

COMMENTS AND CRITICISM

DOORS, KEYS, AND MORAL LUCK: A REPLY TO DOMSKY*

In a recent article in this journal, Darren Domsky claims to have finally solved the problem of moral luck.¹ This problem, he says, "is like a plague. It is widespread, difficult to overcome, and tends to still show symptoms even in those who claim to be rid of it" (446). Now, finally, the plague is cured. The secret of the cure lies in the recognition that, in fact, the reasons for originally believing there was a problem are groundless. Or, to mention another of Domsky's metaphors:

The correct key is actually no key at all. It is the realization, simply, that there is no door (447).

Is there indeed "no door," and hence no need for a key to open it? Can we safely move the puzzle of moral luck to the history of philosophy department, or does it still belong in practical philosophy proper? In this paper, I opt for the latter option. I argue that the problem of moral luck is wider than the one presented by Domsky: that he fails to refute the main arguments in favor of moral luck; that the psychological explanation he offers for the spreading of the "plague" is unconvincing; and that even if it were convincing, it would fall short of solving the philosophical problem at hand.

1. PRELIMINARIES: WHAT IS THE PROBLEM OF MORAL LUCK?

According to Domsky, the problem of moral luck results from two firm but incompatible moral intuitions:

Intuition 1. Moral blameworthiness is independent of luck. Equally negligent agents are equally blameworthy, even if by luck one brings about bad outcomes and one does not.

Intuition 2. Moral blameworthiness is *not* independent of luck. Negligent agents who by luck bring about bad outcomes are more blameworthy than equally negligent agents who by luck do not (445).

Let me start by noting three ways this formulation of the moral luck

problem unjustifiably narrows the problem at hand. First, the focus on *blameworthiness*. On the above formulation, the contradictory intuitions regarding moral luck concern the necessary conditions for blameworthiness. More precisely, they concern the validity of one such condition, that is, the condition of being-independent-of-luck. On intuition 1, a necessary condition for some agent *A* being blameworthy for some result *r* is that *A*'s bringing about *r* was not a matter of luck, while on intuition 2, no such condition exists, hence *A* might be blameworthy for *r* even if *A*'s bringing it about was a matter of luck. This means that when two agents are equally negligent and one brings about worse outcomes than the other, then, on intuition 1, they are equally blameworthy, while on intuition 2, one agent is more blameworthy than the other. In other words, on intuition 1, blameworthiness cannot extend beyond the boundaries of control, while on intuition 2 blameworthiness can so extend, hence one might be—and very often is—blameworthy for outcomes that rest beyond one's control.

The problem with this formulation of the moral law problem is that it makes no sense to speak of blameworthiness *simpliciter*, since blameworthiness is always attributed *for* some negative state of affairs, or negative behavior. Domsky says that on intuition 1, "equally negligent agents are equally blameworthy, even if by luck one brings about bad consequences and one does not." But if there are no bad consequences, what consequences *could* one be blameworthy for? Similarly with intuition 2, Domsky says that "negligent agents who by luck bring about bad outcomes are more blameworthy than equally negligent agents who by luck do not." To say that the unlucky agents are *more* blameworthy than the lucky ones assumes a fixed point of reference, that is, some unwelcome outcome, in relation to which they are more blameworthy than the lucky agents. But this is misleading. If *A* and *B* are equally negligent in their driving, they are equally blameworthy for the irresponsible endangering of human lives created by their driving. And if, because of the negligence, *A* kills some human being, while *B* kills nobody, it makes no sense to say that *A* is *more* blameworthy than *B* for such killing *C*, for the obvious reason that it bears no causal connection to *B*'s behavior. The assumed paradox between the above two intuitions seems to dissolve once the logic of blameworthiness is revealed: as far as the negligent behavior is concerned, then surely if two agents are equally negligent, they are equally blameworthy for their bad behavior. While as far as the outcome of the behavior is concerned, if *A* causes some unwelcome outcome while *B* does not, then *A* is blameworthy for this outcome, while *B* is not. Proponents

* For helpful comments on earlier versions, I am greatly indebted to Darren Domsky, Norvin Richards, and Saul Smilansky.

