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A VIRTUE THEORETIC SOLUTION TO THE PROBLEM OF MORAL LUCK

by

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I am grateful to all those who have helped me improve the following arguments, specifically John Brunero, whose comments have been particularly helpful.

DEDICATION

I dedicate this thesis not only to my family and friends but also to the unlucky, whose guilt is merely apparent.

ABSTRACT

At the beginning of his famous paper “Moral Luck,” Thomas Nagel notes that it is intuitively plausible that people cannot be morally assessed for what is beyond their control. He then argues that most, if not all, of what people do is beyond their control. Thus, Nagel concludes that individuals must deny that people cannot be morally assessed for what is beyond their control, alter the way they think about morality, or abandon the belief that moral assessment is possible. I contend that one’s best option is to alter the way one thinks about morality and therefore draw from the work of Michael J. Zimmerman to construct and defend a counterfactual theory of moral assessment which looks not only at the kind of person one is and the kinds of actions one performs but also at the kind of person one would be and the kinds of actions one would perform in certain counterfactual circumstances. In closing, I explain why one who accepts my counterfactual theory of moral assessment has reason to prefer virtue ethical theories of morality to their consequentialist and deontological counterparts.

I. INTRODUCTION

In the television series *Criminal Minds*, members of the Behavioral Analysis Unit (BAU) of the Federal Bureau of Investigation (FBI) attempt to find and apprehend serial killers by psychologically profiling the suspects. In one particular episode, the serial killer turns out to be comic book artist Jonny McHale, who turns violent only after witnessing the brutal murder of his fiancé and suffering a psychotic break. In the episode's closing scene, two members of the BAU, Emily Prentiss and David Rossi, have the following conversation:

Rossi: Something wrong?
Prentiss: He's the first unsub [unknown subject] I've worked that wasn't a bad guy, you know? Six months ago Jonny McHale was just a regular person.
Rossi: Every unsub is ill on some level. Most can't help what they do any more than Jonny could.
Prentiss: But he went from successful writer and artist to brutal killer in six months.
Rossi: He suffered an unbelievable tragedy.
Prentiss: I know; I get it.
Rossi: So what's bugging you?
Prentiss: It just makes me wonder, aren't we all capable of becoming something like that?

As her statement indicates, Prentiss recognizes that were she to undergo the same experiences as McHale, she too might turn violent. Now, this fact might be less

disturbing to Prentiss had McHale done something to put himself at risk of undergoing such experiences,¹ but he did not. McHale was simply unlucky.

Given that McHale was unlucky to undergo the experiences he did and that undergoing those experiences caused him to be a serial killer, McHale was unlucky to be a serial killer. Furthermore, assuming that being a serial killer is morally blameworthy, it follows that McHale was also unlucky to be morally blameworthy.² Although this argument is valid and the premises appear true, the conclusion strikes many as false. According to them, moral responsibility and therefore moral praise and blame are incompatible with luck.³

I contend that the problem with the preceding argument is the assumption that being a serial killer is morally blameworthy. Although those who are responsible for being serial killers are morally blameworthy, it does not follow that those who are not responsible for being serial killers are morally blameworthy.⁴ As I see it, one is morally blameworthy for being a serial killer only if one is responsible for being a serial killer (i.e., only if one is not unlucky to be a serial killer). Thus, McHale, who is unlucky to be a serial killer, is not morally blameworthy for being a serial killer on my account.⁵

¹ Although it is not clear to me how one would put oneself at risk of suffering a psychotic break or becoming a serial killer, I assume that it is possible to do such a thing. Even if it is not, the point is simply that there are certain morally blameworthy character traits that one can avoid developing by not putting oneself in certain circumstances.

² Because I assume that being a serial killer and being morally blameworthy are bad, I describe McHale as unlucky. If, however, one believes that being a serial killer and being morally blameworthy are good, one would describe McHale as lucky.

³ The suggestion that moral responsibility is incompatible with luck can be found in numerous authors (e.g., Augustine 1961: 33 and Reid 1983: 352).

⁴ Even if it is useful to blame those who are not responsible for being serial killers, my contention is that they do not deserve blame.

⁵ A similar argument and reply could be made regarding each of McHale's particular actions. For instance, one could argue that if McHale was unlucky to undergo the experiences he did and that undergoing those

If a serial killer like McHale is not morally blameworthy, however, then who is? This paper attempts to answer that question. I begin by explaining what moral luck is and why Thomas Nagel believes the possibility of moral assessment depends on its existence. I then draw from Michael J. Zimmerman's work to provide a counterfactual account of moral assessment that does not depend on the existence of moral luck. In conclusion, I argue that that counterfactual account of moral assessment provides reason to prefer virtue ethical theories of morality to consequentialist and deontological theories.

experiences caused him to kill a particular individual x , then McHale was unlucky to kill x . Assuming that killing x is morally blameworthy, it would follow that McHale was unlucky to be morally blameworthy. The problem with this argument is the assumption that killing x is morally blameworthy, for although those who are responsible for killing x are morally blameworthy, it does not follow that those who are not responsible for killing x are morally blameworthy. Instead, one is morally blameworthy for killing x only if one is responsible for killing x .

II. THE PROBLEM OF MORAL LUCK

Nagel's Argument

In the famous paper "Moral Luck," Thomas Nagel asserts, "Prior to reflection it is intuitively plausible that people cannot be morally assessed for what is not their fault, or for what is due to factors beyond their control."⁶ He also contends that "nothing or almost nothing about what a person does seems to be under his control."⁷ Taken together, these statements produce an argument against the possibility of moral assessment.

The Problem of Moral Luck

- (P1) (The Control Principle) Agents cannot be morally assessed for what is not within their control.
- (P2) There is nothing within agents' control.
- (C) Therefore, agents cannot be morally assessed.

Given that the argument is valid, those hoping to deny (C) must deny either (P1) or (P2). In "Moral Luck," Nagel defends (P2), thereby suggesting that others must abandon either the control principle by admitting that individuals can be morally assessed for what is beyond their control or their belief that moral assessment is possible.⁸ Because neither of these options is attractive, I argue that one should, if possible, deny (P2).

⁶ Nagel 2007: 355.

⁷ Nagel 2007: 356.

⁸ If agents can be morally assessed for what is beyond their control, then moral luck exists.

In what follows, I present Nagel's defense of (P2). Although I admit it reveals that many things are beyond agents' control, I contend that it fails to establish the stronger claim that everything is beyond agents' control. Thus, I assert that neither (P1) nor the possibility of moral assessment need be abandoned. Nevertheless, I believe Nagel's defense of (P2) does highlight problems with the way morality is ordinarily assessed. As he points out, our basic moral attitudes, though determined by what is actual, are also threatened by that actuality,⁹ for if the only thing subject to moral assessment is what one actually has within one's control, there is little, if anything, subject to moral assessment. This makes comparative moral assessment difficult if not impossible. In order to make comparative moral assessment easier, I argue that such assessment should be based not only on the kind of person one is and the kind of actions one performs, but also on the kind of person one would be and the kind of actions one would perform in certain counterfactual circumstances. In other words, I contend that moral assessment should be based not only on an individual's character and actions in the actual world, but also on his or her character and actions in certain possible worlds.

Four Kinds of Moral Luck

In defense of (P2), Nagel presents three kinds of moral luck (viz., resultant, circumstantial, and constitutive luck) to illustrate that the effects of one's action, one's actions themselves, and one's character dispositions, all of which ordinarily play a role in

⁹ Nagel 2007: 362.

moral assessment, are beyond one's control. Lastly, Nagel presents a fourth kind of moral luck (viz., causal luck) to illustrate that everything is beyond one's control.

The first type of luck Nagel presents is *resultant luck*, the type of luck that is present whenever moral assessment is affected by "the way in which one's actions and projects turn out."¹⁰ For example, imagine a scenario in which an individual drives through a red light. Although there are some cases in which the driver's doing so might be harmless, there are other cases in which the driver's doing so will be quite harmful. Ordinarily, the more harm one causes, the more blame one receives, so the more harm the driver causes (e.g., if he or she runs over a child), the more blame he or she will receive. Conversely, the less harm the driver causes, the less blame he or she will receive.¹¹ Assessing the driver in this way (i.e., making blame proportionate to the degree of harm caused), however, is to make moral assessment of the driver depend on something beyond his or her control, thereby violating the control principle. Thus, insofar as the effects of the driver's driving through a red light are beyond his or her control, they should not play a role in the way he or she is morally assessed.¹² In the end, this illustrates that if the effects of an individual's actions are beyond his or her control, moral assessment of him or her should not take those effects into account.¹³

¹⁰ Nagel 2007: 357.

¹¹ Ibid.

¹² There may, in some cases, be reasons to blame a driver who both drives through a red light and runs over a child more than a driver who simply drives through a red light. For instance, in those cases where a driver both drives through a red light and runs over a child, the driver misses or ignores two "signs" not to drive through the red light (i.e., the red light and the child). In those cases where a driver simply drives through a red light, however, the driver misses or ignores only one "sign" not to drive through the red light (i.e., the red light). I assume that it is more egregious to miss or ignore two "signs" than it is to miss or ignore one.

