A celebrated pair of articles published in the 1970s spawned a fascinating and important debate in contemporary moral philosophy that continues unabated. The authors, Bernard Williams and Thomas Nagel, each titled their own essay “Moral Luck.”¹ The issues raised in the moral luck debate touch on fundamental concerns in moral philosophy, and the subject of moral luck is, _avant la lettre_, clearly present in a significant number of traditional Jewish sources. The aim of this essay is to begin to bring the two literatures into conversation with one another. In particular, this article attempts to analyze how some key traditional sources relate to one important category of moral luck.

Nagel argues for the presence of luck in four areas crucial to morality, and in particular to our moral assessments of ourselves and others.² First, there appears to be _circumstantial_ moral luck: the circumstances


² I am adopting a straightforward conception of luck, widespread in the moral luck literature, according to which “luck” simply denotes factors beyond one’s control. Some philosophers argue that a more complex conception is necessary, but I agree with Robert Hartman that “an adequate account of luck in moral luck _must_ generate at least an apparent paradox in our conception of morality, but it need _not_ capture all of our common uses of the term ‘luck’”; Robert J. Hartman, _In Defense of Moral Luck: Why Luck Often Affects Praiseworthiness and Blameworthiness_ (Routledge, 2017), 24. The case for this position is made clearly in Daniel Statman, “The Definition of ‘Luck’ and the Problem of Moral Luck” in _The Routledge Handbook of the Philosophy and Psychology of Luck_, ed. Ian M. Church and Robert J. Hartman (Routledge, 2019), 195–205.
into which we are born determine the political, societal, and many other kinds of conditions that govern our lives, and these circumstances are beyond our control. A Nazi war criminal who is the object of our moral opprobrium may have led a blameless life if the Nazis had never come to power or if he had been born a decade or two earlier or later. Second, there seems to be constitutive moral luck: our inclinations, abilities, and much else that makes us who we appear to be beyond our control, to a major extent, but greatly influence our actions and how those actions are morally judged. Third, Nagel identifies what he terms causal moral luck: our actions and indeed our will itself seem to be deeply impacted and perhaps even determined by antecedent causes beyond our control. The issues of constitutive and causal moral luck obviously intersect with and pose potential challenges to the fundamental Jewish doctrine of free will, and sophisticated treatment of this intersection is a desideratum for contemporary Orthodox thought. My focus in this article, however, is a fourth area of moral luck categorized by Nagel. This is resultant moral luck—luck in the sense of how things turn out.\(^3\)

Nagel provides a clear account of the concept of resultant moral luck in the following passage:

\[\text{[T]he truck driver who accidentally runs over a child . . . if he is entirely without fault, will feel terrible about his role in the event, but will not have to reproach himself. Therefore this example of agent-regret is not yet a case of moral bad luck. However, if the driver was guilty of even a minor degree of negligence—failing to have his brakes checked recently, for example—then if that negligence contributes to the death of the child, he will not merely feel terrible. He will blame himself for the death. And what makes this an example of moral luck is that he would have to blame himself only slightly for the negligence itself if no situation arose which required him to brake suddenly and violently to avoid hitting a child. Yet the negligence is the same in both cases, and the driver has no control over whether a child will run into his path. The same is true at higher levels of negligence. If someone has had too much to drink and his car swerves on to the sidewalk, he can count himself morally lucky if there are no pedestrians in its path. If there were, he would be to blame for their deaths, and would probably be prosecuted for manslaughter. But if he hurts no one, although his recklessness is exactly the same, he is guilty of a far less serious legal offence and will certainly reproach himself and be reproached by others much less severely. To take another legal}\]

\(^3\) Williams’ article concentrates mainly on resultant moral luck, though, like Nagel’s, it also identifies other kinds.
example, the penalty for attempted murder is less than that for successful murder—however similar the intentions and motives of the assailant may be in the two cases. His degree of culpability can depend, it would seem, on whether the victim happened to be wearing a bullet-proof vest, or whether a bird flew into the path of the bullet—matters beyond his control.4

Thus, our moral assessments of ourselves and others seem to depend to a significant extent on factors beyond our control, on “luck.” Yet we have a strong intuition that people should not be blameworthy for what is beyond their control.5 More than two centuries before the coining of the term “moral luck,” Adam Smith articulated this dilemma, pointing out that while “in abstract and general terms, there is nobody who does not agree” that results beyond the control of the agent should not affect moral assessment, “yet when we come to particular cases, the actual consequences which happen to proceed from any action, have a very great effect upon our sentiments concerning its merit or demerit.”6

As the texts from Jewish tradition to be discussed in this essay show, resultant moral luck seems the most natural choice of focus in considering the philosophical debate on moral luck and the sources of Jewish tradition in relation to one another. Moreover, resultant moral luck is the type regarding which our intuition that a person should not be blameworthy for what is beyond his or her control is arguably strongest.7

4 Nagel, “Moral Luck,” 28–29. The concept of “agent-regret” mentioned by Nagel near the beginning of the passage originates with Williams (“Moral Luck,” 27 ff.). The core idea—to stay with the example of the truck driver—is that the truck driver who accidentally runs over a child, even if he is not at fault in the least, will feel differently and worse about the tragedy than anyone who simply witnessed the event. As Williams puts it, “there is something special about his relation to this happening, something which cannot merely be eliminated by the consideration that it was not his fault” (28).

5 This notion is often termed the “Control Principle” in the philosophical literature. The formulation I have used here is a broad one—more precise formulations are suggested and debated. We also have a strong (though perhaps not equally strong) intuition that people should not be praiseworthy for what is beyond their control, and thus the problem of moral luck applies to praiseworthy as well as blameworthiness (though some philosophers argue for a measure of asymmetry here). Most of the philosophical literature, however, focuses on blameworthiness and I mostly do the same in this article in order to minimize one dimension of complexity.

6 Adam Smith, The Theory of Moral Sentiments (1759), II, section 3, introduction. Moral luck (again avant la lettre) is also a major theme in ancient Greek thought; see Martha Nussbaum, The Fragility of Goodness: Luck and Ethics in Greek Tragedy and Philosophy (Cambridge University Press, 1986).

