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WHAT'S LUCK GOT TO DO WITH THE LUCK PINCER?

BY

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Abstract: Luck skepticism is the view that no one is ever morally responsible for anything because of the nature and ubiquity of luck. One acclaimed argument in favor of this view is Neil Levy's luck pincer. The luck pincer holds that all morally significant acts or events involve either present luck, constitutive luck, or both and that present and constitutive luck each negate moral responsibility. Therefore, no one is ever morally responsible for any action or event. I argue that this argument is unsound as both of its premises are false. First, not all morally significant events involve present or constitutive luck. Some morally significant events are non-lucky. Second, present and constitutive luck do not always negate moral responsibility. Luck—independent of ontological concerns—is not as threatening to free will as is often thought.

Luck skepticism is the view that no one is ever morally responsible for anything because, as Neil Levy puts it, 'luck ensures that there are no desert-entailing differences between moral agents' (2011, 10).¹ One celebrated argument in support of this view is Levy's *Luck Pincer* (2011, 84-97), which is nicely summarized by Robert Hartman:

Universal Luck Premise: Every morally significant act [or event] is either constitutively lucky, presently lucky, or both.

Responsibility Negation Premise: Constitutive and present luck each negate moral responsibility.

Conclusion: An agent is not morally responsible for any morally significant acts [or events]. (2017, 43)

This argument makes use of two different kinds of luck: constitutive and present. Constitutive luck is luck in 'the kind of person you are [... in] your inclinations, capacities, and temperament' (Nagel 1993, 60). Putative examples of constitutive luck include one's genetic inheritance and early environmental influences. Present luck is luck at or around the moment of choice (Mele 2006; Levy 2011). Examples of present luck include instances of indeterminism within a causal chain as

well as ‘any circumstantial or situational influences that may affect an agent’s choice or action in a way that is outside her control’ (Caruso 2019, 55).

The *Luck Pincer* is valid. I wish to remain neutral about the truth of its conclusion. I have nothing novel to add to the hoary debate over freedom of the will, and it may be the case that we are never morally responsible for our actions due to non-luck related reasons, for example, ignorance or the deterministic nature of the universe. What I will argue is that the *Universal Luck Premise* and the *Responsibility Negation Premise* are false. Not only are these premises false, but they are false given Levy’s own account of luck and what a morally responsible action would look like were such a thing to exist. It should be noted here that this is also Hartman’s (2017) approach, and much of the structure of my overall argument is indebted to the third chapter of his book. However, I think that several of Hartman’s counterexamples against the *Universal Luck Premise* fail and that his arguments against the *Responsibility Negation Premise* rely on contentious claims concerning free will and control. Furthermore, Caruso (2019) and Levy (2019) have recently offered defenses of the *Luck Pincer* that address Hartman’s arguments. My motivation then is to provide a reinvigorated attack on the *Luck Pincer*. I argue that luck, alone, neither vitiates free will nor, as Thomas Nagel famously claims, shrinks the area of ‘genuine agency [and ...] legitimate moral judgment ... to an extensionless point’ (1993, 66).

1. What is luck?

Luck is typically defined in terms of two necessary and jointly sufficient conditions: significance and chance.² An event or state of affairs, E, is significant for a subject, S, if and only if E is in some way good or bad for S. What does it mean for an event to be good or bad for a subject? This relationship has been spelled out via subjective interests (Pritchard and Smith 2004, 19), informed or reflected upon desires (Pritchard 2005, 132; Stoutenburg 2015, 2019), evaluative status or well-

being (Rescher 1995, 7-8; Coffman 2007, 288), and objective and subjective interests (Ballantyne 2012, 331; Coffman 2015). I will remain neutral about how, exactly, luck's significance condition should be elucidated as this is a complicated question, and the examples that I consider later all involve events that are obviously significant.

Extant theories of luck can be categorized by how they conceive of chance. Philosophers have defined the chanciness element in lucky cases via a lack of control, modal fragility, and probabilistically.³ Levy's account of luck is unique in that it distinguishes between two different species of luck, that is, chancy luck, which contains a modal fragility and a lack of control clause, and non-chancy luck, which contains a relative infrequency and a lack of control clause.⁴ Levy defines chancy luck and non-chancy luck as follows:

Chancy Luck:

An event or state of affairs occurring in the actual world is chancy lucky for an agent if (i) that event or state of affairs is significant for that agent; (ii) the agent lacks direct control over that event or state of affairs, and (iii) that event or state of affairs fails to occur in many nearby worlds; the proportion of nearby worlds that is large enough for the event to be chancy lucky is inverse to the significance of the event for the agent.

Non-Chancy Luck:

An event or state of affairs occurring in the actual world that affects an agent's psychological traits or dispositions is non-chancy lucky for an agent if (i) that event or state of affairs is significant for that agent; (ii) the agent lacks direct control over that event or state of affairs; (iii) events or states of affairs of that kind vary across the relevant reference group, and (iv) in a large enough proportion of cases that event or state of affairs fails to occur or be instantiated in the reference group in the way in which it occurred or was instantiated in the actual case. (2011, 36)

These conditions are meant to be necessary and jointly sufficient, and Levy argues that, together, chancy and non-chancy luck instantiate all instances of the genus luck. This includes the kinds of luck identified by Nagel (resultant, circumstantial, and constitutive) as well as present luck (2011, 36-40; 2019, 61). Levy also notes that non-chancy luck, an unfortunate misnomer since infrequency within a reference group is a kind of chance, is necessary to account for instances of

constitutive luck that are not modally fragile, for example, the development of some of our essential traits.

2. The *Universal Luck Premise* is false

The *Universal Luck Premise* holds that all morally significant acts are either constitutively lucky, presently lucky, or both, and, according to Levy, all instances of constitutive and present luck are explicable in terms of chancy luck and/or non-chancy luck. This means that if there is one example of a morally significant act that neither involves chancy nor non-chancy luck, then either the *Universal Luck Premise* is false or Levy's account of luck is underinclusive. In this section, I argue that the *Universal Luck Premise* is false.

