

FREE WILL AND MORAL LUCK

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Abstract

Philosophers often consider problems of free will and moral luck in isolation from one another. But these problems are centrally about control. One problem of free will concerns the difficult task of specifying the kind of control over our actions that is necessary and sufficient to act freely. One problem of moral luck refers to the puzzling task of explaining whether and how people can be morally responsible for actions permeated by factors beyond their control. This chapter explicates and assesses skeptical, compatibilist, and libertarian approaches to moral luck. First, I argue that what makes the problems of free will and moral luck distinct is largely their emphasis on different kinds of luck. Second, I describe and evaluate skeptical arguments from constitutive and circumstantial luck. Third, I explicate and assess various support and implication relationships between prominent kinds of compatibilism and libertarianism, on the one hand, and causal, constitutive, circumstantial, and resultant moral luck, on the other.

Introduction

Philosophers often write about problems of free will and moral luck in isolation from one another.¹ But these problems are centrally about control. One problem of free will concerns the difficult task of specifying the kind of control over our actions that is necessary and sufficient to act freely (cf. van Inwagen 2008). One problem of moral luck refers to the puzzling task of explaining whether and the extent to which people can be morally responsible for actions that are permeated by luck—that is, by factors beyond their control (cf. Hartman 2019a, 227-229).

This chapter explicates and assesses skeptical, compatibilist, and libertarian approaches to moral luck. In the first section, I explicate prominent problems of free will and moral luck, and I highlight that what makes them distinct is largely their emphasis on different kinds of luck; along the way, I also define free will, species of luck, luck, and moral luck. In the second section, I summarize two leading skeptical arguments from luck, and I sketch a unified reply to them. In the third, fourth, and fifth sections, I consider and assess support and implication relations between prominent kinds of compatibilism and libertarianism, on the one hand, and causal, constitutive, circumstantial, and resultant moral luck, on the other.

Problems, Distinctions, and Definitions

There is no standard use of the term ‘free will’. But as Timothy O’Connor and Christopher Franklin (2018) note, many philosophers characterize free will as a kind of control or up-to-us-ness over choices or actions. These philosophers either identify that kind of control as the same kind of control relevant to being morally responsible for a choice (for example, Levy 2011, 1; Pereboom 2014, 1–2; Smilansky 2000, 16), or, more strongly, they define freedom-relevant control in terms of

¹ For recent exceptions, see Cyr (2019; 2020), Ekstrom (2019), Hartman (2018; 2020b), Mickelson (2015; 2019), Pérez de Calleja (2014; 2019), Swenson (2019), and Tognazzini (2011).

the control relevant to moral responsibility (for example, Mele 2006, 17; Wolf 2001, 3–4).² This prominent linkage of free will, moral responsibility, and control is plausible in my view, and it has the additional advantage of bringing the free will debate into direct relation to the moral luck debate, which is essentially about control and moral responsibility.

The historically dominant *problem of free will* is about whether exercising freedom-relevant control over an action is compatible or incompatible³ with its being causally determined by factors beyond the person's control. Thomas Nagel (1979, 35) categorizes this kind of causal determinism as a kind of luck that we may call 'causal luck'.⁴ So, *causal luck* occurs when an action is causally determined by factors outside of a person's control.

Nagel, however, primarily uses other kinds of luck to formulate the *problem of moral luck*: a person is morally responsible only for what is within her control (Nagel 1979, 25, 28), but, once we factor out from moral responsibility all the resultant, circumstantial, and constitutive luck—that is, factors beyond a person's control—there is nothing left to evaluate; no one is morally responsible for anything (Nagel 1979, 35).⁵ In what follows, I define and illustrate these categories of luck and explicate Nagel's basic skeptical argument.

Resultant luck occurs when an agent performs an action or omission with a consequence that is at least partially beyond her control (Nagel 1979, 28). For example, Killer is at a party and drives home drunk. At a certain point in her journey, she swerves, hits the curb, and kills a pedestrian who was on the curb. Merely Reckless is exactly like Killer, but, when she swerves and hits a curb, she kills no one. No pedestrian was on the curb. Plausibly, Merely Reckless is morally responsible only for driving recklessly. But if luck must be factored out of moral responsibility and the salient difference between Killer and Merely Reckless is a matter of luck, then Killer also is morally responsible only for driving recklessly—and so Killer cannot be morally responsible for killing a pedestrian.

Circumstantial luck occurs when it is outside of the agent's control that she faces a morally significant challenge or opportunity (Nagel 1979, 28). For example, No Start gets drunk and gets into her car in the same way as our first two characters, but the difference is that her car does not start. As a result, she is forced to call a cab. If No Start's engine had turned over, she would have freely driven drunk just as they did. Plausibly, No Start is morally responsible only for forming the intention to drive in a reckless way. But since the salient difference between Killer, Merely Reckless, and No Start is a matter of luck, Killer and Merely Reckless also are morally responsible only for intending to drive recklessly—and so they cannot be morally responsible for driving recklessly or killing a pedestrian.

