The Competent Judge Problem

Kimberley Brownlee[1]

ABSTRACT: We face an epistemic problem in competently judging some types of experience. The problem arises when an experience either defies our efforts to assess its quality, such as a traumatic event, or compromises our abilities to assess quality in general, such as starvation. In the latter type of case, the competent judge problem is actually a paradox since the experience undermines our competence to judge at the same time that it gives us competence to judge it against other experiences. The problem is pressing because it arises for experiences at the more extreme ends of the spectrum, which are precisely the experiences we most want to judge competently. It also has implications for how we approach some practical ethical problems, such as solitary confinement. The paper explores a range of cases and explains why efforts to escape the competent judge problem may prove fruitless.

Introduction

Practical experience makes a distinctive contribution to our understanding of the world. Some things we can know only by experiencing them.[2] Take, for example, performative knowledge and affective knowledge.

Performative knowledge is knowledge of how to do something such as play professional tennis or dance a *pas de deux*. We can know only so much about these activities by studying the theory behind them; and, we can learn only so much by hearing others' testimony and observing others' experiences. The sports journalist who knows the rules of tennis inside out and backwards, but cannot hold a racket properly does not know what it's like to play tennis. The tennis star does.

Affective knowledge is knowledge of how it feels inside to have an emotion such as fear, sadness, anger, compassion, joy, or kindness. The detached researcher of the emotions who has never felt much compassion does not know what it's like to experience wholehearted compassion. The loving person does.

The same is true, in principle, for other domains of experiential knowledge. Consider starvation. A person who has endured chronic acute hunger and malnutrition along with the anxiety that her suffering won't pass has direct practical knowledge of what it's like to starve. She knows first-hand the physical pain, muscle weakness, irritability, lethargy, diarrhoea, dehydration, distress, fatigue, apathy, and fear that go with starvation.[3] In principle, such practical knowledge makes her particularly well placed, if not uniquely placed, to judge starvation both sensationally and evaluatively, especially if she has some experience of its absence in the relief of being adequately nourished.

---

[1] This paper is forthcoming in *Ratio.* If possible, please cite that version. I thank Christopher Bennett, Thomas Parr, Fabienne Peter, and the participants of the UCL Political Theory seminar for very helpful feedback on this work.

[2] This discussion is agnostic on whether the knowledge gained through experience is propositional or non-propositional.

[3] See McCue, Marshall D. (ed.) (2012), *Comparative Physiology of Fasting, Starvation, and Food Limitation.* Springer. See also, The National Health Service (Choices): Symptoms of Malnutrition; retrieved 31 Jan 2015 from: http://www.nhs.uk/Conditions/Malnutrition/Pages/Symptoms.aspx. It's possible that this is an inaccurate list of the things that a starving person would notice and be most affected by. Since I have no practical experience of starvation, I cannot list with any certainty the things that a starving person would find most salient to her experience, were she able to list them.

Certainly, a doctor can describe the symptoms of her starvation; a biologist can explain its underlying processes; a moral philosopher can identify reasons for its wrongness and badness; and an artist can capture her dull-eyed gaunt awkwardness, bird-like bones, and bloated tummy; and, all of them can empathise with her. But, none of them knows from the inside as she does what it is like to starve.

Such knowledge lies at the heart of what John Stuart Mill calls the *competent judge*, which is a person who has sufficient practical knowledge of two competing experiences to judge which of the two is to be preferred. The *competent judge* is a notion we use often in moral and political philosophy without giving much attention to whether it is coherent.[4] We debate about whether it allows for sufficient moral disagreement or presumes too much impartiality. But, we don't debate about whether it might be inescapably elusive or even paradoxical in some cases.

The problem is that sometimes we cannot ably undergo or recall one or both of two competing experiences, and hence we cannot competently compare them. In some cases, one or both of the experiences will defy any attempt to analyse it. In other cases, one or both will, more radically, undermine our abilities to analyse in general with the result that our competence to judge will paradoxically grow and diminish simultaneously. In both types of cases, the experience in question is assessment-eluding. This tends to happen with experiences at the extreme ends of the sensational and evaluative spectrum, and consequently raises moral questions about how we approach practical ethical problems, such as starvation or solitary confinement, that can compromise a person's abilities to assess and report on the quality of her experience.

