ABSTRACT. Moral luck poses a problem for our conception of responsibility because it highlights a tension between morality and lack of control. Michael Slote’s common-sense virtue ethics claims to avoid this problem. However, there are a number of objections to this claim. Firstly, it is not clear that Slote fully appreciates the problem posed by moral luck. Secondly, Slote’s move from the moral to the ethical is problematic. Thirdly, it is not clear why we should want to abandon judgements of moral blame in favour of judgements of ethical deplorability. Finally, this paper defends an alternative solution to the problem of moral luck, which focuses on judgements of probability, but which has been rejected by Slote.

KEY WORDS: common-sense virtue ethics, ethical luck, Michael Slote, moral luck, responsibility, virtue ethics

The possibility of moral luck poses a problem for our judgements of responsibility, as it highlights the tension between morality, which is about control, choice, responsibility and the appropriateness of praise and blame, and on the other hand, luck, which is about lack of control, unpredictability and the inappropriateness of praise and blame. Cases of moral luck are cases where a crucial element of the act was outside the agent’s control and at the same time, we still want to hold the agent responsible for it.¹ If luck affects morality, then it also poses problems for our notions of equality and justice. A moral theory that avoids or resolves the problem of moral luck avoids the tension between morality and luck, and can also lay claim to a strong and pure notion of responsibility. Michael Slote claims that his account of common-sense virtue ethics can avoid the problem of moral luck, specifically that:

… a non-moral virtue ethics can avoid the paradox and contradiction that arises in common-sense morality with respect to moral luck, and we have attempted to do this by showing how a virtue ethics that avoids both specifically moral concepts and common-sense or other moral judgements can safely accommodate itself to luck or accident, that is, to their partial role in determining what virtue-ethical attributions apply or fail to apply. (Slote, 1992, p. 124)

¹The term ‘moral luck’ and the problems it creates for our understanding of responsibility was introduced to modern moral philosophy by Bernard Williams and Thomas Nagel.
This paper argues that Slote’s attempt to make his moral theory immune to luck is, at best, only partly successful. To show why this is so I will make a distinction between different kinds of moral luck and will then examine two features of Slote’s theory with respect to moral luck.

**DIFFERENT KINDS OF MORAL LUCK**

For the purposes of this discussion there are three different kinds of moral luck: constitutive luck, developmental luck and resultant luck. A similar distinction occurs in Nagel (1979), who distinguishes between constitutive, situational, resultant and antecedent luck. For the purposes of this paper, situational luck has been subsumed under the wider concept of developmental luck. This is because, as I have argued elsewhere (Athanassoulis, 2000), situational luck can be seen as a particular instance of developmental luck, i.e. the kinds of moral tests we face go towards shaping our moral character. Developmental luck then is a wider category including all influences which go towards shaping who we become. The possibility of antecedent luck is not discussed in this paper.

Constitutive luck affects who we are, the raw-material we are born with. Our talents, abilities, pre-dispositions, etc. are all affected by luck in that they are part of our nature and not under our control. Thus, some people are born with natural tendencies to be kind, charitable, affectionate, etc. whereas others are naturally irascible, cowardly, mean, etc.

Who we are when we are born may only be one factor, whereas many factors go towards making us who we become as we grow up. Developmental luck affects the factors which go towards the development of our moral characters. Teachers, role-models, opportunities for exercise, habits, the situations one comes across etc. all go towards shaping our moral characters and although the influence of such factors is crucial, their availability and quality are not under our control.

Resultant luck relates to the results of our actions. Luck affects the results of our actions, so that the consequences of our acts can be other than those intended solely because of factors outside our control. For example, two men intend to kill their respective victims, pick up their guns, point them at their victims and pull the trigger. One man is ‘successful’ in what he set out to do, i.e. he kills his victim, but the other man’s gun jams and he is prevented from killing his intended victim. One man is a murderer whereas the other is an attempted murderer due to luck.

