

Kant's Philosophy of Moral Luck

Ever since Williams' and Nagel's seminal articles on moral luck, debate about the issue has been understood as pitting Kantian ethics against Aristotelian ethics. The dialectic is set up in this way by friend and foe alike: Kantian ethics is taken to be an attempt to insulate against the possibility of moral luck whereas Aristotelian ethics is taken to embrace it.

But this backdrop is mistaken. Indeed, as this paper will show, Kant's theoretical framework for at least one kind of moral luck is quite sophisticated, more sophisticated than the frameworks developed by some in the modern debate.

The paper is divided into six sections. In the first, I show that participants in the moral luck literature take moral luck to be anathema to Kantian ethics. In the second, I explain the kind of luck I am going to focus on here: consequence luck, a species of resultant luck. In the third, I explain why philosophers have taken Kantian ethics to reject moral luck and, in particular, consequence luck. In the fourth, I explain why these philosophers are mistaken, and I set out Kant's theoretical framework for consequence luck. In the fifth, I clarify and defend this framework, and in the sixth I interrogate and attack it.

I argue that a better understanding of Kant's ideas about consequence luck will enable us to appreciate where the modern moral luck debate has gone wrong and to set the historical record straight.

Section I The modern moral luck debate

The state of play in the modern moral luck debate is summarized well by Athanassoulis:

Briefly, there are two main responses to the possibility of moral luck: one is to deny the existence of moral luck and attempt to make morality immune to luck (Kant), the other is to accept moral luck as an unavoidable part of the human condition (Aristotle).¹

As Athanassoulis says here, in the modern moral luck debate, Kant is taken to reject moral luck whereas Aristotle is taken to accept it. In this paper, I am concerned only with the first half of this division, summed up nicely in the following passage from Athanassoulis: "For Kant it is not just resistance to luck which is built into the concept of morality...but complete incompatibility."²

This portrayal of Kant can be found in the two articles that seeded the modern debate. For example, according to Williams, "any conception of 'moral luck', on this [Kantian] view, is radically incoherent."³ Similarly, according to Nagel, "Kant believed that good or bad luck should influence neither our moral judgment of a person and his actions, nor his judgment of himself."⁴

That Athanassoulis' portrayal of Kant in the debate that has evolved since the Williams-Nagel dialogue is mainstream may be seen from the following short collection:

1. Coyne writes that "the notions of morality and luck are, Kantian urgings to the contrary, deeply interrelated."⁵
2. According to Moore, Kant's position "can be put succinctly as follows: there can be no such thing as moral luck."⁶
3. Andre, proposing that moral luck be accepted as a genuine phenomenon, says we thus should "accept the conclusion that we are not consistent Kantians."⁷
4. Nussbaum writes that "the Kantian believes there is one domain of value, the domain of moral value, that is altogether immune to the assaults of moral luck," adding some ten pages later that "[f]or Kant...*happiness* can be augmented or diminished by fortune; but that which is truly deserving of ethical praise and blame, true moral worth, cannot be."⁸

5. Zimmerman, who rejects moral luck, finds a friend in Kant: “like Kant, I think that our received conception of moral responsibility requires...that the role of luck be neutralized.”⁹
6. Similarly, Driver writes that “the Kantian system is actually constructed so as to avoid the impact of moral luck on moral worth. It is a theoretical strength of the Kantian position that it insulates moral worth from luck.”¹⁰
7. Klampfer claims that “Kant was very cautious to rule out, as much as he could, the impact of luck on our moral judgment.”¹¹
8. Statman maintains that “immunity from this kind of luck [resultant luck] was Kant’s main object in his famous opening passages of the *Grundlegung*.”¹²
9. Allen avers that “Kant explicitly denies the existence of moral luck.”¹³
10. And Thomson writes that “following Kant, we think we are not “morally at the mercy of fate” (as Nagel puts it): surely it is irrational to rest moral assumption on what is, from the point of view of the person being assessed, mere good or bad luck.”¹⁴

This list is not intended to be exhaustive, nor is it intended to show (e.g., by induction) that all authors in this debate paint Kant as the enemy of moral luck. Rather, it is intended to show not only that this view of Kant is espoused by many but also that it is espoused by many prominent philosophers.

Moreover, the denial of moral luck cuts across other debates in Kantian ethics. Consider, for example, Herman’s nonaccidental rightness condition: if an action is performed from the motive of duty, then it necessarily will be in conformity with duty because the motive of duty renders the rightness of an action “the nonaccidental effect of the agent’s concern.”¹⁵ This principle eliminates luck from the gap between motive and action; it plays a central role in Herman’s argument about Kantian moral worth; and according to at least one highly regarded Kant scholar, it “is (among Kantians) uncontroversial.”¹⁶

Given the foregoing, I suggest that it should be unsurprising that the *Stanford Encyclopedia of Philosophy* entry on moral luck opens with the assertion that “[t]he idea that morality is immune from luck finds inspiration in Kant” and then continues a few sections later with the claim that “those who accept the existence of some type of moral luck reject...the Kantian conception of morality.”¹⁷ The *Stanford Encyclopedia of Philosophy* is supposed to be nonpartisan: it is supposed to summarize the generally accepted moves in a debate without taking a side. And in representing Kant as opposed to moral luck, it has done just that.¹⁸

Nonetheless, this *leitmotif* is mistaken, and that is what this paper is going to prove.

Section 2 What is this thing called luck?

The widespread agreement about Kant *qua* luck-denier is somewhat odd when contrasted with the widespread disagreement about the nature of luck itself.¹⁹ Although Williams declines to define luck in his original article, Nagel does not; Nagel defines luck in terms of lack of control.²⁰ Many philosophers have followed suit.²¹ Indeed, some refer to this as the Standard View.²² However, control accounts are not the only ones on offer.²³ Some explain luck epistemically in terms of what I (subjective) or a reasonable agent (objective) can foresee.²⁴ Some explain it in terms of modal fragility.²⁵ And some do not take these differing accounts to be in competition.²⁶ Further complications arise from recent arguments about whether luck is contrastive.²⁷ But except for brief forays in the notes, I shall not be taking a stand on these issues here.

The two most frequently discussed species of luck are epistemic and moral luck, the former dealing with knowledge ascription and the latter with moral appraisal.²⁸ These then can be subdivided further. For example, Pritchard discusses veretic epistemic luck (luck in whether one’s beliefs are true) and reflective epistemic luck (luck in whether one’s beliefs are true given only what one is able to know by reflection alone).²⁹ And Nagel discusses four kinds of moral luck: resultant luck (luck in the results of one’s actions), circumstantial luck (luck in the circumstances in which one acts), constitutive luck (luck in one’s constitution, including character traits), and causal luck (luck in the causal antecedents of one’s actions).³⁰

There are disputes about Nagel's fourfold division.³¹ As with disputes about the nature of luck, however, such disputes are beyond the scope of the current investigation; I am going to focus exclusively on resultant luck. This is for two reasons: (1) resultant luck is the most widely discussed (and most widely accepted) kind of moral luck, and (2) resultant luck is generally taken to be the most obviously opposed to Kant's ethics.³²

The kind of resultant luck I am interested in can be illustrated by example. Suppose that Sarah gets drunk at a party and then drives home. Unluckily, a child darts into the street in front of Sarah's car. Sarah slams on the breaks, but her reaction time is depressed and she plows into the child.

Many would judge that Sarah is to blame not only for driving drunk but also for killing the child, the result of her action. But this result is a matter of (bad) luck: it is outside her control (she did not swerve to hit the child); it is modally fragile (perhaps the child is trying to catch a firefly that happens to fly toward the road); and it is not foreseeable (children where Sarah lives usually are in bed at this time).

This is the kind of luck I am interested in. I call it consequence luck to distinguish it from other kinds of resultant luck.³³ Put schematically, an agent's responsibility for some consequence C is an instance of consequence luck if but only if C is the (un)lucky result of the agent's action(s). From this it may be seen that consequence luck presupposes that (a) C is distinct from the agent's action(s) and (b) the agent is responsible for C.