2.1. Morally significant acts can be non-lucky and under one's direct control

Both species of luck hold that an event or state of affairs is lucky only if 'the agent lacks direct control over that event or state of affairs' (2011, 36). Levy defines direct control as follows:

an agent has direct control over *E*'s occurrence when he can bring about *E*'s occurrence by virtue of performing some basic action which (as he knows) will bring about *E*'s occurrence (the probability of his basic action having the intended effect need not be 100 per cent, but it should be high). (2011, 19)

The lack of direct control, so defined, is a necessary condition for an event or state of affairs being a matter of chancy or non-chancy luck. Thus, if there is even one morally significant act over which a person does have direct control, then Levy's view is seemingly in trouble. Plausibly, there are many such cases. For example, Hartman considers a case in which Jane—who was raised by a family of thieves and endorses 'who she has been brought up to be'—steals an exposed, unprotected wallet (2017, 47). Hartman holds that 'the event of Jane's stealing the wallet is an event over which she has direct control, because reaching out and grasping the wallet is a basic action that Jane can perform that will probably bring about the event ... and because she realizes

that this is the case' (2017, 47-48). In response, Levy (2019, 65-66) admits that Jane does have direct control regarding her act of wallet theft. However, she is not morally responsible for her action because it is settled by her endowment, which is lucky for her. Jane is constitutively unlucky that she was raised by a family of thieves who instill in her their twisted moral views, and this state of affairs is something that she lacks direct control over. Thus, although her current action is not beyond her direct control, her reasons for her action are settled by past events that are outside her direct control and lucky, and this is the reason why she is not morally responsible.

What we need then is a case like Hartman's in which an agent has direct control over his or her actions but in which the agent's act is not settled by his or her endowment in a way that is obviously constitutively lucky. Consider the following case:

Simple Samaritan: While walking to the grocery store, Smith encounters a man who is incapacitated and in dire need of medical attention. There are no other people around, Smith has no other pressing concerns, and he has a cell phone.

Whether Smith decides to help the injured man is morally significant. It could be the difference between the man living or dying. However, deciding to and making a phone call are the kind of basic actions that Smith has a high probability of being able to bring about, and Smith surely knows that if he calls his country's emergency telephone number an ambulance will arrive and medical professionals will help the injured man. As such, this case does not seem particularly lucky and is a counterexample to Levy's view in that it involves a situation in which the agent in question can knowingly perform a basic action that has a high probability of being able to bring about a morally significant act. In other words, Smith has direct control over his morally significant actions. Moreover, Smith's act, unlike Jane's, is not obviously settled by past lucky events in such a way that he no longer deserves praise or blame.

Some might object that the above case does involve luck. After all, Smith lacks total control over his actions. An agent has total control over an event when he or she has control over all the factors that lead to the event and can thus guarantee the occurrence or non-occurrence of the event (Fischer 2006). Furthermore, it is a matter of circumstantial luck whether Smith encounters the injured man and a matter of resultant luck whether his phone call goes through and he can help. These replies are not open to Levy. First, Levy denies that total control is necessary for moral responsibility (2011, 5). Second, he admits that ‘If we want to know whether an agent exercised control over their ϕ -ing, ... we hold fixed the actual circumstances in order to assess whether [the] agent ... possess[es] ... control’ (2019, 64). In other words, what is morally relevant is whether given a particular set of circumstances Smith could freely help. Third, although the success of Smith’s action is resultantly lucky, he is still responsible for whether he attempts to make the phone call. Of course, one could inure luck skepticism from this style of counterexample by amending the account of control at play in condition (ii)⁵ or by showing that the case involves a kind of constitutive luck that negates moral responsibility. These replies will be addressed in sections 3.2 and 4. For now, let us move on and consider other reasons why the *Universal Luck Premise* is false.

2.2. Morally significant acts can be modally robust and frequent

For an event or state of affairs to be a matter of luck, the event or state of affairs must either be suitably modally fragile (that is, condition (iii) of Levy’s chancy account) or vary with a high enough frequency within the relevant reference group (that is, conditions (iii) and (iv) of Levy’s non-chancy account). Thus, if there are examples of morally significant acts that are neither chancy nor non-chancy lucky because they are neither modally fragile nor infrequent enough within the relevant reference group, then it is likely that the *Universal Luck Premise* is false.

Before considering counterexamples, we first need to review chancy luck condition (iii) and non-chancy luck conditions (iii) and (iv). Condition (iii) of Levy's chancy account is a modal condition that builds off the work of Pritchard (2005). The basic idea behind the modal account is that a significant event is lucky if: 'it obtains in the actual world [... but] there are—keeping the [relevant] initial conditions for that event fixed—close possible worlds in which this event does not obtain' (Pritchard 2014, 599). In contrast, an event is non-lucky if it is modally robust, that is, obtains in the actual world and in all or nearly all the nearby worlds in which the relevant initial conditions for that event are the same as in the actual world. A relevant initial conditions clause is necessary so that we have a description of the event to meaningfully compare with alternative scenarios. Without such a description, we would not be able to say whether the targeted event occurs in other possible worlds. Pritchard (2014, 599) argues that only the salient features of the event should be held fixed and that the best we can do is to pick out such features on a case-by-case basis, and Levy (2011, 33-34) adds that initial conditions are contextually sensitive.