7 Hartman, In Defense of Moral Luck, 129, points out that in the published literature on this topic, this intuition seems to be strongest in cases of resultant moral
Linda Zagzebski has written regarding Christianity: “It is doubtful that the problem of moral luck... was even considered in the tradition, so it is no surprise that there is little in the tradition of direct relevance to the problem.”\(^8\) In Jewish tradition, by contrast, there are several different kinds of cases discussed in halakhic and aggadic sources that, while they do not explicitly address the problem, clearly involve the issue of resultant moral luck, or sometimes what we might call resultant religious luck, i.e., cases in which the religious or halakhic standing or situation of a person seems to depend on luck in the way things turn out.\(^9\) Often, in the different kinds of cases I will enumerate, there is a gap between the intention of the agent and the result of his action.\(^10\) I turn now to a categorization and source-based illustration of some of the different kinds of relevant cases.\(^11\)

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\(^{9}\) There are also cases of overlap in which both standard moral and religious assessment appear to depend on resultant luck.

\(^{10}\) I am not dealing here with the much broader issue of the relationship between intention and actions or results in general, i.e., even when luck is not involved. I therefore do not address, *inter alia*, the concepts of avera lishmah and mitzva she-lo lishmah (discussed in *Nazir* 23b and *Horayot* 10b). Also, many of the sources that I do cite have elicited much commentary and exegesis which is impossible to address in one article. I therefore attempt to draw out from a straightforward reading of the sources their main implications for our topic.

\(^{11}\) Many, though not all, of the sources I discuss in what follows are analyzed in Aaron Kirschenbaum’s important article “Criminal Attempt and Moral Luck in Judaism” [Hebrew], *Bar-Ilan Law Studies* 20 (2003), 97–175. My analysis differs from Kirschenbaum’s at many points and I offer here a completely different taxonomy of cases. Additionally, my focus in terms of secular material is on the philosophical issues and literature, whereas Kirschenbaum’s main point of contrast and comparison with traditional sources is secular systems of law and secular jurisprudence. Furthermore, as discussed below, while I agree with one of Kirschenbaum’s main conclusions—namely that Jewish tradition attaches importance to both
1) Bad intention with “lucky” neutral result

It is taught in a beraita: “Her husband has nullified them, and the Lord will forgive her (yislah laḥ)” (Numbers 30:13). To what case is the verse referring? To a woman who took a vow to become a Nazirite, and her husband heard and nullified her vow. She, however, did not know that her husband had nullified her vow, and she drank wine and became teme’a from a corpse (Kiddushin 81b).12

The Gemara here understands Numbers 30:13 as teaching that a woman requires divine forgiveness, seliha, even if her husband has, unknownst to her, nullified her Nazirite vow before she acts in ways that contravene that vow.13 The reason that she requires divine forgiveness is that although she was “lucky” in that an external factor of which she was totally unaware (her husband’s cancelling of her vow) ensured that she did not in fact breach her Nazirite vow, she fully intended to breach it and indeed acted on that intention. In Mishna Nazir (4:3), where this case appears, the tanna kamma holds that the woman is exempt from punishment but Rabbi Yehuda maintains that, although she is exempt at the biblical level and does not receive the punishment of malkut, she is liable to the rabbinic penalty of makkat mardut (corporal punishment imposed by rabbinic law). Rambam rules in accordance with the view of R. Yehuda.14 This ruling would seem to judge bad intentions very severely, even when not resultant in bad results.15 In formulating his ruling, Rambam explicitly refers to intention and result:

If a woman made a vow and her father or husband annulled it without her knowledge, and she deliberately transgressed her vow or oath, she is exempt [from punishment]. And although she intended to commit a prohibition, since what was done was something permissible, she is exempt… but she receives makkat mardut because she intended to commit a prohibition (Hilkhot Nedarim 12:18).

intentions and “lucky” or “unlucky” outcomes, and halakha particularly the latter—I disagree with him regarding the central role he assigns to hashgaha peratit as regards moral luck.

12 All translations are my own.
13 The parallel passage in Nazir 23a adds explicitly that the woman “requires atonement and forgiveness.”
14 Commentary to Nazir 4:3; Hilkhot Nedarim 12:18.
15 Hiddushei ha-Griz to Nazir 23a attributes to Rambam (Hilkhot Nedarim 12:18) the position that kappara is required only if one carried through one’s bad intention into action but luckily escaped sin. Mere intention to sin, however, does not require kappara.
According to Rambam, then, at the Torah level the woman is exempt from punishment since, despite her bad intention, no bad result occurred. But her intention does make her liable to severe punishment at the rabbinic level.\(^{16}\)

The same case appears in the Tosefta (*Nazir* 3:14–15), where the *tanna kamma* places significant emphasis on intention. His view is that the woman is liable, for her intention to transgress her vow (and presumably because she followed through in action), to the same Torah punishment of *malkut* as would have been imposed had she succeeded in transgressing her vow, despite the fact that she has committed no sin in practice.

The Talmud continues with Rabbi Akiva presenting a parallel case:

> When R. Akiva reached this verse [*Numbers 30:13*] he would weep. He said: “If regarding someone who intended to eat pig but [instead] happened to take lamb in his hand, the Torah states that he requires atonement and forgiveness, someone who intended to eat pig and pig came into his hand [as he intended], how much the more so [does he require atonement and forgiveness] (*Kidushin* 81b).\(^{17}\)

In the spirit of the *beraita* concerning the woman who took the Nazirite vow, R. Akiva maintains that divine forgiveness and atonement are required for one who fully intended to sin even though, due to “luck,” he or she ended up merely doing a *devar reshut* (a permitted act, e.g., drinking wine while not being a *nazir*, or eating kosher lamb).\(^{18}\)

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\(^{16}\) Kirschenbaum, 115 and n. 72, argues that Rambam and most other commentators consider the *makkat mardut* not as a punishment for bad intention but as a deterrent. However, this reading is very difficult to reconcile with Rambam’s language which explicitly suggests that the *makkat mardut* is punishment for the bad intention. Kirschenbaum also claims that both Rambam in his commentary to Mishna *Nazir* 4:3 and *Tosafot Tom Tov*, ad. loc., understand the *makkat mardut* as a deterrent, but again there no evidence of this in the words of either commentator. Kirschenbaum also cites Rashi (*Nazir* 23a, s.v. “*makkat mardut*”): the *makkat mardut* is designed “to warn/rebuke her so that she does not sin intentionally.” This formulation does seem to construe the *makkat mardut* as a deterrent. Meiri’s view (*Beit ha-Behira, Nazir* 23a, s.v. *hefer lab*) is that the *makkat mardut* is both past-oriented, as punishment for the carried-through intention to sin, and future-oriented, as a deterrent.

\(^{17}\) This teaching of R. Akiva also appears in the parallel passage in *Nazir* 23a and (though not in the name of R. Akiva) in *Sifra* (Horowitz, *Mattot* 153).