Now you might not share the intuition that Sarah is responsible for the death of the child. For example, you might think that if the child's running into the street really is unforeseeable, then Sarah's having hit him is unfortunate but not a case of responsibility. That is fine: perhaps Kant's account needs to be adjusted. Indeed, I am going to argue as much in section 6 of this paper.

But the main point I want to make is that this *is* Kant's account and, more, that this account is perfectly consistent with the textual grounds conventionally cited as evidence not only of Kant's disavowal of moral luck wholesale but also of his emphatic rejection of this particular kind of luck.

Section 3 Why so many philosophers think that Kant rejects moral luck

There are four main pieces of evidence usually cited for Kant's rejection of moral luck.

The first is the famous good will passage from the *Groundwork to the metaphysics of morals*.³⁴ Kant claims that a good will is the only thing that can "be held for good without limitation."³⁵ He then elaborates:

The good will is good not through that which it effects or is directed toward [*ausrichtet*], not through its fitness to the attainment of any preset end, but rather alone through its willing, that is, considered in itself and for itself...Even if through a particular disfavor of fate, or through beggarly provision of a stepmother-ly Nature, this will lacks entirely in capacities to carry out its purpose; if with its greatest striving nevertheless nothing would be carried out [*ausgerichtet*] by it, and only the good will...remains: so it would like a jewel nevertheless for itself shine forth, as something which has its entire worth in itself.³⁶

This passage often is taken as definitive of Kantian ethics, and the defining message is taken to be that consequences are morally irrelevant; only willings have moral value. Even those who self-identify as Kantians say that "because states of affairs are not possible bearers of value in Kantian ethics, what actually happens seems to be outside the purview of morality."³⁷ And if what actually happens is morally irrelevant, then (*a fortiori*) un/lucky consequences are so.

The second piece of evidence is also from part I of the *Groundwork to the metaphysics of morals*.³⁸ Kant imagines someone who is "from temperament cold and indifferent toward the sufferings of others" and then asks: "would he not yet find in himself a source to give himself a far higher worth than that of a good-natured temperament may be?"³⁹ Kant answers with a resounding "certainly": the motive of duty.

This passage has attracted a lot of attention, mainly from critics who object to the idea that we should mortify our inclinations in order to act solely from duty.⁴⁰ Kant's defenders have sought to meliorate its effects, noting various exegetical and philosophical problems with these criticisms.⁴¹ I cannot canvass such issues here; the point for now is that this passage is appealed to in the moral luck debate to show that, according to Kant, moral worth is available to all regardless of temperament and training (both of which latter are inequalitarian and subject to luck).

The third and fourth pieces of evidence are not isolated passages; they are doctrinal, Kant's transcendental idealism and his commitment to ought implies can (OIC), respectively.

According to Kant's transcendental idealism, space, time, and spatiotemporal objects are empirically real but transcendently ideal. This makes its way into the moral luck debate because it is part of Kant's view that we are transcendently free, outside space and time in some sense, purely noumenal beings unhampered by the empirical psychology and urgings of the phenomenal realm. Luck is something inherently within the phenomenal and, thus, outside the domain of responsibility ascription: "For Kant, a central tenet of his moral theory is to hold that we are noumenally free, which results in the thought that morality is immune to luck."⁴²

Kant's commitment to OIC is well-documented and well-known.⁴³ It is taken to ground his rejection of moral luck in two ways. First, it provides further evidence for the egalitarian nature of Kant's ethics (obligation fulfillment is open to all regardless of temperament and training). Second, the converse point of the first, OIC nullifies unfulfillable obligations: "One may want to have a generous spirit, or regret not having one, but it makes no sense to condemn oneself or anyone else for a quality which is not within the control of the will."⁴⁴

The combined force of this evidence is supposed to show that Kant is the enemy of moral luck, that moral luck is, for a Kantian, an oxymoron. It is supposed to show that Kant is especially the enemy of consequence luck. It is supposed to show that, according to Kant, we are responsible only for our (transcendently) free acts, our willings, our subjective principles of action and, thus, that we are not responsible for the consequences of these willings much less their un/lucky consequences.

Indeed, even those who recognize Kant's affirmation of moral luck buy into this paradigm. For example, concerning the good will passage, Gardner maintains that "our moral agency's immunity to luck under Kant's morality arises only on the strict condition that we always do...what people of perfectly good will would do," and Hartman says that "Kant is asserting that the moral quality of *morally required* [as opposed to meritorious, merely permissible, or impermissible] actions cannot be affected by their consequences."⁴⁵ Gardner and Hartman both buy into the dominant reading of the good will passage in the moral luck literature: for Kant, consequences are morally irrelevant. They simply scale back which consequences are supposed to be irrelevant.

But all of this is wrong. The point of the good will passage is that maxims are the locus of assessment for determining the value of a will and that a good will is the only thing with unlimited value, whence it follows that moral reasons are overriding. But that is consistent with imputation of consequences for both good and bad willing, and it is also consistent with these consequences having (limited) value. Hartman's mistake is then compounded by his failure to realize that good willing, for Kant, includes merely permissible and meritorious (not only obligatory) willing.

Similarly, the point of the indifferent man passage is that the motive of duty is available to all and that acting from duty can have moral worth. But that is consistent with there being different subjective limitations and hindrances to acting on this motive, and it is also consistent with different degrees of responsibility.⁴⁶ And Kant's transcendental idealism and his ideas about noumenal agency, like his commitment to OIC, are far too complex and layered to allow for such easy summary (and summary dismissal) as is found in the moral luck literature. So let us look at what Kant *actually* has to say about the imputation of consequences.

Section 4 Kant's theoretical framework for consequence luck

Kant's framework for consequence luck is articulated in the *Metaphysics of morals*:

The good or bad consequences of an owed action—in the same way as the consequences of the omission of a meritorious [action] can not be imputed to the subject (*modus imputationis tollens*).

The good consequences of a meritorious action—in the same way as the bad consequences of a wrongful action can be imputed to the subject (*modus imputationis ponens*).⁴⁷

In this passage Kant makes six claims that are relevant for current purposes: (1) bad consequences of owed action cannot be imputed;⁴⁸ (2) good consequences of owed action cannot be imputed;⁴⁹ (3) bad consequences of omission of meritorious action cannot be imputed; (4) good consequences of omission of meritorious action cannot be imputed; (5) bad consequences of wrongful action can be imputed; and (6) good consequences of meritorious action can be imputed.⁵⁰

These six claims suggest two others: (7) bad consequences of meritorious action cannot be imputed; and (8) good consequences of wrongful action cannot be imputed. The rationale for (7) is that it would be *prima facie* strange if the commission of a meritorious action could result in imputation of bad consequences given that (from (3)) omission cannot.⁵¹ The rationale for (8) is that it would be *prima facie* strange if the commission of a wrongful action could result in imputation of good consequences given that (from (2)) omission (which is owed) cannot.⁵²

Now as it stands these claims are quite weak: the modal (“can”) renders them consistent with the denial of consequence luck (and much else besides). But just how far Kant’s affirmation of consequence luck goes is on full display in his notorious murderer at the door example.

Kant asks us to imagine a murderer coming to the door and requesting information regarding the whereabouts of his intended victim who happens to be hiding in the basement. What most people remember about this case is that Kant says that you may not tell a lie, not even from the philanthropic motive of saving the life of the victim. I shall say more about this momentarily. But for now the point is that what seems to get lost in the rubble as people walk away from what they take to be the ruin of Kant’s ethics is a truly striking affirmation of consequence luck:

...if you however had lied and said, he [the victim] is not at home, and he had actually in fact (although unbeknownst [to you]) gone out, where then the murderer encounters him in going away and carries out his deed on him: then you can with right be prosecuted as initiator of the death of the same...Thus whoever would lie...must answer and atone for the consequences thereof, even before a civil court, so unforeseen as they ever might be.⁵³

And lest there be any doubt regarding Kant’s commitment to this, there is a similar (but less well-known) example in the *Metaphysics of morals* in which Kant says that if a servant is instructed by the head of the household to lie about his whereabouts and this enables the latter to carry out some misdeed, then the guilt falls partly on the shoulders of the servant, for the servant “has infringed upon a duty to himself through a lie.”⁵⁴ Indeed, Kant says that the consequences of the lie “will be imputed to him now by his own conscience.”⁵⁵

From this it may be seen that Kant’s affirmation of consequence luck is quite explicit and quite broad, far broader indeed than is often found in the modern debate. The remainder of this paper is divided into two sections: in the next I aim to clarify and defend Kant’s position; in the last I aim to interrogate and attack it.