This paper begins by reviewing briefly Mill's account of the competent judge (Section 1). It then identifies seven cases in which the competent judge problem arises (Section 2), considers two general problems that follow from it, which are the *attribution of competence problem* and the *intuitive assessment problem* (Section 3), and explains why attempts to overcome those problems may prove fruitless (Section 4).

1. The Competent Judge

Mill's account of the value of practical knowledge is not the only account or even the best possible account, but it is worthwhile to outline it since we invoke Mill's notion of the *competent judge* in many contexts and since it brings out adequately well the kinds of problems that I wish to discuss.

For Mill, the experiences of pleasures (and possibly pains) are akin to activities, or, as Martha Nussbaum puts it, they are 'experiences so closely linked to activities that they cannot be pursued apart from them.'[5] Of course, the range of our experiences is broader than this. It includes not just pleasures and pains, but all of the states of being of which we are the subject as well as the conditions that we consciously undergo, the events by which we are consciously affected, and the knowledge that we gain from our observations and from what we have undergone.[6]

For Mill, the experiences that a competent judge can judge include not only painful ones versus pleasant ones as in the case of starvation versus nourishment, but also pleasant ones versus other pleasant ones, and painful ones versus other painful ones. In Mill's view, pleasures and pains are not homogeneous in quality. There are

---

[4] For an overview and discussion of debates about Mill's notion of the *competent judge*, see Crisp, Roger (1997), *Mill: On Utilitarianism.* Routledge, 31, 35ff.

[5] Nussbaum, Martha (2004), 'Mill between Aristotle and Bentham' in *Daedalus*, Spring 2004, 60-68.

[6] *Oxford English Dictionary* (current online edition). Some examples of major pleasures for Mill are virtue, music, and health.

higher pleasures and lower pleasures, and the competent judge will choose higher pleasures in virtue of a sense of dignity, which is common to all human beings, and essential to happiness. But, competent judging is necessary regardless of the higher-lower distinction in order to compare any pair of competing experiences.

Mill's particular stance on the qualities of different pleasures can be put aside, partly because it assumes, implausibly, that sensational pleasure and positive value go hand in hand as do sensational pain and disvalue. It's also worth noting that there is a third category of experience – sensationally neutral experience – that is neither pleasant nor unpleasant, and a fourth category of experience – evaluatively neutral or trivial experience (which may or may not be sensationally neutral) – both of which Mill overlooks.

There is also more subtlety to the properties of pleasant, unpleasant, and neutral experiences than Mill acknowledges. Whether a given experience is pleasant, neutral, or unpleasant depends to a large extent on context. Eating a piece of chocolate cake is pleasant (for most people) if it's the first piece we're having this week and we like chocolate cake. Eating a piece of chocolate cake is probably neutral if it's our second piece today and the joy of the taste has worn off. Eating a piece of chocolate cake is distinctly unpleasant if it's our sixth piece this hour and we're sick of cake. In short, there is diminishing marginal utility in this experience as we repeat it. Its quality, both sensationally and evaluatively, is not fixed (though it generally falls within a certain range).

A competent judge of two pleasant experiences, such as reading Emily Dickinson's poetry and listening to Puccini's *Madame Butterfly*, has had each experience (sufficiently often and deeply) to use her practical knowledge to judge which, if either, is to be preferred (along some given measure). Mill says:

> Of two pleasures, if there be one [pleasure] to which all or almost all who have experience of both give a decided preference, irrespective of any feeling of moral obligation to prefer it, [then] that is the more desirable pleasure.[7]

Similarly, a competent judge of the painful experiences of stubbing a toe and having a migraine has had each experience (possibly more than once) and uses that knowledge to judge which, if either, is worse (along some measure).