**SLOTE ON MORAL LUCK**

Slote’s common-sense virtue ethics develops around two ideas which are relevant to this discussion: the first is the idea of an ‘agent based theory’
and the second a move from morality to ethics. Agent-based theories are contrasted with agent-focused theories. Agent-focused theories differ from other theories because their understanding of the ‘moral or ethical life’ is based on an understanding of the virtues as inner traits. Whereas many theories focus on moral laws, rules and principles, agent-focused theories, the primary example of which is virtue ethics, focus on virtuous individuals and the traits and dispositions which make them such. Standard Aristotelian theory is interpreted as being agent-focused. In comparison with agent-focused theories, agent-based theories are, according to Slote, more radical and purer in that “...the evaluation of actions is entirely derivative from and dependent on what we have to say ethically about the (inner life of) the agents who perform those actions” (Slote, 1997b, p. 178). Crucially then the moral status of actions is entirely dependent on the moral status of the agent’s motives. What we have to say about the inner life of agents, seems to come down to intuitions, or ‘ground-floor ethical assumptions’ which are not themselves based on any other ethical assumptions (Slote, 1997b, p. 216). Slote argues that “…moral facts and conclusions aren’t to be found ‘out in the world’, but, rather, emerge from moral motivation directed toward and relying upon perceived human, social and causal facts” (Slote, 1997b, p. 232).

The second idea crucial in Slote’s analysis is a move from morality to ethics. Making this move is the major project of his work Morals From Motives, and involves a series of complex arguments. Slote raises various considerations against most moral theories, leaving utilitarianism as the only alternative. He constructs a variety of arguments on self-other asymmetries and the desirability for symmetry in moral theories, the problem of justifying agent-relative constraints, theoretical unity and messiness and finally the problem of moral luck. Slote presents a complex and challenging discussion and it is not possible to examine every aspect of his radical approach here, but I do want to focus on his use of the problem of moral luck in his arguments. The problem of moral luck was introduced to recent literature by Bernard Williams and Thomas Nagel as a tension intrinsic to the concept of morality and moral responsibility. Slote’s use of the idea, however, is different. Slote uses the problems raised by the possibility of moral luck as a reason for preferring utilitarianism to other moral theories. His argument then develops to show how common-sense virtue ethics is preferable to utilitarianism and avoids all the problems mentioned above. Common-sense virtue ethics is then claimed to altogether avoid the problem of moral luck.

Slote argues that aretaic notions are wider than moral evaluations as there are some traits of character which we find admirable which are not connected to the moral (Slote, 1992, p. xvi and p. 90). Thus, Slote’s account of virtue ethics avoids the problem of moral luck by relying on ethical
rather than moral notions of evaluation. He uses the example of a man looking for work during the Depression to explain why this is so (Slote, 1992, p. 119ff). If we, at least partly, equate the notion of a good father with that of a good provider, then whether the man will be a good father will depend on how lucky he is in finding a job. However, although moral notions are connected with the idea of blameworthiness, ethical notions are not. Instead of using moral notions, we should use ethical notions to make “intuitively plausible judgements of admirability and deplorability that have no essential connection to blameworthiness” (Slote, 1992, p. 121). Thus, a judgement of whether this man is a good provider or not can be made without reference to blameworthiness and merely as a form of ethical appraisal (Slote, 1992, p. 119). Similarly vicious killers who can’t help their conditions because they are mentally ill or psychotic people can be ethically criticized because ‘they are in a terrible way to be’, but moral blame is not appropriate (Slote, 1992, p. 120).

Assessments of character then, need not rely on moral concepts, but can be made on the basis of admirability or deplorability of traits of character. These assessments in turn will be made on the grounds of what commonsensically and intuitively counts as admirable or deplorable, thus avoiding all together the problems posed by the possibility of moral luck.

CRITIQUE OF SLOTE

One problem with Slote’s account is that it is not clear whether he fully appreciates the problem of moral luck. We have seen that in one sense the idea of ‘moral luck’ implies an oxymoron, as the idea of ‘morality’ suggests responsibility and praise/blameworthiness, whereas luck suggests loss of control. Slote’s examples are all of cases where the agent is not initially responsible for what he has done, the father has lost his job through no fault of his own and can’t find another one because of the large numbers of equally well qualified other applicants, the killer has a medical condition which dictates his acts, etc. It is then unclear why these are examples of moral luck in the first place as there is no apparent tension between responsibility and lack of control. In Slote’s examples the agent’s lack of control is so comprehensive that it is unclear whether anyone would want to hold these agents responsible in the first place.