Section 5 Understanding Kant on consequence luck

I want to make four clarificatory points before I turn to the defense of Kant on consequence responsibility.

First, we have to be careful to distinguish between disagreement about the moral valence of an action and disagreement about the imputation of consequences. This is especially so given the near universal revilement of Kant’s pronouncement about lying to the murderer at the door: lying to Gestapo hunting Jews in Nazi Germany or to KKK-members hunting runaway slaves in the antebellum South would be permissible, sometimes obligatory, sometimes meritorious, never wrongful.

Kant sympathizers have used various strategies to defend him. Some argue that, regardless of what Kant actually might have said, Kantian principles do not require telling the truth in this case.⁵⁶ Others argue also that the example has been caricatured and that *Kant's* case is not so counterintuitive after all.⁵⁷

But the point is that debate about lying in Kant's case is upstream from debate about his principles of imputation. The reason this is so important is that if you would condemn someone who gives up the hideaway in the basement, my guess is you also would hold him/her at least partly responsible for any subsequent loss of life. And that is to express *agreement* with Kant's principles of imputation, which are what is at stake here.

Second, we have to distinguish between ethical and legal imputation. Some have argued that the context of the first block quote above "suggests that Kant was thinking primarily of legal responsibility."⁵⁸ Others have pointed out that Kant's murderer at the door example is really about a *right* to make a lying *declaration*, akin to perjuring oneself, something made evident even in the title of the essay ("On an Alleged Right to Lie from Philanthropy"), and that the liar is faced with atoning for the consequences of his/her lie *before a civil court*.⁵⁹ Finally, the lesser-known example discussed above involves a crime and, more, the example is preceded by an introduction suggestive of legal issues: "in actual business matters, where it comes to mine and thine, if I then tell an untruth, must I answer for all the consequences which might originate therefrom?"⁶⁰

This is relevant because if Kant only admits consequence luck in the legal realm, it would be considerably weaker than an admission of consequence luck in the ethical realm. Indeed, some in the modern debate have rejected consequence luck on the grounds that it conflates legal with ethical imputation.

Now I concede that the murderer at the door case is primarily about legal imputation. But that is all that I concede. The first block quote in section 4 (with Kant's abstract principles of imputation) occurs in the *general* introduction to the *Metaphysics of morals*: the introduction to both the "Doctrine of right," which deals primarily with legal duties, *and* the "Doctrine of virtue," which deals with ethical ones. This suggests that the principles of imputation are independent of the distinction between ethical and legal. Moreover, Kant does not think that merit applies in the juridical realm, so it would make no sense to say that his principles of imputation are solely about legal imputation: "In relation to juridical actions [one can have] only owed, but no merit."⁶¹ It is notable that in the two lines immediately preceding this one Kant says that in relation to ethical actions "one only can have merit, but no owed," something he clearly eschews in all of his major published works on ethics. Interestingly (and relevantly for current purposes) Kant infers a conclusion about the imputation of consequences from this: "Thus will only in the former [*viz.*, the ethical] case only the good, in the latter [*viz.*, the juridical] only the bad [actions] *with their consequences* be imputed."⁶² This conclusion about consequences is an *inference* from the fact that there are only meritorious actions in ethics and only owed actions in *recht*; this thus lends support to my claim that Kant's principles of imputation should be interpreted as independent of (perhaps prior to) the division between ethical and juridical duties.⁶³ Similarly, the second example is taken from the "Doctrine of virtue," *not* the "Doctrine of right," and, perhaps most telling, Kant states explicitly that he is asking about imputation "according to ethical principles."⁶⁴

The combined weight of these facts strikes me as very forceful, especially in conjunction with the following unpublished reflection: "The effects of a formally evil action, for example lying, cannot be juridically imputed (only internally)."⁶⁵ There are three things that are notable about this reflection for current purposes: (i) Kant usually thinks of lying as an ethical duty (one the fulfillment of which is owed, not meritorious) rather than a juridical one; (ii) there is a contrast here between two kinds of imputation, juridical and "internal" (the latter meaning, presumably, according to conscience and, thus, ethical); and (iii) the consequences of wrongful action here are imputable but not juridically so. Based on this evidence I suggest that Kant's ideas about imputation should be (not merely can be) interpreted as applying to the realm of ethics.

The third clarificatory point I would like to make has to do with how we are to appraise the goodness or badness of consequences: Kant does not tell us. To be sure, there is no dearth of candidates within his value theory. Rational nature is supposed to exist as an end in itself;⁶⁶ humanity in persons always should be treated as an end;⁶⁷ and as we already have seen, a good will is the only good without limitation. But it does not stop there. The supreme good of virtue must be supplemented with happiness, a conditioned good, to achieve the complete good of the *summum bonum*;⁶⁸ there is the conditioned good of natural perfection (manifested in things like skillfulness

in art and science);⁶⁹ the inclinations are at least conditionally good;⁷⁰ and Kant also has a place for aesthetic value and the agreeable.⁷¹

Finding a path through this thicket of distinctions is no easy task and to do so would far outstrip my current ambitions. So I shall follow Kant's lead and refrain from giving an explanation of how consequences are to be evaluated. Hopefully I shall not get into too much trouble thereby: obviously a full exposition of a Kantian theory of imputation would require an account of this.

The fourth and final clarificatory point I would like to make has to do with how Kant delimits what counts as a consequence of one's action. Unfortunately, Kant does not say much about this either.⁷² But we may infer two things from Kant's examples. The first is that the consequences that are imputed can be unforeseen, something Kant is quite explicit about in his unpublished reflections: "the good consequences of meritorious action, which we also do not foresee...can be imputed."⁷³ The other is that consequences can include actions and consequences imputed also to *other agents*, a key aspect of both examples explored above (in section 4).⁷⁴ I am going to return to this shortly (in section 6). For now I turn to the defense of Kant's principles of consequence imputation, beginning with a defense that will *not* work.

One might attempt (and some have attempted) to defend Kant's principles by appeal to ideas about authority.⁷⁵ In acting according to the moral law (merely permissible or obligatory), you are acting under its authority, so any consequences of your action accrue to it rather than to you.⁷⁶ But when you act contrary to the law (wrongful), you are acting on your own authority and, thus, you take the consequences on yourself. Similarly, when you perform an action beyond what is required by the law (meritorious), you are again acting on your own authority and take the consequences on yourself. So it makes sense to say that the consequences of merely permissible and owed actions should not be imputed whereas the good consequences of meritorious action and the bad consequences of wrongful action should be imputed.

But there are at least three problems with this defense. First, it is incomplete: it fails to explain why only good/bad consequences are imputed for meritorious/wrongful actions: both meritorious and wrongful actions involve acting on one's own authority, so why limit the responsibility ascriptions?

Second and more problematic, performing a merely permissible action cannot fall solely under the aegis of the moral law: if someone is performing a merely permissible action, then (by definition) there is at least one other merely permissible action available that s/he could perform, and the decision to perform one or the other only can come from the agent him/herself. So performing a merely permissible action involves agential authority just as much as performing a meritorious or wrongful one.

Proponents of the authority defense might push back against this second problem. They might assert that an agent performing a merely permissible action "might perform the action because, and only because it is permitted (i. e., would not perform it were it not permitted)."⁷⁷ But this does not help. For one thing, no (non-pathological) agent can perform a merely permissible action only because it is permitted. For another, to say that an agent would not perform an action were it not permitted is consistent with that agent acting on his/her own authority, at least as this notion is understood by the authority defense (after all, someone performing a meritorious action might not perform that action were it not permitted, yet proponents of the authority defense would say that s/he is acting on his/her own authority).

Third and most problematic, a given consequence can be imputed to more than one source. Indeed, we already have seen this on full display in Kant's examples. But if that is so, then it is unclear how acting on the authority of the moral law helps to defray responsibility: absent further argument we could say that when an agent acts on the authority of the law, responsibility accrues both to the agent *and* to the law. Indeed, intuition might tell in favor of this. Perhaps many Nazis really had been following the *Führerprinzip*, acting on the authority of their higher-ups, as they attested in their trials and *Persilschein* petitions. But why not take that to compound rather than remove their guilt?