\(^{18}\) The cases addressed by the *beraita* and R. Akiva are instances of what I termed above “resultant religious luck” rather than resultant moral luck. Due to luck, abrogating a Nazirite vow or eating forbidden food are avoided. These are better categorized as ritual or religious offences than as moral ones, as what is at stake in these cases is religious rather than moral assessment of the individuals involved, though
2) Bad intention with “lucky” positive result

Directly preceding the beraita discussed above, the Talmud records the following incident:

Rav Hyya bar Ashi, whenever he fell on his face [in prayer] would say: “May the Merciful One save us from the Evil Inclination.” One day his wife overheard him. She said [to herself]: “Let us see: it is several years that he has separated from me [i.e., not had intimate relations], so why is he saying this [prayer]?!” One day he [R. Hyya] was studying in his garden. She adorned herself and repeatedly walked in front of him. He [did not recognize her and] said to her: “Who are you?” She said: “I am Haruta [a well-known prostitute] returning at the end of my day.” He demanded [to have relations with her]. She said to him: “Bring me that pomegranate from the top of the tree [as payment].” He jumped up, went and brought it to her [and they had intimate relations]. When he came home, his wife was lighting the oven. He went and sat in it. She said to him: “What is this [why are you doing this]?!?” He said to her: “Such and such an incident took place.” She said to him: “It was I” [“moral luck” saved him from sin]. He ignored her until she brought him proof. He said to her: “Nevertheless, I intended to do something that is forbidden.” All the days of that righteous man, he would fast, until he died by that death (Kiddushin 81b).

Despite the fact that objectively, a mitzva (ona, marital relations) “luckily” results from his intention and action, R. Hyya judges himself very severely for his sinful intention.19

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19 Responsa Beit Yitzhak, Yoreh De’ah 1:8:8 cites Levush, Yoreh De’ah 157:2 who permits a wife to deceive her husband as to her identity in a somewhat parallel case. Beit Yitzhak explains that although the husband will, as a result, have intimate relations with his wife thinking her to be someone else, which at first glance appears structurally similar to the case of the person who intended to eat pig but mistakenly ate lamb and then needs atonement for his bad intention, since here the result is the mitzva of marital relations, rather than just a neutral act such as permissible eating, the wife is not deemed in any way to be causing her husband to sin. Although R. Hyya’s action results objectively in a mitzva, from his own perspective this result may nevertheless be a bad one, as Ben Davis pointed out to me, since R. Hyya wanted to avoid intimate relations with his wife and has deliberately done so for years (perhaps because of placing a high religious premium on asceticism). Interestingly, therefore, in some cases of resultant moral luck, how the result is to be assessed may
A further relevant case, this time in a halakhic rather than aggadic vein, focuses explicitly on the gap between intention and the result of action:

Regarding one who intended to catch fish [on Shabbat, and so cast his net into the water] and brought up a young child [who had been drowning] together with fish, Rabba says: he is exempt [from punishment for desecrating Shabbat] and Rava says: he is liable. Rabba says he is exempt—go according to his actions; Rava says: he is liable—go according to his intention (*Menahot* 64a).

Rabba and Rava appear to be arguing over precisely the issue at stake in cases of resultant moral luck, with Rava factoring out “luck” and focusing exclusively on intention, while Rabba allows “luck” in the guise of the unintended outcome, namely the rescue of the child, to determine whether punishment is due for contravention of the laws of Shabbat.20 As Kirschenbaum points out, however, Rava would concede that if only the child came up in the net but no fish, the Shabbat fisherman would be exempt from punishment despite his bad intention, and it therefore seems that Rava does not consider a person liable to punishment merely for his intention to break the law (even if the person vary between different perspectives. It is hard to imagine, however, that the reason for R. Hiyya’s harsh behavior towards himself is anything other than his intention to have relations with Haruta, and indeed he focuses on that intention rather than on the act of relations with his wife in explaining to her his unassuaged anguish.

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20 I am discussing this case under the rubric of “bad intention, good result” because clearly part of the result, the saving of the child, is a good result and constitutes the fulfillment of the supreme mitzva of *hatzalat nefashot*. A straightforward reading of Rambam’s language in *Mishneh Torah, Hilkhot Shabbat* 2:16 suggests that the fisherman is entirely exempt from punishment because, along with his intended catching of the fish, the endangered child was saved. Hazon Ish (*Menahot* 42:18) explains that although the rescue of the child did not necessitate catching fish as well, all that the fisherman did was to cast his net, and that action was necessary in order to rescue the child. Thus, although the fisherman’s intention was sinful, since he did nothing wrong in terms of action, he is exempt from punishment at least at the Torah level, because mere sinful intention does not incur punishment. *Or Same’ah* (*Hilkhot Shabbat* 2:16), however, writes that it is obvious that Rambam holds that the fisherman is exempt from punishment only at the Torah level. However, he is liable to the rabbinic penalty of *makkat mardut* since he intended to transgress, just like the woman in *Hilkhot Nedarim* 12:18. Interestingly, therefore, *Or Same’ah* makes no distinction between bad intention/neutral result and bad intention/good result—a lucky good result does not further reduce culpability. Responsa *Beit Yitzhak, Yoreh De’ah* 1:8:8, disagrees and interprets “exempt” (*patur*) in Rabba’s statement as meaning entirely exempt from punishment because of the good, as opposed to merely neutral, result.
acts on that intention). In any event, it is significant that the halakha in this case follows the view of Rabba that it is the result rather than the intention that is determinative.

A further example of a case of bad intentions leading to a totally unintended and unforeseen good result concerns Joseph and his brothers. After the death of Jacob, Joseph declared to his brothers: “You intended evil towards me but God intended it for good” (Genesis 50:20). Or ha-Hayyim claims that the brothers were exempt from punishment even at the more exacting ethical and religious level of “the laws of Heaven” (dinei Shamayim), which sometimes impose punishment even in instances where the agent is exempt from any penalty at the hands of an earthly court of law. Beit Yitzhak explains, in line with his view noted above regarding the case of the fisherman, that whereas someone who intended to eat pig but instead “luckily” ate kosher meat requires divine atonement as R. Akiva taught, since Joseph’s brothers’ malicious intentions in selling Joseph eventually resulted not merely in neutral consequences but in beneficial ones, the brothers did not require atonement at all.