Levy's version of the modal account is proportional in that he holds that the degree of luck for an event depends on the significance of the event factored by the *proportion* or *number* of close possible worlds in which it fails to occur (2011, 17). There are a few technical problems with this way of cashing out the relationship between the actual world, possible worlds, and lucky events.⁶ But for our purposes, we can ignore these issues and capture the essence of Levy's view by holding that the extent to which an event in the actual world is chancy lucky depends on the significance of the event in question and the likelihood that this same event fails to occur in nearby, possible worlds. For example, suppose that Walter wins a fair lottery by correctly guessing all six of the lottery balls. Holding the relevant initial conditions for this event constant across worlds (that is, that Walter purchases a ticket, the lottery is fair, the rules for the lottery are the same, etc.), Walter

is extremely lucky that he won. This is because Walter only wins the jackpot if all his numbers hit. If one or more lottery balls fall slightly differently, which is a small change, Walter no longer wins the jackpot. As such, were one to randomly select a nearby, possible world it is incredibly likely that on this picked world Walter does not win the jackpot. This is what makes his win in the actual world extremely lucky. In comparison, suppose that Luke loses a fair lottery by incorrectly guessing all six of the lottery balls. Luke's lottery loss is so certain to occur that this event is non-lucky. This is because the nearby worlds in which Luke is a winner are unfathomably scarce. Were one to randomly select a nearby, possible world it is tremendously unlikely that on this picked world Luke wins the jackpot.

Conditions (iii) and (iv) of Levy's non-chancy account combine to form a relative infrequency condition. According to Levy, 'a trait is (non-chancy) constitutively lucky if it varies significantly across a *relevant reference group*, with the relevant reference group being fixed by the context' (2011, 33-34). Importantly, agents only experience non-chancy constitutive luck in traits that vary significantly in human experience. Levy gives the following illustrative example. Suppose we are interested in the following trait: the IQ of infants born in Western countries. In such a case, a baby born in America with an IQ of 85 or lower is unlucky due to the significance of this trait and the fact that it is infrequently instantiated within the reference class of all Western births. Relatedly, a baby born with an IQ that is lower than that of Levy's dog would be the victim of awful non-chancy constitutive luck due to the increased significance and rarity of such an IQ. However, one is not lucky to be born with an IQ that is higher than that of Levy's dog. This asymmetry is explained by the fact that this trait is too commonly instantiated within the relevant reference class and does not vary significantly in human experience (2011, 33). Likewise, one is

horribly unlucky if one's plane crashes but not lucky when one's plane safely lands, and one is incredibly lucky to win the lottery but not unlucky when one loses.

We are now ready to consider additional counterexamples to the *Universal Luck Premise*. First, let us consider a putative counterexample from Hartman. Hartman's example involves a man, Jeff, who holds open a door for Sydney whose hands are full. Jeff does this because of his 'endowed disposition to be kind ... But Jeff does not care about helping her. He holds open the door merely from habit, because he is self-indulgently sulking after a difficult day at work' (2017, 48). I agree with Levy (2019, 65) that this example is confused. First, it does not sound like Jeff really has a kind disposition as he does not care about helping Sydney. Second, is Jeff's kind disposition, which leads to his door holding behavior, commonly instantiated? Many people do not have such polite manners, which might make the possession of such traits the result of non-chancy constitutive luck. Lastly, Jeff's action is a matter of chancy present luck. There is a dense selection of nearby worlds in which Jeff has a non-difficult or good day at work and does not help Sydney.

While Hartman's counterexample fails, he is on the right track. Consider, again, *Simple Samaritan* but let us add to the case that Smith is a member of the moral community. Smith is not morally perfect, but he is morally competent. He is capable of moral reasoning and has moral beliefs such as 'it is usually wrong to lie' and 'murder is wrong.' Furthermore, suppose that upon encountering the injured man, Smith decides to call his country's emergency telephone number for help and does, in fact, do so. Smith's decision to call is morally significant. However, given the details of the case, this action is modally robust. First, we need to hold the relevant initial conditions of the case constant across worlds, that is, that Smith is alone when he encounters the injured man, has a phone on his person, and is morally competent. This way we can target across

possible worlds the kind of event that we are concerned with in the actual world. The worlds in which Smith never encounters the injured man, cannot contact anyone for help, or in which there are already other people around the injured man who could help are too dissimilar to the targeted event to be of any comparative use, even if these worlds are nearby. But when we consider this set of relevant, nearby worlds, Smith's decision to call will be modally robust. It is implausible to think that in a significantly dense enough selection of such worlds that Smith decides not to help the injured man. There will be some nearby worlds in which Smith fails to help the injured man, perhaps because his phone drops the call or the man dies before help arrives. But while the result of Smith's actions may be chancy lucky, his decision to act is not. A morally competent person would almost always try and help.

Perhaps this is where non-chancy constitutive luck takes over. It could be argued that Smith acts in the way that he does because of certain constitutive traits that he has and that these traits, themselves, are non-chancy lucky. First, we need to figure out what these psychological traits or dispositions are and their relevant reference group. The traits involved in Smith's decision consist of whatever traits make up his ability to be a minimally competent moral agent. It is difficult to pin down what, exactly, this entails, but in *Simple Samaritan* the possession of some amount of empathy and the capacity to reason about moral issues are likely the predominant traits.

Is the capacity for empathy and the ability to reason morally a matter of non-chancy constitutive luck? Since we are concerned with the likelihood that a morally competent person would help the injured man, the relevant reference class is, arguably, the set of all moral agents. However, the capacity to empathize and reason morally will not vary with respect to this reference class. This is because the possession of such traits is necessary for a person's being a moral agent in the first place. The luck skeptic might respond that the relevant reference group is the class of

all persons. But nearly all human beings are born such that they can and do develop the ability to be minimally competent moral agents. Thus, since these traits are commonly instantiated within human experience, they are non-lucky. A person would be the victim of horrible non-chancy constitutive luck if he or she was born or raised such that he or she could not empathize with others or act out of moral concern; examples of which might include Susan Wolf's (1989) JoJo or an extremely vicious psychopath. However, similar to Levy's IQ example, one is not lucky to be born such that one does have the capacity to be a minimally competent moral agent. Such traits or dispositions are too commonly instantiated in the general population to be thought of as lucky.