¹ "There Is No Door: Finally Solving the Problem of Moral Luck," this journal, *cl.* 9 (September 2004): 445–64.

of moral law certainly do not think otherwise, hence the above formulation fails to show what the paradox of moral law is.

In light of this analysis, it is no surprise that most writers on the moral luck problem, particularly those who first raised it in contemporary moral philosophy, did not express it through the notion of blameworthiness. For Bernard Williams, the main concern is "retrospective justification," that is, the question of how far, and in what ways, the view that an agent retrospectively takes of himself or herself may be affected by the results of his or her actions.² For Thomas Nagel and many others, moral luck concerns the moral judgment of people,³ a judgment about their "moral status,"⁴ "moral position,"⁵ or "moral (dis)credit."⁶ For still others, the problem of moral luck is much wider than the moral status of lucky versus unlucky agents. It is about "conceptions of agency and responsibility of the sort that morality requires,"⁷ and it affects wide and numerous aspects of the ethical life.

In addition to clarifying the nature of the paradox under discussion, these comments raise some skepticism about Domsky's hope to have solved once and forever the problem of moral luck. As the problem cannot be—and usually is not—formulated in terms of blameworthiness, any solution which is based on this formulation will probably fail.

A second difficulty in Domsky's formulation of the problem of moral luck is its limitation to cases known as resultant luck, namely, "luck, good or bad, in the way things turn out."⁸ Domsky is aware of other types of luck, but he believes that the problem of resultant luck "clearly dominates, not just in the literature, but in our lives" (447, note 4), and produces genuine distress, unlike the forced distress that arises in the other types of luck. I think Domsky is wrong on this point. As for the philosophical literature on moral luck, resultant luck has not received more attention (certainly not significantly more attention) than circumstantial luck (luck in the moral tests one faces).⁹ And as for the dominance of resultant luck in our *lives*, I estimate that the sense of bad luck in failing a moral test which others were

fortunate not to have been called on to face is far more prevalent than Domsky assumes. Just like resultant luck, we feel conflicting drives within us when it comes to luck in circumstances: on the one hand, we strongly feel that there is something unfair in this state of affairs, while on the other, we go on judging people according to what they *actually* do, not according to what they would have done had they found themselves in different circumstances. On the one hand, we believe that war criminals must suffer harsh punishment for their crimes, while, on the other, we realize that "given a context of violent conflict, given extraordinary pressures and expectations, ordinary people can act very badly indeed."¹⁰ *Contra* Domsky, the distress produced by circumstantial luck is no less genuine than that produced by resultant luck, and limiting the discussion to the latter type of luck leaves the reader with the feeling that there is much more yet to be solved.¹¹

Finally, even if the discussion on moral luck is limited to resultant luck, I see no reason to further limit it to cases of *negligence*, as suggested by Domsky when he says that "only negligent agents experience moral luck.... To be negligent is just to act, under conditions of uncertainty, in unjustifiably risky ways" (448). I believe that here Domsky is conflating two different types of resultant luck, one having to do with unfortunate outcomes following the taking of unjustifiable risks (negligence), and the other having to do with unfortunate outcomes ensuing from decisions taken under conditions of uncertainty. Nagel's examples of the last type include Chamberlain signing the Munich agreement, the Decembrists persuading the troops under command to revolt against the Czar, and the introduction of two people in an attempt at match-making (*op. cit.*, pp. 61–62). Unlike cases of negligence, in these cases the risk taken by the agent's decisions could not be said to have been unjustified *at the time they were taken*. Nagel is right to note that in these cases there is no possible decision, in light of what is known at the time, "which will make reproach unsuitable no matter how things turn out" (*op. cit.*, p. 62). *Contra* Domsky, then, an agent who makes a reasonable decision that, nevertheless, ends up in a catastrophe does not assess her moral position as about the same as she would have done had everything

² "Postscript," in Daniel Statman, ed., *Moral Luck* (Albany: SUNY, 1993), pp. 251–58, see p. 256; hereafter, this volume will be referred to as *ML*.

³ "Moral Luck," in *ML*, pp. 57–71, on p. 59. Cf. Norvin Richards, "Luck and Desert," in *ML*, pp. 167–80; see also Henning Jensen, "Morality and Bad Luck," in *ML*, pp. 131–40, who talks about the "moral assessments of persons," on pp. 138–39.