3) Good intention, “unlucky” bad result

This category is the reverse of the type of case just discussed, and is termed by Hazal to’eh bi-devar mitzva. An example is cited by Ramban in his commentary to the verse describing the korban oleh ve-yored, a sacrifice brought for the purpose of atonement whose nature depends on the economic status of the person offering it: someone who cannot afford a more expensive sacrifice is permitted to bring a less costly one (Leviticus 5:7). Ramban notes that one instance in which a korban oleh ve-yored is mandated is that of a kohen who, intending to fulfill a mitzva such as eating sacrificial food, praying, or offering a sacrifice, enters the Temple precincts. His intentions are entirely honorable, indeed laudable: as Ramban formulates it, “he is [as far as he himself is aware] occupying himself with the performance of a mitzva, and his intention in doing so is for the sake of Heaven.” Unfortunately, however, this kohen, though himself completely unaware of it, is in a state of tum’a (because, for instance, he unknowingly was in proximity to a corpse)

21 Kirschenbaum, 111, n. 53.
22 Rambam, Mishneh Torah, Hilkhot Shabbat 2:16; Hilkhot Shegagot 2:15.
23 Kirschenbaum, 161, n. 248, cites Responsa Binyan Shelomo who disagrees and holds that there is liability in terms of dinei Shamayim for a bad intention even if it results in a positive outcome.
24 Responsa Beit Yitzhak, Yoreh De’ah 1:8:8.
and is therefore forbidden to enter the Temple. Thus, having genuinely and fully intended to fulfill a mitzva, the kohen has in fact committed an inadvertent sin. The Torah, explains Ramban, requires of the kohen atonement in this case but because of his impeccable intentions, “the Torah affords him multiple ways of achieving that atonement.” He is not restricted to one kind of sacrifice but may bring an offering in accordance with his means.

The key halakhic source for to’eh bi-devar mitzva is found in Shabbat 137a, which analyzes a Mishnaic dispute between R. Eliezer and R. Yehoshua regarding one who mistakenly circumcises an infant on Shabbat when the eighth day from birth does not in fact coincide with Shabbat. Here the element of error seems clearer than in the case of the kohen. The halakha is that a to’eh bi-devar mitzva is exempt from bringing a sin-offering if he in fact performed a mitzva, and some rule that he is exempt even if he did not perform any mitzva. Overall, the halakhic literature on to’eh bi-devar mitzva encompasses many nuances and different views, but there is a definite general tendency towards leniency based on the good intentions of the to’eh.

4) Good intention, “unluckily” no result

Rav Assi teaches that a person who intended to perform a mitzva but due to factors beyond his control, oness, was unable to do so, is nevertheless considered by Scripture to have performed it (Kiddushin 40a).25 Religious or moral luck is taken out of the picture in this case-type—the bad luck of not being able to fulfill the intention does not impact the assessment of the person.

Elsewhere the Talmud identifies an apparent exception to this rule by clearly implying that a person who gives charity to an unworthy recipient receives no Divine reward for his charitable action (Bava Kamma 16b).26 However, R. Yehezkel Landau explains that if the intention behind the

25 In Berakhot 6a this dictum is attributed to Rav Ashi, and in Shabbat 63a to Rav Ami. What is at stake here is of course praiseworthiness rather than blameworthiness, but this teaching is so well-known that it justifies noting in the context of our discussion.

26 As R. Daniel Z. Feldman points out in his Divine Footsteps: Chesed and the Jewish Soul (Lambda, 2009), 11, there appears to be a contradiction regarding R. Meir Halevi Abulafia (Ramah)’s interpretation of this Talmudic statement. Nimmukei Yosef, Bava Kamma 6b, cites Ramah as restricting the withholding of Divine reward to cases in which the donor knows that the recipient is unworthy. If the donor is not aware of this, he does receive reward because of his good intention. However, Ramah himself (Yad Ramah, Bava Batra 9b, no. 119), writes explicitly that tzedaka given to an unworthy beneficiary does not count as tzedaka.
action is genuine and motivated by compassion, the donor is divinely rewarded for fulfilling a mitzva. The same applies to someone who sets aside money for charity with the appropriate good intentions but is then robbed of the money, and to a person who gives money to an administrator of charitable funds from whom the money is then stolen. Nevertheless, writes R. Landau, the merit of the donor is not as great as it would have been had the result been achieved by the money successfully reaching a worthy recipient. Other authorities, however, disagree and maintain that regarding tzedaka and gemilut hasadim, a good intention which cannot be realized due to oness is considered fully equivalent to the action.

5) Bad intention, “luckily” no result

The same Talmudic passage teaches that if a bad intention successfully leads to a bad result, God joins the intention and result together (Rashi explains: and punishes the sinner for both), whereas if a bad intention does not yield a result, God disregards it and does not punish the bad intention (with the exception of the sin of idolatry).

In light of this teaching, R. Hayyim Yosef David Azulai (Hida), in his commentary Petah Einayim (Nazir 23a), suggests a clarification of the position of R. Akiva discussed above in the context of case-type 1. Since Kiddushin 40a tells us that God disregards a bad intention that does not yield a result, he explains, one might have thought that even if one carried through a bad intention into action but luckily escaped sin, no atonement would be required. In his dictum concerning the lamb and pig meat, Hida suggests in homiletical vein (“derakh derash”), R. Akiva therefore informs us that atonement is required for an intention followed through into action, and it is only a bare intention not translated into any action that does not require atonement.

Yerushalmi Pe‘ah 1:1 (in its parallel discussion to Kiddushin 40a) adds that case-types 4 and 5 operate in an opposite way for Gentiles: a good intention with no result is not considered a good deed, and a bad intention with no result is punished. Ironically, this statement itself seems to present the problem of moral luck in sharp form, since whether one is born Jewish or non-Jewish is clearly beyond one’s control, so that it

28 R. Meir Dan Plotzki, Keli Hemda (Makhon Avnei Shoham, 5774) to Parashat Ki Tetze, 11:5, and see his discussion there of R. Yonatan Eybeschutz, Ya’aronot Devash 1:4.
29 This statement appears also in Kiddushin 39b and Hullin 142a.
appears unfair to penalize a Gentile by holding him to a harsher standard of assessment or to expect him to convert to Judaism in order to avoid this disadvantage. Moreover, we are speaking here of direct assessment of a person by God Himself.30

The way in which the midrash in Mishnat Rabbi Eliezer (Parasha 9) responds to the difficulty it raises concerning why Laban is considered to have killed Jacob when he did not in fact do so is of interest for our purposes. The midrash deploys the distinction now familiar to us between intentions followed through with action, e.g., intending to murder a person and pursuing him with a weapon in hand, and mere intentions unaccompanied by any action. While the latter are not considered as sinful actions, the midrash considers the former as tantamount to actual homicide; that is why Laban (whom the midrash takes to have translated his intention into preparatory actions) is deemed to have killed Jacob. Interestingly, the midrash appears to adopt the position of Tosefta Nazir that a bad intention carried through into action, despite the intention not being successfully realized, is equivalent to successfully committing an intentional sin.31