Maybe there is a way for the authority defense to get around these problems. But if so, I do not see it. So I want to try an alternate defense.

On Kant's view, the imputation of consequences begins with the imputation of actions.⁷⁸ Importantly for current purposes, in various unpublished reflections Kant suggests that neither merely permissible nor owed

actions can be imputed.⁷⁹ But if imputation of consequences begins with imputation of actions and the actions cannot be imputed, then any subsequent consequences cannot be imputed either. That would take care of the second and third problems. So let us look at why Kant thinks that neither merely permissible nor owed actions can be imputed.

Kant's explanation of why owed actions cannot be imputed is contained in the following passage:

An action only can be imputed in relation to which the subject is physically, practically, *and morally* free. Thus only the omission of one's obligation, not however the fulfillment of it, can be imputed.⁸⁰

According to Kant, moral freedom is a necessary condition for action imputation, and from the inference in the second sentence we may conclude that the permissibility of doing otherwise is a necessary condition of moral freedom.⁸¹ Obviously in the case of owed action this condition is not met, so owed action (and, therefore, any consequences of such action) cannot be imputed. Indeed, Kant illustrates this line of reasoning in another unpublished note, asserting that because "I may not omit my own self-defense...the death of the attacker cannot be imputed to me."⁸²

However, this does not explain why merely permissible actions cannot be imputed: a merely permissible action is (by definition) morally free. But perhaps the following would work. Merely permissible action is, on Kant's account, supposed to be morally indifferent, and it might be argued that moral indifference and action imputation are mutually exclusive.⁸³ Of course, the buck might stop there. But one also might defend this on the grounds that action imputation requires the imputation of at least *some* consequences, and if consequences, good or bad, could be imputed to an agent for performing a merely permissible action, then the action would cease to be morally indifferent.

To put this another way, the Categorical Imperative (CI) is, in the end, supposed to be action guiding. It provides (or perhaps encapsulates) our categorical reasons for acting in one way or another. But if good or bad consequences could be imputed with merely permissible action, then we would have moral reason to prefer one merely permissible action over another (the one to which more good and fewer bad consequences accrue), and this cannot be (for if we have a moral reason to perform one action rather than another, then it is not morally indifferent which one is performed). Thus, action imputation in the case of merely permissible actions is ruled out by the categorical nature of the CI and the merely permissible nature of the merely permissible actions in question.

This approach can be applied to imputation in the case of meritorious and wrongful actions to explain Kant's principles in different ways depending on how we frame our initial question. We might ask: given that a meritorious/wrongful action has been imputed, which consequences should be imputed with it? With that as a starting point, we might say: if good consequences are not imputed for meritorious actions and bad consequences are not imputed for wrongful actions, then there is no way (morally) to distinguish between the good (or bad) willed who make contact and those who do not. And intuitively, there does seem to be a (moral) difference between the Prince Myshkins and Don Quixotes of the world and their cleverer (or luckier) peers: an impartial rational spectator might grant unlimited goodness only to the good will, but if asked to choose between a beautiful gem with a corresponding setting (good will with good consequences) and a beautiful gem with a setting that obscures its beauty (good will with bad consequences), s/he presumably would choose the former.

Alternatively we might ask: given that imputing an action requires imputing consequences, which consequences should *not* be imputed (if any) in the case of meritorious/wrongful action? And with that as a starting point, we might say: if bad consequences are imputed with meritorious action or good consequences with wrongful action, this (again) would threaten the action-guidance provided by the CI. To be more specific, if bad consequences are imputed with meritorious action, an agent might have (moral) reason not to perform a meritorious action (if the consequences are bad enough); and if good consequences are imputed with wrongful action, an agent might have (moral) reason to perform an impermissible action (if the imputable consequences are good enough). There is a sort of incoherence in this, especially given (again) the categorical nature of the CI.

To sum up: although I eschew the authority defense, I think there is room for a defense of Kant's principles of consequence imputation from within his ethics. If an action is not imputed, then the consequences of the action cannot be imputed. Obligatory actions are not imputed because they are not morally free. Merely permissible actions are not imputed because they are morally indifferent. Wrongful and meritorious actions are imputed. But good consequences of the former and bad consequences of the latter cannot be imputed because this would run contrary to the categorical nature of the CI.

Of course, Kant's principles of consequence imputation might need no further defense; they might stand on their own with a brute appeal to intuition. And given the state of play in the moral luck debate, perhaps Kant's asymmetric solution (bad but not good consequence luck for bad action and good but not bad consequence luck for good action) is a suitable compromise between luck deniers and affirmers.

But I think it more likely that Kant's solution is one that will be attacked on both sides. Hopefully the defense offered in the foregoing will go some way toward defraying that. But probably not. And it is to the attack that I myself now advance.

Section 6 Fixing Kant on consequence luck

The challenge I want to raise to Kant's principles of imputation is that they admit too much consequence luck.⁸⁴ To see why, consider Herschel Grynszpan's assassination of Ernst vom Rath. Grynszpan's motives are subject to dispute, but two things seem to be relatively uncontroversial: (1) Grynszpan's shooting of vom Rath was wrongful; and (2) Grynszpan is not responsible for the horrors of *KrySTALLnacht*, the "spontaneous" anti-Semitic riots that erupted in Germany as a result of vom Rath's death. Yet Kant's principles seem to imply that if (1) is true, (2) is false (and *vice versa*). What to do?

It might be argued that *KrySTALLnacht* was not really a result of the vom Rath assassination. Hitler and his henchmen were itching to set something like that in motion; it was as much an expression of their hate as it was a political move, for a spontaneous eruption in response to some catalyst would provide them with a rationale for further steps that otherwise might have been opposed. The vom Rath assassination was simply a convenient excuse, one that enabled Nazi officials to *pretend* that the riots were not planned, condoned, and authorized from above.

This might be so. But it bolsters rather than undermines the claim that, at least in the actual sequence of events, *Kristallnacht* was a result of the vom Rath assassination. The Nazi leaders almost certainly would have arranged a pogrom had the vom Rath assassination not occurred. Perhaps they would have waited for another event that could play the role of catalyst and so the pogrom would have occurred somewhat later. But the peculiarities of the vom Rath assassination made it perfect for their purposes; to assert that the instigation of *KrySTALLnacht* had nothing to do with the assassination *per se* is, I think, simply mistaken.

Nonetheless the idea that a pogrom would have occurred regardless of the assassination, perhaps not beginning on November 9, 1938 but on some other day in the vicinity, suggests a way of patching Kant's principles of imputation: if the consequence was inevitable, then it should not be imputed to the agent, not even if, as a matter of fact, it is partly a result of his/her action. Indeed, Kant himself suggests such a clause in the *Vorarbeiten* to the *Metaphysics of morals*:

What can be imputed must not be predetermined in the sequence of causes and effects—for the preceding time cannot be made to un-happen.⁸⁵

Kant's remark about "the preceding time" here suggests that his remark about physical, practical, and moral freedom (explored in section 5 above) applies not only to responsibility for actions but also to responsibility for consequences. The idea would be that if a consequence of an action A is imputed to an agent S, then (1) S had physical, practical, and moral alternatives to A, and (2) these alternative actions would have produced alternative consequences.⁸⁶

This raises complicated questions about the metaphysics of event identity. But even without getting into such questions it may be seen that appealing to what might be called “consequence freedom” is not going to help with the Grynszpan case. For one thing, so long as the majority of Nazis are regarded as rational beings, their decisions cannot be regarded as predetermined (not by a Kantian anyway). For another, even if *Krystallnacht* was taken to be inevitable (a mistake, but moving on), at least one of the many individuals who lost their lives or their livelihoods during the course of the pogrom might have been spared. But Grynszpan is not responsible for any of it.

As remarked above, reflection about Nazi Germany is often taken to show what is so wrong about Kant’s murderer at the door case, and this discussion of the Grynszpan case might be taken as more of the same. But we should avoid overhasty conclusions: this discussion also shows something deeply right about Kant’s principles of imputation.