Levy would likely object to this example as follows:

If a sufficient proportion of people would have done as [Smith ...] did, then he deserves no praise for his action. If, on the contrary, it took effort to cultivate the disposition or to act on it, then it is unlikely that the disposition is sufficiently common, and it is subject to constitutive luck after all. (2019, 65)

The first of these conditionals is false. The fact that a high proportion of people (but not all) would have ϕ -ed does not entail that no one is praiseworthy or blameworthy for ϕ -ing. The second conditional is suspect. Does the fact that a disposition is uncommon entail that it is constitutively lucky, and does such luck negate moral responsibility? We will tackle the issue of constitutive luck in section 3.2. For now, let us admit that a weakness of the above counterexample is that it relies on empirical claims about what the average person would do in a *Simple Samaritan* type situation. Perhaps I am mistaken about the modal robustness of Smith's act or the frequency of certain moral traits in the general population. If this is true, then the above counterexample fails; however, this reply does not save the *Luck Pincer* from this *style* of counterexample. In order to show that the *Universal Luck Premise* is false, one would simply need a better example in which the morally significant, targeted act really is modally robust and the relevant constitutive traits are, in fact, commonly instantiated.⁷ For example, suppose that Abe is asked a question of some moral import.

Whether Abe tells the truth or lies will be morally significant. However, depending on how the details of the case are spelled out, there is no reason why Abe's morally significant response, say that he told the truth, could not be both modally robust and that the psychological traits involved in such a scenario could not be commonly instantiated.

2.3. Levy's account is not underinclusive

One possibility is that Levy's account of luck is underinclusive or in some other way in error and that the counterexamples that we have considered against the *Universal Luck Premise* fail because these cases really are lucky.

First, the *Luck Pincer* is only concerned with two kinds of luck: present and constitutive. Present luck is explicable in terms of chancy luck. The extent to which indeterminism within a causal process and/or extraneous factors that are outside of one's control are causally efficacious is captured by chancy luck's modal condition. For example, if my decision to donate to a charity is significantly affected by an indeterministic process in my brain or an advertisement that I pass while walking to work, then there will be nearby worlds in which I do not donate—perhaps because the indeterministic process in my brain churns out a different result or there is no advert and I do not make a donation. Furthermore, some cases of constitutive luck will be chancy lucky, and Latus (2003) argues, contrary to Statman (1993); Hurley (1993); and Rescher (1995), that the combination of significance, control, and relative infrequency conditions can coherently explain instances of non-chancy constitutive luck.

Of course, although luck skeptics such as Caruso (2019, 56) and Levy favor Levy's account of luck, this does not mean that Levy's account is correct. However, the counterexamples that we have considered against the *Universal Luck Premise* apply not only to Levy's hybrid account but

to other accounts of luck as well. This is because condition (iii) of Levy's chancy account is a modal fragility condition that is similar to the views of other modal and hybrid theorists⁸, conditions (iii) and (iv) of Levy's non-chancy account combine to generate a relative infrequency condition that is similar to the views of some probability theorists⁹, and many philosophers have equated luck with the absence of control¹⁰, that is, condition (ii). But since I have provided counterexamples to each of these conditions, the *Universal Luck Premise* is false given most accounts of luck in the literature.

3. The *Responsibility Negation Premise* is false

In the previous section, it was argued that there are morally significant acts or events that are non-lucky. This is an important result. If there are morally significant acts or events that are non-lucky, then it cannot be the case that luck is the reason why no one is blameworthy or praiseworthy for these acts or events. In this section, I argue that the *Responsibility Negation Premise* is false.

The *Responsibility Negation Premise* holds that constitutive and present luck each negate moral responsibility. Thus, the luck pincer apologist needs to explain why it is that present and constitutive luck *qua* present and constitutive luck precludes free will. On this point, Levy writes:

I do not believe that determinism is a threat to free will ... Nor, for that matter, do I think that indeterminism (at least if it is suitably confined and limited) is by itself incompatible with free will ... It is not ontology that rules out free will, it is *luck* ... I shall call my view, that there is no free will because luck precludes it, the *hard luck view* (2011, 1-2)

Caruso does not share Levy's views about the compatibility of determinism and indeterminism with free will. Instead, he argues that the fact that we are not free is over-determined, that is, we are not free because of the nature and ubiquity of luck and because of the incompatibility of both determinism and indeterminism with free will. However, Caruso similarly holds that 'regardless of the casual structure of the universe, free will and basic desert moral responsibility are

incompatible with the pervasiveness of *luck*' (2019, 56). Thus, irrespective of ontology, the luck skeptic holds that luck *qua* luck undermines moral responsibility.

Hartman, however, gives several arguments that claim that if compatibilism is true and causal determinism is not a threat to free will, then we have no reason to think that present or constitutive luck '*even diminishes* responsibility-level control' (49). I wish to sidestep this issue for two reasons. First, because Levy claims that this move changes the subject as it is 'luck [not determinism that] undermines moral responsibility directly' (66). Second, because I am sympathetic to Caruso's (2019, 66-67) and Levy's (2019, 66-67) replies to Hartman's arguments. As such, I aim to show that the combination of present and constitutive luck *qua* present and constitutive luck does not always negate moral responsibility, thus the *Responsibility Negation Premise* is false. To show that this is the case, we need to construct counterexamples in which an event or state of affairs is chancy and/or non-chancy lucky for an agent yet that agent is still to some degree blameworthy or praiseworthy for his or her actions. I consider such counterexamples in the next two sections, that is, 3.1 and 3.2.