30 One might take a Meiri-like approach here and suggest that the Yerushalmi has in mind the idolatrous non-Jewish peoples of its time and not contemporary non-Jews. Moreover, this Yerushalmi does not appear to be unanimously accepted. Keli Yakar (Genesis 12:3) addresses the issue of the chiastic structure of this biblical verse in which God says to Abraham: “I will bless those who bless you but those who curse you, I will curse.” Why not “but I will curse those who curse you,” to parallel “I will bless those who bless you”? Keli Yakar suggests that the asymmetry reflects God’s kindness. The Divine blessing is bestowed on a person who intends to bless Abraham prior to his having verbalized the blessing, since God considers a good intention equivalent to a good deed. By contrast, the curser of Abraham is cursed by God only after his curse is articulated, because God does not consider a bad intention tantamount to a bad deed. Clearly, the blessers and cursers of Abraham in this verse are not members of Abraham’s family or of the future Jewish nation, and the cursers are also, by definition, hostile. Yet for Keli Yakar, their good intentions are deemed by God good deeds and their bad intentions are not considered bad deeds. A further indication that the Yerushalmi’s dictum is not universally accepted emerges from the soon-to-be-discussed midrash in Mishnat Rabbi Eliezer (Parasha 9), which poses the question of why Laban is considered to have killed Jacob (one interpretation of the phrase “arami oved avi” in Deuteronomy 26:5) when in fact he did not. The midrash answers that since Laban intended to kill Jacob, he is considered to have done so. The midrash immediately raises a difficulty: what about the principle that God punishes people for their bad intentions only if the intention leads to the intended bad result? Notably, at this point, the midrash does not deploy the straightforward answer available on the basis of the Yerushalmi, namely that since Laban was a non-Jew, even his unsuccessful evil intentions were considered actions.

31 R. Moshe Feinstein, Iggerot Moshe, Yoreh De’ah 2:6, explicitly makes the distinction between (a) merely having the intention to sin, and (b) having the intention
6) Bad intention, unintended bad result

Mishna Sanhedrin 9:2 records a dispute regarding the case of someone who, intending to murder one person, inadvertently kills another instead. According to the tanna kamma, the killer is liable to capital punishment at the hands of the court; in Rabbi Shimon’s view, the killer is exempt from such punishment. As elaborated in Sanhedrin 79a, both the tanna kamma and R. Shimon base their positions on exegesis of biblical verses. Rambam rules in accordance with R. Shimon while Ra’avad follows the tanna kamma.32

Here, as opposed to the situations discussed in categories 1 through 3, there is no fundamental moral discontinuity between intention and result, in the sense that the killer’s intention is bad and the result of his action is bad; it is just that the bad result is not the one that he intended. The fact that the positions of the tanna kamma and R. Shimon are based on exegesis of particular verses rather than broader reasoning concerning the relationship between intention and result makes it difficult to assess the import of their dispute for our topic.

7) Neutral intention, “unlucky” bad result

Immediately following R. Akiva’s kal va-homer, Kiddushin 81b continues:

Similarly you can say: “[Although] he does not know it, he is guilty and shall bear his sin” [Leviticus 5:17]. When R. Akiva reached this verse, he would weep. He said: “If regarding someone who intended to eat shuman [permitted fat] but [instead] happened to take helev [forbidden fat] in his hand, the Torah states: “[Although] he does not know it, he to sin and acting on it, even though the act unwittingly involves no sin (such as the person who eats lamb thinking that it is pig or the woman who acts in ways that would have contravened her Nazirite vow had it still been in force). Category (a), which involves no action, is, in R. Feinstein’s view, less severe than (b). Category (b), in turn, for R. Feinstein, is substantially less serious than (c) successfully acting on an intention to sin, which alone has halakhic consequences for the transgressor’s status as a valid witness. The distinction set out by Mishnat R. Eliezer is subtly and interestingly different. Mishnat R. Eliezer also distinguishes between (a) merely having the intention to sin and (b) having the intention to sin and acting on it, but whereas (b) in R. Feinstein’s distinction involves carrying the intention to sin right through, such that the person believes themselves to actually be committing the sin, (b) in Mishnat R. Eliezer’s example involves only actions preparatory to the act of sin itself. For Mishnat R. Eliezer, such actions are nevertheless deemed by God tantamount to that act of sin.

32 Hilkhot Rotze’ah u-Shemirat ha-Nefesh 4:1.
is guilty and shall bear his sin,” someone who intended to eat *helev* and
*helev* came into his hand [as he intended], how much the more so [is he
guilty and bears his sin].

Here R. Akiva presents a second *kal va-homer* and supplements his earlier
*kal va-homer* by now asserting its converse. Just as atonement is necessary
for one who fully intends to sin but due to “luck” ends up merely doing
a permissible neutral act (*devar reshut*), so guilt accrues also to one who
intends to do something permissible, a *devar reshut*, but through “bad
luck” ends up performing a forbidden action.33

8) *Negligence, no bad intention, “unlucky” bad result*

The equivalent of the case of Nagel’s morally unlucky negligent driver
appears, of course, in the Torah itself. First, in Numbers (35:22–25):

If he pushed him with suddenness, without hostility, or threw any object
on him without deliberate harmful intent, or he caused any stone which
could cause him death to fall on him without having seen, and he died,
but he was not his enemy and did not seek his harm . . . then the assembly
shall save the killer from the hand of the blood-avenger, and the assembly
shall return him to his city of refuge . . . and he shall live there until the
death of the High Priest.

Again, in Deuteronomy (19:4–6):

This is the matter of the killer who shall flee there [to a city of refuge]
and live: one who strikes his fellow unintentionally, when he did not pre-
viously hate him; or one who comes with his fellow to the forest to chop
trees, and he swings the axe to cut the tree, and the iron comes off the
wood and finds his fellow and he dies, he shall flee to one of these cities
and live . . . and there is no sentence of death against him, for he did not
previously hate him.

If negligent or careless behavior causes a fatality, the Torah recognizes
that there was no malicious intent and the punishment of the killer is
therefore lighter than it would be in a case of premeditated murder. At

33 R. Yosef Engel, *Gilyonei ha-Shas*, *Nazir* 23a, argues that a bad intention with
a permissible result is equivalent, in terms of spiritual (dis)value, to a permissible
intention with a forbidden result.
the same time, there is significant punishment, namely exile to a city of refuge, despite the lack of evil intent.\footnote{See, e.g., Sefer ha-Hinnukh, #410, which emphasizes the punitive element in the exile due to the loss of life resulting from the killer’s negligence, and only then adds the reason that the exile protects the killer from the go’el ha-dam, the relative of the victim who seeks revenge.}

Immediately following the passage from Kiddushin 81b cited in category 7 above, the Talmud continues: Issi ben Yehuda says: “'[Although] he does not know it, he is guilty and shall bear his sin’—over this matter, let all the grievers grieve.”