True, Grynszpan should not be held responsible for the atrocities perpetrated as a result of his action. But as argued in the Nuremberg trials, Nazi officials bear more, not less, responsibility than their agents “on the ground,” this notwithstanding the fact that some of these officials did not *personally* kill anyone. And if that is so, then the mediation of other agents need not mitigate responsibility, something Kant recognized explicitly both in the murderer at the door case and in the servant case. The question is why mediation *does* mitigate in the Grynszpan case.

One solution would be to appeal to “standard conditions.” For example, Reath argues that “an outcome resulting from a violation of duty is imputable to an agent when the requirement under which the agent stands provides a reason to act in ways that will standardly, or under normal circumstances, prevent or avoid (not result in) outcomes of that general kind.”⁸⁷ But I think that the appeal to normal circumstances and outcomes of a general kind is problematic. On the one side, it might be argued that the abnormal circumstances of Nazi Germany, conjoined with Reath’s principle, will result in many counterintuitive denials of imputation. On the other, if the sliding scale of normality is too fine grained (to avoid the first problem), the principle loses its bite.

I want to suggest, instead, that when other agents are involved, there must be some sort of intentionality on the part of the instigating agent if vicarious responsibility is going to be ascribed. That is, the original agent must intend, under some description, at some level, and to some degree, the consequence that the other agents bring about if that consequence is going to be imputed.

How much intentionality is necessary, and how much is sufficient? That is hard to say. Complete premeditation and deliberation down to the last detail is obviously unnecessary for imputation. But for present purposes, the point is that completely unconsidered unpurposiveness probably is sufficient to block imputation.⁸⁸ The reason this is relevant for present purposes is that the Grynszpan case is arguably one of completely unconsidered unpurposiveness, at least in regard to *Krystallnacht*. So Grynszpan was *not* responsible for all of the bad consequences of his wrongful action; the mediation of other agents is mitigating on account of its opacity. Goebbels’ intentionality, by way of contrast, was on full display in his speech at the Beer Hall Putsch commemoration dinner. And Goebbels was responsible for *all* of the bad consequences of his wrongful action; other agents acted out his intentions, but they were his intentions through and through, and the other agents acted at his bidding.

I want to suggest, further, that requiring some sort of intentionality when other agents are involved is an instance of a more general limitation on imputation involving causal proximity. The will of an agent is the sort of thing that impedes causal flow and, thus, can put enough distance between action and result to undermine causal proximity. But the will of an agent is not the only sort of thing that can undermine causal proximity. Thinking about chaos theory supports this line of thought. Weather is a standard example of a chaotic system, a system in which a tiny change in initial conditions, like a butterfly flapping its wings in one part of the world, can have a huge impact on outcomes, like a hurricane in another part of the world. What this reveals is that without some sort of causal proximity clause, imputation of consequences will become very difficult to understand (an agent who commits a robbery in the Netherlands might end up being held responsible for a tsunami in Japan). And if I am right, then causal proximity considerations, in conjunction with Kant’s principles, also can explain ideas about the mediation of other agents and vicarious responsibility in the Grynszpan case and *Krystallnacht* more broadly.⁸⁹

This is hardly a conclusive argument. But my goal in this paper is not to declare victory for Kant's principles of consequence imputation much less to show that a causal proximity clause is a necessary ingredient for any attempt to articulate such principles. My goal is much more modest: to show that Kant has such principles and that they deserve consideration.

Conclusion

In this paper I have tried to articulate, clarify, defend, and refine Kant's theoretical framework for consequence luck.

I began by providing evidence for my claim that, in the modern moral luck debate, Kant is taken to be opposed to moral luck. I produced a list of 10 quotations from well regarded philosophers, some of whom affirm moral luck, some of whom deny it, all of whom take Kant's moral philosophy to encapsulate a sustained attempt to minimize, if not eliminate, moral luck. I supplemented this list with quotations from the original articles that gave rise to the modern moral luck debate to show that this position was present even there; I showed that the denial of moral luck in Kant cuts across other debates about his ethics; and I reproduced passages from the *Stanford Encyclopedia of Philosophy* to show that even reputable, non-partisan summaries of the modern moral luck debate take Kant to be the enemy of moral luck.

I proceeded from there to a brief discussion of the nature of luck more broadly. I gestured toward different accounts of luck (epistemic, modal, control, etc.); different species of luck (epistemic and moral); and different species of moral luck (resultant, circumstantial, constitutive, and causal). As noted, my focus in this paper was on a particular kind of resultant luck: consequence luck, where an agent's responsibility for some consequence C is an instance of consequence luck if but only if C is the (un)lucky result of the agent's action(s).

I discussed the four main pieces of evidence cited by those who say that Kant is the enemy of moral luck: (i) the good will passage and (ii) the indifferent man passage, both from part I of the *Groundwork to the metaphysics of morals*; (iii) Kant's transcendental idealism; and (iv) Kant's commitment to "ought implies can." After explaining why people take these to be opposed to moral luck, I explained why this is mistaken, why all of these are in fact consistent with moral luck.

Having defused the main evidence against my position, I proceeded to examine the main evidence for my position. I began with Kant's theoretical framework for consequence imputation as articulated in the *Metaphysics of morals*. As we saw, Kant affirms an asymmetric account of imputation: good but not bad consequences are imputed for meritorious actions, and bad but not good consequences are imputed for wrongful actions. I then illustrated Kant's use of this framework in two examples: the murderer at the door, and a similar but less well known example from the *Metaphysics of morals* (the lying servant). I showed that in both of these examples, Kant holds agents responsible for the unlucky consequences of their wrongful actions, this notwithstanding the fact that another agent intercedes in the causal chain connecting the original agent with the consequences for which s/he is held responsible.

In the fifth section, I began by clarifying Kant's position on consequence imputation. I then proceeded to defend it. I examined an existing defense, the authority defense, arguing that it does not work, and then articulated my own. In the process, I reproduced more textual evidence to bolster the claim that Kant embraced, rather than eschewed, moral luck.

In the sixth and final section of the paper, I used the vom Rath assassination to attack Kant's principles of consequence imputation. I argued that Kant's principles need to be supplemented, and I suggested that one candidate for this would be a causal proximity clause. However, as noted there: my primary goal in this paper is not to show that a causal proximity clause is the only solution, nor is it to show that Kant's principles, suitably supplemented, are correct. Rather, my goal is to rectify a major error in the modern moral luck debate: to show that, contrary to the standard account, Kant embraced moral luck and, further, that his position, so long misunderstood and mischaracterized, is worth taking seriously. This, I think, should be a welcome result to all.

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¹ (Athanasoulis, 2005, 180n57). This contrast is repeated throughout her text. For example: “There seem to be, then, two different approaches to the problem of moral luck as identified by two localized systems of morality. The Kantian picture tries to resist luck, but an Aristotelian approach is not committed to this” (Athanasoulis, 2005, 19). See also (Athanasoulis, 2005, 2-3, 22, 93, or 100).

² (Athanasoulis, 2005, 103; see also 17, 91, 94, 98-99, 101, 107, 111-112, 115, 123, 129, 136, 164-165). Another particularly striking instance can be found on 131:

...commentators are right to interpret Kant as giving an account of morality as immune to luck. This immunity from luck is central to the Kantian project...the notion of responsibility found in Kant is such that it is incompatible with the influence of luck.

I shall discuss specific kinds of moral luck in the next section of this paper. But hopefully it will not be too disconcerting, especially for those already familiar with the debate, for me to deploy some of that vocabulary in advance. In particular, I want to note that, in addition to these claims about the general Kantian denial of moral luck, Athanasoulis makes claims about the Kantian denial of specific kinds of moral luck. For resultant luck, see (Athanasoulis, 2005, 22-23 or 103); for situational luck, see (Athanasoulis, 2005, 21, 22); and for constitutive luck, see (Athanasoulis, 2005, 103, 111-112, 115, and 123). I define these terms in section 2.

³ (Williams, 1982, 21). Although Williams’ goal is to show that this Kantian conception of morality is misguided, he concedes that it is not “an arbitrary exercise” (Williams, 1982, 37).

⁴ (Nagel, 1979, 57). Nagel asserts that Kant denied the very “possibility” of moral luck (Nagel, 1979, 59; see also 64).

