

## Moral Luck

One of the important themes in the freewill debate is the idea that freedom is necessary for moral responsibility. In effect, if hard determinism is the correct view, then we should not hold ourselves or others morally responsible. Libertarians, in particular, seem to hold that in order to be responsible for an act, we must be its "sole author." Here is the principle at issue:

**Control Principle: You are only responsible for what you have control over.**

If you steal an axe from my garage and use it to break into a gas station, there's no point in holding *me* responsible, I didn't have any control over what you did with the axe, I didn't know about it. At most I could be blamed for leaving the axe out there in plain view where anyone could grab it. (But one might ask "Wasn't it in my control to hide the axe away? Aren't I partly responsible?") Or suppose I had locked the garage door and you had broken it down with your car; nothing that was within my control could have prevented *that*, so surely in that case I'm not responsible,

There does then seem to be a strong intuitive correlation between control and responsibility. But now notice an important consequence of the control principle. A handy word for what I *don't* have control over is what happens as a matter of *luck*. So:

**Luck Principle: You are not responsible for anything that is a matter of (good or bad) luck.**

This too has a good deal of intuitive appeal. Suppose there is a fire and I try to save an infant's life by throwing it off a balcony into the arms of a waiting firefighter. While the baby is falling a burning beam knocks the firefighter down and the infant falls to its death. Is that my fault? No, it was just bad luck, I can't be blamed. Or maybe I am trying to kidnap the baby from an apartment. Unbeknownst to me the apartment is on fire and so what I do saves its life. Should I get credit for this? No, it's a matter of luck that the apartment was on fire.

But having stated this very plausible-looking principle, we have to notice that as good as it sounds in principle, it doesn't correspond to the way we hand out praise and blame in practice. In effect, we judge people for what they actually do or fail to do, not just for what they would have done if circumstances had been different. Here is Nagel:

What has been done, and what is morally judged, is partly determined by external factors. However jewel-like the good will may be in its own right, there is a morally significant difference between rescuing someone from a burning building and dropping him from a twelfth-story window while trying to rescue him. Similarly there is a morally significant difference between reckless driving and manslaughter. But whether a reckless driver hits a pedestrian depends on the presence of the pedestrian at the point where he recklessly passes a red light. (530)

Another example Nagel gives is more gripping. Someone who was an officer in a concentration camp might have led a quiet and harmless life if the Nazis had never come to power in Germany. And someone who led a quiet and harmless life in Argentina might have become an officer in a death camp if he hadn't left Germany for business reasons in 1930. Unless we mean to be rewarding people for their good fortune at moving out of a challenging situation, the Argentinean businessman ought to be considered just as blameworthy as the death camp officer.

One reaction here is that it isn't a matter of luck: do you think it's just a matter of luck that you've never tortured someone? (You've never been in the circumstances where it seemed even remotely the best solution to a problem.) But even if *you* would never do such a thing, presumably those who are torturers, terrorists, etc., have become so partly as a result of luck (they wouldn't have become so if they had grown up with the upbringing you had). Should we blame them or not? The luck principle suggests not.

So luck does seem to play a role then in whether we "do the right thing" or not. Nagel mentions four quite distinct ways in which this happens.

(1) *Constitutive* luck: what sort of person we are ("inclinations, capacities, and temperament");

(2) Luck in one's *circumstances*: what situations and opportunities for good/bad action one faces in life.

The other two have to do with causes and effects of action:

(3) Luck in *causes* of action: upbringing, were you angry, sleepy, hungry...at the time;

(4) Luck in *effects* of action, in how things turn out: did the world cooperate with your dreams, or were you in the wrong place at the wrong time...revolution example, leaving the baby in the bath, turning off the baby monitor.

The upshot is that if we are really concerned to only attribute responsibility when the agent is the "sole author" of the action, then most of our ordinary attributions are misguided--some degree of good or bad luck is present in everything we do. It's a matter of luck what family we were born into, what mental and physical capacities we have, what sorts of opportunities we have to help or harm others, how far our projects and plans are successful. It's a matter of luck (good or bad) whether the murderer succeeds in killing the victim; it's a matter of luck whether the charitable actions you perform have good consequences. So it seems that we should conclude that even if the compatibilist and libertarian are *right* and we have freewill, this still does not establish that we are right in our ordinary judgements of moral responsibility. We might have free will, but in any action what we will and the effects of our will are a result of luck, which absolves us of responsibility.