Following Rashi’s interpretation in his commentary here, Issi ben Yehuda means that the fact that the Torah considers one guilty and as bearing one’s sin even for sinning without being aware of it, and even without any bad intention, is an appropriate reason for sorrow (presumably since this entails that an exacting standard is being applied). However, the Torah here is setting out the law of asham talui, a guilt-offering brought when there is a doubt whether a sin has been committed which, had it definitely been committed, would require the offering of a hatat, a sin-offering for a negligent but accidental transgression (shogeg). Thus the “bearing of sin” here is presumably not because of the outcome (which is unknown anyway—it is not known whether a sin has been committed) but because of the negligence.

\(^9\) **Negligence, no bad intention, “lucky” neutral result**

The halakha mandates no penalty for someone whose negligence in using an axe (or driving a truck) does not lead to the occurrence of any harm. This again indicates that results, how things turn out, matters a great deal.

**Conclusions Emerging from the Case-Types and their Relevance to Resultant Moral or Religious Luck**

The following conclusions relevant to the issue of resultant moral luck seem to emerge from case-types 1 through 9 and their treatment in the sources. First, intentions are of moral or religious significance in assessing a person even if no bad result but only a neutral one occurred, and sometimes even if there was a good outcome. There is a crucial distinction between bare bad intention, which does not require atonement, and bad intention followed through with action even though the bad intention “luckily” fails to be realized. Regarding the latter case, there is a range of views in the sources, with Rambam’s halakhic ruling imposing the
rabbinic penalty of *makkat mardut*. If a bad intention leads to a good result there is a range of views, from the imposition of *makkat mardut* to total exemption even *bi-dei Shamayim*. Particularly interesting here is the case of R. Hiiya bar Ashi, who assesses himself very harshly for his intention to commit a sin despite the good result—apparently, as harshly as he would have done had he actually committed the sin. The Gemara could be interpreted as simply denying the existence of resultant moral luck and portraying R. Hiiya as exemplifying correct thinking in this regard.\(^{35}\)

But it also seems possible, and perhaps more likely, that while the Gemara records the episode in order to underscore the gravity of carried-through intentions to sin\(^{36}\) even if they do not lead to the actual commission of sin (and even if a “lucky” good result occurs), R. Hiiya’s extreme response is intimately connected with the Gemara’s explicit description of him as a righteous person, a *tzaddik*. The story seems to suggest that the more righteous a person is, the more he or she will regret bad intentions, at least those carried through into action. This implies that perhaps there is something supererogatory, *lifnim mi-shurat ha-din*, about intense regret for one’s bad intentions which do not result in a negative outcome, about refusal to allow good moral luck to temper one’s self-condemnation. R. Hiiya, as a *tzaddik*, holds himself to be as blameworthy as he would have been if the woman with whom he had relations had in fact been a prostitute rather than his wife.\(^{37}\)

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\(^{35}\) This is not to deny that there is clearly a great deal going on in this rich narrative beyond its relevance to resultant moral luck.

\(^{36}\) The clear implication of Meiri’s comments on the story in *Beit ha-Behira*, *Kiddushin* 81b, is that it was R. Hiiya’s carrying his intention through into action, rather than the mere intention itself, which constituted the sin.

\(^{37}\) R. Hiiya’s refusal to take his good moral luck into account could also be expressed in terms of distinctions in the philosophical literature on moral luck which concede the existence of moral luck in a less important area but preserve immunity from luck in what is regarded as the key moral sphere. Thus, for example, Michael Zimmerman distinguishes between *scope* and *degree* of responsibility; Michael J. Zimmerman, “Taking Luck Seriously,” *The Journal of Philosophy* 99 (2002), 553–576, esp. 560–563. *Scope* concerns the events for which the agent is responsible and is dependent on luck (thus the negligent truck driver who causes a death is responsible for that event, while the equally negligent but “lucky” driver who harms no one is not). *Degree* is about blameworthiness and is insulated from luck (thus the two drivers are equally blameworthy). R. Hiiya, while not holding himself responsible in terms of scope since no act of illicit relations actually took place, may hold himself responsible and blameworthy to the same degree as if he had actually had illicit relations. Or we might understand R. Hiiya’s attitude in terms of John Greco’s distinction between *judgments of moral responsibility*, which pertain to actual states of affairs, and *judgments of moral worth*, which concern whether one is a good or bad person with respect to an event; John Greco, “A Second
Turning from bad to good intentions, the general tendency towards leniency displayed in halakhic rulings in case-type 3, to’veh bi-devar mitzva, underscores the significance of good intentions even if these are frustrated by bad moral luck (and even if a measure of negligence is involved). The significance of good intentions is also evident in the material discussed in case-type 4.

It is important to add that, as is well-known, sins committed through oness (duress or matters being beyond one’s control) usually carry no penalty, in accordance with the principle of oness Rahmana patrei (Bava Kamma 28b). This is true even at the level of dinei Shamayim.\(^3\) The significance of intention in the context of religious and moral luck in the mekorot is no surprise given halakhic phenomena such as the fundamental distinctions (in general and even when no luck is involved) between shogeg and mezid and between oness and ratzon, the debate over mitzvot tzerikhot kavvana and the role of intention in the laws of sacrifices,\(^3\) e.g., the law of piggul, according to which a mere intention can (according to some views) invalidate an offering. We know in general, independent of luck being involved, that our sources deem intention morally and religiously crucial—God requires our proper intentions, not merely actions, Rahmana liba ba’ei.\(^4\)

Second, although intentions are very significant, the sources do not adopt the position that only intentions are morally important. We see

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\(^3\) Responsa Rivash, 4 and 11, based on Sifra, Kedoshim 4:13 to Lev. 20:5. In the Al Het section of the Yom Kippur liturgy, we confess for sins committed “he-oness u-ve-ratzon.” Perhaps “oness” there refers to the nonstandard instances of oness for which penalties are incurred; or we might follow Rabbi Jonathan Sacks’ suggestion that the phrase refers to cases which are not truly cases of oness; Koren Yom Kippur Mafzor: Ostro Edition (Koren Publishers, 2012), 1437.