Slote concludes that these agents should not be the subjects of moral blame but rather ethical deplorability. This conclusion is supposed to be supported by his general move from the moral to the ethical. However, there are several difficulties with such a position. The example of the psychopathic killer is set up to avoid the problem of moral luck. The killer is, purposefully and clearly, not responsible for what he does because of
factors in his past that have led him to behave in this way. In describing the killer this way Slote has already answered the question of his blameworthiness and removed any possibility of tension between morality and lack of control. The vicious killer is likened to a vicious dog, both entirely absolved of responsibility right from the start because of their natures. What the killer does is deplorable and in this we can agree with Slote, but the only way of avoiding the judgement of blameworthiness is by refusing to accept the possibility of moral luck at the onset.

It is also unclear why a judgement of deplorability applies to Slote’s other example of the father looking for work. Darwall seems equally perplexed with the claim of this example when he writes:

Slote remarks, for example, that during the depression many parents were prevented from providing adequately for their families and so failed in a ‘normal human attainment’. This was an ‘ethical’ failing, he says, not a moral one (119). Although we think them neither blameworthy nor reprehensible, Slote implies that we do (and should) think less well of people for such failures. Now I doubt that many people actually do think less well of those unable to provide for their children. What we admire or deplore is at least sometimes not independent of what we take to have been within an agent’s control and thus, as I’ve said, what we think within the scope of moral evaluation. (Darwall, 1994, p. 697)²

Although Slote claims support from Aristotle in his distinction between the moral and the ethical, it is not at all clear that there is Aristotelian support for Slote’s interpretation of these examples. Aristotle discusses the case of the unfortunate captain who, through no fault of his own, is forced by a storm to jettison his cargo rather than risk the safety of the whole ship. Such an act, according to Aristotle, is voluntary in that the captain did in fact perform the act, but involuntary in that nobody would have chosen this act if not forced to do so and therefore the captain is not blameworthy for throwing away his cargo.³ Slote’s unfortunate father is like Aristotle’s unfortunate captain, as they both find themselves in a difficult situation through no fault of their own. Similarly to the captain the unfortunate father’s actions were non-culpably out of his control and his decision was made for him by circumstances not of his own making. So not only is the unfortunate father not blameworthy, but his actions are not even deplorable. As the father’s act was not a voluntary act it is not an act that should be taken into consideration in assessing his character.⁴

² The last point incidentally supports my argument later on that the ethical is as subject to the tension of luck as the moral.
³ See in general Aristotle Nichomachean Ethics, Book III and in particular 1110a 5ff.
⁴ Slote’s distinction between the ethical and the moral, at one level, seems to be between acts whose concern is the good of others (moral) and acts whose concern is the agent himself and others (ethics). However, there doesn’t seem to be any Aristotelian support for
Is Aristotle’s captain a good captain? Well if making the best of a bad situation is evidence of excellent then he is a good captain. He is also not blameworthy for losing his cargo even though we can still say that the loss of the cargo is regrettable. Similarly the father who fails to provide for his family through no fault of his own is still a good father in virtue of his efforts, even though they were unsuccessful.

Secondly, it is not clear why a judgement of ethical appraisal of deplorability is less significant than a judgement of moral condemnation of blameworthiness. For the idea that emerges from Slote’s work is that his theory can avoid the problems posed by moral luck because it altogether avoids moral judgements. However, why isn’t Slote’s theory, in his terms, still subject to ethical luck? After all, the father in Slote’s example may not be morally blameworthy, but he is judged, according to Slote, to be ethically deplorable for something that was outside his control. So the tension between morality and lack of control is transformed into a tension between ethics and lack of control. I do not see why the wider concept of the ‘ethical’ as such is immune to luck; after all a judgement of deplorability for something that was outside the agent’s control seems, on the face of it, as a pretty unfair judgement that retains the tension between ethics and luck if not the tension between morality and luck. Thus, Slote’s examples of moral luck are problematic in themselves as instances of moral luck in the first place and even his solution to them can also be objected to.