Mill says that the views of competent judges are the only court of appeal to assess the relative merits and demerits of competing experiences. He asks rhetorically:

> What means are there of determining which is the acutest of two pains, or the intensest of two pleasurable sensations, except the general suffrage of those who are familiar with both?[8]

Mill's point about general suffrage is worth highlighting, as I will return to it later. He says not only that we must look to the suffrage of those qualified by knowledge of both of two experiences, but also that, if those people disagree with each other about which experience is preferable, then we must look to the opinion of the *majority* among them, and that opinion must be admitted as final.[9]

---

[7] Mill, J.S. (1861), *Utilitarianism* (various editions), ch. 2.

[8] Mill (1861), ch. 2.

[9] Of course, this appeal to majority opinion will be impossible in cases where there is no agreement among the majority of competent judges, but instead a plurality of opinions in which some say

Now, as noted in the introduction, the problem with taking practical knowledge as the final court of appeal, or even as one court among others, to judge the quality and preferability of experiences is that sometimes we cannot ably undergo or remember one or more competing experiences, and consequently we cannot competently compare them. Here are seven cases in which that is so.

2. Seven Problem Cases

Case 1: Let's return to starvation. Over time, this experience undermines our abilities to exercise judgement. It not only renders us lethargic and apathetic, and thereby unable to exert the energy to assess our situation, but also, more radically, damages our cognitive function in ways that impair our ability to assess its quality in general (and much else).[10] As such, it undermines our competence to judge while at the same time it builds our competence to judge it against competing experiences.

The same is true of long-term solitary confinement in prison. The empirical evidence indicates that this kind of sensory deprivation causes extreme cognitive and physical deterioration that can render sufferers semi-catatonic and unable to respond to instructions.[11] The deterioration is such that, over time, it threatens our ability to assess in general and thereby to judge this experience against competing experiences, even while it gives us practical knowledge of the horrors of this experience.

Case 2: Consider being stone sober versus being extremely drunk. In this case, both experiences leave our overall judging abilities intact, but the latter defies any attempt to judge its quality. When we are extremely drunk we lack the cognitive capacity, memory capacity, emotional awareness, and sensory sensitivity needed to assess the experience both in the moment and afterward. To say that we can assess drunkenness once we have sobered up is to mistake it for a state that we can ably experience. What we're assessing afterward is either its negative effects – the nasty hangover we experience all too clearly – or our imperfect memory of the hazy buzz of drunkenness.[12] This means that we cannot competently compare drunkenness and sobriety.

Case 3: Consider sleep versus sleep deprivation. Here, *both* of the competing experiences elude assessment since sleep defies any attempt to assess its quality, and sleep deprivation undermines our abilities to assess in general. In more detail, when we are asleep we are typically not conscious and so cannot have practical knowledge of the state of sleep while sleeping. It is only afterward when we awake refreshed and happy that we can assess the state of being asleep. And, much of the value we accord to sleep lies in its effects. Similarly, lack of sleep in the form of chronic, acute sleep deprivation causes us to break down mentally; we become less able to function and,

---

experience x is better than experience y, some say y is better than x, some say they are on a par, and some say they are incomparable.

[10] Morley, John E. (2014), 'Overview of Undernutrition' in *Merck Manual of Diagnosis and Therapy*. Merck Sharp & Dohme Corp. Retrieved 31 Jan 2015 from: http://www.merckmanuals.com/professional/nutritional_disorders/undernutrition/overview_of_undernutrition.html. See also Bhoomika, R. A. *et al* (2008), 'Cognitive Development in Children with Chronic Portein Energy Malnutrition' in *Behavioral and Brain Functions*, 4: 31.

[11] Arrigo, Bruce A., & Bullock, Jennifer L. (2008), 'The Psychological Effects of Solitary Confinement on Prisoners in Supermax Units: Reviewing What We Know and Recommending What Should Change' in *International Journal of Offender Therapy and Comparative Criminology,* 52:6, 622-640; Gawande, A. (2009), 'Hellhole', *The New Yorker*, 30 March 2009; Haney, C. (2003), 'Mental Health Issues in Long-Term Solitary and "Supermax" Confinement', *Crime & Delinquency,* 49: 124-156.