¹³ Although the effects of an individual's actions should not be taken into consideration when assessing the morality of that individual, it does not follow that the effects of an individual's action should never be taken

A second kind of luck is what Nagel calls *circumstantial luck*, the kind of luck that is present whenever moral assessment is affected by the situations one faces. If, for example, whether or not one becomes a Nazi officer depends on events outside one's control, circumstantial luck is present. Nagel writes, "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 concentration camp if he had not left Germany for business reasons in 1930."¹⁴ This example illustrates that one's actions often depends on one's circumstances, and because one's circumstances are often beyond one's control, one's actions are often beyond one's control. In such cases, one's actions should not play a role in morally assessment.

A third type of luck is what Nagel calls *constitutive luck*, the type of luck that is present whenever moral assessment is affected by one's character dispositions. Imagine, for example, an individual named Allen who is passed up for a job promotion that is deservedly given to Brian. Allen, though envious of Brian, congratulates Brian nonetheless.¹⁵ According to Kant, the way in which an individual is morally assessed depends upon the goodness of his or her will, and the goodness of an individual's will depends on whether he or she acts from duty (i.e., from the categorical imperative).¹⁶ To

into consideration when assessing the morality of that action. That is, the fact that the effects of a particular individual's driving through a red light should not be taken into consideration when assessing the morality of the driver does not mean that the effects of driving through red lights should not be taken into consideration when assessing the morality of driving through red lights.

¹⁴ Nagel 2007: 356.

¹⁵ This example is drawn from Nagel 2007: 359. I assume that because of Allen's envy, it is impossible for him to offer sincere congratulations.

¹⁶ Kant 1993: 12.

perform an action from duty is to perform it out of respect for the moral law, specifically because the maxim of that action is universalizable.¹⁷ Therefore, the way in which an individual is morally assessed on Kant's account depends upon whether he or she performs his or her actions because the maxims of those actions are universalizable. Assuming then that Allen congratulates Brian because the maxim of his action (viz., congratulate those who receive deserved promotions) is universalizable, Allan acts from duty and therefore rightly on Kant's account.¹⁸ According to Nagel, however, acting from duty is not sufficient for acting rightly, for on his account, right action requires that one also have the appropriate accompanying attitude. So although Allen correctly congratulates Brian, Allen is nevertheless blameworthy given the wrongness of his envy.¹⁹

Nagel goes on to contend that character dispositions, like Allen's envy, are at least influenced, if not determined, by one's biological makeup or upbringing and are therefore beyond one's control. This affects moral assessment in at least two ways.²⁰ First, insofar as moral evaluation of agents' behavior depends on certain internal dispositions, the fact that agents' dispositional attitudes are beyond their control makes it such that moral assessment will be grounded in some lucky feature of their constitution.

¹⁷ Kant 1993: 13.

¹⁸ According to Kant, simply acting in accordance with duty is not sufficient for right action (Kant 1993: 10).

¹⁹ Nagel 2007: 359.

²⁰ This affects moral assessment in at least two ways because at least two kinds of character dispositions influence moral assessment. On one hand, there are *internal dispositions*. Internal dispositions are dispositions to have certain attitudes. For example, some individuals are more envious than others, a fact that influences the way they are morally assessed. On the other hand, there are *external dispositions*. External dispositions are dispositions to perform certain actions. For example, some individuals take more risks than others, a fact that will influence their behavior and therefore the way they are morally assessed. I use the word "constitution" and the phrase "character dispositions" to refer to both kinds of dispositions.

Moral assessment of Allen, for example, is grounded in a lucky feature of his constitution insofar as his envy is a product of his genes or the way in which he was raised. Second, because moral evaluation of agents depends on their actions and agents' actions depend on certain external dispositions, the fact that agents' external dispositions are beyond their control makes it such that moral assessment of agents will be grounded in some lucky feature of their constitution. For example, an individual disposed to alcoholism will have less control over his or her drinking than an individual not disposed to alcoholism, and insofar as the excessive drinking caused by alcoholism diminishes one's control over one's actions, the individual disposed to alcoholism will have less control his or her actions than the individual not disposed to alcoholism. Thus, moral assessment of the individual disposed to alcoholism will, at least in part, be grounded in a lucky feature of his or her constitution. Ultimately, however, because individuals should not be morally assessed for what is beyond their control and their constitutions or character dispositions are beyond their control, moral assessment should not be grounded in their constitutions or character dispositions.

The fourth and final kind of luck presented by Nagel is *causal luck*, the kind of luck that is present insofar as the will and therefore all human action is causally determined. As Nagel points out, "Everything seems to result from the combined influence of factors, antecedent and posterior to action, that are not within the agent's control."²¹ If, as the control principle suggests, agents cannot be morally assessed for

²¹ Nagel 2007: 360.

what is beyond their control and everything is beyond their control, then agents cannot be morally assessed.

Conclusion

Given the control principle on which agents cannot be held responsible for what is not within their control, the existence of resultant, circumstantial, and constitutive luck requires abandoning the way individuals are ordinarily morally assessed. Moreover, the existence of causal luck requires abandoning moral assessment altogether. Thus, on Nagel's account, preserving the possibility of moral assessment requires one to reject the control principle. In other words, preserving the possibility of moral assessment requires holding agents responsible for things that are not within their control. In what follows, I argue that preserving moral assessment does not require holding agents responsible for things that are not within their control. Then, after providing a counterfactual theory of moral assessment that can handle the problems posed by resultant, circumstantial, and constitutive luck, I contend that that theory provides reasons to prefer virtue ethical theories of morality to consequentialist or deontological theories.

III. MORAL RESPONSIBILITY

In a paper entitled “Taking Luck Seriously,” Michael J. Zimmerman attempts to explain how both the control principle and the possibility of moral assessment can be preserved in spite of the worries caused by luck. Recognizing that moral responsibility is incompatible with luck, Zimmerman admits that one should not be held morally responsible for those character dispositions, actions, or effects that are beyond one’s control. Realizing, however, that there is a great deal beyond one’s control, Zimmerman expands the scope of one’s responsibility by arguing that one can be held morally responsible for the character dispositions one would have had, actions one would have performed, and effects one would have produced, had they not been beyond one’s control. In other words, Zimmerman argues that even if an individual is not morally responsible for his or her actual character dispositions, actions, or effects because they are beyond his or her control, he or she is, nevertheless, responsible for his or her counterfactual character dispositions, actions, and effects.

To accomplish this, Zimmerman begins by draws two distinctions, one between three kinds of judgments (viz., aretaic, deontic, and hypological judgments) and another between the degree and scope of one’s responsibility. By drawing a distinction between aretaic, deontic, and hypological judgments, Zimmerman is able to separate questions about virtuous character and right action from questions about responsibility. Then, by focusing in on questions about responsibility, Zimmerman is able to argue, contra Nagel,

that it is possible to preserve both the possibility of moral assessment and the control principle.

Aretaic, Deontic, and Hypological Judgments

In order to preserve both the possibility of moral assessment and the control principle in spite of the problems posed by luck, Zimmerman begins by distinguishing aretaic and deontic judgments from hypological ones.²² *Aretaic judgments*, according to Zimmerman, are judgments about character, particularly virtue and vice.²³ Thus, aretaic judgments are made of individuals, and the making of such judgments requires the evaluation of one's character dispositions. For example, an individual disposed to saving drowning swimmers is deemed virtuous while an individual disposed to ignoring them is deemed vicious.

Deontic judgments are judgments about actions, particularly their rightness and wrongness.²⁴ Thus, deontic judgments are made of behaviors, and the making of such judgments requires the evaluation of the way actions are produced and the effects that result. Saving a drowning swimmer, for example, is deemed right while ignoring a drowning swimmer is deemed wrong.

²² Zimmerman 2002: 554.

²³ Ibid.

²⁴ Zimmerman claims that "deontic judgments constitute a type of act evaluation," but he also claims that they constitute a type of agent evaluation (Ibid.). While I agree with Zimmerman's suggestion that deontic judgments constitute a type of act evaluation, I disagree with his suggestion that they also constitute a type of agent evaluation.

Finally, *hypological judgments* are judgments about responsibility, particularly laudability and culpability.²⁵ Zimmerman himself introduces the word “hypological,” which he draws from the Greek word “ὑπόλογος” meaning “held accountable or liable.”²⁶ Hypological judgments, like aretaic judgments, are made of individuals, and the making of such judgments requires the evaluation of one’s control. More specifically, the making of such judgments requires determining whether or not an individual has control over a particular thing and, if he or she does, determining the extent to which he or she has control over that thing. Hypological judgments can be made about individuals with respect to their character dispositions or their behaviors. Consequently, hypological judgments can be made about virtue and vice or right and wrong action. For example, whether one has the disposition to save drowning swimmers may or may not be within one’s control. If it is, then one is laudable for having it and culpable for not. If it is not, then one is neither laudable nor culpable either way. Similarly, whether one saves a drowning swimmer may or may not be within one’s control. If it is, then one is laudable for doing so and culpable for not. If it is not, then one is neither laudable nor culpable either way.

Degree and Scope of Responsibility

Having distinguished between aretaic, deontic, and hypological judgments, Zimmerman turns his attention to distinguishing between degree and scope of

²⁵ Ibid.