\(^4\) I do not mean to suggest that “liba” in this phrase refers only to intention, since the phrase is also used to refer to other inner mental states as it does in the locus classicus in Sanhedrin 106b (though the word Rahmana is not used there).
repeatedly that outcomes are central even if they are determined solely by “luck,” that is, by factors beyond the agent’s control. As emphasized by Aaron Kirschenbaum, halakha, in common with many other legal systems, does not generally deem an unsuccessful attempt to break the law to be a criminal act despite the intention and attempt being deemed a negative phenomenon from a religious perspective. Thus, for example, all sides to the Talmudic and halakhic disputes regarding case-type 6 agree that someone who attempts to kill one person but inadvertently kills no one at all is exempt from punishment, and someone who strikes another intending to kill him, but the victim survives, pays damages but is free from capital punishment. As Sanhedrin 88b puts it, “Could it possibly occur to you that this one [the victim] is walking around in the marketplace and this one [his assailant] is put to death?”

Turning to other case-types discussed above, the ruling of Rambam in 1, regarding the woman who luckily escapes breaking her Nazirite vow, shows that outcomes as well as intentions are important. Because of the lucky result, she is exempt from punishment at the Torah plane, and indeed she is exempt even though she acted on her intention. R. Akiva’s *kal va-homer* noted in 1, while stressing that Divine atonement and forgiveness are needed for a person who had the intention to sin, even though “luckily” no sin resulted, because intentions are independently significant and are relevant to the religious assessment of their bearer, also underlines the principle that outcomes are crucial. Thus, someone who intends to sin and succeeds in committing that sin requires atonement *kal va-homer*—both for the intention and for the outcome.

In 2, *Or ha-Hayyim* and *Beit Yitzhak* maintain that the Divine-­crafted positive result of the brothers’ ill-intentioned sale of Joseph renders them entirely innocent, even according to the demanding standards of *dinei Shamayim*—a radical acceptance of resultant moral luck in which results are the sole factor determining (lack of) blameworthiness. In the dispute between Rabba and Rava concerning the Shabbat fisherman, the bottom-line halakha privileges outcome over intention. In 3, the *kohen* who was unknowingly impure while in the Temple requires some measure of atonement despite his entirely positive intentions. In 7, the person who intended to do something entirely permissible but “unluckily” did something forbidden has committed a sin. In 8 and 9, the level of negligence is identical; it is the “lucky” or “unlucky” outcome

41 Kirschenbaum, 110 (although modern criminal law in many jurisdictions does mandate a penalty for attempted murder).
42 Kirschenbaum, loc. cit.
that determines whether the negligent killer is punished. It is striking that whereas the negligent killer who had no bad intention is exiled, an attempted murderer who fails to kill is not subject to any punishment, at least not in an earthly court.

Why do the sources, particularly halakhic ones (as opposed to aggadic passages), attach such significance to results in assessing a person morally and halakhically when results are dependent on factors beyond the person’s control, and thus apparently allow a role for resultant moral luck in such assessment? One factor, as Kirschenbaum observes, is the realistic focus of halakha, which deals with the world as it actually is and must therefore take real-world outcomes into account. Secondly, halakha placing such weight on results might be explained by appeal to what is termed in the moral luck literature the epistemic argument. It might be argued that from a moral or religious perspective, attempted or even intended murder, for example, is as bad as murder, but often the only evidence we have of intention to murder is that a murder is carried out, whereas we may frequently have no evidence at all of an attempted murder. Halakhically, therefore, we treat actual murder far more severely.

Between God and Humanity vs. Human Interactions

There is an important suggestion in the sources concerning the relative levels of significance of intentions and results that relies on the classic distinction between the spheres of our duties toward heaven (bein adam la-Makom) and interpersonal interactions (bein adam la-havero). In the former sphere, it is claimed, intentions are more significant than in the latter—in the interpersonal realm, only results matter. Thus, although most authorities consider kavvana, intention to fulfill the mitzva, to be a necessary condition of fulfilling mitzvot bein adam la-havero, there are a few aharonim who, while requiring kavvana ab initio (lekhat’hila), dissent. R. Yehezkel Landau argues that whereas mitzvot such as tzitzit, tefillin, and lulav have no purpose other than fulfilling the command of God and therefore require intention, tzedaka benefits the recipi-

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43 Kirschenbaum, 168.
45 I am grateful to TRADITION’s anonymous referee for drawing my attention to this important point.
ent regardless of the donor’s motivations or intentions and the mitzva is therefore achieved even in the absence of any intention to fulfill it. R. Landau also maintains that in the context of the mitzva of tzedaka, the mere act of giving, even unaccompanied by any intention to fulfill a mitzva, is considered entirely righteous, citing as proof the Talmudic statement that a person who gives charity for the sake of divine reward is deemed completely righteous (Pesahim 8a–b).

A radical suggestion limiting the significance of intention in the interpersonal realm is made by R. Meir Dan Plotzki. Defending the view of Or ha-Hayyim, discussed above, that the divinely-designed positive result of the brothers’ ill-intentioned sale of Joseph renders them entirely innocent before the bars of both divine and human justice, R. Plotzki argues that since the main purpose of the Torah’s requirements in the interpersonal arena is the avoidance of harm to others, the result is what is crucial in this realm. If a person who is the object of an ill-intentioned action receives benefit rather than harm, he will be grateful to the person who took the action, and therefore no punishment is appropriate even at the demanding plane of dinei Shamayim. In the sphere of bein adam la-Makom, by contrast, some measure of atonement is required for a sinful intention upon which one acts but which fortunately results in no sin in practice, because the action carried out is entirely sinful in the eyes of God before Whom all is revealed and before Whom human actions and intentions are equally transparent.

47 R. Yehezkel Landau, Ahavat Tziyyon, Derush 10. A more moderate position is adopted in the midrashic statement (Sifrei Deuteronomy 283; Midrash Tana’im to Deuteronomy 15:10) that since someone who loses a coin that is subsequently found by a poor person is considered to have performed a mitzva (because results matter greatly in this sphere), all the more so a mitzva is performed by someone who intends it (because intentions also matter).

48 It seems, however, that there are limits on “acceptable” ulterior motives in this context. Meiri, Be’it ha-Behira (Bava Batra 10b), states that giving tzedaka for the purpose of self-aggrandizement and publicity is not considered an act of tzedaka at all but rather a sin. Rema, Yoreh De’ah 249:13, rules similarly. See the discussion in R. Ben-Tzion Krieger, “Ha-Im Mitzvot she-bein Adam la-Havero Tzerikhot Kavvana?,” Tehumin 24 (5764), 314–324, at 320. One might perhaps argue that self-aggrandizement is a uniquely problematic motivation for tzedaka since it undermines the entire “other-directed” ethos of this mitzva in a way in which other ulterior motives, such as the hope of divine reward, do not.