[12] As an aside, it's worth considering whether the *effects* on us of an assessment-eluding experience properly fall within the scope of our comparative judgment of two experiences. If they do, then it may not matter as much that we cannot ably experience the state itself.

hence, less able to judge that experience against others.[13] It is only after we have recovered from sleep deprivation that we can judge it. But, our judging will be based on a highly imperfect memory of it as well as on our later experiences of its negative effects, and not on our practical knowledge of the state itself.

Now, at this point, a critic might argue that these three cases are not examples of competent judging because experiences are akin to activities, or at least cannot be pursued apart from activities, and these cases do not pick out states that are akin to activities. Moreover, at the very least, experiences are states of being that we undergo *consciously* and, therefore, any states that are not undergone consciously, such as being asleep, are not experiences and hence not proper objects of competent judging.

This might be true of sleep, but it is not true of the other states just discussed. Starvation, drunkenness (short of unconsciousness), and sleep deprivation are consciously undergone and are close enough to activities that they must count as genuine experiences, and, hence, in principle, they fall within the purview of competent judging.

These cases show that competent judging is diachronic. Our assessment faculties must function at three distinct points in time for us to be competent judges of a given pair of experiences. At T1, we experience E1 (e.g. being sober). At T2, we experience E2 (e.g. being extremely drunk). At T3, we compare E1 and E2 to determine their relative merits and why one is to be preferred to the other (or why it is preferable in a particular respect or why they're incomparable, if they are). Consequently, competent judging requires not only that we have adequate perceptual and reasoning abilities at T1 and T2, but also that, at T3, we have additionally adequate *memory* of each of the competing experiences to compare them.[14]

The necessity of having an adequate memory of the experiences highlights another type of case in which, unlike drunkenness or sleep deprivation, we can *ably* experience each of the two states of being, but cannot adequately recall one or both of them at T3 to make the comparison. One example is traumatic stress.

Case 4: Consider two traumatic events such as a rape versus a mugging at gunpoint. These events may be ably experienced at the time, but may be so severely traumatic that the mind blocks them from explicit memory, leaving us with no conscious memory that we endured them.[15] Suppose that, at T1, we are a conscious victim of rape; at T2, we are a conscious victim of a mugging at gunpoint; and at T3, we suffer from post-traumatic stress disorder and one (or both) of these experiences is blocked from our explicit memory. We may suffer flashbacks, but in general we know only through other people that we have endured the experience, and therefore we cannot compare it with other experiences.[16]

---

[13] Ahola, Paula, and Paivi Polo-Kantola (2007), 'Sleep Deprivation: Impact on Cognitive Performance' in *Neuropsychiatric Disease and Treatment*, 3: 5, 553–567.

[14] The diachronic nature of comparative practical knowledge has some interesting implications. We cannot experience two contrasting states simultaneously and, therefore, our experience of E1 will be innocent and our experience of E2 will be informed by our experience of E1. E1 is the reference by which we experience E2 and this can influence how we compare them. There is a growing literature in psychology on the impact of priming, framing, and status quo bias, all of which we might call our 'first exposure bias', which can be positive or negative and which colours how we experience what follows it.

[15] Siegel, Daniel (2010), *Mindsight*. Bantam Books, ch. 8.

[16] Another case where we have radically incomplete memories is hypnosis. We have no knowledge of saying and doing the things while hypnotised that a video will confirm we did. Both the state E1 of being hypnotised is not ably experienced and the memory of E1 at T3 is radically incomplete, which suggests that it defies any attempt to assess its quality and, thereby, compare it with other experiences.

Case 5: Other problematic memory cases include all of the experiences we have prior to the age of three, which psychologists say go into implicit memory rather than explicit memory,[17] and hence defy attempts later in life to compare them with other experiences. What is interesting here is that we may be competent to assess these experiences while we are children (granting that we have the reasoning and perceptual acuity needed to assess experiences), because, as children, we both ably experience them and remember them while we are children. But, we won't be competent judges of them as time passes because they will move into implicit memory and be unavailable to us for comparative assessment.

Case 6: Other experiences defy not only the memory condition for competent judging, but the whole diachronic process of comparison. Consider life and death. We die only once. There is no T3 at which we can recall and compare that experience against anything else.