⁴ Judith Andre, "Nagel, Williams, and Moral Luck," in *ML*, pp. 123–30, on p. 125.

⁵ Nicholas Rescher, "Moral Luck," in *ML*, pp. 141–66, on p. 154.

⁶ Judith Thomson, "Morality and Bad Luck," in *ML*, pp. 195–216, on pp. 195–97.

⁷ Margaret Walker, "The Virtues of Impure Agency," in *ML*, pp. 235–50, on p. 243.

⁸ Daniel Statman, "Introduction," in *ML*, pp. 1–34, on p. 13.

⁹ Circumstantial luck is discussed, *inter alia*, by Nagel, Richards, Walker, Thomson, and Michael Zimmerman, "Luck and Moral Responsibility," in *ML*, pp. 217–34.

¹⁰ Tracy Govier, *Forgiveness and Revenge* (New York: Routledge, 2002), p. 117.

¹¹ Govier relies on this insight to establish the possibility and rationality of forgiveness. In fairness to Domsky, I should note that he reports that he is dealing with the other types of luck in other work in progress (447, note 4). Without having seen this work, however, it is hard to be convinced that the problem of moral luck has been solved.

worked nicely according to plan. Nor would we, the spectators, do so. That is what is so disturbing about moral luck, especially *bad* moral luck; it strikes the righteous and the wicked alike.

II. THE "PSYCHOLOGICAL" SOLUTION TO THE MORAL LUCK PROBLEM

According to Domsky, the key to solving the moral luck problem lies in what I shall call the *psychological explanation* (PSE). If it sounds odd to you that a *psychological* explanation might solve a *philosophical* problem, it should. Indeed there is something suspicious going on here. Let me start by revealing what it is and by making some general remarks about methodology. Then I shall present the solution itself and explain why I find it unconvincing.

On Domsky's view, given that intuitions 1 and 2 are incompatible, the problem of moral luck is to decide which of these should be thrown away. The solution lies, he says, in realizing that intuition 2 is false, but this solution has already been advanced several times. The novelty of Domsky's argument, or so he believes, is in the complete demolition of this intuition.

The secret to rejecting it successfully, or even to really knowing that it must be rejected, is to realize that our reasons for originally upholding it were never any good.... The solution to the problem of moral luck has eluded us simply because we have never properly understood its causes (447, 454).

The causes Domsky points to, and to which I shall turn soon, are various *biases*, particularly the selfish and the optimistic biases. Though I concede that such psychological explanations might play a role in solving philosophical puzzles, they play a much more minor role than is assumed by Domsky, and, most importantly, they are always parasitical on philosophical arguments to do the main work. A psychological explanation is required, or, at any rate, could be helpful, only when some position is shown not only to be wrong, but to be so irrational that only some fundamental cognitive bias could explain how people could ever take it seriously in the first place. In the present context, this means that exposing the psychological attraction for the belief in intuition 2 cannot by itself constitute a solution to the problem of moral luck, definitely not *the* solution to this problem.¹²

¹² In the last page of his paper, Domsky mentions very briefly a few philosophical arguments against intuition 2, which he further develops in a later paper entitled "Tossing the Rotten Thing Out: Eliminating Bad Reasons Not to Solve the Problem of Moral Luck," forthcoming in *Philosophy*, but in "There Is No Door," the main focus is on the psychological argument.

But even if PSE *was* admitted as an argument against moral luck, I believe it fails on its own terms, that is, it fails to explain the attraction of intuition 2. Let us, then, turn to a critical analysis of PSE itself.

The psychological key to understanding our conviction about moral luck, argues Domsky, lies in two separate cognitive biases, the selfish bias and the optimistic bias. The former is the tendency we have to select and uphold moral theories and beliefs according to how they stand to benefit us personally. Most of us are not aware of this bias and, even worse, most of us believe we are less motivated by self-interest in forming our moral convictions than the average person. The optimistic bias is the tendency to make unrealistically low estimates of the relative likelihood of experiencing unlucky outcomes. Because of this tendency, we are confident that we are somehow immune to bad luck. As for good luck, we feel it is somehow deserved. We subconsciously believe that we have a special mastery over luck, hence we feel that it is to our credit that we are luckier than our peers.