3.1. Acts that are chancy lucky can be praiseworthy/blameworthy

Consider the following case:

Generous Ginny: Ginny decides to make a sizeable donation to a worthwhile charity and does, in fact, do so. This decision is significant both for Ginny as well as others. Furthermore, Ginny lacks direct control over her decision. This could be due to an indeterministic process in her brain that plays a causal role regarding her choice and/or because of circumstantial or situational influences that are outside of her control, for example, perhaps Ginny's decision is influenced by the fact that she recently passed an advertisement for Goodwill or found ten cents on the street. As such, Ginny's decision to donate is modally fragile, and in thirty percent of the nearby, relevant worlds Ginny decides not to donate to charity.

Donating to a worthwhile charity is normally considered a praiseworthy act, but Ginny's decision to donate involves present luck. According to the *Responsibility Negation Premise*, this means that Ginny is not morally responsible for her actions. Is this right?

I think a plausible case could be made that chancy present luck either *mitigates* or could be used to *track* the degree to which Ginny is praiseworthy. Suppose Neil has just as much disposable income as Ginny, donates the same amount of money to a worthwhile charity, and decides to donate in the actual world and in nearly all (say ninety five percent) of the relevant, nearby worlds. Arguably, Neil is deserving of more praise than Ginny. He deserves more credit because he is the kind of person who is more likely to act in a praiseworthy manner, that is, donate, and this difference between Ginny and Neil can be captured via chancy luck's modal condition. A similar case could be made for blame. Suppose Paul is in a situation such that it is morally required of him to give some of his time or money to a cause. In the actual world, Paul decides not to do so, but due to present luck he helps in thirty percent of the relevant, nearby worlds. Intuitively, Paul is blameworthy for not helping in the actual world, but he is not deserving of as much censure as someone who, when placed in a similar situation, does not help in nearly all (say ninety five percent) of the relevant, nearby worlds. If this is right, then chancy luck can either influence or track the degree to which one is worthy of praise or blame. However, it remains unclear why chancy present luck completely negates or vitiates moral responsibility.

3.1.1. Levy's *epistemic argument*

I know of two reasons why one might think that chancy present luck negates moral responsibility. The first is an *epistemic argument* that is concerned with what level of control is required for an agent to be morally responsible for his or her actions. According to Levy, for an agent to be morally responsible for his or her actions, the agent must know:

that, and how, a state of affairs is sensitive to his actions. In addition, he must properly *appreciate* the significance of bringing about that state of affairs, where the significance of a state of affairs consists of the features which provide reasons for bringing it about (often, but not always, moral reasons) (2011, 113)

According to Levy, if an agent is unable to appreciate the relevant facts or reasons regarding his or her action and there was never a benighting moment where ‘the agent *freely* passes up an opportunity to improve her epistemic position’, then the agent’s ignorance is non-culpable (2011, 117). Levy holds that such benighting moments are rare, and, as such, we are almost never morally responsible for our actions.

There are three problems with Levy’s *epistemic argument*.¹¹ First, this epistemic account of control wherein an agent has responsibility-level control only if he or she knows *that* and *how* a state of affairs is sensitive to his or her actions and he or she can *properly appreciate* his or her reasons for acting, bears little resemblance to the account of direct control that is a necessary condition for instances of chancy and non-chancy luck. An agent has direct control if he or she knows that his or her actions will be very likely to bring about the desired result. Thus, an agent may lack some degree of direct control over an event but still know *that* and *how* the state of affairs is sensitive to his or her actions and be able to *properly appreciate* his or her reasons for acting, and if these conditions are met the agent may still be morally responsible for his or her actions.

In response, Levy could replace his direct control condition with the above epistemic account of control. However, as Hartman (2017, 50) argues, such a move would not function to support the *Luck Pincer* but would replace it, and, as such, Levy’s discussion of luck is superfluous. This is because if Levy’s *epistemic argument* is correct, then the real reason why we are never morally responsible is because we are ignorant and not because our actions are lucky.

Second, Levy’s *epistemic argument* is controversial. As Hartman notes:

Some philosophers argue that benighting actions are not rare (Peels 2011), and others deny that ignorance is culpable only if it bottoms out in a benighting action (FitzPatrick 2008; Robichaud 2014). Still others reject the claim that an agent must be culpably ignorant to be blameworthy for an unwitting wrong action (Sher 2009; Talbert 2011; Timpe 2011). (2017, 50)

Additionally, Biebel (2018) argues that ignorance is not always an excuse. Of course, most philosophical views are contentious. However, given the revisionary nature of luck skepticism, the argumentative standards for Levy's view are high.

Third, even if Levy is correct about the epistemic conditions required for moral responsibility, it is not obvious that these conditions cannot be met in lucky cases. Consider the examples of Ginny, Neil, and Paul. Ginny could certainly understand *that* her donation was morally significant. She also could know *how* her donation may help others, for example, by providing funds for clean drinking water. Does she *properly appreciate* her reasons for donating? Unless one's standards for what it means to properly appreciate one's reasons are impossibly high, I see no reason why Ginny cannot satisfy this condition. While donating, Ginny might reflect that she is thankful that she happened to walk by the charity's advertisement as it reminded her that she wished to donate and her reasons for doing so. Such a case is chancy presently lucky as Ginny's act of donating is morally significant, noticing the advertisement is not in Ginny's direct control, and in thirty percent of relevant, nearby worlds she fails to donate (this could be because she fails to notice the advertisement in some of these worlds). As such, Levy's *epistemic argument* does not adequately support the *Responsibility Negation Premise*.

3.1.2. The contrastive explanation argument

The second luck-related reason why one might think that the *Responsibility Negation Premise* is true is if one holds, as Levy does, that moral responsibility is contrastive:

an agent is morally responsible for *A*-ing when she is responsible for *A*-ing *rather than B*-ing. If the explanation of the contrastive fact, that the agent *A*-ed rather than *B*-ed, essentially involves luck, then the agent is not responsible for the contrastive fact, and therefore not morally responsible at all, *no matter how small the degree of moral responsibility in question*. (2011, 34-35, footnote 15)

The luck skeptic could argue that all events that involve present or constitutive luck fail to satisfy this contrastive explanation requirement, thus the *Responsibility Negation Premise* is true.