Case 7: Finally, consider being born. This experience (if it is one) defies judgement not only for reasons given above that it cannot be *ably* undergone and cannot be recalled later, but also for the reason that there is nothing with which it can be reasonably compared. There is no pleasant, painful, or neutral experience with which to contrast being born, as it is too singular an event to have any appropriate comparator.

As this implies, we cannot compare every given pair of experiences. For a comparison between two experiences to be possible and meaningful, the two experiences must meet certain conditions, such as share certain properties that make them appropriate comparators and both be possible for a given person to undergo.[18] For example, prior to recent technological developments, it was not possible to compare the experience of being a man with the experience of being a woman because it was not possible for a given person to have both experiences and thereby make such a comparison. For another example, it's not possible to compare the experience of being the first human being, whoever that was, with the experience of being the second human being, since neither experience could be had by any other person. Similarly, it's not possible to compare the experience of being Mother Theresa with the experience of being the Dalai Lama since only that person can have that experience of being them, and neither of them can know first-personally what it is like to be anyone else. (Granted, we might say that being the person we are is not an experience, but rather the lens through which we have all experiences. Even so, there is practical knowledge to be gained from having a particular lens on experience, and that knowledge is essentially non-comparative.)[19]

Let's sum up what we've learned so far. The competent judge problem arises for any pair of experiences for which at least one of them is assessment-eluding. Assessment-eluding experiences are those that 1) cannot be ably experienced, 2) cannot be ably recalled, 3) cannot be subjected to the diachronic process of comparative judgment, or 4) undermine our abilities to compare experiences.

The competent judge problem applies to many experiences that are among the most important ones for which we want to give competent practical judgements, namely, those at the more extreme ends of the experience spectrum. The problem also clashes with our intuition that we have competent practical judgement in many of the cases just outlined. This presents us with some general epistemic problems. One is

---

[17] Siegel, (2010), ch. 8.

[18] I thank Thomas Parr for highlighting this point.

[19] As this all implies, there are some experiences for which there can be no majority opinion on their quality, as they either can be had only once or can be had only by one person.

the *attribution of competence problem*. Another is the *intuitive assessment problem*. As we will see, both problems largely elude attempts to solve them.

3. Epistemic Problems

Problem 1: The *attribution of competence problem* comes in comparative and non-comparative forms. In its comparative form, the problem is that we cannot say which of two people who've had an assessment-eluding experience, and who differ in their response to it, is the competent judge, even though we have clear intuitions that one of them is the competent judge (or at least is more competent than the other). In its non-comparative form, the problem is that we cannot say that a given person is competent to judge an assessment-eluding experience even when our intuition is that she is.

Imagine two people, Ali and Bo, who endure the social and sensory deprivation of solitary confinement. And, imagine that one of them is less acutely affected by it than the other is. Ali suffers but survives with her faculties broadly intact. By contrast, Bo becomes self-abusive, hallucinatory, and eventually semi-catatonic, unable to respond to instructions. Which of them has the necessary practical knowledge of solitary confinement to compare it competently with other experiences? Who is the competent judge here?

I assume our intuition is that Ali is the competent judge because, if asked about the experience, she can describe in detail the cognitive, emotional, and physical horrors of long-term isolation. Bo cannot. He is unable to give an opinion at all.

But, despite our intuition that Ali is (more) competent, neither is a competent judge since the experience is assessment-eluding. The slightly longer answer is that they each have necessary elements for competent judging, but lack others. Since her faculties are intact, Ali is better able to reflect on the experience. But, that very fact means that she has endured less mental suffering, and hence has less practical knowledge with which to judge the experience against others. By contrast, Bo has greater practical knowledge of the mental suffering of solitary confinement, but is unable to compare it with other experiences since it has undermined his assessment abilities.

Problem 2: The *intuitive assessment problem* also has comparative and non-comparative forms. In its comparative form, the problem is that we cannot competently compare some competing experiences even though it's intuitively clear which is better and which is worse. For instance, starvation is clearly worse than having a headache or watching a boring movie. But, since starvation undermines our competence to judge, we cannot appeal to either our own practical knowledge of it or others' testimony about it as evidence that it is worse than a headache or a boring movie.

