
Michael Moore’s *Causation and Responsibility* is a tour-de-force examination of the role causation plays in the criminal law and the law of torts. It explores in great detail the many different and conflicting causal notions explicitly and implicitly encoded in the law, and makes an overwhelmingly decisive case that major housecleaning is in order. The book is very admirable in its hard-nosed realism about causation and in its demand that legal theory look to metaphysics to get its act together on that score. It is sure to be an absolutely central text for all serious discussions of any issue of legal theory to which causation is relevant. I have but one critical comment to make here about Moore’s conception of the connection between morality and the criminal law, a conception which sets the stage for the rest of his discussion.

For Moore, not only *is* causation crucial to the criminal law—intentionally causing a harm makes one more punishable than does intentionally attempting but failing to cause it – but it *should* be so crucial. This is because, as he sees it, there is an important connection between the law and moral blameworthiness, namely, legal punishments track the moral blameworthiness facts, and causation is crucial to the moral blameworthiness facts – one is more morally blameworthy for intentionally causing a harm than one is for intentionally attempting but failing to cause it.

The issue of whether causing a harm adds anything to one’s blameworthiness over and above whatever blameworthiness attaches to intentionally trying to cause it, of course, just is the central issue of the “consequential moral luck debate” within ethics. In chapter 2, Moore plants his flag firmly in the there-is-consequential-moral-luck camp and attacks what he takes to be the main argument for the opposing view. Whether Moore’s attack succeeds, there seems to be a much better argument against consequential moral luck that he ignores. What’s more, it is an argument whose launch pad is a conception of moral blameworthiness Moore finds congenial, viz., one which conceptually ties moral blameworthiness to certain of our emotional responses.

According to one relatively recent and influential understanding of moral blameworthiness – that pioneered by P.F. Strawson (‘Freedom and Resentment’, *Proceedings of the British Academy* 48 (1962): 187-211) and built upon more recently by R. J. Wallace (*Responsibility and the Moral Sentiments* (Cambridge, MA: Harvard University Press, 1994) – moral blameworthiness is to be understood in terms of the appropriateness of a certain class of emotions. It’s analytic that one’s being blameworthy for ϕ-ing just is a matter of one’s being worthy of blame for ϕ-ing, and it’s intuitive that blaming someone for something is, in the first instance, a matter of bearing toward her one of a certain set of emotions/attitudes, viz., resentment, indignation, and guilt. On this conception, then, S is blameworthy for ϕ-ing just in
case it would be appropriate for resentment, indignation, or guilt to be born toward $S$ in response to $S$’s $\phi$-ing.

To be sure, even granting all of this, much more certainly needs to be said. For instance, which of a number of different intuitive senses of ‘appropriate’ is the relevant one? However, even absent an answer to this absolutely crucial question, just this, admittedly bare-bones, analysis provides a way to put the possibility of consequential moral luck to the test. For, given the analysis, it would seem, if two individuals differ in their respective degrees of blameworthiness, then there must be a certain level of blame that it would be appropriate, for at least some intuitive sense of ‘appropriate’, to bear toward the one but not toward the other.

Now, consider a standard case of pre-emptive causation. Though they both act from the same malicious desire to harm Bloggs, because he shoots his disintegration ray a femtosecond before Smith shoots his, Jones, and only Jones, disintegrates Bloggs’s legs; Smith’s ray sails through the air just under Bloggs’s torso. The loss of Bloggs’s legs neither is caused by, nor counterfactually depends upon, any action of Smith’s. For any proponent of consequential moral luck this should be a paradigmatic case of it, and so, according to any such proponent, Jones should be more morally blameworthy than Smith.

But here’s the rub. If Jones is more morally blameworthy than Smith, then there must be some level of resentment that it would be appropriate, on some intuitive sense of ‘appropriate’, for Bloggs to feel toward Jones that it would be inappropriate for him to feel toward Smith. But this is patently false. For any intuitive sense of ‘appropriate’, there is no level of resentment it would be appropriate for him to feel toward Jones that it would be inappropriate for him to feel toward Smith. Imagine saying to Bloggs: “I know Smith tried to vaporize your legs. But, come on; you really shouldn’t resent him as much as you do Jones. I mean, Jones is the one, not Smith, who harmed you, after all.” This strikes not merely as tone-deaf, but as wildly off-base. Though the fact that Jones’s ray arrived first is, of course, relevant to the causal facts of the case (and thus also relevant to the overall wrongness of the respective actions performed), it seems wholly irrelevant to the respective levels of resentment it would be appropriate to feel. (Similar remarks hold mutatis mutandis regarding indignation and guilt in this case as well.) But, if blameworthiness is understood in terms of the appropriateness of such feelings and there is such a thing as consequential moral luck, this fact shouldn’t be irrelevant. So much the worse, then, for consequential moral luck.

Moore cannot resist this argument by rejecting the blame-emotion conception of blameworthiness on which it is based for he endorses that conception. His main argument for consequential moral luck, after all, appeals to the fact that we generally feel far more guilt in cases in which we cause harm than we do in near-miss cases: “we are more blameworthy when we cause some evil, than if we merely try to cause it, or unreasonably risk it. The reason we feel so guilty in such cases is because we are so guilty” (p. 30). It’s true that we do often feel less guilt in near-miss