⁵ (Coyne, 1985, 319; see also 320 and 321). In a subsequent article published under her married name, she says that “[t]he view against which moral luck offends is that of *pure agency*...This view is epitomized by Kant’s conception of the moral agent” (Walker, 1993, 244).

⁶ (Moore, 1990, 302; see also 305).

⁷ (Andre, 1993, 124; see also 125).

⁸ (Nussbaum, 1993, 77 and 88, respectively).

⁹ (Zimmerman, 1993, 230).

¹⁰ (Driver, 2013, 156).

¹¹ (Klampfer, 2009, 144). I owe the reference to Driver to this article.

¹² (Statman, 1993, 13).

¹³ (Allen, 1999, 366).

¹⁴ (Thomson, 1993, 203; see also 206).

¹⁵ (Herman, 1993, 6). The best evidence for ascribing the nonaccidental rightness condition to Kant comes from a claim he makes in passing in section I of the *Groundwork to the metaphysics of morals*: Kant says he is going to ignore actions that “already are recognized [*erkannt*] as contrary to duty...for with them there is not even a question whether they might happen *from duty*” (GMS, AA 4: 397.11-14). This suggests that if an action is contrary to duty, then it cannot be from duty, whence it follows that if an action is from duty, then it is in conformity with duty, the nonaccidental rightness condition.

However, we should be hesitant to ascribe a view to Kant on the basis of a few lines from the first section, a transitional section, of a popular work. Indeed, when we turn to the *Metaphysics of morals* we find Kant making claims that are hard to reconcile with the nonaccidental rightness condition. For example, in setting out his theory of conscience Kant says that agents sometimes make mistakes in ascertaining the moral status of an action (MS, AA 6:401.5-6). From this and some plausible assumptions about the connections between cognitive and motivational states, it follows that an action very well might be from duty but not in conformity with duty. Moreover, once we realize this, we might notice that it is not contrary-to-duty actions that cannot be from duty in the claim above; it is actions that are *recognized-as-contrary-to-duty* that cannot be from duty. If the agent doing the recognizing is the same agent as the one performing the action, then this is perfectly consistent with the claim from the *Metaphysics of morals* and, thus, with the denial of the nonaccidental rightness condition.

¹⁶ (Baron, 1995, 174). I owe this reference to (Sverdlik, 2001, 303).

¹⁷ (Nelkin, 2013, sections 1 and 4.2, respectively).

¹⁸ Even Hill, who recognizes Kant’s explicit and repeated avowal of what I am going to call consequence luck, in the process of interrogating this position claims that according to Kant “‘luck’ and uncontrollable causal contingencies cannot affect one’s inner moral worth” (Hill, 2000, 162).

¹⁹ Indeed, the first reason for suspecting that this widespread agreement is misguided might come from the fact that the agreement is opaque.

²⁰ See, respectively, (Williams, 1982, 22) and (Nagel, 1979, 36).

²¹ E.g., (Hartman, 2017, chapter 2); (Nussbaum, 1993, 76); (Statman, 1993, 2); (Walker, 1993, 236); and (Zimmerman, 1993, 219). This is also the way moral luck is explained in the *Stanford Encyclopedia of Philosophy* (Nelkin, 2013, section 1).

²² (Hartman, 2017, 16).

²³ The best known attack on control accounts is the “sunrise objection,” an objection to the sufficiency of lack of control: although the sunrise is outside my control, it is not lucky for me (Whittington, 2014, 657). To judge from the literature, however, it is more difficult to come up with plausible arguments against the necessity of lack of control. One approach is to argue that because some event E is lucky and E’s non/occurrence is necessary for Y, Y is lucky even though Y is within my control. For example, Lackey constructs an example in which a construction worker throws a switch to trigger the demolition of a building; the demolition is successful, but a mouse had chewed through the wires and it is solely through happenstance that the circuit is closed in time by a nail in the wall (Lackey, 2008, 258). But the problem with this approach, as Levy points out, is that luck is not “heritable” in this way:

...there is a lot of luck in *Demolition Worker*, and there is a lot of control. But where there is control there is no luck, and where there is luck there is no control...luck in the conditions that enable an exercise of control is not inherited by the exercise of control itself. In *Demolition Worker*, the luck is located in the prior or structuring circumstances. With those circumstances in place...[the construction worker] can exercise control over the explosion. (Levy, 2011, 22)

In fact, neither luck nor lack of control is heritable. That is, the following claim is also false: if some event E is outside my control and E’s non/occurrence is necessary for Y, Y is outside my control. This, which is part of the point of Zimmerman’s famous distinction between restricted and unrestricted control (Zimmerman, 1993, 219), is addressed further in note 25 below.

²⁴ Driver argues that epistemic accounts also must distinguish between the epistemic states of the agent judged to be lucky and those of the agent who is doing the judging. To illustrate, Driver constructs an example in which a lottery ticket seller knows in advance which ticket will win and a customer happens to buy that ticket:

Suppose that Priscilla owns a store that sells lottery tickets and has just heard that the winning lottery number is #637845. Bill comes into the store at the last minute before the ticket sales are suspended and buys a ticket with that very number. Priscilla knows that there was no way for him to have known the number ahead of time. Under these circumstances she would be warranted in judging him lucky—but that makes sense only relative to his epistemic states. (Driver, 2013, 163)

But the example is muddled: relative to both of their epistemic states Bill is lucky to have chosen the winning number, and relative to both of their epistemic states Bill is not lucky to have won given that he chose the winning number.

²⁵ Driver argues that a modal account “will have issues with necessary truths” like the claim “I am lucky to have the parents I have” (Driver, 2013, 166). Necessary truths are not modally fragile, so they will not come out as lucky on a modal account.

However, there are at least two problems with Driver’s argument. First, I find it *prima facie* plausible that necessary truths fall outside the domain of luck (and I would take it as an objection to control accounts if they were forced to say, e.g., that I am lucky that “if p, then p” is true). Second, even if Driver’s claim about parents is a necessary truth on *some* notion of parenthood, a modal account of luck would have no trouble with it given how many such notions there are.

Hartman attacks modal accounts from a different angle: he maintains that a modal account will “not even appear to generate the paradox [of moral luck]” (Hartman, 2017, 26). To illustrate, he constructs an example in which an agent “tells a lie in the actual world, and a bolt of lightning strikes some place nearby” (Hartman, 2017, 26). In a broad array of nearby worlds, the agent is struck by lightning and does not tell a lie. Thus, the agent’s lying is lucky (according to a modal account). But it is intuitive, not paradoxical, to say that the agent should be held responsible for the lie. So (Hartman concludes) modal accounts do not preserve the paradoxical nature of moral luck.

I would like to say three things about this. First, Hartman’s argument is formally flawed: he cites only a single example to demonstrate his point, making for a weak inductive base. Second, Hartman’s example is based on mistaken ideas about how lightning works. If the agent were struck by lightning, that generally would be modally unlucky. But a lightning-miss is not generally modally lucky. Third and perhaps most problematic: modal luck is no more heritable than control luck. That is, although (*apropos* of my second point) the agent’s not being struck by lightning is *not* modally lucky (*pace* Hartman), it *is*, arguably, control lucky (it is not under the agent’s control). Nonetheless, once the circumstance of the agent’s *not* being hit by lightning is held fixed, it is within the agent’s control whether to tell the lie, so *that* is not control lucky (compare note 23 above). Similarly, *not* those initial conditions are held fixed, the lie is not modally fragile. So even if the lightning-miss *were* modally lucky (it is not, but even if it were) the subsequent lie would not be. Thus, Hartman’s attack on modal accounts does not work: there is no paradox that is preserved/lost by modal accounts but not control accounts in this case.

A more serious problem for modal accounts is that there does not seem to be a metric for numbers or proportions of possible worlds.

²⁶ For example, Rescher gives a conjunctive account of resultant moral luck: he initially adopts a control account but goes on to suggest that foreseen events are not un/lucky (Rescher, 1993, 145–147). Hartman follows a similar approach, although his foreseeability condition is incorporated at the level of responsibility rather than in the definition of luck (Hartman, 2017, chapter 5 esp. 92). Indeed, this kind of move seems to be quite common (see also Sartorio, 2012, 63–64 and then 79). However, it is worth pointing out that there is some internal tension here: the rationale for limiting agents’ responsibility to foreseeable consequences of their actions might bottom out in ideas about control.