Constitutive luck occurs when an agent's dispositions or capacities are non-voluntarily acquired (Nagel 1979, 28). For example, Scarred Childhood is very much like the others except that her father was killed by a drunk driver, and she subconsciously developed the policy never to drive drunk. If that

² The nature of the moral responsibility at the heart of the free will and moral luck debates is what Pereboom (2014, 2) calls "basic desert" moral responsibility, according to which "the agent would deserve to be blamed or praised just because she has performed the action . . . and not, for example, merely by virtue of consequentialist or contractualist considerations." According to Shoemaker's (2015) pluralism, the kind of moral responsibility at stake is accountability rather than attributability or answerability.

³ What is the incompatibilist relation? Is it a *metaphysical incompatibility* relation, according to which one relatum rules out the other, or is it an *impossibility* relation, according to which the relata merely cannot obtain together (see Mickelson, this volume)? I have in mind the former relation, but readers who prefer the latter may make the relevant changes.

⁴ Nagel's own term is 'antecedent luck'. Some philosophers broaden the category of causal luck to include deterministic and indeterministic luck (see Mickelson 2019, 225n3; Sartorio 2019, 211).

⁵ Nagel (1979, 34) embraces a "paradox" by accepting this conclusion and that we are morally responsible for at least some of our actions.

traumatic experience had not occurred, Scarred Childhood would have had some different character traits and would have formed the intention to drive drunk as the others do. Of course, it is outside Scarred Childhood's control that she had the traumatic experience, and it is outside the other's control that they never experienced that kind of trauma. Plausibly, Scarred Childhood is not morally responsible for anything relevant to drunk driving. But the salient difference between the four is a matter of luck. It follows that Killer, Merely Reckless, and No Start cannot be morally responsible for anything related to drunk driving—and so they cannot be morally responsible for intending to drive recklessly, driving recklessly, or killing a pedestrian.

This skeptical argument generalizes far beyond these examples due to the way in which human beings are ubiquitously subject to resultant, circumstantial, and constitutive luck. The generalized conclusion is that no one is morally responsible for anything.⁶

These problems of free will and moral luck focus on different kinds of luck and take as premises different claims about the causal structure of human action (Hartman 2017: 5). The problem of moral luck, as exemplified in Nagel's skeptical argument, focuses on resultant, circumstantial, and constitutive luck, and it relies on no premise about causal indeterminism or determinism of human action. (Causal luck is typically set aside in formulating the problem of moral luck to avoid redundancy, because causal determination plays such a central role in the problem of free will.) Consider, in contrast, two of the most historically prominent skeptical arguments relating to free will. The argument for *hard incompatibilism*: (i) there must be indeterminism at the moment of choice to act freely but (ii) whatever choice occurs via the indeterministic process is lucky in a way that precludes freedom. The argument for *hard determinism*: (i) all human actions are causally lucky and (ii) an action's being causally determined by factors beyond the actor's control rules out its being a free action. These two arguments focus on causal and indeterministic luck, and each has a premise about the causal structure of human action.

This characterization of the difference between these problems is correct at least as a matter of emphasis. It is, however, worth noting that philosophers writing about free will have long been alive to problems raised by constitutive luck (see McKenna 2004; Mele 1995, 144–255; Russell 2017a; 2017b; Smilansky 2000; Strawson 1986, 21–51; Watson 1987). Kristin Mickelson (2019) even argues that the problems of free will and moral luck are merely different heuristic approaches to the same general problem that constitutive luck makes it impossible to act freely. In the next section, I explicate and assess skeptical arguments from constitutive luck.

Two more definitions will be helpful in the discussion to follow.

An event is subject to *luck* for some person insofar as it is influenced by factors beyond the person's control. This is the “standard” definition of luck in the moral luck literature (Hartman 2017, 23; for example, see Anderson 2019; Mickelson 2019; Statman 2019; Talbert 2019).⁷ But the lack of control conception of luck fails to capture at least some of our intuitions about which events are lucky and not lucky. For example, it is outside of my control that the sun rose today, and so the lack of control account of luck implies that it is lucky for me that it rose. Intuitively, however, it is not lucky for me

⁶ In my view, Michael Zimmerman (1987) refutes Nagel's (1979) skeptical argument. John Greco (1995) develops a better version of Nagel's skeptical worry, but Greco's argument is too complicated to summarize here; ultimately, Greco argues against the skeptical argument that he develops (cf. Hartman 2017, 124–139).