Several commentators (Bailey 2012; Garrett 2013) have questioned why the presence of an essentially non-lucky, contrastive explanation is a necessary condition for moral responsibility.

Garret asks us to imagine the following scenario:

facing a street full of people, I give a dollar to one of them, but I have no idea why I gave it to this person rather than that. Is my lack of a contrastive explanation for my choice evidence that I am not responsible for giving? I don't think so. (2013, 212-213)

It is not obvious that moral responsibility requires a contrastive explanation nor that this explanation must be essentially non-lucky. Why then should we think that such a requirement is true?

Consider the following argument. If there is not a contrastive explanation for one's *A*-ing rather than *B*-ing, then there will be *no reason* why one *A*-ed rather than *B*-ed. As such, the fact that one *A*-ed will be inexplicable. Are inexplicable actions essentially lucky? Not necessarily. Even if we grant that we are only concerned with morally significant actions and that the lack of a reason for one's *A*-ing entails that one lacks direct control over bringing about *A*, there could still be cases in which the relevant antecedent conditions make it such that one's *A*-ing is modally robust. I take it then that the reason why one is not morally responsible if there is not a non-lucky reason why one *A*-ed rather than *B*-ed is because one's 'choice' to *A* is inexplicable and because

one could have easily done otherwise and *B*-ed instead. This makes the fact that one *A*-ed seem accidental or just a matter of chance in a way that is incongruous with moral responsibility.

This is an interesting argument. However, there are many actions that involve some degree of luck but are neither inexplicable nor essentially lucky, and it is unclear why an agent could not be morally responsible, at least to some degree, for such acts.

First, consider a non-moral case. Suppose a professional baseball player hits a home run off of a hanging breaking ball. This event is an instance of chancy present luck for the hitter as it is significant for the hitter, the hitter has some control over his at bat but not enough to grant direct control (if he had direct control over hitting home runs, he would do so far more often), and the hitter fails to hit a home run in nearby worlds (perhaps because he swings slightly later or the pitcher throws a better breaking ball). Is this event inexplicable and essentially lucky in a way that negates responsible agency? First, this event is not inexplicable. The hitter hit a home run because of the kind of pitch that was thrown, his recognition of the ball's path, his swing, etc. Thus, there are contrastive reasons for why the hitter hit a home run (*A*-ed) instead of not hitting a home run (*B*-ing). Second, this event is not essentially lucky. Some luck is involved (there are nearby worlds in which the hitter did not hit a home run), but the outcome is also the result of the hitter's skill; it is not just a matter of chance that the hitter hit a home run. Given the same pitch, a lesser hitter, such as myself, would not have been able to hit a home run, and McKinnon (2013, 2014) argues that a hitter's level of skill just is the likelihood that he or she would succeed (in this case hit a homerun) within a certain context. But given that this event is explicable and not essentially lucky, it would be a mistake to view this event as an accident or as purely a matter of chance. As such, even if we agree with the above defense of Levy's contrastive explanation requirement, there are

lucky cases that can satisfy this condition. Thus, Levy has given us no reason to think that the ordinary intuition that the hitter deserves some degree of credit for hitting a home run is false.

A similar case can be made for at least some morally significant events such as *Generous Ginny*. As previously discussed, Ginny's act of donation involves chancy present luck. However, her action is neither inexplicable nor essentially lucky. In the actual world, Ginny could have donated because of certain reasons that she is aware of and endorses, for example, her desire that people have clean drinking water, which she believes is a human right. Thus, her action is not inexplicable. While her action does involve luck, it is neither essentially lucky nor purely a matter of chance. Although there may be spots of indeterminism regarding her choice or circumstantial factors (such as the advertisement) that influence her choice, her decision could still be, at least partially, a matter of her moral character and reasons for acting. Thus, Levy's contrastive explanation requirement can be satisfied in cases that are lucky and morally significant. Although some philosophers might hold that the degree to which Ginny is deserving of praise is influenced by present luck, Levy's own view does not support the conclusion that Ginny is not 'morally responsible at all, *no matter how small the degree of moral responsibility in question*' (2011, 35, footnote 15).

3.2. States of affairs that are non-chancy lucky can be praiseworthy/blameworthy

Perhaps this is where constitutive luck takes over. We also need to address the other fork of the *Luck Pincer* and show that constitutive luck does not always negate moral responsibility.

First, similarly to *Simple Samaritan*, it is not necessarily true that Ginny's donation involves non-chancy constitutive luck. This is because Ginny's relevant, initially inherited traits and dispositions could be commonly instantiated and, as such, non-lucky given conditions (iii) and

(iv) of Levy's non-chancy account. Thus, *Generous Ginny* acts as a counterexample to the *Luck Pincer*. However, for the sake of argument, let us assume that all our inherited traits and dispositions involve constitutive luck since such traits and dispositions are significant and outside of our control.

Consider the following case:

Grand Master: Magnus Carlsen is the current World Chess Champion and one of the greatest chess players of all time. However, Carlsen was born with an exceptional memory, for example, by the age of five he was able to memorize the population numbers, flags, and capitals of over four hundred Norwegian municipalities. Carlsen's near photographic memory is a primary contributor to his success at chess. This is because Carlsen's incredible mnemonic ability made it easier for him to memorize thousands of chess openings, combinations, and matches. Had Carlsen been born into a situation such that he developed only an average memory he would not be the best chess player in the world.

The fact that Carlsen has such a phenomenal memory is a clear example of non-chancy constitutive luck as this state of affairs is significant for him, his possession of this trait is the result of genetic and early environmental factors that were outside of his direct control, and this trait is uncommonly instantiated in the general population. The luck skeptic claims that this stroke of constitutive luck carries over to other related events and states of affairs, for example, that Carlsen is currently the best chess player in the world and just made a brilliant move. Because of this, the luck skeptic holds that Carlsen deserves no credit or praise for his chess playing ability.