²⁶ Ibid.

responsibility.²⁷ To do so, Zimmerman presents an example in which two assassins, Georg and George, plot to kill Henrik and Henry respectively.²⁸ Zimmerman assumes that the mental and physical lives of Georg and George are identical and that the only difference between the two is that the bullet Georg fires at Henrik hits and kills a bird while the bullet George fires at Henry hits and kills Henry. Although it is clear, according to Zimmerman, that George is responsible for something that Georg is not (i.e., the death of a person), it does not follow that that George is any more blameworthy than Georg. In fact, given that the only differences between the two assassins are the effects of their actions, something outside their control, Zimmerman is inclined to describe them as equally blameworthy.²⁹

In order to explain how the two men could be equally blameworthy when one is responsible for killing a man and the other is not, Zimmerman draws a distinction between degree and scope of responsibility. On Zimmerman's account, one's *degree* of responsibility depends on the degree of control one has over a particular characteristic of the world (e.g., one's character dispositions, circumstances, actions, or the effects of one's actions).³⁰ In the example, Georg and George are described as having identical mental and physical lives. I take it that Zimmerman also assumes that they arrive at their identical mental and physical lives by identical processes. So, assuming Georg and George freely choose to be assassins, the two not only have *the same degree* of control

²⁷ Zimmerman 2002: 560.

²⁸ Ibid.

²⁹ Ibid.

³⁰ Zimmerman 2002: 562. Here I have noted that one's actions themselves might be beyond one's control (e.g., in those cases where one misspeaks). Although Nagel and Zimmerman ignore this possibility, Santiago Amaya brought it to my attention.

over their becoming assassins but also have *some non-zero degree* of control over their becoming assassins, for insofar as Georg and George are free to be assassins, they can avoid becoming assassins. If scientists program Georg and George to be assassins, however, then although the two have the same degree of control over their becoming assassins, they do not have some non-zero degree of control over their becoming assassins, for insofar as Georg and George are programmed to be assassins, they cannot avoid becoming assassins.

Whereas one's degree of responsibility depends on the degree of control one has over a particular characteristic of the world, one's *scope* of responsibility depends on what characteristics of the world one has control over.³¹ In Zimmerman's example, Georg and George are assumed to have the same, non-zero degree control over their character dispositions, circumstances, and actions. Thus, the scope of their control extends to their character dispositions, circumstances and actions. The question, however, is whether the scope of their control extends to the effects of their actions.

Whether one believes Georg and George have control over the effects of their actions will depend on one's theory of responsibility. As I see it, what it means for one to have control over the effects of one's actions is for the actual effects of one's actions to match up with one's intended effects.³² On this view, because Georg fails to kill, the

³¹ Ibid.

³² Earlier I argued that one is not morally responsible for what is beyond one's control, and here I argue that one's effects are beyond one's control unless they match up with one's intended effects. Thus, my account of moral responsibility entails that individuals are not morally responsible for the unintended effects of their actions. For example, my account of moral responsibility entails that individuals are not morally responsible for unintentionally driving through red lights, even if their doing so causes injury to others. Given that unintentionally driving through red lights is blameworthy, however, especially when doing so causes injury to others, one might object to my account of moral responsibility. In response, I would admit

effects of Georg's action are not under his control. Alternatively, because George succeeds in killing Henry, the effects of George's action are under his control.

Because I believe that what it means for one to have control over the effects of one's actions is for the effects of one's actions to match up with one's intended effects, I believe that what it means for one to have control over one's constitution is for one's constitution to match up with one's intended constitution. Similarly, what it means for one to have control over one's circumstances is for one's circumstances to match up with one's intended circumstances, and what it means for one to have control over one's actions is for one's actions to match up with one's intended actions.

Moral Responsibility

Because the purpose of moral assessment is to determine one's laudability or culpability,³³ and because one cannot be laudable or culpable for something that is beyond one's control,³⁴ determining one's laudability or culpability requires determining what is within one's control. Hypological judgments serve this function by picking out the scope and degree of one's control and therefore the scope and degree of one's responsibility.

that unintentionally driving through red lights is blameworthy but contend that it is not morally but epistemically blameworthy. I believe this holds true for all unintentional negligent acts. Assuming I am right about that, my account of moral responsibility need not hold individuals responsible for the unintended effects of their actions in order to explain the blameworthiness of unintentional negligent acts.

³³ Although I am working under the assumption that this is the sole purpose of moral assessment, I am willing to admit that there may be others.

³⁴ Though inappropriate, it is pragmatic to praise or blame an individual whose behavior is beyond his control provided praising or blaming him is capable of altering his future behavior. In such cases, however, the object of praise or blame is the action, not the individual. Individuals are the appropriate object of praise or blame only in those cases where their behavior is within their control.

Judgments about the scope of one's control pick out what one is responsible for. If a particular disposition, action, or effect is beyond one's control, then one is not responsible for it. If a particular disposition, action, or effect is within the scope of one's control, however, then one is responsible for it. Thus, if a particular disposition, action, or effect is beyond one's control, then that disposition, action, or effect should not play a role in the way one is morally assessed. If, however, a particular disposition, action, or effect is within one's control, then that disposition, action, or effect should play a role in the way one is morally assessed. Consequently, an individual is subject to moral assessment only if there is at least one disposition, action, or effect that is not beyond his or her control. The more dispositions, actions, and effects that are within one's control, the more dispositions, actions, and effects one is responsible for.

Judgments about the degree of one's control pick out the degree to which one is responsible for those dispositions, actions, and effects within one's control. If a particular disposition, action, or effect is beyond one's control, then one does not have a non-zero degree of control over it. If, however, a particular disposition, action, or effect is within one's control, then one does have a non-zero degree of control over it. The greater the amount of control one has over a particular disposition, action, or effect, the greater the degree of control one has over that disposition, action, or effect. What is more, the greater the degree of control one has over a disposition, action, or effect, the greater the influence that disposition, action, or effect has on the way one is morally assessed.

Because aretaic and deontic judgments cannot be made about agents whose dispositions, actions, and effects are beyond their control,³⁵ hypological judgments must be made prior to aretaic and deontic judgments. Thus, hypological judgments play a crucial role in moral assessment. Nevertheless, the mere fact that an agent has control over a particular characteristic of the world does not mean that the agent's relationship to that characteristic of the world is a morally significant one. For example, although an individual might have control over when and how he eats a particular bowl of ice cream, it is not the case that his or her decision is therefore morally significant.

Ordinarily, the character dispositions one has, the actions one performs, and the effects one produces are all morally relevant features of one's life. The circumstances or situations one faces, however, are not. The reason for this is that the situations one faces are unforeseen, unintended, or intended effects of one's actions. If they are unforeseen or unintended effects of one's actions, then they are beyond one's control, and one is not responsible for them. If they are intended effects of one's actions, however, then one is already responsible for them as effects. Assuming, therefore, that one is responsible for the effects of one's actions, one should not also be responsible for the situations one faces, for if one were, then one would be responsible for the situations one faces *qua* effects and *qua* situations. Thus, I assume that the situations one faces (i.e., one's circumstances) should not be evaluated in moral assessment to avoid double counting.

In the end, the morally relevant features of one's life are one's character dispositions, one's actions, and the effects of one's actions, provided these things are

³⁵ I will argue for this claim later.

within one's control.³⁶ These morally relevant features of one's life play a determining role in comparative moral assessment, and therefore comparative moral assessment of any two individuals having the same non-zero degree of control over these features of a world is relatively straightforward. Imagine, for example, two brothers, Daniel and David, each of whom has a rock and control over whether or not he throws that rock at his brother. Because the scope and degree of their responsibility is identical, any difference in their behavior will generate a difference in the way they are morally assessed. Consequently, if Daniel throws his rock at David while David refrains, the two brothers will be assessed differently.

Although comparative moral assessment of any two individuals having the same non-zero degree of control over certain characteristics of the world is relatively straightforward, comparative moral assessment of any two individuals not having the same non-zero degree of control over certain characteristics of a world is significantly less so. The purpose of the following section is to demonstrate that such assessment, though difficult, is nevertheless possible, and to do so, I draw on Zimmerman's discussion of how to conduct moral assessment in cases of resultant, circumstantial, and constitutive luck.

³⁶ Zimmerman disagrees with this assessment, writing, "I have said that I subscribe to the view that we cannot be responsible for what is not in our control . . . In my view . . . an agent exercises control directly over his choices . . . and indirectly over the consequences of his choices" (Zimmerman 2002: 564). On Zimmerman's account, therefore, the only morally relevant features of one's life are one's choices. As a result, Zimmerman argues that individuals are either responsible for their choices or responsible "*tout court*," where to be responsible *tout court* is not to be responsible "*for anything*" but to be responsible "*in virtue of something*" (Zimmerman 2002: 564-565 [emphasis in original]). Thus, Zimmerman contends that individuals are responsible not for their dispositions to choose wrongly but rather in virtue of their dispositions to choose wrongly. In the end, it seems that the disagreement between Zimmerman and me on this issue is verbal. Nevertheless, I should note that I do not intend for my account of moral responsibility to be identical to Zimmerman's but only to follow his in certain significant respects.