²⁷ For example, Driver and Levy advocate contrastive accounts of luck (Driver, 2013 and Levy, 2011, chapter 2). The idea behind such accounts is that an agent is not lucky *simpliciter* but only in relation to some contrast class. For example, Lotto is not lucky to have won the lottery; Lotto is lucky to have won the lottery *rather than to have lost*. An obvious problem with contrastive accounts, one that has not, as far as I am aware, been addressed, is that they are too inclusive: pretty much anything will count as lucky provided the appropriate contrast class. For example, I am lucky that the sun rose this morning rather than that $2+2=5$. Given that the sunrise problem is often taken to be fatal to control accounts (see note 23 above), I suggest that this problem should be taken quite seriously.

²⁸ Hartman argues that moral luck should be understood in terms of control and that because the control condition runs afoul of ordinary luck attributions in the case of the sunrise objection (see note 23 above), it may be concluded that moral luck does not pinpoint “all of our ordinary usages of ‘luck’” (Hartman, 2017, 24). But this creates a deep problem for Hartman’s overall argument. Hartman wants to ground the plausibility of moral luck in an argument from analogy that appeals to epistemic luck (Hartman, 2017, esp. chapter 5). But if moral luck and epistemic luck are not both species of luck *sans phrase*, this argumentative strategy is going to require more defense than Hartman offers.

²⁹ (Pritchard, 2005). Levy argues that Pritchard's account is over-inclusive on the grounds that "reflective epistemic luck...is non-existent" (Levy, 2011, 25).

³⁰ (Nagel, 1979, 28).

³¹ Rescher argues that constitutive moral luck is a red herring on the grounds that "identity must precede luck" (Rescher, 1993, 155); by way of contrast, Hartman objects to accounts of luck that conjoin control and modal fragility on the grounds that this "eliminates cases of *constitutive* luck" (Hartman, 2017, 28). I note in passing that if agents have nonessential, non-voluntarily-acquired, constitutional traits that influence their decisions, then both of these arguments fail.

Athanassoulis introduces "developmental luck" on the grounds that it is wider than Nagel's circumstantial luck:

Nagel refers only to situational luck and does not seem to be aware of (or possibly interested in) the possibility of developmental luck. Developmental luck seems to be a wider concept, involving all the factors which influence an agent's moral development, one of which is the situations one comes across. (Athanassoulis, 2005, 177n1; see also 173n35)

I would like to say three things about this. First, Nagel refers to circumstantial luck, not situational luck. Second, I think Athanassoulis' developmental luck might be better characterized as a species (not a genus) of constitutive (not circumstantial) luck (in particular: non-genetic constitutive luck). Third, her focus on character and development obscures the point of circumstantial luck: circumstantial luck holds character and constitution constant and varies the circumstances to show that it is an accident of circumstance that an agent performs a praiseworthy/neutral action rather than a neutral/blameworthy one (or *vice versa*).

The most common move in the dialectic is to ignore causal luck, either on the grounds that the issues would overlap with compatibilism, or on the grounds that "causal luck is exhausted by constitutive and circumstantial luck" (Nelkin, 2013, section 4.2.2.1). In my view, this inattention to causal luck is overhasty. First, it seems to me that Nagel was interested primarily in articulating a backward-looking kind of moral luck. That is, resultant moral luck is forward-looking (the future results of present actions) and circumstantial and constitutive moral luck are based in the present (the influence of current constitution and circumstances on choice); Nagel was striving for symmetry and systematicity, and causal luck was his attempt to fill things out. I say this not because I think causal luck should be explored for architectonic reasons but rather because it reveals that Nagel's explaining backward-looking moral luck in causal terms was unnecessary and, more, damaging insofar as that has led to its neglect.

Second, even if this backward-looking moral luck is explained in causal terms, the causality need not be global: it could be local and temporally limited. In short, there are many ways of manifesting *causal* backward-looking luck that at least *prima facie* seem independent of compatibilism.

Third and finally, I am not convinced that causal luck is exhausted by circumstantial and constitutive luck. For example, suppose Eva happens to hear some bad news; suppose this bad news puts Eva in a bad frame of mind; and suppose that as a result she decides to stay in rather than keep an appointment she had made some days before. If this is an instance of causal luck, it does not seem to me to be an instance of circumstantial luck (*pace* Hartman, 2017, 93, from whom the example is taken); characterizing Eva's bad frame of mind as part of her circumstances seems *prima facie* mistaken to me, as would characterizing it as part of her constitution. So if this is an instance of causal luck, then causal luck is not exhausted by circumstantial and constitutive luck.

A better reason for ignoring causal luck, in my view, is that luck is not heritable (see note 23 above). However, further discussion is beyond the scope of the current investigation.

³² I should note that, because of my focus on resultant luck, I shall not make much use of Kant's *Religion within the Boundaries of Mere Reason*. In a more comprehensive account of Kant on moral luck, such an oversight would be inexcusable: this text has important evidence of, among other things, Kant's embrace of circumstantial luck and also his denial of what might be called volitional luck (luck in regard to whether one adopts a blameworthy maxim on account of cognitive limitations or mistaken judgment). However, a comprehensive account of Kant on moral luck would not fit within the confines of a single paper. For some helpful remarks, see (Palmquist, 2015, esp. 318 and 370). I would like to thank an anonymous reviewer for *Sophia* for pressing me on this and for pointing me toward Palmquist.

³³ As indicated in the sentence to which this note is appended, there are other kinds of resultant luck. Probably the most famous is retrospective luck, which is when the lucky results of an action play a retrospective role in justifying the action. I have three reasons for ignoring this kind of luck here.

First, although this is the kind of luck originally discussed by Williams (Williams, 1982), many have argued that his examples are garbled (e.g., Levi, 1993 and Athanassoulis, 2005, 10-14). Williams has replied to some of these criticisms. For example, he points out that his famous Gauguin example is not intended to be about the real Gauguin (Williams, 1993). But I think he misses the point, which is that the intuitions he is attempting to elicit rely on under-description of initial conditions, rendering him particularly susceptible to the "epistemic defense." (The epistemic defense says that cases of resultant luck do not involve luck in the praise- or blameworthiness of agents or their actions but rather (at most) luck in our ability to determine these moral valences. Thus, the bad consequences of an action can result in the scales falling from our eyes, so to speak (this line of reasoning is espoused by Richards, 1993).)

Second, I find that I do not share the intuitions reported by proponents of retrospective luck. When Raskolnikov claims that had he been successful, his action would have been praised and, more, praiseworthy, I think I am able to understand the theory that leads him to claim this. But I find it quite foreign. (I note in passing that Athanassoulis' neglect of this aspect of the story is, in my mind, a considerable oversight (Athanassoulis, 2005, section 3.2.)

Third and most importantly, Kant does not address retrospective moral luck as explicitly as he does the kind of resultant luck on which I am going to focus. Kant does say things that have a bearing on retrospective luck. For example, his remarks on probabilism are relevant (e.g., RGV, AA 6: 186.4-9 and ZcF, AA 8: 385.14-21), and the famous good will passage, discussed in section 3 of this paper, might be taken as a denial of retrospective luck. But the former are too sketchy (contrast them with Reil, AA 19: 213.4-6 where Kant seems to suggest that although certainty about moral laws is necessary, figuring out which laws apply in a given case might be a matter of probability), and it might be argued that interpreting the latter in this way rests on a faulty account of agency (Lockhart, 2015). In any case, retrospective luck will have to wait for another occasion.

³⁴ (Athanassoulis, 2005, 105); (Nagel, 1979, 24); (Nelkin, 2013, section 1); and (Statman, 1993, 4).

³⁵ GMS, AA 4: 393.6.

³⁶ GMS, AA 4: 394.13-26.

³⁷ (Herman, 1993, 95).

³⁸ (Athanasoulis, 2005, section 7.5, esp. 121-123); and (Nagel, 1979, 33n8).

³⁹ GMS, AA 4: 398.27-36.

