion of blaming, we embark on a rational reflection in order to establish the right amount, kind, and nuance of our indignation. We just react, and persons with moral sensibility spontaneously react in the right way.

This might be partially right. I do not want to offer advice on how we should or should not react to blameworthy actions. However, moral attitudes and reactions are not beyond rational scrutiny. We can revise, moderate, or even cancel our spontaneous reactions in view of the kind of reasons I have tried to highlight. And we can educate our moral sensibility in order to participate in our moral practice in a more qualified

way. Our analytical work can help us understand why moral standing is a complex phenomenon with many degrees and nuances. And it is also useful to call our attention to the fragility of our moral standing to blame others. The final moral of the argument would be: be cautious when facing the moral faults of others. Just one second of restraint and reflection may help to make our imperfect moral community somewhat better.

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NOTES

1. Traditionally, the issue has received relatively little attention in moral philosophy. There are, however, two path-breaking contributions by Gerald Dworkin (2000) and Gerald Cohen (2006) and a growing recent literature on the issue (Scanlon 2008; Wallace 2010; Friedman 2013, among others).

2. The expression is from Scanlon (2008, p. 166 ff.)

3. Similar distinctions can be found in Smith (2007, 469; 2013, 2).

4. I partially follow Zimmerman (1988, 38-39; 2016) on this issue.

5. See Wallace (1994, 87-90), for this discussion.

6. In the case of absent or dead persons, the sense of expressing blame *to* that person is obviously metaphorical.

7. Scanlon claims that, since blame depends on the personal relationship with the blameworthy action, its content "is attenuated" when the blamed person lived long ago or has no effect on our lives (2008, 146). This may be true. Still, I think that, if Scanlon's account is entirely correct, blame toward persons we have no personal relationship with should not just be attenuated but impossible.

8. According to Strawson, there are cases in which we suspend or block reactive attitudes like blaming, which correspond to well-known cases of excuses and incapacity. In cases of excuse or incapacity, we adjust our expression of blame to the fact that the agent is not (or is less) responsible for his or her acts. In a relevant sense, we try to adjust our subjective reaction to an objective judgment of responsibility or blameworthiness.

9. In the same direction, see McKenna (2013), although McKenna's proposal is, in my view, essentially a kind of sanction or punishment approach.

10. Quoted in Cohen (2006, 114).

11. In my view, what we call 'self-blame' is rather the expression of other kinds of attitudes: repentance, guilt, remorse, among others. I only blame myself (for example, by expressing indignation) for my own act metaphorically. This would require splitting myself into two selves: one superior self who admonishes the other, inferior self. This can only be metaphorical.

12. The relevant exception is Michael Zimmerman (2002).

13. My account of the connection between moral standing and moral luck seems incompatible with a situationist theory of moral character (see Doris 2002). I cannot discuss the point here. Still, note that how situationist or globalist our character traits are is a matter of degree. And the claim that our character is radically situationist (i.e. completely inconsistent across situations)

seems quite implausible. All my view requires is *some* degree of consistency or stability of our character.

14. I thank an anonymous reviewer for raising this question.

15. As we have seen, Wallace claims that when we blame another person, we commit ourselves to self-scrutiny. This means that we waive our claim to protection from moral opprobrium (Wallace 2011, 329). My idea is different. It is not that we promise to be open to moral criticism, but that we promise not to be the kind of person who performs that kind of moral failure.

16. One must say, however, that this problem is not unique to the issue of moral standing. The general moral principle of equal treatment already suffers from this possible indeterminacy. The general principle that we (or, for example, political authorities) should treat persons equally in equal circumstances is fundamental and plausible. But it is extremely difficult, in many cases, to establish whether circumstances are equal (or similar).

17. Dworkin defends the claim that the fault must always be the same: “[...] it is not a matter of one’s relative purity, so that what is inappropriate is the less pure criticizing the more pure. What seems crucial is that the fault one is criticizing is the very same fault one has” (2000, 185). See objections and insightfully reflections on this issue in Cohen (2006, appendix) and Wallace (2010, 336).

18. I thank an anonymous reviewer for this objection and for suggesting possible answers.

19. It is worth remembering that, even if we cannot legitimately express blame, we can still have standing to express a judgment of blameworthiness. Bertha might say in this case that, in her opinion, Adam’s action is blameworthy. I leave aside here the important issue of whether a person who has lost her moral standing for having done a moral wrong could regain such moral standing in the future. If a person has stolen something thirty years ago, but has lived an exemplary life since then, we might think that she deserves to have standing to blame others again. Even the mere passing of time could have this effect, analogous to what happens in the law with the statute of limitations. I thank an anonymous reviewer for raising this point.