IV. A THEORY OF MORAL ASSESSMENT

Resultant Luck

The existence of resultant luck makes it such that moral assessment should not be influenced by the uncontrolled effects of one's actions. Nevertheless, I see no reason why moral assessment should not be influenced by the controlled effects of one's actions or the counterfactual effects one's actions would produce were they controlled.

In arguing for this position, I want to return to Zimmerman's example of the two assassins, Georg and George, both of whom not only have the same non-zero degree of control over their constitutions, circumstances, and actions but also have identical constitutions, face identical circumstances, and perform identical actions.³⁷ Were Georg and George to have the same non-zero degree of control over the effects of their actions and produce the same effects, it would be appropriate for one to assess the two assassins identically. Georg and George do not have the same non-zero degree of control over the effect of their actions, however, for although the scope of Georg's control, and therefore his responsibility, does not extend to the effects of his action, George's does. What is more, the actions performed by Georg and George do not have the same effects, for although Georg does not kill his target, George does.

³⁷ Throughout the paper, the word "action" refers to a behavior directed at an end. Therefore, two individuals who behave identically in pursuit of identical ends are described as acting identically even if only one of the two achieves his or her end. Consequently, Georg and George are described as acting identically even though only George achieves his end.

These dissimilarities between Georg and George make it unclear how to assess the two in comparison with one another. As I see it, there are at least three options. First, one could simply ignore the effects produced by the assassins, choosing to base moral assessment of the two on their character dispositions and actions, which are within their control. The virtue of this method of assessment is that it deems Georg and George equally culpable, which seems appropriate. The problem with this method of moral assessment, however, is that it ignores morally relevant information, particularly the fact that George kills Henry.

While I admit that being disposed to kill and attempting to kill are blameworthy, it seems that what makes them blameworthy is the fact that they actually result in killing. Consequently, I take it that if being disposed to kill or attempting to kill did not result in killing, each would seem significantly less blameworthy. Thus, I contend that George's killing Henry is an important fact that should not be ignored.

This problem with the first method of moral assessment motivates a second. The second method does not ignore effects of George's action because they are within his control, but it does ignore the effects of Georg's action, which are not. On this method of moral assessment, George would be responsible for his character, actions, and effects while Georg would only be responsible for his character and actions. The virtue of this method is that it takes into account the fact that George kills Henry. In taking that information into account, however, this method makes moral assessment of the two assassins incommensurable.

When Georg and George are compared simply with respect to their characters and actions, it is clear why they are equally culpable. When the fact that George is responsible for killing Henry is added to that information, it is no longer clear whether Georg and George should be assessed identically. The fact that George is responsible for killing Henry seems to make him more culpable than Georg, but if George is more culpable than Georg, then one must abandon the intuitively plausible suggestion that the two should be assessed identically. Ultimately, it is unclear what to do with the additional fact that George is responsible for killing Henry. Were there a comparable fact about Georg's responsibility, then George's responsibility for killing Henry would not be problematic, but lacking such a fact, it is.³⁸

The problem with the second method of moral assessment leads to a third and final method that takes into account not only the effects of George's action but also the counterfactual effects of Georg's action, specifically the effects George would have produced had they been within his control. On this method of moral assessment, the character, actions, and effects (i.e., Georg's counterfactual effects and George's actual effects) of both assassins would undergo evaluation. This view not only captures the intuition that Georg and George are equally culpable but also has the benefit of grounding their culpability in effects rather than in character dispositions or actions themselves. This view also alleviates the problem with the second view by providing an equal amount of information about both assassins on which to base comparative moral assessment.

³⁸ This problem might be epistemic, for the fact that there is more information about how to assess George than there is about how to assess Georg makes it easier to assess George than Georg, but it does not necessarily make the former any more culpable than the latter.

The method of assessment I have advanced here is capable of accurately capturing one's intuitions about moral laudability and culpability not only in the case described but also other cases such as the one described earlier in which two individuals drive through red lights but only one of the two hits a child. In that case, although only one of the drivers hits a child, the two are nevertheless equally blameworthy in the same way that Georg and George are equally blameworthy insofar as their actions would produce similar effects in counterfactual situations.

Circumstantial Luck

The existence of circumstantial luck makes it such that moral assessment should not be influenced by the uncontrolled actions one performs. However, I see no reason why moral assessment should not be influenced by the controlled actions one performs or the counterfactual actions one would perform were one in control of them.

To explain why, I want to consider an example similar to Zimmerman's original example but altered in such a way that Georg is no longer resultantly lucky but circumstantially lucky. In the example, Georg not only fails to kill Henrik but also fails to fire at Henrik because of a sudden urge to sneeze or because an object blocks his line of sight.³⁹

Although this new example introduces an additional difference between Georg and George, Zimmerman argues that the two remain equally culpable,⁴⁰ for although the scope of George's responsibility extends beyond the scope of Georg's, both have the

³⁹ Zimmerman 2002: 563.

⁴⁰ Ibid.

same non-zero degree of control over their character dispositions from which they form the intention to kill their respective targets. According to Zimmerman, the fact that both Georg and George have the same non-zero degree of control over their character dispositions is enough to ensure that the counterfactual scenario in which Georg has control over his character dispositions, actions, and effects is one in which Georg kills Henrik in the same way George kills Henry. Moreover, Zimmerman believes that this counterfactual similarity is enough to indicate that the two should be assessed identically.

The method Zimmerman uses to deal with circumstantial luck in the case at hand is also capable of dealing with circumstantial luck in Nagel's example where one of two individuals disposed to become Nazi officers avoids doing so only by moving to Argentina in 1930. According to Zimmerman, one who avoids becoming a Nazi officer only by moving to Argentina is no less blameworthy than one who actually become a Nazi officer, provided, of course, that the reason for one's move is not to avoid becoming a Nazi officer.⁴¹ Although there might be resistance to this claim, I believe that such resistance might be alleviated in one of two ways. First, one could make the example more precise. Second, rather than suggesting that the individual who moves to Argentina is no less blameworthy than the Nazi officer, one could suggest that the Nazi officer is no more blameworthy than the individual who moves to Argentina. When Emily Prentiss (i.e., a character from *Criminal Minds* presented earlier), for example, recognizes that she might have become a serial killer had she undergone the same events undergone by Jonny

⁴¹ An individual who recognizes that he or she is disposed to act wrongly in certain situations is right to avoid such situations. Thus, an individual who recognizes that he or she is disposed to become a Nazi officer and that becoming a Nazi officer is wrong is right to leaving Germany as the Nazis are coming to power.

McHale, she does not think of herself as being as guilty as him but rather thinks of him as being as innocent as herself.

This example seems to vindicate the intuition that victims of circumstantial luck are no more or less culpable than those who are not, and because I am inclined to think that serial killers and Nazi officers are blameworthy rather than praiseworthy, I am also inclined to think that those who avoid becoming Nazi officers only by moving to Argentina are blameworthy rather than praiseworthy.

Constitutive Luck

The existence of constitutive luck makes it such that moral assessment should not be influenced by one's uncontrolled character dispositions. However, I see no reason why moral assessment should not be influenced by one's controlled character dispositions or the counterfactual character dispositions one would have were one in control of them.

To explain why this is, I want to look at another example similar to Zimmerman's original but altered in such a way that Georg and George are no longer assassins but simply enemies of Henrik and Henry. In this new case, Georg is levelheaded such that, when tormented by Henrik, he is unprovoked. George, however, is hotheaded such that, when tormented by Henry, he is provoked. Because of this constitutive difference between the two, Georg does not form the intention to kill Henrik whereas George does form the intention to kill Henry. The question Zimmerman faces is how to make a comparative moral assessment of Georg and George when Georg, unlike George, refrains

not only from killing or firing at but also from forming the intention to kill his tormentor.⁴² Before responding to this question, however, I first want to get clear about the example.

According to Zimmerman, Georg is levelheaded and George is hotheaded. Now, if both individuals have control over these character traits, it would not be a case of constitutive luck, for luck exists only if at least one of their character traits is beyond their control. In order to preserve the similarity between this case and the previous cases, I assume that Georg does not have control over his character trait of levelheadedness while George does have control over his hotheadedness.⁴³

Like Zimmerman's explanation of how to preserve moral assessment in the face of resultant and circumstantial luck, Zimmerman's explanation of how to preserve moral assessment in the face of constitutive luck appeals to the counterfactual situation in which Georg has control over the relevant character trait. If Georg would kill Henrik were he to have control over the relevant character trait, then he is culpable for doing so.⁴⁴ If Georg would not kill Henrik were he to have control over the relevant character trait, then he is not culpable for doing so.

⁴² Zimmerman 2002: 563-564.

⁴³ Although Zimmerman does not spell out why Georg does not have control over whether he is levelheaded, there are several reasons why Georg might not have control over his levelheadedness. For example, it might be that Georg was raised by very levelheaded parents such that, even if he had been genetically disposed to being hotheaded, he could not have helped but be levelheaded. It might also be that Georg was genetically disposed to being levelheaded such that, even if he had been raised by hotheaded parents, he could not have helped but be levelheaded. Because such cases are plausible, the suggestion that Georg's being levelheaded could be beyond his control is also plausible.