Another problem with Slote’s theory is that it is not always clear that we should want to abandon a notion of moral blameworthiness. There are many cases where we do want to attribute blame to someone for his voluntary choices and Slote’s theory, peculiarly, doesn’t seem to leave room for this. It is not just that we want to say that a grossly negligent builder who kills someone is in a ‘terrible way to be’, but that we want to blame him for being negligent and irresponsible. In one sense then Slote’s theory is too strong as he uses the notion of ‘ethical appraisal’ in cases where its use is unjustified, e.g. the unfortunate father, but in another sense it is too weak as it does not make room for judgements of moral blameworthiness in cases where it is required to do so, e.g. the case of the negligent builder.

a distinction on these grounds between ethics and morality. One of Slote’s examples of a self-regarding virtue is prudence, which according to an Aristotelian understanding is not a self-regarding virtue at all. Prudence or better translated as practical wisdom, for Aristotle, is not about looking after one’s own concerns, but is the ability to see how the demands of all the different virtues come together and the ability to resolve moral problems.

5 This seems to be Aristotle’s own view when he stresses that the good man can cope with some misfortune in the same way that the good general deploys his troops in the most effective way at his disposal and the good shoemaker makes the best shoe out of the leather available, NE Book I, 1101a 1ff.
Lastly, Slote claims that another reason why his theory is not subject to luck is because the moral quality of an action is determined by the moral quality of its motives:

For if we judge the actions or ourselves or others simply by their effects in the world, we end up unable to distinguish accidentally or ironically useful actions (or slips on banana peels) from actions that we actually morally admire and that are morally good and praiseworthy. (Slote, 1997a, p. 259)

Slote is partly right and partly wrong in claiming that his theory is immune to luck and the reason for this is because he doesn’t distinguish between different kinds of moral luck. He is partly right as a theory which evaluates motives certainly avoids the effects of resultant luck. However, he is also partly wrong as this doesn’t mean that he altogether avoids the problem of moral luck as he hasn’t resolved the problems posed by constitutive and developmental luck.

The possibility of constitutive and developmental luck raises serious questions about our judgements of responsibility. Recent research in the area of genetics highlights exactly how controversial the influence of constitutive luck may be. Although no one is suggesting that there is a particular gene for crime, some researchers have tried to show how a tendency towards criminal behaviour is consistently present in most members of certain families. The defence of murderer Tony Mobley claimed that “he has been passed the genes that caused violence, aggression and behavioral disorders in his family and therefore could not help himself” (The Guardian, “Genes in the Dock”, Monday March 13, 1995). Mobley’s father appealed to the court saying “I don’t think he is totally responsible for who he is” (The Guardian, “Genes in the Dock”, Monday March 13, 1995). If Mobley is the victim of bad constitutive luck because he has inherited genetic material that pre-disposes him towards crime, the claim is that he is not then totally responsible for the evil person that he is and not responsible for the evil acts he performs. The possibility of developmental luck can be equally problematic. For example, in a recent BBC2 documentary (“Portrait of a Moor’s Murderer”, BBC2, Modern Times Series, Aired 1/3/00) Myra Hindley claimed that had she not met Ian Brady and fallen in love with him to the point where she could not refuse him anything, she would have led a normal average life. Hindley’s bad luck, according to her, was meeting with a depraved individual, falling in love with him and being led to perform extremely morally reprehensible acts which she would not have otherwise contemplated doing. Hindley’s appeal here seems to be that anyone else could just as easily have met Brady before her and had the bad luck of falling in love with him in which case anyone else could just as easily have been ‘under his power’ and influenced by his personality into becoming an accomplice to murder. What is disquieting about this account...
of how she became a murderess is this appeal to elements that were outside her control and the implicit claim that she should not be held responsible for what she did as the position she found herself in was due to bad luck. This makes Hindley’s own account of her actions extremely controversial.

Slote’s account of moral luck seems to equate the general problem with a specific instance of it, i.e. cases of resultant luck (Slote, 1994, p. 397). Although Slote does not discuss the possibility of other kinds of moral luck when he develops his version of virtue ethics, there is an article when he discusses the problem of moral luck with reference to the work of Dennett, where he does consider constitutive luck:

For if, as we all assume, admired and admirable intellectual or aesthetic talents or gifts or even achievements may to some extent be a matter of luck or accident, we might well wonder why a person’s moral nature or character, for better or for worse, couldn’t in some degree depend on factors outside her control. (Slote, 1994, p. 402)

In this article he attempts to show a way out of the ‘untidy mess’ that moral luck makes of ethics.