⁷ See Hartman (2017, 23) for citations prior to 2017.

that the sun rose (Latus 2003, 476). Such considerations have led some philosophers to revise the standard view of ‘luck’ in ‘moral luck’ (for example, see Latus 2003; Levy 2011; 2019).⁸ Nevertheless, in Hartman (2017, 23–31), I argue, perhaps surprisingly, that the moral luck debate is not about luck per se but is rather about lack of control (cf. Church and Hartman 2019, 6). The skeptical problem to which Nagel points us can be fully explicated without using the word ‘luck’: in brief, ubiquitous factors outside of our control so greatly influence our constitution, character, whims, deliberations, intentions, tryings, actions, omissions, and consequences that what we do and cause are not suitably up-to-us for us to be morally responsible for them.⁹

Moral luck occurs when factors beyond an agent’s control partially determine her degree of positive praiseworthiness or blameworthiness (Hartman 2017, 2). The interesting question about moral luck is not about whether a person is praised or blamed for something affected by luck, which is how Nagel (1979, 26) defines it, but rather about whether she deserves to be praised or blamed for something that is subject to luck. The word ‘positive’ rules out the idea that moral luck is responsibility-negating luck; there is no moral luck where there is no moral responsibility. The controversy, then, is about whether instances of causal, constitutive, circumstantial, and result *luck* can be instances of *moral luck*.

Responsibility Skepticism and Luck

Neil Levy’s (2011) Luck Pincer and Galen Strawson’s (1986; 1994) Basic Argument are the two skeptical arguments from luck that have garnered the most attention; both arguments centrally appeal to constitutive luck as a problem for free will. I summarize them in terminology set out in the last section and sketch a unified reply.

Levy’s (2011, 84–109) Luck Pincer targets history-sensitive compatibilist accounts of free will. *Compatibilist* views of free will describe an action’s being causally determined by factors beyond the person’s control as compatible with its being a free action. *History-sensitive* compatibilists regard a certain kind of history or the absence of a certain kind of history as a necessary condition for directly free action (Fischer and Ravizza 1998, 170–239; Haji and Cuypers 2007; Mele 2019; cf. Levy 2011). On Levy’s (2011, 88) version, a person acts directly freely only if she has performed past actions that have strengthened, maintained, or weakened various parts of her mental dispositions in a normal way; in other words, a person must overcome her constitutive luck through a self-making process before she can act freely. The major motivation for all such history-sensitive conditions is that they protect accounts of free will from counterintuitive implications in cases of manipulation. Suppose a bad neuroscientist transforms gentle Vic’s virtues to vices while he sleeps, and, when Vic wakes up that morning, he chooses to murder in a way that is wholly motivated and explained by his new vices. Is Vic blameworthy for murder? History-sensitive compatibilists say ‘no’—Vic is not blameworthy for murder—because he has not had a chance to strengthen, maintain, or weaken his new values.¹⁰ Vic’s being vicious is just bad constitutive luck, and it rules out his acting freely.

The core of the Luck Pincer is that a person’s constitutive luck cannot be undone by a process that is itself permeated with luck; the actions whereby a person takes responsibility by strengthening,

⁸ Again, see Hartman (2017, 23) for a more expansive citation list.

⁹ For more arguments that support the standard definition, see Anderson (2019), Hartman (2017, 23–31), and Statman (2019); for a new challenge, see Levy (2019).

¹⁰ The precise reason why Vic is not blameworthy differs for different versions of the history-sensitive condition.

maintaining, or weakening her character are themselves lucky (Levy 2011, 89–97).¹¹ In particular, such actions are either constitutively or circumstantially lucky depending on the relationship between the agent’s mental dispositions and her reasons for action. Suppose that a person’s reasons decisively support one action over others due to the way in which her constitutively lucky mental dispositions favor that action over others. In that case, the action is constitutively lucky. Suppose instead that her reason-giving dispositions do not decisively support one action over another. In that case, lucky features of her circumstance such as mood, attention direction, or environmental influences at or near the time of choice saliently explain why she chooses one action over another by influencing what reasons come to mind and how strong those reasons are. Such actions are circumstantially lucky. It is also possible that a person’s reason-giving dispositions do decisively support one action and that those dispositions are not constitutively lucky, because they were previously modified by circumstantially lucky actions; but this possibility also is not a luck-free avenue for self-creation. Thus, because history-sensitive compatibilists agree that constitutive luck negates freedom and there is no luck-free way to undo constitutive luck, history-sensitive compatibilists should agree that we cannot act freely. That, in brief, is the Luck Pincer.

Galen Strawson’s (1986, 21–51; 1994) Basic Argument purports to show that it is impossible to be morally responsible for anything entirely due to constitutive luck. In Hartman (2018, 165–166), I offer this summary:

Reasons Premise: An agent *S*’s intentionally performing an action *A* for which she might be morally responsible is explained by certain features of her mental constitution *MC*—namely, certain reasons for acting.

