



Moral Luck, Control, and the Bases of Desert

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For nearly three decades, philosophers have been concerned with problems of moral luck.¹ The problem which has received the most attention concerns justice. The problem arises in relation to what we may call the standard view of responsibility. On the standard view, it is unjust to hold a person responsible for that which she did not control. Agents deserve to be morally appraised or held liable only for that which they controlled. When luck is present, all ascriptions of responsibility based on the standard view are rendered unacceptable for people who champion justice. An acceptance of the standard view is tantamount to claiming that people are never justly morally appraised or held liable since luck appears to be omnipresent.

If we want to see justice done with regard to responsibility, then we must either allow that people are never morally responsible, show that luck is not ubiquitous or at least that ubiquitous luck is not moral, or show that ascriptions of responsibility can retain justice despite the omnipresence of luck. Some Platonists advocate a version of the view that people are not morally responsible. They argue that since errors result only from misinformation about the Good, education, an epistemic matter, is always the appropriate response to misdeeds while blame, a moral matter, never is. Inasmuch as the argument made here contains the assumption that people do make moral errors, we will consider this alternative only indirectly. No one pursues the view that luck is not ubiquitous because the ubiquity of luck is impossible to deny. Most philosophers who have discussed moral luck claim that luck does not interfere with individual moral responsibility by arguing that luck is not moral. The conclusion reached here is that ascriptions of responsibility can retain justice because moral luck is compatible with justified moral appraisal.

1. Is There Anything Paradoxical About Moral Luck?

Thomas Nagel considers two lorry drivers in a discussion of the problem of moral luck.² One unlucky driver runs over and kills a child, while the other lucky driver does not. We are to suppose that the only significant difference

in the situations of the two drivers is the appearance of a child, which is entirely beyond the control of either driver. Had a child appeared before the lucky driver, he too would have run over and killed a child. We may also suppose that both drivers negligently failed to keep their brakes in good repair.

Nagel claims that in cases such as the lorry drivers “the intuitively plausible conditions of moral judgment threaten to undermine it all.”³ Intuitively, it “seems irrational to take or dispense credit or blame for matters over which a person has no control.”⁴ Yet we judge people for what they actually do or fail to do. “Actual results influence culpability or esteem in a large class of unquestionably ethical cases.”⁵ We both do and do not want to hold the unlucky lorry driver responsible. If control is necessary for individual moral responsibility, as Nagel admits, and there is ubiquitous luck, as Nagel also admits, then individual moral responsibility is impossible. But Nagel thinks that individual moral responsibility is possible and hence he regards the situation as a paradox.⁶

While such cases demand that we confront important questions, proper attention to a number of relevant distinctions dissolves their paradoxical nature. Let us consider the distinction between causal and moral responsibility. We may suppose that an individual is causally responsible just in case she is a sufficient proximate cause of a state of affairs. A person is morally responsible, in the retrospective sense at issue, just in case her involvement is of a type which deserves moral appraisal or liability. A second distinction concerns legal liability and moral responsibility. We may say that someone is legally liable just in case her actions are relevantly similar to actions which have state enforced sanctions. In addition to these distinctions between moral responsibility and other types of responsibility there is a distinction to be drawn within considerations of moral responsibility, which has already been employed but which should be made explicit. Following Michael Zimmerman, we may say that a person is morally appraisable just in case she deserves a certain type of judgment.⁷ If someone is morally appraisable, he is praiseworthy, blameworthy, or worthy merely of indifference. A morally appraisable person, metaphorically speaking, deserves a good, bad, or neutral mark on her moral ledger. An individual is morally liable just in case she deserves to receive, or is obligated to give, an overt type of treatment such as commendation, censure, reward, punishment, atonement, rectification, compensation, or disinterest.

By making proper use of these distinctions, we can see that there is nothing paradoxical about concluding that the unlucky driver both is and is not responsible for the child’s death. He is responsible in different senses of the term “responsibility.” For example, we may claim that the unlucky driver is legally liable in some sense without concluding that he is morally liable or appraisable. He may justifiably be fined or imprisoned by the state, even if he does not owe an apology. Even if we suppose that he is morally liable in some sense, we may still hold that he is not blameworthy. He may owe expressions

of comfort and regret even if he is not blameworthy. It is possible to conclude without paradox that the unlucky driver is morally and legally liable in virtue of the consequences of his actions and simultaneously hold that it is irrational to blame him for his action in virtue of the fact that he did not control whether the action for which he is liable occurred. If we employ these distinctions properly, Nagel's paradox dissolves. The task which remains is to determine if the drivers are morally appraisable.