⁴⁴ I assume that one's constitution or character dispositions are ordinarily controlled through habituation, but I imagine that there are cases in which one's constitution changes more rapidly. If, for example, Jonny McHale's case is one of rapid character destruction, there are likely cases of rapid character construction where one develops good dispositions from particularly significant events. To what degree individuals have control over rapid character destruction and construction, however, is unclear.

For the most part, the problems for moral assessment posed by constitutive luck mirror those problems posed by resultant and circumstantial luck. Consequently, Zimmerman assumes that anyone who accepts his explanation of how to preserve moral assessment in the face of resultant and circumstantial luck will also accept his explanation of how to preserve moral assessment in the face of constitutive luck. While I generally agree with that suggestion, I believe there are several concerns unique to constitutive luck, which I will deal with in turn.

First, there is an issue that I touched on earlier when presenting constitutive luck, specifically the fact that it comes in two distinct forms, internal and external. Internal luck is a kind of constitutive luck that affects one's attitudes without also affecting one's behaviors, so it plays a role in moral assessment only insofar as one's attitudes play a role in moral assessment. The case presented earlier in which an envious individual, Allen, congratulates Brian is a case of attitudinal luck insofar as Allen's envy, which is beyond his control, influences the way in which he is morally assessed but does not influence his behavior. Now, there might be some debate over the role attitudes play a role in moral assessment. I would argue that an individual who is passed up for a deserved promotion should be upset to some degree and that being upset to a lesser or greater degree is morally wrong. It could also be argued, however, that being upset to a lesser or greater degree is not morally wrong but wrong in some other sense. Regardless of which view is correct, I think it is fair to say that one's attitudes are subject to normative evaluation. Thus, one is subject to internal luck anytime one's attitude (e.g., the degree to which one is upset) depends on factors beyond one's control (e.g., one's biological characteristics).

External luck is a kind of constitutive luck that affects one's behavior and therefore plays a role in moral assessment insofar as one's behavior plays a role in moral assessment. Imagine, for example, a case in which an individual is taught by his or her parents to have no regard for the property of others and is therefore disposed to steal. This is a case of external luck insofar the individual's dispositions, though beyond his or her control, influence the way he or she is morally assessed.⁴⁵ Because behavior plays a role in moral assessment, one is subject to external luck anytime one's behavioral dispositions depend on factors beyond one's control (e.g., one's upbringing).

As I have suggested, Nagel's example of constitutive luck is one in which Allen's envy undermines his moral goodness and therefore seems to be a case of internal luck. The example Zimmerman presents in response to Nagel, however, is one in which George's hotheadedness affects his behavior and is therefore a case of external luck. Thus, whereas Allen is blameworthy on account of his envy, an internal disposition, George is blameworthy on account of his hotheadedness, an external disposition.⁴⁶

Given this disanalogy, one might contend that Zimmerman's response does not get at Nagel's worry. One might claim, for instance, that Zimmerman's theory of moral assessment fails because it is unable to differentiate between the laudability and culpability of agents who perform similar actions but who have different attitudes. While Zimmerman does not explain how to differentiate between the laudability and culpability of agents who perform similar actions but who have different attitudes, it is relatively

⁴⁵ Another case of external luck would be one in which an individual is taught to use violence to solve his or her disagreements.

⁴⁶ I imagine one could argue that hotheadedness is not an external disposition but an internal one, albeit an internal disposition that also influences behavior. If that is the case, then there is no disanalogy between the two examples.

clear how Zimmerman would do so. Zimmerman could, for example, adapt his case in such a way that Georg and George act similarly but form different attitudes, with Georg's attitude being appropriate but beyond his control and George's attitude being inappropriate and within his control. According to the model Zimmerman presents, the relevant question is whether Georg's attitude would be appropriate were it within his control. If it would be, then Georg is not blameworthy for it, but if it would not be, then Georg is blameworthy for it.

Given that there are two kinds of constitutive luck, internal and external, it can legitimately be asked how the two relate to one another. In particular, it can be asked whether attitudes cause, influence, or simply run alongside behaviors. When I distinguished internal and external luck, I assumed that the two could come apart. That is, I assumed that certain attitudes (e.g., anger) are neither necessary nor sufficient for related behaviors (e.g., acts of retribution). If that is the case, then a lack of control over one's attitudes is neither necessary nor sufficient for a lack of control over one's behaviors, and attitudes simply run alongside behaviors. Thus, it is possible to simply separate internal luck from external luck. Now, it is possible that the two do not come apart and that the distinction therefore collapses. Even if that is the case, however, I do not think that speaks against Zimmerman's account but only a certain way of applying it.

A second issue unique to constitutive luck is that its existence might entail the existence of causal luck, for if one's actions and the effects of one's actions flow directly from one's character dispositions, then one who lacks control over one's character dispositions also lacks control over one's actions and the effects of one's actions.

Obviously, Zimmerman need not admit that constitutive luck is that widespread, for just as the fact that resultant luck exists from time to time does not imply that it exists all the time, so too the fact that constitutive luck exists from time to time does not imply that it exists all the time. In other words, the fact that some of one's character dispositions are beyond one's control does not entail that all of one's character dispositions are beyond one's control.

Causal Luck

If one's actions and the effects of one's actions flow directly from one's character dispositions and one's character dispositions are determined by genetic, environmental, or any other number of factors beyond one's control, then one's behavior is causally determined, and one cannot be responsible for anything. Furthermore, if one cannot be responsible for anything, then one cannot be laudable or culpable for any of one's behavior.

Establishing whether or not human behavior is causally determined is beyond the scope of this paper. I am therefore content to admit that if human behavior is causally determined, no one is laudable or culpable for anything. Although Zimmerman attempts to avoid making this admission by contending that causally determined individuals are responsible for the counterfactual behavior of their free counterparts, this contention is dubious.⁴⁷ While the truth of causal determinism does not rule out the possibility of

⁴⁷ Zimmerman 2002: 567.

one's having free counterparts,⁴⁸ it is wrong to think that an actually existing, causally determined individual could be responsible for the behavior of a possible counterpart. Assuming that the control principle is true, moral responsibility requires control. Thus, causally determined individuals, who have no control over their free counterparts, cannot be responsible for the behavior of their free counterparts.

For example, Zimmerman would say that even if John Wilkes Booth is causally determined to kill Abraham Lincoln, he is nevertheless culpable for doing so insofar as a counterpart of his freely kills Lincoln in some possible world. If causal determinism is true, however, then whether or not a counterpart of John Wilkes Booth's freely kills Lincoln in some possible world is beyond John Wilkes Booth's control, and because one cannot be responsible for what is beyond one's control, John Wilkes Booth cannot be responsible for his counterpart's behavior.

Although I admit that if causal determinism is true, no one is laudable or culpable for anything, I assume for the sake of argument that causal determinism is false. In fact, there seem to be good reasons for doing so, for as Nagel admits, "We are unable to view ourselves simply as portions of the world, and from inside we have a rough idea of the boundary between what is us and what is not, what we do and what happens to us, what is our personality and what is an accidental handicap."⁴⁹ Although individuals may be inclined to overestimate the amount of control they have over their character dispositions and actions, it is counterintuitive to think that they do not have any such control.

⁴⁸ Here I have followed Horgan 1979: 345-358.

⁴⁹ Nagel 2007: 361.

*Objections*⁵⁰

The theory of moral assessment that has been presented is a counterfactual one, and the purpose of advancing such a theory is to enable comparative moral assessment of two or more individuals where at least one of them does not have control over some characteristic of the world. I believe that the theory is up to that task. Nevertheless, there are several objections one might make to the theory that I would like to address before moving on.

First, there is the worry that counterfactual facts about one's character, actions, and effects are extremely difficult, if not impossible, to know. In response, I admit that it may be impossible to know the kind of person one would be, the actions one would perform, or the effects one would produce were one in control of those things. However, I do not believe that it is essential that these facts be knowable in order for the theory in question to be the appropriate method of moral assessment. That is, one need not know how two agents stand in relation to one another morally in order for one to know that there is a fact of the matter about how the two agents stand in relation to one another morally. For example, one may not know whether there are more hairs on his head than on his brother's, but he nevertheless knows that either there are more hairs on his head than on his brother's or there are not. Similarly, one need not know whether Georg would have fired at Henrik had an object not moved into his line of sight in order to know

⁵⁰ The preceding arguments were presented at the 2010 Ohio Philosophical Association's Annual Meeting, and the following objections came out of the ensuing discussion. I am therefore grateful to all those who attended my presentation, particularly Brian Domino, for helping me develop my view.

that there is a fact of the matter about whether Georg would have fired at Henrik had an object not moved into his line of sight.

A second worry is that if causal determinism is false, there is no fact of the matter whether Georg would have fired at Henrik had an object not moved into his line of sight. While it seems to me that Georg would have fired at Henrik had an object not moved into his line of sight, I admit that that intuition, at least in part, depends on the assumption that George had already formed the intention to fire at Henrik. If I assume that George had not already formed the intention to fire at Henrik, I am admittedly less likely to think that there is a fact of the matter whether Georg would have fired at Henrik had an object not moved into his line of sight.