Responsibility Premise: *S* is morally responsible for an intentional action *A* only if *S* is morally responsible for the parts of her *MC* that explain her performing *A*, and *S* is morally responsible for her *MC* only if *S* is morally responsible for an earlier action *A*₁ in which *S* intentionally and successfully brought about those parts of her *MC*.

Iteration Premise: *S* is morally responsible for *A* by way of *MC* and *A*₁ as previously described only if *S* has performed an infinite number of even earlier free actions. (After all, *S* is morally responsible for *A*₁ only if *S* is morally responsible for the parts of her *MC*₁ that explain her performing *A*₁, and *S* is morally responsible for her *MC*₁ only if *S* is morally responsible for an even earlier action *A*₂ in which *S* intentionally and successfully brought about those parts of her *MC*₁. *S* is morally responsible for *A*₂ only if ...).

Impossibility Premise: It is impossible for finite beings like us to have performed an infinite number of past actions.

Conclusion: It is impossible for finite beings like us to be morally responsible for anything.

So, because a person must be morally responsible at least to some degree for the mental dispositions that explain an action to be morally responsible for that action and because a person’s first action must be performed from mental dispositions that are entirely constitutively lucky, it is impossible to be morally responsible for that first choice or for any choices thereafter.

¹¹ Levy (2011, 11–40; 2019) offers a more complex account of luck; I omit those details because my unified reply does not hinge on them.

Is the Basic Argument sound? The argument is valid. The only premise that might plausibly be denied is the Responsibility Premise (see Hartman 2018: 166). So, whether a person finds the Basic Argument compelling depends on whether they find the Responsibility Premise to be plausible. Numerous philosophers think that the Responsibility Premise is exactly right (see, for example, Istvan 2011; Kershnar 2015). Many others reject the Responsibility Premise as too demanding to describe plausibly a necessary condition on acting freely (see, for example, Clarke 2005; Fischer 2006; Hartman 2018).

In my view, Strawson's conception of moral responsibility is too demanding. It is not the case that a person's being morally responsible for something requires an infinity of choices for which she is morally responsible or an incoherent state of affairs in which she makes her first free choice from previously freely chosen character. Rather, moral responsibility for choices just emerges from the right kind of non-responsibility conditions (Hartman 2018; see also Cyr 2019; Mele 2006, 129–133). Moral responsibility for action emerges when a person has the right kind of knowledge of morality and mundane matters of fact and has the capacities that grant her freedom-relevant control over her action, which may be accounted for, for example, in terms of being properly responsive to reasons (Fischer and Ravizza 1998) or having the agent-causal power to choose between various possible actions (O'Connor 2000).

Rejection of the Responsibility Premise has a constructive implication for the nature of free will, because it is a crucial part in a broader argument by Taylor Cyr (2020) against the previously mentioned history-sensitivity condition on directly free actions (see also Kane 2007, 174–175; Lemos 2018, 34–35).

The denial of the Responsibility Premise implies that, for example, a youth's not being morally responsible for her character does not itself rule out the possibility of her performing her first free action. Cyr (2020, 2387–2391) argues that there is no relevant difference with respect to being morally responsible to some extent for an action between a youth who is not morally responsible to any extent for her character and Vic, our victim of neuroscientific transformation, who is not morally responsible to any extent for his vices. After all, the character traits that motivate both of their actions are constitutively lucky. For the sake of argument, assume that the youth and Vic have all the relevant knowledge and capacities that compatibilists or libertarians think are sufficient for acting freely, for example, being reasons-responsive or having multi-track agent-causal power. In that case, if the youth with those capacities can be morally responsible to some degree for her first free action influenced by her constitutively lucky dispositions, then the same should be true of Vic for his free action influenced by his constitutively lucky dispositions, because Vic has the same basic capacities required for free action but has them to a greater extent.¹²

If Vic is morally responsible for his action at least to some degree, history-sensitive conditions on acting freely turn out to be false,¹³ because these conditions are proposed to ensure that a person in Vic's condition is not morally responsible to any degree for his action. Thus, compatibilists such as Fischer and Ravizza (1998, 170–239), Haji and Cuyper (2007), and Mele (2019) who reject the

¹² I return to what else we should say about Vic in the final section.

¹³ Recall that the relevant history-sensitive conditions are necessary conditions on *directly* free actions. The falsity of such conditions is compatible with there being history-sensitive conditions on *indirect* moral responsibility. For example, a drunk driver could still be indirectly morally responsible for killing the pedestrian due to past directly free choices to get drunk and directly free omissions to make plans to get home safely.