In its non-comparative form, the problem is that we cannot say whether a given experience is pleasant, painful, or neutral even though intuitively we know which it is. Determining that starvation is a painful experience at all is seemingly beyond us since it eludes first-person assessment even though, intuitively, we know starvation is extremely painful.

Let's look at four potential routes to a solution to these problems, and see why none of them proves entirely satisfactory.

4. Four Possible Solutions

Solution 1: We might appeal to Mill's proposal that we canvas the opinions of all people (or a large enough sample of people) who have practical knowledge of the two contrasting experiences, and take the opinion the *majority* of that group as final.

The scope of this proposed solution is limited. It is unavailable for singular experiences such as being born and for inescapably elusive experiences such as dying, sleeping, and being hypnotised, which do not become amenable to competent judgement by canvassing different opinions. The solution is available, in principle, only for those assessment-eluding experiences that admit degrees of elusiveness, and that do not *entirely* elude the assessment of the majority of people who experience them. Only then can we disregard as outliers the opinions of the minority whose judgement the experience has entirely eluded.[20]

These constraints show that this solution is overly optimistic. How can there be assessment-eluding experiences, such as drunkenness, sleep deprivation, and starvation, that a) admit degrees of elusiveness, b) can be experienced *fully* enough by the *majority* of people who experience them that they really know them, and c) don't undermine that majority's competence as judges? It seems clear that, if the majority of people who have these experiences are able to assess them, then they are not assessment-eluding experiences. And, if they are assessment-eluding experiences, then those people who purport to assess them have not experienced them fully.

Solution 2: But, perhaps we don't need to have an experience fully to get adequate practical knowledge of it. Perhaps, we don't need to drink alcohol until we collapse in order to compare drunkenness with sobriety. Similarly, perhaps, we don't need to suffer the most acute form of starvation in order to compare that experience with many others. Perhaps, it's enough to have felt genuine hunger to know that hunger (and *a fortiori* starvation) is worse, for example, than watching a boring movie. The details of the experience of starvation may not yield new information about its merits or demerits relative to other experiences.

For many comparisons, this is probably true. But, for others it may not be. And, the difficulty is how can we know this without some competent judging to tell us so? Extreme states may be qualitatively different from more modest sibling states. Being hungry is one thing; starving is another. Being tipsy is one thing; being dead drunk is another. Being lonely in the way that many of us sometimes are is one thing; being forcibly denied social contact to the point of becoming self-abusive is another. We want to know not just that starvation is worse than a boring movie (along a given measure), but also how much worse, and why. We want to know what the factors are that explain why it has these qualities. And, knowing what it's like to feel hungry won't tell us these things if starvation is qualitatively different from hunger.

If this is right, then it seems that we can only competently judge an extreme state against others once we have experienced *it*. Consequently, the competent judge problem reasserts itself since, in the long run, we will be unable to withstand the effects of the extreme state.

Solution 3: We might deny that practical knowledge necessarily requires that we compare experiences.[21] This solution expands the set of things that we can competently judge since it allows that we can competently judge all the assessment-admitting experiences whose natural comparators are elusive. For instance, it allows that we can competently judge sobriety without having had either to be extremely drunk or to get a grip somehow on the qualities of drunkenness. It allows that, in

[20] For a discussion of the authority of competent judges, see Dorsey, Dale (2013), 'The Authority of Competence and Quality as Extrinsic' in *The British Journal for the History of Philosophy*, 21:1, 78-99.

[21] It's a separate question whether practical knowledge necessarily requires interpersonal comparability, i.e. that a person who is able to compare two states also be able to offer that comparison as a valid basis for judging someone else's experience of those two states. I thank Fabienne Peter for highlighting this distinction. In this discussion, I set aside the issue of interpersonal comparability.

experiencing sobriety, we can have sufficient insight into its felt qualities, sensational details, emotional promptings, and behavioural tendencies to know its qualities. Indeed, it allows that we may know sobriety best by experiencing it in many different contexts, such as when we're unhappy, when we're out socialising with friends who are drinking, and when we're working late at night.

