

# Moral Encroachment

Sarah Moss

ssmoss@umich.edu

*Moral encroachment*: The epistemic status of an opinion can depend on its moral features.

## 1 Epistemic status

At a first pass, let us define *racial profiling* as the practice of forming opinions about a person on the basis of statistics about their racial group.<sup>1</sup> These opinions could in principle include full beliefs, as well as credences and other probabilistic beliefs.

There are many potential *moral* problems with racial profiling. Profiling might constitute an intrinsic moral harm to an individual,<sup>2</sup> or it might lead to actions that fail to treat people as individuals, express demeaning messages, perpetuate invidious distinctions, or contribute to structural oppression.<sup>3</sup>

The moral encroachment thesis can help us identify one *epistemic* problem with profiling—in particular, an epistemic problem that could arise for the profiling of people, but not pit bulls.

## 2 Opinions

Advocates of moral encroachment apply their view to full beliefs:

BASU & SCHROEDER 2018: As the moral considerations against belief increase, so does the evidence that is required in order to epistemically justify that belief. (20)

GARDINER 2018: Several theorists have recently argued that [if] a belief might wrong a person or group, the threshold for justified belief is higher than for a belief that is morally neutral. More evidence is required to justify the belief. (8)

But when it comes to credences, they reject moral encroachment in favor of evidentialist theses:

PACE 2011: “A plausible evidentialist thesis [is] *Degrees-of-Confidence Evidentialism*: A degree of confidence is justified for a person if and only if it matches the strength of one’s evidence” (255).

BOLINGER 2018: “[T]hough statistics about racial groups (and other protected-categories) will often lack relevance and hence fail to justify high credence, this need not always be so. . . demographic statistics may justify high credence in these cases, while still failing to justify acceptance” (12).

The problem: paradigmatic cases of moral encroachment, including many instances of racial profiling, involve epistemically deficient probabilistic beliefs.

My solution: moral encroachment can prevent probabilistic beliefs from constituting knowledge.

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1. For several vivid examples of racial profiling, see the poem “BANG!” in BEATY 2014, p.90-1.

2. BLUM 2004, BASU 2017.

3. For further discussion, see EIDELSON 2013, HELLMAN 2014, LEVER 2005, and HASLANGER 2004, respectively.

## 2.1 *Probabilistic Knowledge*—a brief interlude

Epistemic modals and epistemic probability operators are pervasive in ordinary language:

- (1) It might be raining.
- (2) It is .5 likely that the coin landed heads.
- (3) It is very probable that you have cancer.
- (4) It is more likely that Daniel stole the purse, than that Gertrude stole it.
- (5) If that dog is a pitbull, it is fairly likely to bite if you approach it.

According to many traditional semantic theories, we use sentences like (1)–(5) to express full beliefs in propositions about contextually relevant evidence.<sup>4</sup>

In Moss 2017, I argue that in fact, we use these sentences to express probabilistic beliefs, such as credences. I also argue that these beliefs can constitute *probabilistic knowledge*.

An example of probabilistic knowledge by perception:

Thus, in examining a piece of cloth by candlelight one might come to attribute probabilities 0.6 and 0.4 to the propositions *G* that the cloth is green and *B* that it is blue, without there being any proposition *E* for which the direct effect of the observation is anything near changing the observer's degree of belief in *E* to 1. (JEFFREY 1968, 35)

An example of probabilistic knowledge by testimony:

[Judy Benjamin and her soldiers are] told by the duty officer 'I don't know whether or not you have strayed into Red Army territory. But if you have, the probability is 3/4 that you are in their Headquarters Company Area.' (VAN FRAASSEN 1981, 377)

Justified probabilistic beliefs can fail in the same way as full beliefs that fail to be knowledge:

*Nerves*: Alice enters a psychology study with her friend Bert. As part of the study, some participants are injected with a heavy dose of adrenaline, while the others are injected with a saline solution. All participants are then sent to meet their friends. Alice is not told anything about the nature of the injection or the experiment. As it happens, Alice receives the adrenaline injection. As she meets Bert, Alice reflects on her fluttering nerves and comes to have high credence that she finds Bert attractive. And indeed, she probably does find Bert attractive.<sup>5</sup>

Hence even if we grant for sake of argument that credences formed by profiling can match a subject's evidential probabilities, these credences may still be deficient in virtue of failing to be knowledge.

## 2.2 Answers to frequently asked questions

Advocates of knowledge norms are often pluralists about norms of belief and action:

STANLEY 2007: "There may be multiple norms governing rational action, which sometimes conflict... one sometimes acts on beliefs that are not knowledge, because there are other rational pressures on our behavior" (205).

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4. For classic examples of contextualist theories, see KRATZER 1977 and DEROSE 1991.