The upholding of intuition 2 is the natural child, as Domsky puts it, of these two biases (462). Because of the optimistic bias, we estimate that we are far less vulnerable to bad luck than other human beings, hence we subconsciously believe that if we found ourselves in cases like the two equally negligent drivers, we would most probably be the lucky one. And the selfish bias explains why we select the belief in intuition 2:

We are subconsciously drawn toward moral beliefs that privilege us, and we subconsciously believe that blaming the morally unlucky much more than the morally lucky privileges us at the expense of others by making us less blameworthy than we would otherwise be and by making them more (462).

Given our psychological makeup, argues Domsky, it would be remarkable if we did *not* believe in moral luck. In any case, now that the pathetic irrationality of this makeup is revealed, especially regarding the optimistic bias, there is finally a real chance to overcome our pull towards intuition 2, and to realize that there is "no door."

Is PSE convincing? I believe not. Let us grant that in the case of principles allocating blameworthiness, just as with other moral principles, a major, subconscious reason for deciding what principles to adopt is their expected utility in terms of the agent's self-interest. Why, then, do we have stronger reasons to choose intuition 1 over intuition 2? On Domsky's view, since we believe that we are somehow immune to bad luck, we are not bothered by the fact that intuition 2 imposes more blameworthiness on unlucky agents than on lucky ones. Furthermore, since we feel that it is to our credit that we are luckier

than our peers (458), we are not bothered at all by the fact that our moral status will be determined by luck. But in these respects, intuition 1 should look even more attractive, as it guarantees us *complete* immunity to luck. If only we behave reasonably, we will never be reproached for the unfortunate outcomes of our behavior, and even if we misbehave, for example, by negligent behavior, we will not be held responsible for any unfortunate results, but only for the wrongful taking of risks. If it is our own self-interest we are after, then surely intuition 1 makes the better offer and provides us with what Williams called “a solace to a sense of the world’s unfairness” (*op. cit.*, p. 36). I am taking for granted here that the optimistic bias does not make us believe (even subconsciously) that we are *100% immune to bad luck*. We might be helplessly and irrationally optimistic, but we are not totally blind. As a matter of fact, we often interpret events that happen to us as “bad luck,” while we attribute similar calamities that afflict others as ensuing from their mistakes or wrongful behavior.¹³ True, the optimistic bias makes us believe that we are far more immune to luck than others, but assuming that we are not totally deluded, we must realize that to *some* extent we, too, are vulnerable to luck, otherwise we would invest much more money in the lottery, avoid the nuisance of safety belts, not bother with umbrellas on cloudy days, and so on. To conclude, then, contrary to what Domsky says, the selfish bias should have led us to prefer *full* immunity to luck, as guaranteed by intuition 1, over partial immunity to luck, offered by intuition 2.

To make the same point in other words: what we might be considered blameworthy for is wider under intuition 2 than it is under intuition 1. Under intuition 1, we are blameworthy only for what is within our control, while under intuition 2 we are blameworthy both for what is within our control (for example, the careless driving itself) *and* for the unfortunate results of our behavior (for example, the killing of a pedestrian trying to cross the street). Why would anybody choose, *for selfish reasons*, a principle that would make him or her more blameworthy than he or she would be had a different principle been chosen?

I can envisage two possible moves Domsky could make in response

to this objection. First, he might argue that although intuition 2 offers us less immunity than intuition 1 in absolute terms, it offers more immunity in relative terms. On intuition 1, factors due to luck neither improve nor discredit our moral status in comparison to others, while given our assumed immunity to luck (the optimistic bias), intuition 2 seems to make us better than others, whom we believe to be far less immune than we are. Maybe this comparative dimension is what Domsky has in mind when he says that intuition 2 “privileges us *at the expense of others* by making us less blameworthy...and by making them more” (471, italics added). The initial plausibility of this response derives from the enormous importance we assign, consciously and subconsciously, to our comparative status. We care very much not simply about how clever we are, but how clever we are in comparison to others, how beautiful we are in comparison to others, and also how blameworthy we are in comparison to others. And since intuition 2 allows us to elevate ourselves “at the expense of others,” our self-interest instinct is to prefer it over intuition 1.