Slote’s move is to appeal again to a distinction between the ethical and the moral to avoid the problem of holding people responsible for what is outside their control, but he also considers another move, suggested by Peter Vallentyne, which would resolve the inconsistencies of moral luck differently. The solution is that blameworthiness should depend on probability estimates rather than actual outcomes (Slote attributed to Vallentyne, 1994, p. 404). I think that this suggestion, although rejected by Slote, is a more promising one than the one offered by common-sense virtue ethics. To explain this suggested solution I want to apply it to an example that has become famous in the area of moral luck; Williams’ Gauguin example.

Gauguin is an artist who chooses to abandon his family in favour of a life of artistic creativity that eventually leads him to produce the masterpieces admired by the world today. At the time of the decision he cannot know whether he will succeed or not and Williams argues that:

the only thing that will justify his choice will be success itself. If he fails . . . then he did the wrong thing, not just in the sense in which that platitudinously follows, but in the sense that having done the wrong thing in those circumstances he has no basis for the thought that he was justified in acting as he did. If he succeeds, he does have a basis for that thought. (Williams in Statman, 1993, p. 38)

He adds that this justification may not necessarily mean that Gauguin can justify himself to others.

Williams puts this example forward as a case of moral luck, because whether the agent’s decision is justified or not depends on the success of the act, which itself is outside the agent’s control; i.e. Gauguin cannot
control, at the time of having to decide whether to leave his family, whether he will become a successful artist or not.

According to Williams then this is an example of moral luck. However, this is what would happen to it if we applied Vallentyne’s recommendation that judgements of responsibility should be made not on actual luck vulnerable outcomes but on probability estimates. Given that Gauguin has to make a moral decision, it is not success or failure that justifies the project, but rather the reasonableness of expecting that one’s project will succeed or fail. Gauguin’s decision should be judged on the grounds of the reasonableness of his motive and its results. In order to understand why this is so we have to consider two variations on the original example.

In the first case Gauguin has shown great promise as a painter and it is clear to everyone that his project of going to Tahiti has a great chance of succeeding. When making the decision there is a very small risk of failure, which makes the decision justified at the time. However, although this estimation of risk was and remains correct, Gauguin is unlucky since the five per cent chance of failure does actually come about. In this case Gauguin’s original decision is still justified despite the ultimate failure of the project, because this was a reasonable project at the time of its conception.

In the second case, Gauguin has, and is aware of having, a very small chance of success. Despite this he still goes to Tahiti. It seems that this decision, at the time it is made, is unjustified because of the great risk taken. However, although the risk was correctly estimated and remains high, Gauguin is lucky and he succeeds as a painter. His original decision remains unjustified despite the success. It was a matter of luck that he hit upon the five per cent chance of success. To abandon your wife and family on a slim chance of turning into a great painter is callous, irrespective of whether by a fluke of luck you succeed. The fact that this decision is unjustified is available to Gauguin at the time it is made and there is no element of retrospective justification.

We need to clarify here the reliance of this kind of solution to the problem of moral luck on the notion of probability. One possible objection is that we are making moral blameworthiness dependent on estimations of probability, which in turn may be problematic. Slote mentions problems about subjective versus objective probabilities and whether the probability estimate refers to that made by a reasonable person or is relativized to the individual (Slote, 1994, p. 406). These sorts of considerations may need to be addressed if this account of blameworthiness is to work, but they are not as central to the account as Slote assumes. This is because this account of blameworthiness does not essentially rely on probabilities. Although it makes references to probabilities they are simply a way of determining character traits. It is not the probabilities as such which make a difference
to the moral judgement of the agent, rather the fact that this agent took a great risk despite the high probabilities against success. To take a great risk with the welfare of others where the probability of success is low and where only you are to gain from success exhibits callousness and lack of regard for other people. So what the agent is held responsible for is the callousness and recklessness his action exhibits; the probabilities merely show why this was a callous act. An understanding of the probabilities involved is necessary in order to understand exactly what was done, we need to appeal to the high probabilities against success to be able to describe the act as ‘taking a great risk’. Now if we combine the risk taken with other elements of the act, such as the fact that the risk was taken on behalf of non-consenting others to whom one has an obligation then it is clear why this is a reprehensible act. This kind of account of what was done need not appeal to consequences to demonstrate blameworthiness, because the blame is apportioned to the act that exhibits the undesirable character trait regardless of whether the negative consequences did come about or whether they were avoided due to luck.