Nevertheless, I am inclined to think that causal determinism need not be true in order for there to be counterfactual facts. If you put someone in a situation other than the one he or she is in, he or she is going to act, and that act is going to be determined by him or her, not by physical facts about him or her. Imagine, for example, that Edward is injured in a car accident but that had Edward not been injured in a car accident, he would have come across a beggar. Now, Edward has character dispositions that influence how he responds to beggars, and in most cases these dispositions are sufficient to determine his response. For example, maybe he makes it a point to always give beggars money. If that is the case, then there is a fact about what he would do in the counterfactual situation. If, however, he does not make it a point to always give beggars money, then it is possible that on the particular day in question his character dispositions do not incline him one way or another. That is, maybe the degree to which he is disposed to give a particular

beggar money is identical to the degree to which he is disposed not to give that beggar money. Now, assuming that there is a fact of the matter whether Edward's giving the beggar money is right or wrong and that the scenario in question is one in which giving the beggar money is right, then the more Edward's character dispositions incline him to give the beggar money, the better he is, *qua* moral agent. Consequently, if his character dispositions do not incline him one way or another, Edward is neither the best nor the worst agent he could be. He is somewhere between those extremes. Thus, even if there is no fact of the matter whether Edward would give the beggar money, it is still possible to compare his character dispositions to those of some other individual. If, for example, that other individual is disposed to give the beggar money, Edward is worse than him or her. If, however, that other individual is disposed not to give the beggar money, Edward is better than him or her.

Maybe I have yet to alleviate the worry. Suppose one admits that the falsity of causal determinism does not prevent certain facts about nearby possible worlds from being true or that, even if it does, the falsity of causal determinism does not prevent the possibility of morally assessing such worlds. One could still argue that the falsity of causal determinism does prevent certain facts about remote possible worlds from being true or that, even if it does not do that, it at least prevents the possibility of morally assessing such worlds. The problem, one might argue, is that drastically changing an individual's constitution or circumstances makes that individual into an entirely different person.

Consider an example. Imagine that Cassie and Danielle are raised in extraordinarily different circumstances. Cassie is one of seven children cared for by her single mother in a dilapidated apartment while Danielle is one of two children raised by wealthy parents in suburbia. Cassie must lie, cheat, and steal to survive while Danielle lives comfortably and is taught to share her wealth with others. Cassie and Danielle grow up to have extremely different character dispositions. While one might want to say that Danielle is a better person than Cassie, it is certainly not clear that Danielle is any more praiseworthy than Cassie. In an attempt to determine who is more praiseworthy, one would have to see how Cassie would respond to Danielle's circumstances and vice versa. The question, however, is how to drastically change Cassie's circumstances without destroying her identity. What is it about Cassie that must be kept constant?

I am inclined to believe that the only thing that would enable such a drastic change without destroying Cassie's identity would be something immaterial, her soul for example. Although this suggestion is undoubtedly controversial, I take it that almost any response to the problem of personal identity is similarly controversial. Assuming, therefore, that it is not impossible for Cassie to have an immaterial soul that informs her body yet does not supervene on her body,⁵¹ it is possible that Cassie's soul could inform some other body, specifically Danielle's body. Thus, I contend that it is possible to drastically changing one's circumstances by without destroying one's identity.

My response to the identity problem raises another worry, however, namely that insofar as there are an infinite number of bodies that Cassie's soul could inform, Cassie

⁵¹ According to Stump 2005: 191-216, Saint Thomas Aquinas held such a view.

performs an infinite number of counterfactual acts. The problem is that if Cassie performs an infinite number of counterfactual acts and she is neither perfectly moral nor perfectly immoral, then Cassie is both culpable and laudable for an infinite number of counterfactual acts. Moreover, if that is the case, there is no way to differentiate Cassie's culpability or laudability from anyone else's, unless of course there is someone who is perfectly moral or perfectly immoral.

While I believe I must admit that both Cassie and Danielle would be responsible for a great number of acts, I see no reason why I must admit that they would be responsible for an infinite number of acts. It could be argued that once one evaluates Cassie and Danielle in enough counterfactual scenarios, it will be clear which of the two is morally better than the other in the same way that representative sampling makes it clear which of two presidential candidates will win the upcoming election. It could also be argued that there are a limited number of counterfactual scenarios in which individuals such as Cassie and Danielle could find themselves. That is, there may be some metaphysical fact limiting the number of possible worlds in which they have counterparts.

Speaking of moral perfection, a final worry might be that my theory makes it impossible to be perfectly moral. That is, if counterfactual facts influence moral assessment and one cannot possibly avoid acting wrongly in some counterfactual situation, then one cannot possibly be perfectly moral. Although some might believe this consequence speaks against my view, I believe that it speaks in favor of it. According to the control principle, moral responsibility and therefore moral assessment is incompatible

with luck. Given how difficult it is to be perfectly moral in the actual world, however, it is unimaginable that one could be perfectly moral without being lucky. Thus, because luck is necessary for being perfectly moral but incompatible with moral assessment, being perfectly moral is impossible.

To see this, consider an example. Following Kant, I assume that individuals are required to develop their talents and share them with others. Someone particularly artistic, for example, is required to develop his or her artistic abilities and to share those abilities with others (e.g., by displaying or selling his or her art). This is difficult, however, for it is not only hard to determine the appropriate degree to which one ought to develop one's abilities, but it is also hard to be disciplined enough to succeed in developing one's abilities to the appropriate degree.⁵² Although I imagine some individuals develop some of their talents to the appropriate degree, I doubt that any individual develops all of his or her talents to the appropriate degree. If this is a moral requirement, however, then it seems that all individuals fail to be perfectly moral. Now, I do not doubt that it would be possible to develop all of one's talents to the correct degree but only that doing so would require luck. Thus, because luck, which is necessary for developing all of one's talents to the correct degree and therefore for being perfectly moral, is incompatible with moral assessment, being perfectly moral is impossible.

⁵² One may not be required to develop one's abilities to an exact degree, but one is at least required to develop one's abilities to a certain range of degrees.

Conclusion

The purpose of this section was to argue that the control principle need not be abandoned in order to preserve the possibility of moral assessment and to explain how to think about moral assessment given the existence of resultant, circumstantial, and constitutive luck. The picture of moral assessment that has emerged is a counterfactual one, which seems to capture the way comparative moral judgments are ordinarily made. In the following section, I argue that this counterfactual account of moral assessment provides reason to think that virtue ethical accounts of morality are superior to their consequentialist and deontological counterparts. To do that, I lay out the respective moral theories and describe how they might respond to the problems posed by resultant, circumstantial, and constitutive luck.

V. AN ARGUMENT FOR VIRTUE ETHICS

Earlier I asserted that the making of hypothetical judgments is necessary for the making of aretaic and deontic judgments and therefore emphasized the role of hypothetical judgments in moral assessment. I realize that one might object to that assessment, contending that the making of aretaic judgments about virtue or deontic judgments about right action is possible without the making of hypothetical judgments. For example, one might claim that honesty is a virtue regardless of whether the individual in question is responsible for his or her honesty. Similarly, one might claim that acts of truth-telling are right regardless of whether individuals are responsible for them. Such arguments, I believe, are doomed to fail. Take a case of truth-telling in which a teenager, Erin, is the lone witness to a robbery carried out by her father. The prosecution needs Erin's testimony to convict her father, but Erin resists testifying against him in fear of what her life would be like without her father. Given Erin's unwillingness to confess, the prosecution hooks her up to a machine that forces her to give an honest answer to any question she is asked. When asked whether her father committed the robbery, Erin unwillingly answers in the affirmative. If control is unnecessary for right action, then Erin acts rightly. But Erin does not act rightly, not because she acts wrongly but because her act is not the kind of thing that could be right or wrong.

While this example shows that right action requires control, I imagine one might remain skeptical about whether virtue requires control. Illustrating that, however, is not

much more difficult than illustrating that right action requires control. One need only alter the previous example such that Erin is always hooked up to this device and therefore always tells the truth. Consequently, Erin is reliably disposed to tell the truth, and assuming that control is unnecessary for virtue, Erin has the virtue of honesty. But Erin does not have the virtue of honesty, not because she is not reliably disposed to tell lies but because her reliable disposition to tell the truth is not the kind disposition that could be virtuous. Thus, both virtue and right action require control, and therefore the making of hypological judgments is necessary for the making of aretaic and deontic judgments.

Consequentialism

In spite of the previous statement, moral theorists have historically paid relatively little attention to hypological judgments, choosing instead to assume the existence of free will and focusing their attention on determining the kind of person one should be and the kinds of actions one should perform. Over time, their efforts have produced three preeminent moral theories, consequentialism, deontology, and virtue ethics.

The first of these theories I want to address is consequentialism, which comes in a variety of forms. Nevertheless, consequentialist theories are united in their agreement that right action is action the effect of which is or is expected to be maximally valuable.⁵³ In other words, all consequentialist theories see action as valuable only insofar as it produces the most good. The most prominent form of consequentialism is utilitarianism

⁵³ Shafer-Landau 2007(a): 453.

according to which happiness is the only good. Thus, utilitarians believe that agents are virtuous and acts right iff they maximize happiness.