Responsibility Premise but affirm various history-sensitive conditions should reject those history-sensitive conditions.¹⁴

Let us return to the Luck Pincer. The rejection of the Responsibility Premise and Cyr's argument provide a joint response to the Luck Pincer—namely, we should reject the history-sensitive requirement on directly free actions. Why is this a response to the Luck Pincer? The history-sensitive requirement is what justifies its premise that constitutive luck must be undone prior to acting freely, and so by rejecting that requirement, the Luck Pincer cannot get off the ground without a new argument for the premise that constitutive luck must be undone prior to acting freely. This response imposes a dialectical hardship on proponents of the Luck Pincer, because it is difficult to provide such an argument. Levy (2019, 67) himself writes, “I confess I have no response to the question what it is about luck that undermines moral responsibility other than to point to clear cases and common intuitions. ... Here we hit ground level.” This is a common refrain; for example, David Enoch (2010, 30) writes, “It is very hard to argue for—or, indeed, against—moral luck, because—as is often noted—the necessary conclusions for either position are extremely close to the relevant premises ... [and close to] moral bedrock.” Thus, before the Luck Pincer gives us a good reason to accept its conclusion, we need a new argument for the premise that constitutive luck must be undone prior to acting freely.

Furthermore, we have reason to reject Levy's claim that luck undermines free will. Levy (2011, 1) himself characterizes free will as the control condition on moral responsibility, as I did earlier in this chapter; yet Levy (2019, 67) grants the conclusion of my arguments in Hartman (2017, 51–55) that luck does not undermine moral responsibility *by* undermining control: “Constitutive and circumstantial luck do not reduce our control over our actions; they threaten our responsibility in other ways” (Levy 2019, 66; cf. Caruso 2019). But if constitutive and circumstantial luck in general do not mitigate control and if a sufficient condition for free will is characterized in terms of control, constitutive and circumstantial luck in general do not negate free will.

This unified response to the Basic Argument and the Luck Pincer motivates exploring the relationships between compatibilism and libertarianism, on the one hand, and various kinds of moral luck, on the other.

Compatibilism and Moral Luck

Recall that compatibilism is the view that acting freely is not ruled out just because the action is causally determined by factors beyond the actor's control. Add to this definition of compatibilism that human persons at least sometimes act freely.¹⁵

Compatibilism implies the possibility of causal moral luck. *Causal moral luck* occurs when the laws of nature and past states of affairs outside of a person's control causally determine her actions and thereby positively affect her degree of moral responsibility.¹⁶ Compatibilism implies the possibility of causal moral luck, because causal luck does not necessarily negate moral responsibility; so, causal luck can positively affect her degree of moral responsibility. Whether causal moral luck exists

¹⁴ Mele (1995; 2006) advances both compatibilist and libertarian accounts of free agency, and he proposes history-sensitive conditions for both.

¹⁵ The addition makes this definition symmetrical to a standard definition of libertarianism.

¹⁶ If the reader does not think that moral responsibility comes in degrees, she can substitute ‘degrees of moral praiseworthiness and blameworthiness’.

depends on whether the actions for which people are morally responsible are causally determined by factors beyond their control.¹⁷

Does compatibilism imply that at least some kinds of constitutive and circumstantial moral luck exist? Let us first make the relevant definitions explicit. *Circumstantial moral luck* occurs when a person faces a morally significant challenge that is outside of her control, and it affects her positive praiseworthiness or blameworthiness. In concrete terms, Merely Reckless's being more blameworthy than No Start is a case of circumstantial moral luck, because their different circumstantial luck makes a difference to their degrees of blameworthiness. *Constitutive moral luck* occurs when an agent possesses dispositions or capacities in a way that is outside of her control, and they affect her positive praiseworthiness or blameworthiness for a trait or an action. In concrete terms, Merely Reckless's being more blameworthy than Scarred Childhood is a case of constitutive moral luck, because their different constitutive luck makes a difference to their degrees of blameworthiness.

In Hartman (2017, 53–54), I argued that extant causal moral luck does imply extant constitutive and circumstantial moral luck, but Levy's (2019, 66) response convinced me that those arguments overgeneralize in unacceptable ways. Here I sketch a more modest version of the argument that does not unacceptably overgeneralize.

The existence of causal moral luck provides some evidence for the existence of constitutive and circumstantial moral luck. Compatibilism implies that an action's being casually lucky in general yields no excuse. If causal luck were to excuse, it would excuse due to force, because causal luck has such great influence on an action that it guarantees that it occurs in the way that it does. The influence of mere constitutive and circumstantial luck in general is not so great, because these lucky features are merely one among many other influences on our actions. A lucky constitution does not guarantee the occurrence of an action or omission absent a circumstance, and a lucky circumstance does not guarantee the occurrence of an action or omission absent mental dispositions. So then, because the greater influence of causal luck in general does not excuse, this provides evidence that the same is true of constitutive and circumstantial luck in general, which have less influence on a person's actions and omissions.¹⁸ So, since we have evidence that constitutive and circumstantial luck in general do not undermine freedom, we have evidence that such luck can positively affect a person's moral responsibility for actions and omissions.