5. This example is adapted from MOSS 2013.

The distinction between mere justified probabilistic belief and probabilistic knowledge matters for familiar reasons, such as accounting for the unassertability of sentences such as:

- (6) #My ticket lost the lottery.
- (7) #This person is more likely to steal my purse than the person across the street.

In addition, knowledge-first theorists may endorse general knowledge norms of action, targeted knowledge norms of blame or punishment, or knowledge accounts of legal standards of proof.

Statistical inference sometimes but not always grounds probabilistic knowledge.

### 3 Dependence

Pragmatic encroachment theses are often stated in terms of *dependence* or *supervenience*:

- 1. Whether you know that the bank is open can depend on your interests.<sup>6</sup>
- 2. There are possible subjects *A* and *B* such that:  
*A* and *B* differ with respect to whether they know that the bank is open, and the only relevant difference between *A* and *B* concerns their interests.<sup>7</sup>

The same goes for moral encroachment:

- 1. The epistemic status of an opinion can depend on its moral features.  
A natural way of extending thoughts of pragmatic encroachment is to think about how what is morally at stake can affect the relevant epistemic standards. (ENOCH 2016, 35)
- 2. There is some epistemic feature *F* and opinions *X* and *Y* such that:  
*X* and *Y* differ with respect to whether they have *F*, and the only relevant difference between *X* and *Y* concerns their moral features.  
As the moral stakes increase, the exact same level of evidentiary support can result in different consequences with respect to whether an individual justifiably believes that *p* or whether they know that *p*. (GUERRERO 2018, 19)

We must distinguish moral encroachment from the mediated epistemic consequences of moral features, such as those resulting from principles defended in Moss 2017:

- 1. A moral *rule of consideration*: in forming beliefs about a person, you may have moral reason to keep in mind the possibility that they might be an exception to statistical generalizations.
- 2. A hybrid norm: it morally ought to be the case that it epistemically should not be the case that you form or act on beliefs based on statistical evidence about people.

Unlike these norms, moral encroachment enables us to fault morally bad subjects for their opinions.

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6. For examples of this formulation of interest relativity, see STANLEY 2005, WEATHERSON 2012, and ROSS & SCHROEDER 2014.

7. For similar supervenience claims, see STANLEY 2005 and WEATHERSON 2011.

#### 4 Moral features

The moral features of opinions that are responsible for moral encroachment are often understood by analogy with practical features that are responsible for pragmatic encroachment.<sup>8</sup>

However, in discussions of racial profiling, advocates of moral encroachment often focus on moral harms that arise *whether or not the resulting belief is true*.

We should restore the analogy with pragmatic encroachment by identifying moral harms that are caused by racial profiling *only when the resulting belief is false*.<sup>9</sup>

Traditional cases of pragmatic encroachment have a certain structure:

1. The belief that the bank will be open on Saturday might cause you to miss an important deposit.
2. This financial harm occurs only if the bank is closed on Saturday.
3. But given the risk of financial harm, you do not know that the bank will be open.
4. Hence the knowledge norm forbids your believing that the bank will be open.

As I see it, cases of moral encroachment may exhibit this same structure:

1. A belief is causally relevant to actions that cause a certain sort of moral harm.<sup>10</sup>
2. This sort of moral harm occurs only if the belief in question is false.
3. But given the risk of moral harm, the belief is never knowledge.<sup>11</sup>
4. Hence the knowledge norm forbids your having that belief.

#### Coda—An uplifting upshot of moral encroachment

The moral encroachment thesis supports an important counterpoint to views such as the following:

Our point is that it can sometimes be unkind or uncompassionate to believe ill of a person, even if it is rational to do so. Thus it can sometimes be immoral to hold a belief that is, in fact, rational.<sup>12</sup>

In short, as long as there's a differential crime rate between racial groups, a perfectly rational decision maker will manifest different behaviors, explicit and implicit, towards members of different races. This is a profound cost: living in a society structured by race appears to make it impossible to be both rational and equitable.<sup>13</sup>

According to the probabilistic knowledge norm of belief, there is a sense in which rationality does not *require* acts of profiling, but instead *requires refraining from* acts of profiling.

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8. FRITZ 2017 constructs moral analogs of high-stakes bank cases: "there is a maniacal traffic officer making his way down your street. . . if he sees that your car is parked illegally, he will fly into a homicidal rage and kill five innocent people" (650).

9. For one vivid illustration of such harms, see GAY 2013. For further relevant discussion of looping effects and criminal behavior, see TAYLOR 2001 and HACKING 2001.

10. Compare the discussion of morally hazardous belief in COX & LEVINE 2004.

11. Compare the *Rule of High Stakes* from LEWIS 1996: "when error would be especially disastrous, few possibilities are properly ignored" (556).

12. KELLY & ROEDDER 2008, p.530

13. GENDLER 2011, p.57

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