The trouble with this move is that it makes PSE rely on a psychological assumption that is not substantiated at all by Domsky and, until convincing evidence is presented to show otherwise, I think there is good reason to regard it as false. People do at times prefer a state of affairs that makes their situation worse in absolute terms, only because it improves their relative status in comparison to others, but, thankfully, this does not seem to be the rule. It sounds unlikely that we would take the risk of suffering distressing guilt feelings and severe social condemnation in case *we* unluckily brought about bad outcomes, just to enjoy the satisfaction of looking down at others suffering bad fortune in their turn, which we could then arrogantly interpret as reflecting their low credit.

The second move Domsky could make in response to the above objection is to argue that intuition 2 “stems not just from selfishness but from *misdirected selfishness*” (463). The argument is not entirely clear, but what Domsky seems to be after is the idea that the selfish bias does not necessarily direct the agent to the best results in terms of his or her self interest, hence it can explain our attraction to intuition 2, even if, as I have argued, further reflection shows that we would be better off with intuition 1. But this move takes from the selfish bias all of its explanatory power. This bias was supposed to explain how we hold to some principle (intuition 2) in spite of its being (according to Domsky) blatantly false. PSE was supposed to answer this question by pointing to the psychological mechanisms that distort our cognitive/evaluative judgment, and the selfish bias was one of them. The idea was that because we have a special and

¹³ This is one of the insights of the attribution theory in psychology. Whether events are attributed to luck or to internal factors, that is, to abilities and effort, depends on the type of personality. In particular, depressed people have been shown to ascribe their failures to internal factors, while nondepressives ascribe their failures to external factors (luck and task difficulty). See Nicholas Kuiper, “Depression and Causal Attributions for Success and Failure,” *Journal of Personality and Social Psychology*, xxxvi (1978): 236–46.

uncontrollable attraction to theories and beliefs that favor us, we often fail to notice that these theories and beliefs are false. But if the belief we adopt is one that in fact "favors no one" (463), the entire explanation collapses. Selfish explanations can work only if the preference to be explained can be shown to be the most reasonable path that would be taken by a selfishly rational agent. If the preference, in fact, runs counter to the best interests of the agent, as I tried to demonstrate, there is no good reason to think that it was chosen for selfish reasons.

My conclusion is that if the recommendation to drop intuition 2 is based on PSE, and if this move is supposed to provide us with a solution to the problem of moral luck, then it is unconvincing. However, as explained earlier, it was a mistake in the first place to think that PSE could do the main work in rejecting intuition 2, work that involves discarding the philosophical arguments that led to this intuition. In the next section, I seek to examine whether Domsky has managed to do this.

III. PHILOSOPHICAL ARGUMENTS FOR MORAL LUCK

On Domsky's view, the arguments advanced to solve the problem of moral luck are not simply unsuccessful, but *embarrassingly* so, hence the need for PSE to account for our irrational pull to moral luck. Are these arguments indeed so embarrassing?

Domsky identifies two responses to the problem of moral luck:

Some philosophers insist that our two intuitions do not actually conflict, and others accept that they conflict but insist that it is a good thing we hold them despite this.¹⁴

But in the way intuitions 1 and 2 have been formulated by Domsky (445), nobody could possibly argue that they do not conflict; one intuition says that blameworthiness is independent of luck, the other that it is not the case that blameworthiness is independent of luck. How could this fail to be a plain logical contradiction? As an illustration of this approach, Domsky refers to Norvin Richards's paper (*op. cit.*). Yet Richards never denies that intuitions 1 and 2 are contradictory. What he argues is that, in spite of the fact that intuition 2 ought to be rejected, it does capture *something* true about blameworthiness, namely, that our actual judgments about the blameworthiness of people must reflect our epistemic shortcomings, and usually the only way we come to know that some person is morally blameworthy is by what

he or she actually did or actually brought about. On my reading of Richards, his *solution* to the paradox of moral luck lies in his unequivocal rejection of intuition 2 as an "ontological" principle (to borrow Domsky's term), while his epistemological addition seeks to restore some rationality to our actual practice of moral criticism, practice that would seem to lose all credibility following the rejection of intuition 2. In other words, the aim of the epistemological argument is not to overcome the contradiction between intuitions 1 and 2, but to soften the apparent contradiction between intuition 1, which Richards fully accepts, and the actual practice of moral criticism. Richards might be unsuccessful in his attempt to save something from intuition 2, but he definitely does not make the mistake of denying the existence of a contradiction between intuitions 1 and 2, nor does he suggest that the partial restoration of intuition 2 through the epistemological argument leads to a complete overlap between judgments of moral criticism justified by this argument and judgments of moral blameworthiness implied by the original, ontological, intuition 2.