Although the simplicity of consequentialist theories (e.g., utilitarianism) makes them attractive, consequentialist theories of moral assessment tend to produce counterintuitive conclusions in cases of luck. Because such theories evaluate agents and actions in terms of their effects and because the effects of an agent's character dispositions or actions are often beyond his or her control, consequentialist theories of moral assessment base assessment on facts beyond an agent's control. Instead of endorsing theories of moral assessment on which agents and actions are evaluated in terms of their actual effects, some consequentialists endorse theories of moral assessment on which agents and actions are evaluated in terms of their expected effects. While this strategy initially seems promising, it fails to do much better than the original view. One reason for this is that one's expectations are no less subject to luck than one's effects are.⁵⁴ That is, what one expects to happen as a result of one's actions is going to depend on one's past experiences, and one's past experiences, as I have argued, are no more within one's control than one's effects.

One might try to salvage consequentialism by adopting a theory of moral assessment on which virtue and right action depend not on the effects expected by ordinary agents but on the effects expected by an ideal observer (e.g., a maximally

⁵⁴ The point here is that luck affects belief in much the same way it affects character dispositions, actions, and effects. Consequently, there will likely be similarities between the way luck influences moral virtue and the way it influences epistemic virtue.

rational or omniscient agent).⁵⁵ On such a view, one is virtuous or acts rightly by determining what action an ideal observer would expect to have the best effects and then performing that action. My worry, however, is that this is no longer a consequentialist view, for what seems to make an action right is not the fact that it maximizes good but the fact that it meets certain criteria. If I am correct that what makes an action right on this view is the fact that it is expected to maximize goods from the perspective of an ideal observer, then what makes an action right is the fact that it meets certain criteria. If, however, what makes an action right is the fact that it meets certain criteria, then what makes an action right is a fact about the act itself, not about its consequences, a tenet of deontological views. If I am wrong and what makes an action right on this view is the fact that it maximizes good, then the view will describe resultantly lucky action as right when it should be described as wrong.

I imagine that one could argue that what makes an action right is that it both meets certain criteria, a fact about the act, and maximizes good, a fact about the act's consequences. This position, I imagine, could accurately be described as a consequentialist view, but it has started to look like a virtue ethical one. What differentiates this view from a virtue ethical one, I contend, is the fact that does not appear to concern itself with counterfactuals circumstances. Thus, virtuous agents on this account need only meet certain criteria and maximize goods in the actual world, not nearby possible ones. This will be a problem given the existence of circumstantial luck,

⁵⁵ Julia Driver contrasts a *subjective consequentialist* view like this, on which the right-making properties of action are internal to the agent, with her own *objective consequentialist* view on which the right-making properties of action are external to the agent (Driver 2001: 70).

for this view will describe circumstantially lucky individuals as virtuous when, in fact, they should not be.

In “Uneasy Virtue,” Julia Driver advances a consequentialist theory on which “a virtue is a character trait that produces more good (in the actual world) than not *systematically*.”⁵⁶ Thus, on Driver’s account, what it means for one to be virtuous is for one to have character traits that systematically produce more good than not in the actual world. Conversely, what it means for one to be vicious is for one to have character traits that systematically produce more evil than not in the actual world. According to Driver, therefore, anyone who has traits that produce more good than not in the actual world is virtuous, and anyone who has traits that produce more evil than not in the actual world is vicious.

One problem with Driver’s account is that agents like Danielle who share with others are deemed virtuous even if their disposition to share with others is beyond their control.⁵⁷ To illustrate the worry, assume that Danielle is disposed to sharing with others only because of certain genetic facts about her or because she was raised in a particularly lucky environment. Moreover, assume that had she been raised in a neutral environment over which she had more control she would have developed dispositions to lie, cheat, and steal. Given this information, one is unlikely to consider Danielle virtuous. In fact, one might even consider Danielle vicious. Thus, Driver’s account, which deems Danielle virtuous, assesses Danielle inappropriately.

⁵⁶ Driver 2001: 82 [emphasis in original].

⁵⁷ I assume that the disposition to share with others is a trait that systematically produces more good than not.

Another problem with Driver's account is that agents like Cassie who lie, cheat, and steal are deemed vicious even if their lying, cheating, and stealing is beyond their control.⁵⁸ To illustrate this worry, assume that Cassie is disposed to lying, cheating, and stealing only because of certain genetic facts about her or because she was raised in a particularly unlucky environment. Moreover, assume that had she been raised in a neutral environment over which she had more control she would have developed the disposition to share with others. Given this information, one is unlikely to consider Cassie vicious. In fact, one might even consider Cassie virtuous. Thus, Driver's account, which deems Cassie vicious, assesses Cassie inappropriately.

Given what has been said, it should be clear that consequentialist theories of moral assessment praise lucky agents and blame unlucky ones, thereby violating the control principle. While one might attempt to save consequentialism by grounding moral assessment in expected effects or the expected effects of an ideal observer rather than actual effects, such views are more appropriately grouped with deontological views than with other consequentialist views. There is, however, another way one might try to save consequentialism, namely by arguing that moral assessment should be based not on all of one's effects but on those effects that are within one's control. Such a strategy was suggested earlier during the discussion of resultant luck, and although it would avoid some of the problems that plague Driver's theory, it fails to provide much information on which to base moral assessment.

⁵⁸ I assume that dispositions to lie, cheat, and steal are traits that systematically produce more evil than not.

Ultimately, the existence of luck rules out or at least threatens to rule out the possibility that consequentialism is the best moral theory. However, the fact that consequentialism is not the best moral theory does not indicate that moral assessment should ignore the effects of actions. Because the effects of action are an important if not essential element of morality, they ought to be taken into account. That being said, it is not always an action's actual effects but sometimes its counterfactual effects that should serve as the basis for moral assessment. Thus, the problem with consequentialist theories of moral assessment is not that they focus on the effects of actions but rather that they focus on the actual effects of actions.

Deontology

Although deontology, like consequentialism, comes in a variety of forms, its defenders generally agree that right action is not instrumentally but intrinsically valuable.⁵⁹ More specifically, deontologists hold that the right action is that which is in accordance with a rule or set of rules and that wrong action, conversely, is that which violates that rule or set of rules. The most prominent form of deontology is that proposed by Kant, who argues that an action has moral worth only if it is performed from duty and therefore that its worth is not derived from its effects but from “the maxim according to which the action is determined.”⁶⁰ According to Kant, those maxims that confer moral worth to the actions they determine are those that are universalizable. Thus, Kant's categorical imperative requires one never to act “except in such a way that [one] can also

⁵⁹ Shafer-Landau 2007(b): 521.

⁶⁰ Kant 1993: 12-13.

will that [one's] maxim should become a universal law."⁶¹ Given this account of right action, a virtuous agent is one who acts from the categorical imperative and thereby possesses the only thing that is good without qualification, a good will.⁶²

One attractive feature of deontological theories like Kant's is the ease with which they deal with cases of luck, particularly cases of resultant luck. Because Kantian moral assessment is grounded in what motivates action rather than its effects, effects do not play any role in Kantian moral assessment. Furthermore, because effects do not play a role in Kantian moral assessment, resultant luck does not affect the way Kantian deontologists assess agents.

Consider Zimmerman's example of resultant luck in which Georg's attempt on Henrik's life fails when his bullet impacts a passing bird. Furthermore, imagine that Georg's killing the bird is an exceptionally good outcome because the bird is either particularly troublesome or particularly tasty.⁶³ Whereas a consequentialist might say that such action is right on account of the fact that it maximizes some good, a Kantian deontologist will say that such action is wrong on account of the fact that the maxim of Georg's act is not universalizable. Assuming that Georg's act is, in fact, wrong, the Kantian assesses his act appropriately while the consequentialist does not. This example suggests that deontological theories are better than consequentialist ones at assessing cases of resultant luck.

⁶¹ Kant 1993: 14.

⁶² Kant 1993: 7.

⁶³ No offense is meant to my vegetarian or vegan readers.

Although deontological theories are better than consequentialist ones at assessing cases of resultant luck, they are not necessarily better than consequentialist ones at assessing cases of circumstantial luck. Because one's actions, like the effects of one's actions, are often beyond one's control, deontological theories that ground moral assessment in action itself do so improperly in cases where one's actions are beyond one's control. Nevertheless, Kantians may be able to avoid this criticism in certain cases insofar as they ground moral assessment in one's will rather than one's actions. According to Kant, actions derive their value from the value of the will that produces them. Therefore, actions are valuable only if they are produced by a will that acts from duty. In Zimmerman's example of circumstantial luck, both Georg and George intend, or will, the death of their respective targets. While George succeeds, Georg fails because of the circumstances in which he finds himself. Even if the example is altered such that circumstantial luck not only prevents Georg from attempting to kill Henrik but also causes him to perform a particularly appropriate act, Kantians remain capable of condemning George on account of the fact that his action is produced by a will that aims at killing Henrik, an act the maxim of which is not universalizable.