The advantage of this solution is that it allows that we can be genuine experts about some given experience E1 *as such*, and not just experts about that E1 relative to some particular E2 or E3. In other words, it does not restrict our knowledge to particularist comparisons of this E1 and this E2 with no potential to generalise and say in absolute terms that E1 is good or bad, or better or worse than most other states including states we've never experienced. The person who has experienced E1 many times with understanding, depth, and reflection knows E1 very well, much better than someone who has had it once with little understanding, depth, or reflection. The former is a competent judge of the qualities of E1.

It's true that to be so she needs some understanding of some other states of being. But, that is a general pre-condition of practical knowledge at all. It does not require her to have any particular set of experiences. And, it does not limit her knowledge of E1 to a particular comparison of E1 and E2.

Indeed, the 'competent judge' may not be a single person, but instead the collective of people who combine their knowledge of their experience-pairs. Person A can compare hunger and migraines; Person B can compare hunger and loneliness; Person C can compare loneliness and migraines; Person D can compare hunger and being well-fed; and Person E can compare being well-fed and listening to great music. The *majority* whose opinions we should take seriously is not necessarily the majority who can compare the precise E1 of hunger (or starvation) against the E2 of being well-fed, but rather the majority who combine useful knowledge by pooling their relevant comparisons to come up with the judgement that E1 is genuinely worse than many other experiences.

However, this proposed solution, while it widens the remit of competent judging, does not make assessment-eluding experiences any more assessable. They remain outside the scope of competent judgement even when we reject the idea that practical knowledge necessarily requires us to compare particular experience-pairs.

Solution 4: We might reject the starting assumption that practical experience is a distinctively useful asset in understanding the world. We could adopt a weaker assumption that, in order to judge competently an assessment-eluding experience, *someone* must have practical knowledge of that experience, but it need not be the people who are ultimately competent to judge it.

For example, provided that a set of doctors and researchers have some patients who have endured starvation, those doctors and researchers may ultimately be the ones who are competent to judge the qualities of starvation even though they do not know what it's like from the inside.[22]

In adopting this weaker assumption, it seems we can escape the competent judge problem because our methods of knowledge acquisition no longer rely on the starving person's self-conscious reporting on the experience. Instead, our methods include diagnostic tests, brain scans, neurological studies, physical examinations, and psychological tests, the results of which all indicate that starving is a monstrous experience.

---

[22] For a discussion of problems of introspective knowledge, see Schwitzgebel, Eric (2008), 'The Unreliability of Naive Introspection' in *Philosophical Review*, 117: 2, 245-273.

That said, if the self-conscious *reporting* of people with first-hand practical knowledge provides unique insights, then the competent judge problem reasserts itself. There are reasons to think that self-reporting is uniquely valuable since the words people use to describe their experiences (when they can) convey the distinctive flavour of their perspective. Their use of images, metaphors, and figurative speech all capture the quality of their perceptions, and that information is lost, and possibly cannot be gained through other means, when the experience eludes first-person assessment. All of this goes to show that, despite our intuitions to the contrary, there is a range of experiences that we may be inescapably incompetent to judge.

Conclusion

This paper has shown that there is a surprisingly resilient problem in competently judging experiences that elude first-person assessment. Any experience that we cannot ably undergo, ably recall, or ably subject later to (comparative) assessment is one that inescapably eludes *competent judgement* as we typically understand it in moral and political philosophy. Such experiences identify one limit on the scope of performative knowledge. They also show that we must reconceptualise *competent judgement*. Competent judgement is both narrower and broader than the Millian conception implies. It is narrower because it applies only to assessment-admitting experiences. It is broader because it includes not only the judgment of particular, assessable experience-pairs, but also the competence to extrapolate and generalise from those judgements on the basis of a personal history of experiences.

The resilience of the problem of competently judging experiences at the extreme ends of the experience spectrum shows that we must be cautious when we assess the moral seriousness of some negative experiences such as starvation and solitary confinement. We must value first-person reporting on negative experiences when we can have it, but we must not assume either that it can be given for the more extreme negative experiences or that the absence of it means those experiences are any less morally serious.