⁴⁰ Perhaps the most famous version of this objection comes from Schiller, quoted and discussed in (Paton, 1946, chapter 3 section 3).

⁴¹ For helpful discussion, see (Wood, 1999, chapter 1, esp. section 3).

⁴² (Athanasoulis, 2005, 164, discussed in sections 6.3-6.4); see also (Coyne, 1985, 321) and (Walker, 1993, 244).

⁴³ For extensive discussion see part 1 of (Kahn, 2019).

⁴⁴ (Nagel, 1979, 33).

⁴⁵ (Gardner, 2004, 66) and (Hartman, 2017, 113n16), respectively.

⁴⁶ According to Kant, the degree of imputability of a deed depends to some extent on the strength of an agent's countervailing incentives and inclinations. That Kant countenances degrees of imputability might come as a surprise to Korsgaard, who argues that Kant's theory of transcendental freedom requires that people be treated "as completely responsible for each and every action, no matter what sorts of pressures they may be under" (Korsgaard, 1996, 205; a similar line of reasoning can be found in Athanasoulis, 2005, 133). Korsgaard appeals to what she calls Kant's "practical compatibilism" and to charity in interpretation of agents' maxims to fix this "intransigence" in regard to degrees of responsibility. But the appeal is unnecessary and the intransigence is illusory: Kant tackles the issue directly in many places, including MS, AA 6: 228.11-17 and Refl, AA 19: 75.02, 168.17-19, 168.31-32, and 169.14-19. For one of Kant's more revealing discussions of this topic, not entirely in agreement with the others, see Refl, AA 17: 466.10-31. I am indebted here to (Joerden, 1991) and (Blöser, 2015).

⁴⁷ MS, AA 6: 228.4-10.

⁴⁸ Compare with Refl, AA 19: 161.8-9: "The bad consequences of that which I did in a necessary way cannot be imputed to me."

⁴⁹ (1) and (2) can be found together also at Refl, AA 19: 253.9-10: "When I do what is owed by me, the good and bad consequences are nothing to me."

⁵⁰ Hartman interprets Kant's category of meritorious action as "supererogatory action" (Hartman, 2017, 113n16). But this interpretation is probably mistaken. Kant explains his moral categories in different ways in different places. But at least sometimes he takes merit to track imperfect duties like the duty to promote one's natural talents and the duty to promote others' happiness. But those in favor of preserving the category of supererogation seem not to think it would apply to duties to oneself or to mundane duties to others like duties of benevolence; supererogation seems to be reserved for acts of extreme self-sacrifice such as throwing oneself on a live grenade so that one's comrades might live.

⁵¹ I owe this point to (Hill, 2000, 163n13).

⁵² Given that this is Kant, one also might appeal to considerations about symmetry.

⁵³ VRML, AA 8: 427.11-20.

⁵⁴ MS, AA 6: 431.33.

⁵⁵ MS, AA 6: 431.34.

⁵⁶ For example (Cholbi, 2009).

⁵⁷ (Wood, 2008, chapter 14). A third strategy, distinguishing the prescriptions of ideal theory (never lie) from those of nonideal theory (lie in this case), is advocated in (Korsgaard, 1996, chapter 5).

⁵⁸ (Hill, 2000, 155).

⁵⁹ (Wood, 2008, chapter 14).

⁶⁰ MS, AA 6: 431.25-27.

⁶¹ Refl, AA 19: 260.17.

⁶² Refl, AA 29: 260.18-19, my emphasis.

⁶³ For similar passages see Refl, AA 19: 160.15-18 and 160.20-28.

⁶⁴ MS, AA 6: 431.32. The fact that the imputation is to occur "by his own conscience" is also relevant.

⁶⁵ Refl, AA 19: 169.3-4.

⁶⁶ GMS, AA 4: 429.2-3.

⁶⁷ GMS, AA 4: 429.10-12.

⁶⁸ KpV, AA 5: 110.18-27. This particular value claim is complicated by the fact that Kant has multiple conceptions of happiness (Kahn, 2019, chapter 7 esp. section 1).

⁶⁹ RGV, AA 6: 3n.

⁷⁰ RGV, AA 6: 58.1.

⁷¹ KU, AA, 5: 209.29-210.22.

⁷² But consider the following unpublished note: “The practical consequences of an action are those which in the free action have been able to influence as moments. The remaining consequences are accidents” (Refl, AA 19: 255.16-18).

⁷³ Refl, AA 19: 63.2-3. The remainder of the reflection, however, is less straightforward.

⁷⁴ Given how he is characterized in the moral luck literature, there is some irony in the fact that Kant’s actual principles of consequence imputation are so expansive, more especially because at least some Aristotelians deny resultant luck. Compare, for example, Athanassoulis’ characterization of Kant as denier of moral luck *tout court* (reproduced in notes 1 and 2 above and the paragraph to which they are appended) with her reading of Aristotle and various neoAristotelians as deniers of resultant luck in particular (Athanassoulis, 2005, 57-59 for claims about Aristotle; 149 for claims about Hursthouse; and 146 or 167 for claims about Slote).

⁷⁵ This is the defense offered by Reath, and this paragraph is a paraphrase of (Reath, 1994, 272).

⁷⁶ More precisely, they accrue to the authors of the moral law (the community of rational beings rather than any single individual).

⁷⁷ (Reath, 1994, 272n28).

⁷⁸ One way in which one might challenge Kant on this would be to devise a case in which it is intuitively plausible to impute the results of an omission. But it must be remembered that Kant conceives of action in terms of maxim adoption, so imputation of consequences of a maxim-based omission would not be a problem for him. For some relevant remarks, see Refl, AA 19: 157.25-28 and 304.24-29.

⁷⁹ Refl, AA 19: 61.5-8, 168.15-17, 253.17-18, 254.1-2, 254.8-13, 256.24-31, 257.2-4, 260.19-24, 295.29-30, 304.21-29, and 306.5-8.

⁸⁰ Refl, AA 19: 304.21-24, my emphasis. See also 19: 256.24-31.

⁸¹ Kant’s requirement of physical, practical, and moral freedom is similar to but stronger than the requirement associated with the principle of alternate possibilities (PAP). PAP is usually taken to require only physical and, perhaps, practical freedom (Ginet, 1996). However, in the course of defending PAP, Widerker sets out a principle that begins to sound more like Kant’s moral freedom requirement: “An agent S is morally blameworthy for doing A only if under the circumstances it would be morally reasonable to expect S not to have done A” (Widerker, 2006, 63). For some remarks that bear on Kant’s understanding of “practical freedom,” see Refl, AA 19: 254.15-16 and 18-21.

⁸² At Refl, AA 19: 305.18-19.

⁸³ This might be what underlies Kant’s argument at Refl, AA 19: 159.13-17.

⁸⁴ Hill challenges Kant’s principles of imputation on the grounds that they do not allow enough consequence luck: he points out that agents often are held responsible for damages in “right of necessity” cases, cases which could be varied to involve either merely permissible or obligatory actions. For example, if, fleeing attackers, someone takes your horse (without permission) and escapes only by running it to death, s/he might owe you compensation. But as Hill points out, “if innocent liability to compensate for damages can be effectively stripped of the common condemnatory message associated with standard imputation, then there may be no reason in principle why liability cannot be imputed for justified, and even dutiful, acts...And there may be practical reasons for doing so” (Hill, 2000, 169).

⁸⁵ VAMS, AA 23: 245.12-14.

⁸⁶ In the wake of Frankfurt’s influential attack on PAP, some philosophers have attempted to block Frankfurt’s move from the falsity of PAP to compatibilism by distinguishing PAP from various versions of PAP-for-events (probably most famously Inwagen, 1978). But if my suggestion above is right, then Kant’s PAP-for-events rests on his version of PAP, so this strategy would not be open for him.

⁸⁷ (Reath, 1994, 279).

⁸⁸ Complications arise here from cases of negligence.

⁸⁹ A causal proximity clause also might help determine how far into the future consequence imputation can go. After all, it seems odd to hold our ancestors from thousands of years ago responsible for the happenings of today, this notwithstanding the fact that the effects of their mating decisions, some of which surely were wrongful/meritorious, will continue to ripple through the human species until we go extinct.