Richards's general approach is common to other philosophers too, for example, Hennings Jensen and Judith Thomson (*op. cit.*). Each of them denies intuition 2, thereby denying that there is a real *paradox* in the notion of moral luck. Nevertheless, they try to show, each in his/her own way, why, for practical or epistemological reasons, there is some justification to behave *as if* intuition 2 was true. As a matter of fact, it is not at all clear to me why Domsky should object to this approach, especially as he acknowledges how "extraordinarily difficult" it would be to completely drop intuition 2 (464). Given this difficulty, would not it be more realistic to drop only part of it, so to say, that is, the ontological part, while retaining those parts (or those interpretations) of it that *can* be rationally justified, for example, the epistemological?

In any case, as I see no other philosopher who falls under Domsky's heading of thinkers who "insist that the two intuitions do not actually conflict," I must conclude that Domsky is referring here to a straw man or woman.

The second response to the problem of moral luck, says Domsky, consists of "seeing the conflict of intuitions, but being glad for it."¹⁵ While the first response fails to see a logical contradiction where one exists, the latter identifies contradictions but does not care about them, or worse—is *glad* about them. Domsky refers to Margaret Walker as a prominent example of this response (*op. cit.*) but, as far as I

¹⁴ From "Tossing the Rotten Thing Out" (forthcoming; typescript, p. 1).

¹⁵ From "Tossing the Rotten Thing Out" (forthcoming; typescript, p. 5).

can see, she is quite clearly opposed to it. Walker distinguishes *three* positions on moral luck: that it is real but constitutes a paradox; that it is illusory; that it is real but not paradoxical. Her own view is a variant of the third sort of position (*op. cit.*, p. 236), and she expressly rejects the view (which she ascribes to Williams and to Nagel) “that it generates an insoluble problem” (*op. cit.*, p. 238). Hence, I think it is simply false to characterize Walker’s position (to which I shall immediately return) as accepting the paradox of moral luck and “being glad” about it.

Another assumed member of this group, on Domsky’s view, is Jensen, but, again, I find this classification misleading. Jensen explicitly rejects intuition 2 and makes clear that “actual results beyond agent’s control do not determine our verdictive judgments of his moral blameworthiness” (*op. cit.*, p. 139). Thus, Jensen refuses to acknowledge any real paradox in moral luck, and in that respect he belongs—as Walker rightly observes (*op. cit.*, p. 237)—to the same company of Richards, both of whom attempt to show that moral luck is *illusory*.

As a fierce opponent to moral luck, Domsky’s real foes are not Jensen, Richards, Thomson, or Michael Zimmerman, all of whom explicitly reject intuition 2, but philosophers like Williams, Nagel, and Walker, who argue for it. Of their arguments, he chooses to deal with one, that developed by Walker, according to which moral luck is a condition for *integrity*. I turn to discuss this argument as described by Domsky, and to show why I think he fails in refuting it.

According to Domsky, Walker believes that “in a world without intuition 2, there would be no blame and therefore no integrity.”¹⁶ Domsky objects. In his view, blame can exist without intuition 2, as it can be tied to negligence, rather than to bad outcomes. Therefore, integrity does not depend on intuition 2 either, and we can safely keep the former and get rid of the latter. However, I think that Walker’s argument is not that easy to refute. First, she does not argue that in a world without moral luck (a world of “pure agency”) there would be *no blame*. There would be blame, but it would be hopelessly limited to those aspects of human behavior which are within human control. A hypothetical world without moral luck would be one with far less blame than a world with moral luck (a world of “impure agency”), not a world without blame altogether.