49 R. Meir Dan Plotzki, Keli Hemda (Makhon Avnei Shoham, 5774) to Parashat Vayehi, 4. R. Mordechai Carlebach, Havatzelet ha-Sharon al ha-Torah: Bereishit (Jerusalem, 5765), 725–726, suggests that an acted-upon sinful intention in the realm of bein adam la-Makom requires atonement because it constitutes an act of rebellion against God, whereas if no harm is done to another person by one’s ill-intended action then no prohibition has been transgressed, since bein adam la-havero
Do the Sources Accept or Deny the Existence of Resultant Moral or Religious Luck?

If both intentions and outcomes are important, are the sources that we have analyzed ultimately best interpreted as accepting or as denying the existence of resultant moral or religious luck within Jewish thought and jurisprudence? Though they do not address the question of resultant moral luck explicitly, are they most plausibly read, collectively, as implicitly accepting or instead denying that outcomes beyond the agent’s control can legitimately affect moral or religious assessment of the agent?

One might attempt to decisively identify the stance not just of the sources we have discussed in this paper but of Jewish tradition tout court regarding the existence of resultant moral luck by means of a general theological argument. Notwithstanding the focus of halakha on the real world and the epistemic argument, taking outcomes as seriously as the sources do, might nevertheless seem to allow luck, factors beyond a person’s control, an unacceptably large degree of influence on religious and moral assessment. To avoid the apparent unfairness here, Kirschenbaum appeals to the doctrine of hashgaha peratit in what might be termed a “hard” version, according to which God’s providence extends over every aspect of the life of every individual. From this perspective, outcomes are no more within a person’s control than they are in a non-theistic deterministic picture. The advantage of the appeal to such an expansive conception of divine providence is that all apparent resultant moral luck is deserved, or put another way, there simply is no such “luck”: the negligent driver who causes no accident merits this outcome, and the equally negligent driver who kills a pedestrian deserves this to happen. Such a version of providence is certainly soundly rooted in traditional sources and seems to have achieved hegemony in contemporary everyday Orthodox religious discourse. However, Kirschenbaum does not consider any of the alternative, “softer” doctrines of hashgaha in our tradition which substantially limit it in various ways, sometimes leaving “luck” in place, at least for the very many people who, according to these conceptions,

50 See, e.g., Makkot 10b; Shabbat 32a; Arakhin 16b; Meiri, Beit ha-Behira, Shabbat 55a.
are not governed by hashgaha peratit.\textsuperscript{51} To take just one important example, for Ramban, the lives of the vast majority of people are governed by chance.\textsuperscript{52} Kirschenbaum’s argument therefore seems unpersuasive.

We return therefore to attempting an assessment of the overall position of the traditional sources we have surveyed regarding resultant moral luck. I would like to conclude this article disjunctively and suggest that there are two plausible ways to proceed. One approach would be that the sources taken together embody a nuanced position that accommodates both the “luck-free intuition,” the idea that moral assessment is only fair if it is impervious to luck, as well as our contrasting sense that results matter morally even if they partly depend on luck. Thus, the luck-free intuition is not mistaken: the reckless driver who causes no harm is as morally blame-worthy as the driver who does. However, halakha does treat them differently, because although moral assessment is of course central to halakhic criminal law, halakha is not the sphere in which we are pursuing a complete moral assessment but the area in which we must maintain a criminal law system that functions in the real world and takes account of outcomes, evidential requirements, and so forth.\textsuperscript{53} A complete moral assessment is the domain of dinei Shamayim or, in terms of their own self-assessment, of tzaddikim like R. Hiyya bar Ashi. According to this line of thought, at the most elevated level there is no resultant moral luck. Put another way, there is resultant halakhic luck but not resultant moral luck. Luck is relevant to the human rabbinic court, the bet din shel matta. The most rigorous and most just moral assessment that we face, however—that of the Heavenly Court—is above and beyond resultant luck.

An alternative and at least equally credible approach is to suggest that the strong focus on outcomes that we have identified overall indicates a definite acceptance of the existence of resultant moral luck. Even the superior moral level of dinei Shamayim mitigates but does not obliterate the impact of resultant moral luck. The supererogatory standards of a R. Hiyya bar Ashi do not deny the existence of resultant luck but instead


\textsuperscript{52} See Moshe Halbertal, Al Derekh ha-Emet (Shalom Hartman Institute, 2006), 156–157.

\textsuperscript{53} This approach emerges at certain points in Kirschenbaum’s article. A Christian position along similar lines is articulated in Craig A. Stern, “Crime, Moral Luck, and the Sermon on the Mount,” Catholic University Law Review 48 (1999), 801–842.
simply refuse to take advantage of such luck when it is good, insisting on self-assessment purely on the basis of luck-free intention.

Margaret Urban Walker has made a persuasive case for the existence of resultant (and some other) forms of moral luck, urging that

we take moral luck for what it appears to be: a fact of our moral situation and our human kind of agency. The fact is our perfectly predictable entanglement in a causally complex world, with imperfectly predictable results. Part of the normal and required self-understanding of human agents is a grasp of that fact, of the loose and chancy fit between undertakings and impacts. . . . This fact requires us to understand and respond to our actual situation of being at moral risk, i.e. of being subject to assessment both for results of what we have (uncontroversially) done and for our actions under circumstances morally fraught, where these results and circumstances are determined in important part by luck. The truth of moral luck which the rational, responsive moral agent is expected to grasp is that responsibilities outrun control, although not in one single or simple way.54

On this picture, it is not a mistake or an injustice to assess people partly on the basis of results of their actions that are beyond their control (and because it is not an injustice, we do not need to appeal to a “hard” doctrine of hashgaha peratit to remove the injustice). Rather, such assessment is underpinned by an accurate understanding of the nature of the world and of the moral environment in which we function as human beings. Moreover, as Walker goes on to argue, a world without resultant moral luck would be a world in which people bear far less responsibility than we currently take them to bear. They would not be blameworthy or even morally assessable for any unforeseen consequences of their actions, and perhaps not even for foreseen consequences beyond their control. Such a world would be one which enabled people to “routinely and with justification walk away from the harmful, cruel, or even disastrous results which their actions were critical even if not sufficient in bringing about.”55 Such a world is likely not the one that the sources of our tradition are aiming to create. They are therefore, perhaps, collectively best read as accepting the existence of resultant moral luck.

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55 Ibid., 25.