Slote is also concerned with the counter-intuitive implications of such a solution to resultant moral luck. He thinks it denies two items of common sense:

a) the difference of blameworthiness between cases where an accident occurs and cases where none occurs and b) our intuitive sense that the person whose negligence leads to an accident doesn’t enjoy a low degree of blameworthiness (simply because of the extreme unlikelihood of an accident). (Slote, 1994, p. 405)

These intuitions are indeed denied by this account of the two examples, but rather than rejecting the account on these grounds as Slote suggests, perhaps we should reject the intuitions. Our reluctance to give up on the first intuition can perhaps be explained if we recognise that in some respects it is a useful intuition. When it comes to attributing legal blame we need to rely on this intuition. The law has to focus on an act which has occurred. The actus reus is defined in terms of results the law seeks to prevent and our two cases differ in their results. However, we need not conflate moral blameworthiness with legal blameworthiness. Our agent can be a callous, reckless, morally negligent person even if by a stroke of good luck he avoided the negative effects of his callousness.

The second intuition can also be rejected. Sometimes terrible things happen to good people: worse than that, sometimes good people are unavoidably connected with terrible things. Williams has illustrated how it is possible for an agent to feel regret for an act for which we would not hold him responsible (Williams in Statman, 1993, p. 43). The lorry driver who accidentally and non-culpably kills a child can feel regret that something
terrible happened and that he had a special relation to that happening, but this regret is not evidence of his moral blameworthiness; rather if anything it is evidence of his sensitivity. It was the driver’s bad luck to be driving at a time and place which meant he was the one who hit the careless pedestrian, but this isn’t moral luck as the case is set up so that the driver is not morally culpable for what happened. The driver was not negligent, irresponsible, inattentive, etc. If there is fault to be found, it is to be found with the pedestrian, but as he paid for this mistake with his life, this point is not usually dwelt upon. That the driver has moral feelings about what happened, i.e. he feels regret and maybe even guilt, is an understandable reaction to the fact that he was associated with the death of another human being, even if this association was non-culpable. Williams’ example illustrates that one can be the subject of bad luck, and can even have what would be morally relevant feelings about the situation, without this necessarily being an example of bad moral luck. Responsibility, blameworthiness and a desire to make reparations do not always go hand in hand.

The lorry driver and other people who like him non-negligently and unavoidably bring about terrible results are not blameworthy. And similarly if the degree of negligence which led to the outcome is small then the blame we attribute to the agent must reflect that. There are extremely interesting connections between responsibility, blameworthiness and the extent to which what took place could have happened to anyone. For example, the driver who causes an accident because he is drunk is more blameworthy than the driver who causes an accident because he momentarily takes his eyes off the road. Some degree of inattention is shared by all drivers and is to be expected from all of them, and deciding exactly how much is too much in each case will be a difficult task to decide. However, this difficulty shouldn’t prevent us from accepting an agent is not blameworthy when a small degree of negligence results in disproportionately negative results.6

CONCLUSION

Slote’s theory claims immunity from the problem of moral luck, but it comes up against a number of problems. Firstly, it is not clear that Slote fully appreciates the problem posed by moral luck in terms of highlighting the tension between morality and luck. His examples of moral luck are cases where we would not want to hold the agent responsible in the first

6Dennett also argues for a similar rejection of Slote’s two intuitions. He points out that if a man plays Russian roulette with your child but your child is unharmed he is still blameworthy for what he did. He also distinguishes between regret because of one’s association with an event and blameworthiness for that event (Dennett, 1994, p. 560).
instance and therefore there is no conflict between the lack of control and the judgement of responsibility. Secondly, the move from the moral to the ethical simply shifts the problem from a tension between morality and luck to a tension between the ethical and luck. Thirdly, it is not clear why we should want to abandon judgements of moral blame in favour of judgements of ethical deplorability, as some cases require a judgement of moral blame. In one sense Slote makes too strong a claim when he judges the mentally ill killer or the father who cannot find work through no fault of his own as ethically deplorable. In another sense Slote makes too weak a claim when he disallows judgements of moral blame against the grossly negligent builder. Finally, I have tried to elaborate on an alternative understanding of moral luck and respond to Slote’s objections about our common-sense intuitions.

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