Mainstream compatibilists accept at least some kinds of circumstantial and constitutive moral luck. On the one hand, some *quality of will* compatibilists hold the view that a person is blameworthy for a character trait if it is bad and sensitive to judgment, regardless of whether the trait is part of her genetic endowment or is produced in her by neuroscientific indoctrination (see Smith 2005). Such views embrace a large amount of constitutive moral luck. One might think that this view implies that circumstantial moral luck cannot exist, because, for example, No Start and Merely Reckless are equally blameworthy due to their identical bad character traits (see Talbert 2019, 34–35). But even this view is committed at least to a *diachronic* kind of circumstantial moral luck. Different lucky circumstantial opportunities and challenges prompt different kinds of actions and thereby prompt different kinds of character formation (Hartman 2020a, 108); in concrete terms, the unique actions of Merely Reckless can have a unique impact on her character through time and can thereby differentiate her degree of blameworthiness from No Start through time. On the other hand, *reasons-responsive* compatibilists embrace far less constitutive moral luck. They regard persons as moral

¹⁷ Most compatibilists think that freedom is also compatible with indeterminism (see Fischer 2011).

¹⁸ Certain kinds of causal, constitutive, and circumstantial luck do excuse (see Hartman 2017, 90–95; 2018, 176–180).

responsibility for traits if and only if they are formed in the right kind of way by their past directly free actions (see Fischer and Ravizza 1998; Fischer and Tognazzini 2009). And they embrace far more circumstantial moral luck. On such views, persons are fundamentally morally responsible for the exercises of their reasons-responsive capacities, and at least most opportunities to exercise those capacities are shaped by circumstantial luck. Thus, mainstream compatibilists do accept causal, constitutive, and circumstantial moral luck.

Should such compatibilists accept resultant moral luck? *Resultant moral luck* occurs when the consequence of a person's action is at least partially beyond her control, and the consequence partially determines her positive praiseworthiness or blameworthiness; in concrete terms, Killer's being more blameworthy than Merely Reckless is a case of resultant moral luck, because their different resultant luck makes a difference to their degrees of blameworthiness.

Michael Moore (1997, 233–246) argues that compatibilists should accept resultant moral luck in a way that may be summarized as follows (cf. Russell 2017a):

- (1) If resultant moral luck cannot exist, then constitutive and circumstantial moral luck cannot exist either.
 - (2) Constitutive and circumstantial moral luck can exist.
- Thus,
- (3) Resultant moral luck can exist too.

I argued that compatibilism provides some evidence for (2) and described mainstream compatibilists as accepting (2). What can be said for (1)? Moore (1997, 237) justifies (1) by appealing to this consideration: “luck is luck, and to the extent that causal fortuitousness is morally irrelevant anywhere it is morally irrelevant everywhere.”

But there are problems with (1). First, Moore's justification appears merely to restate the claim that it is supposed to justify. Second, it is not obvious that (1) is true. After all, one might be sympathetic to the allegedly Kantian view that we are morally responsible only for our inner states of willing and so not for the consequences of our actions (for example, Khoury 2018);¹⁹ in terms of our example, Killer is not even morally responsible for killing the pedestrian. Alternatively, one might think that we are morally responsible for the consequences of our actions, but that such consequences do not affect our degree of moral responsibility (for example, Thomson 1989, 208–211; cf. Zimmerman 2002, 560–561); in concrete terms, Killer is morally responsible for killing a pedestrian whereas Merely Reckless is not, but Killer does not thereby deserve more blame than Merely Reckless. They are equally blameworthy.

These options highlight ways in which compatibilists can resist Moore's argument for resultant moral luck. In the final section, I point to a more plausible reason for the claim that compatibilists should accept resultant moral luck.

Libertarianism and Moral Luck

Libertarianism is the view that a person's action being a free action is incompatible with the action's being causally determined by factors beyond her control and that human persons act freely at least sometimes.

¹⁹ In Hartman (2019b), I argue that Kant does not actually hold this view.

Libertarianism implies that causal moral luck cannot exist. If acting freely is ruled out by causal luck, causal luck cannot *positively* affect a person's degree of moral responsibility for an action.

Does libertarianism also imply that constitutive, circumstantial, and resultant moral luck cannot exist? It depends on the motivations for libertarianism.