Why should we think that this is true, that is, that constitutive luck—independent of ontology—negates moral responsibility in the Carlsen or any other case? The main argument¹² that luck skeptics give in support of this fork of the *Responsibility Negation Premise* begins with the following principle:

principle of fairness: Agents do not deserve to be blamed or praised, punished or rewarded, in the basic desert sense unless there is a desert-entailing difference between them. (Caruso 2019, 61)

From this principle, the luck skeptic argues that ‘since a lucky difference between two individuals is not a desert-entailing difference, luck undermines basic desert moral responsibility’ (Caruso 2019, 61).

We can accept the *principle of fairness* and still leave elbow room for the kind of moral responsibility that we care about by distinguishing between an event’s being purely a matter of luck and an event’s being lucky, that is, an event’s involving some degree of luck. Consider that, although Carlsen’s initial advantage is purely a matter of good constitutive luck and is not desert-entailing, it does not follow that every other action that Carlsen performs that relies on his mnemonic powers is also equally lucky and not desert-entailing. First, chess is a difficult game that involves more than just having an incredible memory. Not everyone who has the constitutive good luck of having a phenomenal memory is a great chess player, and no one is born such that he or she starts off as a grand master at chess. As such, Carlsen has spent much of his life in the pursuit of becoming the chess player that he currently is, and it is unclear why he does not deserve credit for this fact. Second, while Carlsen’s initial advantage may be unfair in comparison to a person who has an average memory, most of the grandmasters that Carlsen plays against also have exceptional memories. Thus, at the highest level, Carlsen does not have a lucky advantage over his opponents, yet he is still the best chess player in the world. As such, although Carlsen’s current chess playing ability is partially a matter of constitutive luck, he may still deserve some credit for say a particular set of novel and brilliant moves in so far as this event is not just a matter of a lucky, non-desert entailing advantage.

This reply is reminiscent of Dennett’s (2015, 103-104) famous footrace example. Dennett asks us to consider a footrace in which participants are given a head start based on an arbitrary

factor such as their birth month, for example, suppose that a person who was born in January is given a one-yard head start over someone who was born in February who in turn is given a one-yard head start over someone who was born in March and so on. Is such a race so hideously unfair that its results are invalid? If the race was a winner take all hundred-yard dash, then yes. It would be nearly impossible for someone born in December to win such a race even if he or she was the most skilled (that is, fastest) runner. However, if the race was a marathon (that is, 26.2 miles long), then such a relatively small initial advantage would be inconsequential, and the more skilled runners would be able to overcome and finish in the lead. Additionally, Dennett argues that in the long run small lucky breaks, such as a one-yard head start, tend to even out.

Caruso (2019, 53-54) claims that Dennett's view that luck averages out in the long run is mistaken, and he cites empirical evidence that shows that small lucky advantages early on in life can snowball and lead to ever-widening gaps in achievement. One of his examples involves the fact that National Hockey League players are more likely to be born in January, February, or March as being born in these months coincides with cutoff dates for Canadian youth hockey leagues. The thought is that at such a young age being ten to eleven months older is a distinct advantage. But since the older players tend to do better, they will receive more playing time, better coaching, play for better teams, etc. Thus, what starts off as a seemingly minor lucky advantage (being born in January) ends up snowballing into a significant difference in outcomes. Additionally, Caruso (2011, 54) and Waller (2015, 68) cite empirical evidence that shows that low socioeconomic status in childhood and educational inequality can also significantly affect long term outcomes.

First, it should not be surprising that in order to be a grandmaster at chess, win a marathon, or be a professional hockey player one would need all of the lucky breaks to go one's way as these are all incredibly difficult things to achieve. Furthermore, while Dennett does believe that our

moral education is more akin to a marathon than a sprint, he argues that such examples are disanalogous in that ‘moral development is not a race at all, with a single winner and everyone else ranked behind’ (2015, 104). Instead, Dennett’s position is that our moral education is:

a process that apparently brings people sooner or later to a sort of plateau of development—not unlike the process of learning your native language, for instance. Some people reach the plateau of learning swiftly and easily, while others need compensatory effort to overcome initial disadvantages in one way or another. But everyone ... except for those who are singled out as defective [for example, psychopaths ...] comes out more or less in the same league. (2015, 104)

If Dennett is correct about the nature of moral responsibility, then Caruso’s and Waller’s claims about inequality of outcome are not germane to the debate about luck skepticism. It is likely true that early differences in socioeconomic status and education are significant and unfair, and, as a result, many of our current practices involving blame and praise and punishment and reward are in need of reform. However, what the luck pincer apologist needs to show is that the fact that people start off with different sets of initial traits—each of which may have certain advantages and disadvantages—is so hideously unfair that no one is ever morally responsible for any act. Such a claim—independent of ontological concerns and traditional issues involving freedom of the will—is fantastical. The luck skeptic has given us no reason to think that our attitudes of praise and blame regarding every action (for example, every lie, murder, or good deed) is negated because of constitutive luck or the combination of constitutive and present luck.

4. Closing arguments

Given plausible definitions of luck and moral responsibility, the *Luck Pincer* is unsound. If one finds the *Luck Pincer* cogent, it is probably because one is reasoning in one of two ways neither of which have much to do with luck. Consider the following spurious argument:

Total control argument

- 1) A significant event is a matter of luck for a subject if the subject lacks control over the event.
- 2) All events involve the lack of agential control as no one has total control over any event.
- 3) Thus, all significant events are lucky.
- 4) But one can only be morally responsible for events that one has control over, that is, non-lucky events.
- 5) Therefore, no one is ever morally responsible for any significant event.