This is the characteristic form of a philosophical problem. There's a principle we hold dear, that luck shouldn't play a role, but it disagrees with the assessments we make in practice. Put it like this:

**Moral principle:** if the differences between my action and yours are attributable to luck, then our actions are morally on a par (equally good or equally bad).

**Moral practice:** whether an action is counted as good or bad, right or wrong, can and does depend on luck.

Now this kind of tension between a principle that seems absolutely compelling considered in the abstract but far too demanding when we apply it to particular cases is characteristic of philosophy; some might say it's the essence of philosophy to look into these kinds of theory/practice disagreements. (Nagel compares the moral situation with the situation in epistemology.) What are we going to say in the case at hand?

The best outcome obviously would be if we could resolve the tension in favor of one side or the other. Could we go with the principle alone and let the practice be damned? The result, as Nagel says, would be that it's not clear that's going to leave room for moral responsibility at all:

If the condition of control (i.e., no luck) is consistently applied, it threatens to erode most of the moral assessments we find it natural to make. The things for which people are morally judged are determined in more ways than we at first realize by factors beyond their control. And when the seemingly natural requirement of fault or responsibility is applied in light of these facts, it leaves few...moral judgments intact. Ultimately, nothing or almost nothing about what a person does seems to be under his control (530).

Yet it doesn't seem we can just dispense with the principle either. There are lots of reasons for this.

- i If the point of moral evaluation is to encourage good behaviors and discourage bad ones, then it makes limited sense to evaluate people for things they have no control over.
- ii The idea that evaluations are properly sensitive to luck leads to very unwelcome consequences if you indulge it too completely. I gather there's a provision in American law that says you can't be thrown for a crime that *wasn't* a crime at the time that you did it; that is, Congress can't pass a law that retroactively applies to things that were legal at the time that they were done. This certainly seems to make sense. But what's the rationale? Apparently just that otherwise the legality of a person's act is too far out of their control; it's too much a matter of luck.

The main reason though why the principle has to be given its due though is this. It would be one thing if the principle were just an overgeneralization from certain clear cases, e.g., the case of the axe taken from my garage. Then we could say it's mostly valid but not always. This would be like the generalization that says "personal identity always requires memory"; when you think of the case of amnesia, or of someone who can't remember just a certain *stage* of their life, that starts to seem plainly wrong. The difference is that the anti-luck principle continues to tug at our intuitions even when we move past the original cases:

When we undermine moral assessment by considering new ways in which control is absent, we are not just discovering what *would* follow given the general hypothesis, but are actually being persuaded that in itself the absence of control is relevant in these cases too. The erosion of moral judgment emerges not as the absurd consequence of an over-simple theory, but as a natural consequence of the ordinary idea of moral assessment (531)

So it begins to seem that both elements have to be there tugging against each other, the anti-luck principle and the practice in which luck is recognized and acknowledged as a factor in evaluation. But how are we to understand their relation?

This is where Nagel makes a surprising suggestion. Basically what he says is that there is not a single truth about action and responsibility. There are truths, but which applies depends on the perspective we are adopting. On the one hand we can consider our actions from an *internal* perspective, as *things we do*. Then luck seems irrelevant and the Libertarian is right; I am responsible only for what I am the *sole* author of. Other people's actions can be considered from this perspective too, if we imagine taking up their position. On the other hand we can consider our actions from an *external* perspective, not as things that we do but as things that *happen* in the natural world. Then it all becomes a matter of luck, of which way the cosmic wind is blowing:

The area of genuine agency, and...of legitimate moral judgment, seems to shrink under this scrutiny to an extensionless point (534).

(As he says, this is why indeterminism seems no improvement.) Note well that this isn't to *dissolve* the tension Nagel is pointing to; it's rather to name it and identify it as a special case of a more general tension between the subjective and objective ways of looking at things.

A lot of other examples could be given. Color: are tomatoes really, objectively, red? Atoms in the void. Time: now is subjectively special but objectively? Goodness: it seems important to us that "good things" happen people get fed and have satisfying experiences. But is it objectively important? Is the concept of goodness one that only has application from a subjective point of view?

Questions:

- i Is the control principle right? Is the luck principle the right correlate?
- ii Does it help to distinguish the evaluation of the *person* as opposed to the evaluation of an *action*?