One motivation for libertarianism is the idea that causal moral luck cannot exist, because all luck must be factored out of moral responsibility (cf. Russell 2017b, 145–149). Recall that this is precisely the motivation driving skeptical arguments from luck. As a result, for these libertarians to secure their commitment that human persons act freely at least sometimes, they tend to embrace extreme metaphysical commitments. Consider two examples.

First, there is the Kantian view that our noumenal free agency floats free of the influence of circumstantial and constitutive luck (see Athanassoulis 2005, 104, 112).

This description of free choice seems implausible considering the ways in which our constitutive and circumstantial luck influence our apparent free choices. Even if this objection could be surmounted by embracing the view that free choices are rare (Campbell 1951, 460–461), if free choices are entirely uninfluenced by constitutive and circumstantial luck, such choices would be wholly inexplicable and arbitrary due to the complete absence of a rationalizing explanation, which poses a problem for their being free choices (Hartman 2017, 98).²⁰

Second, there is Michael Zimmerman's (2002) counterfactual view. This view neutralizes resultant moral luck, because consequences do not affect a person's degree of moral responsibility; in terms of our example, Killer and Merely Reckless are equally blameworthy. This view also neutralizes at least most circumstantial and constitutive moral luck, because persons are praiseworthy and blameworthy not only for what they actually freely do but also in virtue of what they would have freely done in counterfactual circumstances, including modally distant counterfactual circumstances with counterfactual character and history.²¹ In concrete terms, Killer, Merely Reckless, No Start, and Scarred Childhood are equally blameworthy, because they would do the same thing in one another's lucky circumstances and with one another's lucky constitutions.

Zimmerman's view is difficult to accept at least for three reasons. First, it requires that there be infinitely many true counterfactuals of libertarian freedom to rule out moral luck, because there is an infinite number of circumstances in which a person could possibly be. But there is a good reason for libertarians to deny that there are any such true counterfactuals (Hartman 2017, 71–73). Suppose that freedom requires alternative possibilities at the moment of choice. In that case, nothing about her actual states of character, mind, or circumstance can make it true that she would perform or omit a free action until she actually exercises her free agency. But because she cannot *actually* exercise her free agency in a *counterfactual* circumstance, such counterfactuals cannot be true.²² Second, even if

²⁰ This objection is different from the standard luck objection to libertarianism, because the standard objection does not describe an agent's making a choice without dispositional anchors.

²¹ Zimmerman (2002, 573) advertises his luck-free strategy as equally available to libertarians *and* compatibilists. But in Hartman (2017, 73–75), I argue that it is unmotivated for anyone who embraces Zimmerman's view to affirm causal moral luck.

²² If a person is morally responsible for character due to its having been formed by past free actions and that character determines what she would do in some counterfactual circumstance, there can be true counterfactuals of *indirect* freedom (see Hartman 2017, 78–80; 2020b, 1419–1420). But such counterfactuals cannot offer much aid to Zimmerman's view. Actual character grounds true counterfactuals only when actual dispositions are *kept fixed* in the antecedent. But to eliminate constitutive luck, a person must have been in the formative circumstances of others, which requires that actual dispositions are *not kept fixed*.

there are true counterfactuals of freedom, Zimmerman's view cannot fulfill its own luck-free aspiration if a person has some of her lucky constitutive properties essentially, because it is metaphysically impossible for a person to be in a circumstance with different essential constitutive luck (Hartman 2019c, 3184–3187). Third, if there are satisfactory answers to these objections, Zimmerman's view still counterintuitively implies that people are infinitely praiseworthy and blameworthy in virtue of the relevant true counterfactuals, because it is plausible that praiseworthiness and blameworthiness do not cancel out each other (Hartman 2017, 66).

The most viable forms of libertarianism have a different motivation for denying causal moral luck. Such libertarians offer a reason why causal luck is pernicious to freedom that does not apply generally to the other kinds of luck. For example, causal luck necessarily precludes our being the source of our actions in a way that is essential to acting freely, but constitutive and circumstantial luck do not (Pereboom 2014, 9–29, 74–82). Or causal luck necessarily rules out the kind of alternative possibilities at the moment of choice that are essential to acting freely, but constitutive and circumstantial luck do not (van Inwagen 1983, 55–105). To put the latter point in metaphorical terms, freedom requires that our world be a garden of forking paths such that the free agent has the power to choose which path to take and thereby the power to take one path or the other. Causal luck necessarily rules out the possibility of more than one open path, but constitutive and circumstantial luck often do not rule out the possibility of more than one open path; and in cases in which constitutive or circumstantial luck do so, they are cases of causal luck rather than mere constitutive or circumstantial luck. Thus, the most viable motivation for libertarianism does not rule out the possibility of constitutive and circumstantial moral luck. Such libertarians tend also to embrace at least some constitutive and circumstantial moral luck, but how much they embrace depends on particularities of the accounts.