This argument has several dubious premises. First, premise 1) defines luck in terms of significance and the lack of control. This is insufficient. Whether the sun rises tomorrow is significant and outside of anyone's control, but it would be odd to call such a non-chancy event lucky (Latus 2003, 467). Second, even if we accept this definition of luck as a useful stipulation, having total control over an event is not necessary in order to be morally responsible for one's actions.¹³ For example, I lack control over my bank's security system, and, as such, I lack total control over whether my bank robbery is a success, but this fact does not serve as an excuse when my robbery fails and I am captured by the authorities. What the luck skeptic needs to show is that the kind of *luck* that is a ubiquitous part of our lives also undermines moral responsibility. They have failed to do so. Levy, himself, admits that 'I have no response to the question what it is about luck that undermines responsibility' (2019, 67).

Here is a better argument. To be a morally responsible agent, one must act out of reasons of one's own making. However, all actions are the result of constitutive luck, present luck, or both. But one cannot be morally responsible for events that involve constitutive luck. This is because one's initially inherited traits and subsequent dispositions are all determined by factors outside of one's control, that is, antecedent conditions and the laws of nature. Furthermore, one cannot be morally responsible for events that involve present luck since present luck is indeterministic, and indeterministic causes are also outside of one's control. Thus, we lack the kind of control necessary

to be morally responsible agents.¹⁴ This argument may be correct, but it is not a novel and ontologically independent argument against the possibility of morally responsible agency. Instead, this argument just is the classic problem of free will dressed up in luck-like garb. This should leave us wondering what luck has to do with the *Luck Pincer*? What is luck but significance factored by chance?

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NOTES

¹ This view is championed by Levy (2011), Haji (2016), and Caruso (2019). Strawson (1994) and Waller (2011) could also be read as being luck skeptics. Levy holds that we are never morally responsible in the basic desert sense in that we never 'deserve to be treated as less (or more) than equals in the consequentialist calculus' (2011, 4). Caruso is also concerned with moral responsibility in the basic desert sense, that is, 'the kind that would make us truly deserving of praise and blame, punishment and reward' (2019, 52). For more on basic desert, see Pereboom (2001, 2014) and Caruso and Morris (2017).

² There are two exceptions. Pritchard (2014) defines luck solely in terms of modal fragility, which is a way of conceptualizing chance. He argues that we should not expect an objective, metaphysical account of luck to be responsive to subjective factors such as significance (2014, 604). I think this is a mistake. Significance determines whether a chancy event is non-lucky, lucky, or unlucky and can affect degrees of luck. Furthermore, as Ballantyne (2012) and Ballantyne and Kampa (2019) argue, the concept need not be subjective in any kind of problematic or relativistic way. Hales (2015) and Hales and Johnson (2018) are the other exception. Hales and Hales and Johnson argue that there is no such thing as luck and that all luck-involving claims are false. But if they are correct, then the *Luck Pincer* is unsound. Luck cannot undermine moral responsibility if luck does not exist.

³ Broncano-Berrocal (2015) defends the most sophisticated control-based account of luck in the literature. Pritchard (2005, 2014), Church (2013), and Carter and Peterson (2017) each argue for different versions of the modal account. Rescher (1995), Steglich-Petersen (2010, 2020), McKinnon (2013, 2014), and Stoutenburg (2015, 2019) define luck probabilistically. Steglich-Petersen's and Stoutenburg's accounts make use of an epistemic notion of probability, whereas McKinnon's view is frequentist.

⁴ Thus, Levy's account of luck is hybrid in nature. Hybrid accounts hold that luck involves more than one notion of chance, for example, modal fragility and a lack of control. There are other hybrid accounts in the literature. E. J. Coffman's (2015) and Rik Peels' (2017, 202) accounts are similar to Levy's chancy account, and Andrew Latus' view (2003) is similar to Levy's non-chancy account.

⁵ Another option would be to remove the control condition entirely and define luck in terms of significance and modal fragility and/or significance and relative infrequency.

⁶ One problem with this view is that proportions require finite numbers. But as Carter and Peterson (2017, 2177) note, the set of nearby possible worlds is an infinite set. Thus, there could be an infinite number of nearby worlds in which I win the lottery and an infinite number of nearby worlds in which I lose. In such a case, it does not make mathematical sense to say that there are more worlds or a higher proportion of worlds in which I win or lose the lottery. Such a claim is analogous to saying that there are more or a higher proportion of even compared to prime numbers. Both sets are countably infinite. Other versions of the modal account avoid this problem by spelling out the relationship between degrees of luck and possible worlds in terms of

modal weighted likelihood (Church 2013), modal distance (Pritchard 2014), and modal density (Carter and Peterson 2017). For more on these issues, see Hill (2020).

⁷ Hartman also makes this point. He writes that ‘even if any of these particular counterexamples fail, it is plausible that there are other counterexamples in the neighborhood from the same general class’ (2017, 48).

⁸ For example, Pritchard (2005, 2014); Church (2013); Coffman (2015); Carter and Peterson (2017); and Peels (2017).

⁹ For example, Rescher (1995); Latus (2003); and McKinnon (2013, 2014).

¹⁰ For example, Nagel (1993); Riggs (2009); and Zimmerman (2015).

¹¹ The first two objections that I consider are also made by Hartman (2017, 50).

¹² I quote Caruso’s formulation of this premise and subsequent argument, but this view is also endorsed by Levy (2011) and Waller (2011).

¹³ Levy agrees and claims that such a demand is ‘hyperbolic’ and an instance of ‘metaphysical megalomania’ (2011, 5).

¹⁴ This argument is similar to Nagel’s (1993, 66) discussion of causal moral luck. However, as Nagel, himself, points out, causal luck is another name for the familiar problem of freedom of the will. Anderson (2019) agrees and argues that Nagel is only using ‘luck’ in a stipulative way, that is, as the lack of control. Despite its title, Nagel’s famous paper is not really about luck but about how our widely held beliefs regarding control and moral responsibility are paradoxical.