2. Epistemic Luck?

Philosophers reacting to this problem of moral luck generally, and moral appraisal specifically, have been in considerable agreement. Many philosophers advocate what we may call the epistemic argument for immunity from luck. On the epistemic argument for immunity from luck there is no moral luck. Instead there is epistemic luck. Nicholas Rescher draws the central distinction of the epistemic argument for immunity from luck nicely:

The difference between the would-be thief who lacks opportunity [because of luck] and his cousin who [because of luck] gets and seizes it is not one of moral condition (which, by hypothesis, is the same on both sides); their moral record may differ, but their moral standing does not. . . . The difference at issue is not moral but merely epistemic.⁸

On the epistemic argument for immunity from luck, both the thief and the would-be thief are to be judged negatively from a moral point of view, in virtue of their willingness to do something which is morally wrong.

However, from the epistemic argument for immunity from luck it is not appropriate to conclude from the fact that both the thief and the would-be thief are blameworthy that it is justified to levy blame upon them. On the basis of that argument, justified blame levying requires a person who deserves blame and a person who is properly situated to give what is deserved. A person is properly situated to levy blame when he has a justified true belief, or some appropriate articulation of what knowledge is, that the person who will receive the admonishment deserves it. This second requirement accounts for why luck is epistemic and not moral. The actual thief has committed an act which informs potential leviars that he deserves to have blame levied upon him, while the would-be thief has not so altered the epistemic position of potential leviars.

An advocate of the epistemic argument for immunity from luck goes wrong when he concludes from this that there is no moral luck. All granting that the distance between deserving blame and justifiably delivering it is filled by epistemic luck as opposed to moral luck shows is that some luck is not moral.

It does not show that all luck is not moral. Advocates of the epistemic argument for immunity from luck improperly over-generalize its limited conclusion. The over-generalization is to some degree understandable because the type of examples typically offered in debates about moral luck are depicted in such a way that some of the spaces where moral luck is likely to arise remain hidden. For example, in the lorry driver case Nagel stipulates that the moral standing of the two individuals under consideration is negative. In the example considering the thief, Rescher hypothesizes that the moral condition of the two parties is the same. How are these judgments derived? If there is luck involved in establishing how a person is to be morally judged, might it not be moral?

To answer these questions we must be clear that moral appraisal is a matter of desert. An agent deserves praise or blame in virtue of some feature of the agent. As Joel Feinberg has shown, desert has a certain logic. An agent deserves a mark in her moral ledger in virtue of some feature of the agent.⁹ From this it is inevitable that some desert involves luck because some bases of desert, features of the agent, are not within the agent's control. We may infer from this that to deny the existence of moral luck, it must be shown that all desert which involves luck is not moral, not simply that in some instances luck is epistemic. Perceptively, some advocates of the standard view have attempted to draw just such a conclusion. For example, Norvin Richards claims "matters beyond a person's control cannot bear witness upon what he [morally] deserves."¹⁰ Should it be conceded that all uncontrolled bases of desert are non-moral?

It is worth noting that it would be improper to conclude that there is no such thing as non-moral desert. Clearly, Ms. Jones deserves to go first when she is the tallest person in a group and the order of progression is from tallest to shortest, even when she has no control over her height. There is non-moral desert. What remains to be seen is if, by stipulating that luck cannot be involved in moral desert, there is any such thing as moral desert. A preliminary step toward determining whether all uncontrolled bases of desert are non-moral is to determine if there is anything over which agents have control in virtue of which they may be justifiably morally appraised.

3. Control and the Bases of Desert

Again following Zimmerman, we may distinguish between restricted and complete control. "One enjoys restricted control with respect to some event *e* just in case one can bring about its occurrence and can also prevent its occurrence."¹¹ An individual enjoys complete "control with respect to some event *e* just in case one enjoys or enjoyed restricted control with respect both to *e* and to all those events on which its occurrence is contingent."¹² It follows that

no one has complete control over anything, since one event on which all other acts of an agent are contingent, but over which no agent has control, is the agent's birth. This has an implication for the standard view, where whatever is uncontrolled cannot be the basis of moral desert. Since agents never have complete control, the standard view must be modified. We may say that agents deserve moral appraisal only for that over which they have restricted control.