Compatibilism, Libertarianism, and Resultant Moral Luck

Compatibilists and libertarians who accept the unified response to the Luck Pincer and Basic Argument and three additional claims yet to be elaborated have a reason to accept the existence of resultant moral luck.

The unified response is that a person can be morally responsible to some degree for an action that is entirely motivated by constitutively lucky dispositions if such an action satisfies the relevant compatibilist or libertarian conditions on moral responsibility. In concrete terms, Vic can be morally responsible to some degree for his free choice to murder.

Consider the three additional claims. First, Vic is not very morally responsible or blameworthy for his free action due to his bad constitutive luck. Thus, acting from a purely constitutively lucky character can be a *partial* excuse, because a person's degree of moral responsibility is mitigated, but not eliminated, by an action motivated purely by constitutively lucky dispositions. This accommodates a kernel of truth of the Responsibility Premise that being morally responsible for the way you are is important in some way to being morally responsible for an action.

Second, Vic is much less blameworthy for his action than someone—call him Vic*—who is blameworthy to a significant extent for the character that motivates and explains his type-identical murder.²³ What this judgment reveals is that being morally responsible for the character that

²³ One might be tempted to respond that Vic* is morally responsible for more things—namely, his character and action—rather than being more morally responsible (Mckenna 2004, 183). But I do not think that this correctly identifies the moral properties of the actions (Hartman 2020b, 1424n11).

motivates and explains an action is relevant to the agent's degree of moral responsibility for the action (Cyr 2020, 2392–2393; Hartman 2020b, 1422–1424; Kane 2007, 174–175; Lemos 2018, 34–35, 68–73; O'Connor 2005, 219–220; Rogers 2015, 127–150). In my view, being morally responsible to a significant extent for the character that motivates and explains an action is required to be *fully* morally responsible for the action (Hartman manuscript).

Third, a person is morally responsible for a character trait to some extent if and only if the trait was generated, strengthened, weakened, or maintained by actions or omissions for which she is directly morally responsible and that make a difference to her character in a way that she could reasonably have been expected to foresee (Hartman 2020b, 1426–1431; cf. Fischer and Tognazzini 2009).

Compatibilists and libertarians who embrace the unified response and these three plausible claims are committed to accepting the existence of resultant moral luck (see also Cyr manuscript). Why think that? Moral responsibility for character is a species of moral responsibility for consequences, which gives us the 'resultant' part of resultant moral luck. Moral responsibility for consequences can affect a person's degree of moral responsibility, because moral responsibility for character can increase her degree of moral responsibility for the actions explained and motivated by that character, which gives us the 'moral' part of resultant moral luck. Consequences that affect character are lucky, which gives us the 'luck' part.

The 'resultant' and 'moral' parts easily fall out of the general view. But why is the 'luck' part true? That is, why are character-affecting consequences lucky? It is perhaps easiest to see why via example and generalization. Suppose that Jan wants to grow in temperance. Jan freely removes all the junk food from her home; one foreseeable consequence of that free choice is that she no longer has the option to choose junk food at home, because her choices at home are restricted by what is easily available. Her temperance strengthens as a result. In particular, she gains new beliefs about the benefits of eating healthy such as having more energy, and she gains new desires for healthy food by habituation. But this character forming consequence is subject to luck. After all, Jim is Jan's spouse, and Jim's behavior is outside of Jan's control; Jim might reintroduce junk food by bringing home Flamin' Hot Limón Doritos. Such an event would diachronically alter the consequence of having a junk food-free home, which illustrates the way in which that consequence is lucky as well as the way in which the consequence helps to strengthen her temperance is lucky. But then, Jan's free choice to influence her character is subject to resultant luck, and so is the way in which she is morally responsible for the changes to her character influenced by that free choice. The case generalizes, because character forming strategies are almost always indirect in this way,²⁴ and so the foreseeable actual consequences of character shaping free actions are almost always lucky.

Thus, compatibilists and libertarians have good reason to embrace resultant moral luck given the unified response and those three claims.^{25,26}

²⁴ Miller's (2017, 169–254) list of indirect strategies include going to therapy, surrounding ourselves with virtuous people, setting goals, virtue-labelling ourselves, nudging ourselves, selecting our circumstances, joining a religious community, and asking God for help.

²⁵ In Hartman (2017, 105–111, 124–138; 2019c, 3188–3192), I argue that compatibilists and libertarians have yet other reasons to embrace extant resultant moral luck.

²⁶ I thank Olle Blomberg, Taylor Cyr, Matt King, Neil Levy, Kristin Mickelson, Jennifer Page, and Abelard Podgorski for comments on a draft of this paper.

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Biography

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