Second, Walker’s argument about the intimate connection between integrity and moral luck relies on her special understanding of integrity, which is rather ignored by Domsky. On Walker’s view, what

integrity protects is one’s moral self, “that center of moral commitments in oneself from which morally fitting and valuable responses flow in a sure and steady way” (*op. cit.*, p. 242). A person of integrity is somebody we can trust and depend upon, especially in trying times where unwanted circumstances impose severe tests. A person of integrity is one who can be trusted to carry his or her commitments through, and to take responsibility over his or her actions, even when he or she has perfectly good excuses to opt out of the burdens imposed thereof, burdens which are so often a result of bad luck. Integrity, argues Walker, is a quality of character “impossible to capture fully without reference to the vicissitudes of moral luck” (*op. cit.*, pp. 241–42). Walker might be wrong in this view, but it cannot be rejected by merely pointing to the fact that blame might be “tied to negligent behavior instead of bad luck,” given that on Walker’s view integrity is intimately tied to bad luck, not simply to negligence, in the ways just explained.

Domsky’s second criticism of Walker concerns her main thesis, namely, that a world without moral luck would be a much worse place to live in. In such a world, argues Walker, a world of pure agency, agents would be responsible only for what is within their control. They would be freed from any responsibility for the unforeseen and the uncontrollable results of their intentional performances. Pure agents enjoy unilateral control of responsibility and are exempt from reparative demands in all areas beyond strict control. That means that they may not be depended on:

That the very young and old, the weak, the sick, and the otherwise helpless—that is, all of us at some times—depend on the sense of moral responsibility of others unlucky enough to be stuck with the circumstance of their need will not be the pure agents’ problem. It is alarming to anticipate life in a world where people routinely and with justification walk away from the harmful, cruel, or even disastrous results that their actions were critical, even if not sufficient, in bringing about (*op. cit.*, p. 247).

To this, Domsky responds by suggesting that the exact opposite is true, namely, that a world with moral luck is much *worse* than a world without. Why so? Because he believes that the extra burdens and responsibilities on unlucky agents in the world of impure agency are bought at the high price of allowing the lucky ones “to fail us completely.” People who “routinely and unflinchingly risk other people’s lives without a second thought,” but are fortunate enough not to cause death or injury, are callously exempt from any responsibility towards the many victims of others’ negligence. A world with moral

¹⁶ From “Tossing the Rotten Thing Out” (forthcoming; typescript, p. 9).

luck is a world in which victims of hit-and-run accidents would be left suffering, because those responsible for their fate, the unlucky hitting drivers, will have continued on their way, while in a world without moral luck, such victims will be assisted by any passing driver. Thus, since a world guided by intuition 2 is a callous one, we have a strong reason to get rid of this intuition.

This move against Walker is surprising and provocative, yet ungrounded. On Domsky's view, anybody who at times behaves negligently ought to help victims of such negligence, even if he himself was fortunate enough not to bring about any bad outcome. Since all of us (or certainly almost all of us) act sometimes in ways that risk other people lives (driving in a less than perfect manner, forgetting the water running in the bath, the fire on the stove, and the like), the upshot is extremely demanding—all of us are under an obligation to provide help to all victims of negligence. Now first of all, this obligation definitely does not follow from intuition 1 (or, for that matter, from the very rejection of intuition 2). Intuition 1 is a limiting principle, clarifying what negligent agents are *not* blameworthy for, that is, the unfortunate outcomes of their (negligent) behavior. It says nothing about the kind of moral burdens that *are* incumbent on agents given their blameworthiness for some wrongful behavior. Since the above obligation to help victims does not presuppose the rejection of intuition 2, it could be adopted by proponents of moral luck too.

This is a good opportunity to clarify that intuition 2 does not replace blameworthiness for negligence by blameworthiness for outcomes, but rather adds the latter to the former. Proponents of moral luck concede that agents are blameworthy for their intentional, wrongful behavior, particularly their unnecessary taking of risks, but they argue that the blameworthiness imposed by such behavior does not exhaust the realm of blameworthiness. We are blameworthy, they contend, not only for voluntary actions and omissions, but for their (unlucky) outcomes *too*. Therefore, if blameworthiness for mere negligence involves such demands as those mentioned by Domsky, there is no reason why proponents of moral luck could not acknowledge them too, and just add another package of demands to them, this time deriving from the unlucky outcomes.