Acceptance of this modified standard view entails that consequences and character cannot be universal bases of moral desert. We do not have restricted control over all of the consequences of our actions or all of the facets of our characters, though we may deserve moral appraisal in virtue of the consequences of our actions or facets of our characters. Whenever we have restricted control over the consequences of our actions or some facet of our characters we may justly be morally appraised for them according to the modified standard view. By ruling out consequences and character as universal bases of moral desert, we are simply recognizing that we do not always have restricted control over these things. We may mark this distinction by describing consequences or facets of character which are not under restricted control as desirable or undesirable. On the modified standard view, desirability and undesirability are not dependent on moral evaluations, even if they are dependent on personal evaluations. Only praiseworthiness, blameworthiness, and a mere indifference are dependent on moral evaluations.

Unlike consequences and character, volition cannot be broken down into aspects which are under an agent's restricted control and aspects which are not. Luck, in the form of coercion, duress, and their cognates, certainly will psychologically or materially limit the range of choices a person has. It is undeniable that on some occasions we cannot but do as we do. But such acts are acts of compulsion, not acts of volition. We may define acts of volition as acts of will which are under an agent's restricted control, while acts of compulsion are events which are not so controlled. On this definition, volition is a universal basis of moral desert.

We have arrived at the answer to the preliminary question: "Are all uncontrolled bases of desert non-moral?" On the modified standard view, the bases of moral desert are limited to acts of volition and facets of character or consequences, if any, which are under an agent's restricted control. Whether there are such things is an empirical question. However, it does not seem implausible to assume that there are volitions and at least some consequences and facets of character over which some agent had restricted control. The utter lack of complete control and the many instances in which we do not have even restricted control, convincingly illustrates the ubiquity of luck. Since only the modified standard view properly accounts for the distinction between complete and restricted control, the standard view must be replaced with the modified standard view. By distinguishing desirability and undesirability from praiseworthiness and blameworthiness we may severely limit what counts as

moral and conclude that there is no luck involved in moral praise or blame. Even so, luck may be involved in various forms of personal evaluation. Judging a person blameworthy or praiseworthy is a specific type of moral evaluation. Such a judgment corresponds only to what deserves to be marked in an agent's moral ledger. The nature of a person's overarching standing involves more than just the marks in her moral ledger. Overarching standing also involves the consideration of how many desirable or undesirable acts a person has committed and how many desirable or undesirable facets of character a person has. Even though the nature of our moral ledgers is within our restricted control, overarching standing is not.

4. Ethical Luck?

Critics of the modified standard view may assert that when we discuss a person's overarching standing we are discussing something moral. To say that a person has an undesirable character is to say something about the person's moral standing. There is much more to morality than simply moral appraisal. An advocate of the modified standard view could retreat to a distinction offered by Bernard Williams. Williams suggests that we could define the term "morality" as a system of informal sanctions and internalized dispositions which is sheltered from luck. Alternatively, the term "ethics" could be understood as referring to informal sanctions and internalized dispositions generally.¹³ If this distinction is accepted, an advocate of the modified standard view could correctly assert that built into the very notion of morality is the impossibility of moral luck.

But here the debate over the existence of moral luck becomes a purely semantic matter. Desirability and undesirability are clearly ethical matters. Even philosophers who deny the existence of moral luck must admit that there is ethical luck. If we reject this terminological division, choosing to refer to both types of luck as moral, then we may conclude that there is moral luck but that moral appraisal is shielded from it. This second way of describing the modified standard view is preferable, since it allows us to emphasize that luck is involved in moral and legal liability, even if luck is not involved in assessments of moral appraisability. Ubiquitous luck is moral, but this does not entail that moral appraisal is never deserved. Moral appraisal is deserved when it is grounded in a luck-free basis of desert.

Notes

1. See Daniel Statman, ed., *Moral Luck* (Albany: State University of New York Press, 1993).
2. Thomas Nagel, "Moral Luck," in *Mortal Questions* (Cambridge, England: Cambridge University Press, 1979), pp. 28–29.

3. *Ibid.*, p. 27.
4. *Ibid.*, p. 28.
5. *Ibid.*, p. 30.
6. *Ibid.*, p. 38.
7. Michael Zimmerman, *An Essay on Moral Responsibility* (Totowa, N.J.: Rowman and Littlefield, 1988), pp. 38ff.
8. Nicholas Rescher, "Moral Luck," in D. Statman, *op. cit.*, p. 156.
9. Joel Feinberg, "Justice and Personal Desert," in *Doing and Deserving* (Princeton, N.J.: Princeton University Press, 1970), p. 61.
10. Norvin Richards, "Luck and Desert," in D. Statman, *op. cit.*, p. 167.
11. Michael Zimmerman, "Luck and Moral Responsibility," in D. Statman, *op. cit.*, p. 219.
12. *Ibid.*
13. Bernard Williams, "Postscript," in D. Statman, *op. cit.* pp. 251–252.