Even if Kantians are able to assess agents appropriately in some cases of circumstantial luck (e.g., Zimmerman's), they are not able to assess agents appropriately in all cases of circumstantial luck. In Nagel's case of circumstantial luck, for example, one is asked to compare the morality of an individual who becomes an officer in Nazi Germany with the morality of another individual who, though he does not become an officer in Nazi Germany, fails to do so only because he leaves Germany for business

reasons in 1930. In Zimmerman's example, Kantians can blame Georg because, although he does not kill Henrik, his will aims at killing Henrik, an act the maxim of which is not universalizable. In Nagel's example, however, Kantians cannot employ the same strategy, for the individual who leaves Germany for business reasons never aims at any action the maxim of which is not universalizable. Thus, although such an individual is culpable for his disposition to become a Nazi officer, Kantians have no way of explaining his culpability.

Consequently, although Kantians are capable of dealing with cases of resultant and some cases of circumstantial luck, they are incapable of dealing with all cases of circumstantial luck. What is more, they are also incapable of dealing with cases of constitutive luck, the kind of luck that exists when one's attitudes or behaviors are influenced by factors beyond one's control. Because Kant worked under the assumption that individuals have free will, he assumed that they are therefore capable of doing whatever they please. Nagel's arguments for the existence of constitutive luck suggests otherwise, however, and thereby undermines Kant's view. Assuming that Nagel is correct, agents are not necessarily responsible for what they intend, or will, and thus Kantians, who base moral assessment on the will, assess agents inappropriately in cases of constitutive luck.

The existence of circumstantial and constitutive luck therefore rules out, or at least threatens to rule out, the possibility that deontology could be the best moral theory. An additional problem with deontology, however, is the fact that it does not place enough value on the effects of actions. Some deontological theories (e.g., divine command

theory) completely ignore the effects of actions. Other deontological theories, though they do not completely ignore the effects of actions, attend to the wrong ones. Kant's theory, for example, considers the counterfactual effects of universalized maxims to determine whether actions performed from such maxims results in inconsistency. The problem with this is that the counterfactuals effects of universalized maxims are not or are at least not obviously as informative as they should be about an action's rightness. While I am willing to admit that actions performed from maxims the universalization of which results in inconsistency are wrong, actions need not be performed from maxims the universalization of which results in inconsistency in order to be wrong. For example, fulfilling one's promises is ordinarily right, and it does not seem that any inconsistency would result if everyone fulfilled their promises. Nevertheless, imagine a case in which an individual promises to meet a friend for lunch at a particular time but comes across a drowning stranger on the way. Even if the individual must miss lunch in order to save the drowning stranger, the individual should nevertheless do so. On Kant's theory, however, it is at least permissible for the individual to ignore the drowning stranger in order to fulfill his promise.

In the end, I believe that there is something correct about the consequentialist suggestion that virtue, vice, rightness, and wrongness are grounded in the effects of action. Thus, a deontological theory that ignores the effects of action could not be the best moral theory. The problem, however, is that few deontological theories value the effects of actions and those that do value the wrong ones. As a result, deontological theories are not only incapable of avoiding problems posed by cases of circumstantial and

constitutive luck but also fail to attend to the effects of actions, which should play an important role in moral assessment.

Virtue Ethics

Virtue ethics is the last of the three preeminent moral theories, and like the others, it too comes in a variety of forms. What unites its proponents, according to Russ Shafer-Landau, is the belief that actions are right “because they exemplify virtuous character traits, and not because they conform to some already-specified moral rule.”⁶⁴ Thus, whereas consequentialists determine right action by evaluating an act’s effects and deontologists determine right action by evaluating an act’s relationship to a rule or set of rules, virtue ethicists determine right action by evaluating the character traits that produce it.

As a result, determining whether certain actions are right on a particular virtue ethical theory requires determining what character traits are virtuous. According to Aristotle, virtuous character traits are means between vices. Courage, for instance, is described by Aristotle as “a mean with respect to things that inspire confidence or fear” that lies between rashness and cowardice.⁶⁵ Temperance is similarly described by Aristotle as “a mean with regard to pleasures” that lies between self-indulgence and insensibility.⁶⁶

⁶⁴ Shafer-Landau 2007(c): 663.

⁶⁵ Aristotle 1998: 67 (*EN* III.7).

⁶⁶ Aristotle 1998: 72 (*EN* III.10).

Although this information is helpful for determining the kind of thing virtuous character traits are, it remains unclear how to find the mean between any two vices. Where, for example, is the mean between rashness and cowardice or between self-indulgence and insensibility? Although Aristotle does not answer that question directly, his theory seems to be one on which virtuous character traits are behavioral dispositions which not only aim at but also bring about goods. This reading of Aristotle is endorsed by Driver who writes, “A view such as the one advocated by Aristotle is arguably a *mixed* view. Internal factors, such as aiming at virtue for its own sake, or acting with some correct conception of the good or noble, and so on are necessary to virtue but not sufficient. Some external requirement also exists in that for a trait to really be a virtue, it must somehow contribute to human flourishing.”⁶⁷

On Aristotle’s view, one who is courageous, for example, avoids rashness by recognizing the value of life and avoids cowardice by recognizing that there are things other than life that are valuable. Similarly, one who is temperate avoids insensibility by recognizing the value of pleasure and avoids self-indulgence by recognizing that there are things other than pleasure that are valuable. The virtuous individual is therefore one who both recognizes goods as such and recognizes how their values relate to one another. This is not sufficient for virtue, however, for as Driver’s quote suggests, a trait must not only aim at but also bring about a good in order to be virtuous. Thus, in “A Virtue

⁶⁷ Driver 2001: 70.

Ethical Account of Right Action,” Christine Swanton contends that acts are virtuous if and only if they are both performed from virtue and hit their targets.⁶⁸

If virtuous agents are those who have virtuous character traits and virtuous character traits are behavioral dispositions that not only aim at but also bring about certain goods, then virtuous agents are those who have behavioral dispositions to aim at and bring about certain goods. Thus, virtue ethics is by its very nature a counterfactual theory of moral assessment, for insofar as virtuous agents are those *disposed* to bring about certain goods, determining whether or not one is virtuous requires evaluating both one’s actual and counterfactual behavior.

According to virtue ethicists, what is necessary for virtue is not that agents maximize good in the actual world but that agents maximize good in the counterfactual worlds in which they have control over their character dispositions, actions, and effects. Thus, where consequentialists are bad at assessing agents in cases of luck because they evaluate actual effects, virtue ethicists are good at assessing agents in cases of luck because they evaluate counterfactual effects, specifically counterfactual effects that are not influenced by factors beyond one’s control.

To illustrate this difference, I want to briefly compare Driver’s consequentialist view to my virtue ethical view. According to Driver, agents are virtuous if and only if they have character traits that systematically maximize good in the actual world. According to me, agents are virtuous if and only if they have character traits that systematically maximize good across counterfactual worlds. Because it is possible for

⁶⁸ Swanton: 2007: 723.

someone who is lucky to have character traits that systematically maximize good in the actual world, it possible for someone who is lucky to be virtuous on Driver's account. Because it is impossible for someone who is lucky to have character traits that systematically maximize good across counterfactual worlds, it is impossible for someone who is lucky to be virtuous on my account. Thus, Driver is forced to abandon the control principle while I am not.

I should also note that the virtue ethicist's use of counterfactuals allows him or her to take the effects of one's actions into consideration when conducting moral assessment. So, whereas deontologists must eliminate the consequentialist requirement that the production of good effects is necessary for virtue in order to avoid the problems posed by luck, virtue ethicists need not eliminate the consequentialist requirement that the production of good effects is necessary for virtue in order to avoid such problems.

Although virtue ethics avoids the objections I have leveled against consequentialism and deontology, it is not therefore immune to criticism. For example, John Doris, in "Persons, Situations, and Virtue Ethics," uses empirical evidence to argue that stable character dispositions (i.e., virtues) do not exist.⁶⁹ As I see it, Doris' worry is simply that individuals have less control over their character dispositions than virtue ethicists ordinarily assume, a worry similar to Nagel's. Thus, while I am willing to admit that Doris' argument threatens a central tenet of virtue ethical theories (viz., the assumption that individuals have control over their character dispositions), I do not think it threatens anything I have said.

⁶⁹ Doris 1998: 506.

VI. CONCLUSION

I began by presenting the problem of moral luck as posed by Thomas Nagel and arguing that, given the existence of resultant, circumstantial, and constitutive luck, one hoping to preserve the possibility of moral assessment must either reject the control principle or accept a counterfactual theory of moral assessment. I then drew from the work of Michael J. Zimmerman to construct and defend such a theory, thereby preserving the control principle.

In closing, I have explained why one who accepts a counterfactual theory of moral assessment should prefer virtue ethical accounts of morality to consequentialist or deontological accounts. In particular, I have argued that consequentialism, on which virtuous agents are those who maximize good in the actual world, falls prey to problems posed by luck. I have also argued that deontology, on which virtuous agents are those who act in accordance with a rule or set of rules, is forced to ignore the effects of action. Because the best moral theory should neither fall prey to problems posed by luck nor ignore the effects of action, I contend that virtue ethics, on which virtuous agents are those disposed to both aim at and bring about certain goods, is the best moral theory.

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