Second, the morality of helping victims which is outlined by Domsky seems to smuggle back through the window the very idea of moral luck that was earlier thrown out of the door. On this morality, if I come across victims of a hit-and-run accident in some deserted road, I ought to take responsibility and stop to help them. But why *me*? After all, it is only bad luck that I happened to take this road, at this time, and bump into these victims. If, as assumed by opponents of

moral luck, responsibilities must not outrun control, then I should not be seen (by myself or by others) as more responsible for the victims of the accident than anybody else. (On intuition 1, even the hitting driver himself is not more responsible than other negligent drivers for the victims of his negligence, nor should he feel more remorseful than they do.) To say that I do have a special responsibility to help these victims seems to presuppose the role of luck in moral judgment, which was supposed to have been finally denied.

Third, in any case, the morality sketched by Domsky is demanding in a way that makes it unrealistic and alien to human psychology. Domsky expects almost all of us to feel shame and remorse (!) for events to which we have no causal connection, that is, the unwanted results of the negligence of *others*, just because we might have been the ones who caused the harm, or better, just because we ourselves sometimes risk accidentally harming people.¹⁷ And we must all—negligent creatures that we are—take responsibility and provide help to all victims of negligence. While in Walker's world of impure agency, it is the negligent driver who is expected to feel remorse and make amends for the harms he has caused, in Domsky's world, it is all negligent drivers or, indeed (since no causal connection between the negligence and the harm to be repaired is assumed), all negligent agents in whatever sphere who are supposed to feel remorse, and make amends for all regretful results of negligence. The former arrangement strikes me as more practical, more just, and better suited to human nature.

IV. SUMMARY AND CONCLUSION

I argued against Domsky that the problem of moral luck is not captured well when formulated in terms of blameworthiness. In Walker's words, the moral luck issue concerns "a full repertoire of perceptions, judgments, expectations, responses, attitudes, and demands with respect to ourselves and others" (*op. cit.*, p. 238). I presented at some length Walker's argument in favor of a world with moral luck, a world of impure agency, and tried to show the failure of Domsky in refuting her argument. Until this argument (as well as other arguments Domsky does not address in his paper) is refuted, the problem of moral luck cannot be said to have been solved once and for ever.

Furthermore, even if Walker (as well as Williams and Nagel) are wrong in extending the realm of responsibility beyond that of controllability, they are definitely not *obviously* wrong, in a way that calls for

¹⁷ From "Tossing the Rotten Thing Out" (forthcoming; typescript, p. 10).

some kind of psychological account for the assumed breakdown of our rational capabilities. Such a psychological account would be helpful only as an error theory, presuming to explain how people fail to see the obvious. Moreover, the psychological "solution" offered by Domsky fails on its own merits. The selfish bias should have led to the adoption of intuition 1, rather than the adoption of intuition 2.¹⁸

The solution of the moral luck problem lies in some solid and irresistible philosophical argument for or against moral luck. I do not think Domsky has provided us with such an argument. I am afraid the "stink"—to use again one of his illustrative expressions—instigated by the paradox of moral luck is still in the air. There is a door, it is still locked, and we are in need of a key.

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¹⁸ A different use of psychological studies to shed light on the problem of moral luck has been recently suggested by Edward Royzman and Rahul Kumar, who argue that our "epistemic egocentrism" causes us to incorporate our retrospectively gained knowledge of the outcomes into our understanding of the knowledge that the actor must have had at the time of the action. In their view, this explains why we tend to view the negligent driver who killed a pedestrian as more blameworthy than the driver whose negligence did not lead to such an outcome—see their "Is Consequential Luck Morally Inconsequential? Empirical Psychology and the Reassessment of Moral Luck," *Ratio*, xvii (2004): 329–44.

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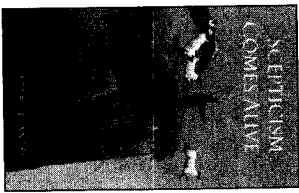
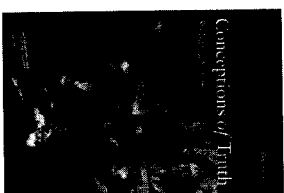
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