**Responsibility for Acts and Omissions**

Randolph Clarke

We commonly think that we are morally responsible not just for actions and (some of) their consequences, but also for omitting to act, refraining or abstaining from action, forbearing action, and (some) consequences of these. A parent’s omission to remove a child from a parked car can result in the child’s death, something for which the parent might be to blame. One can be praiseworthy for refraining from retaliating for an offense. And responsibility for omitting to attend, inquire, or investigate often figures crucially in cases of negligence. A comprehensive theory of responsibility, then, will include in its coverage omitting and refraining (I’ll generally abbreviate the list to these) and their upshots.

If omitting or refraining were in every case performing an action, then we might expect that the conditions that are individually necessary and jointly sufficient for responsibility for action would apply straightforwardly to cases of omitting or refraining.[[1]](#footnote-1) But (as I’ll argue) the antecedent of this hypothetical isn’t true. It is to be expected, then, that what is required for responsibility for omitting or refraining differs from what is required in the case of action. Just what the differences are is a relatively unexplored question in philosophical work on responsibility. The answer, I believe, is complicated by the fact that cases of omitting or refraining are quite varied, and an account of agents’ responsibility in these cases will have to reflect this variety.

*1. Some of the Variety*

In many cases in which an agent does not do a certain thing, the agent *intentionally* does not do that thing. These can be cases of refraining, abstaining, or forbearing. This class of cases itself varies along several dimensions.

For one thing, some of these cases might be called *episodic*, while others are what we might call *periodic*. An example of the former: Ann refrains from reaching for a chocolate when she sees some set out on a table at a reception. An example of the latter: Bob abstains for years (thirty, so far) from eating meat.

Episodic cases of intentionally not doing a certain thing vary in their relation to action. In some of these there is, arguably, a simple identity of the agent’s not doing the thing in question with her performing an action. A mime stands on a sidewalk, frozen in mid-gesture, for many minutes refraining from moving in any noticeable way. Maintaining the pose requires the exertion of effort, making fine adjustments to muscle tension, in response to careful self-monitoring, for the maintenance of balance and position. The mime is active in doing this; she performs an action of holding her pose. What is the mime’s intentionally not moving, her refraining from moving? There is a good case for saying that this is simply her action of holding the pose, but now negatively described, described in terms of something it is not (it is not an instance of moving).[[2]](#footnote-2) The refraining may fairly be said to take place when and where the act of holding still does, to be just as static and as difficult as the act is, and to have that act’s causal features—caused by all and only the things that cause the act and causing all and only the things that the act causes.

Another kind of case in which there may be said to be an identity has, in conception, a teleological structure that cases of simple identity lack. This second kind includes cases of what Bruce Vermazen (1985: 103) calls “displacement refraining,” doing one thing in order to prevent oneself from doing another. If Ann doubts her self-control when she sees the chocolates on offer, she might shove her hands into her pockets or grasp them tightly behind her back as a means of keeping herself from reaching for a chocolate. She might, in performing such an action, intentionally bring it about that she doesn’t reach. In this kind of case the agent conceives of the action she performs as something done in order to prevent herself from performing the action from which she refrains. Here, too, we might identify the agent’s refraining with an action, in this case the action by performing which she intentionally doesn’t reach.[[3]](#footnote-3)

But episodic cases of intentionally not doing something are not all of either of these two kinds. Ann might have no lack of confidence in her self-control; indeed, she need not experience any temptation to reach for a chocolate; she might still intentionally not reach for one. When she does, she might remain near the table, her arms at her sides. It should not be thought that her refraining must be an act of keeping her arms at her sides, for she might not perform any such action. Her arms, we may suppose, were hanging freely at her sides before she decided not to reach for a chocolate, and whatever was causing them to do so then may be all that is causing them to do so after she has so decided. It might be that she no more needs to keep her arms from moving toward the chocolate than she needs to keep the chocolate from moving toward her arms. In a case of this sort, it is doubtful that there is any action that the agent is performing that is (identical with) her refraining from reaching.

It should not be thought that refraining can generally be identified with an agent’s *decision* not to do what she refrains from doing, for at least two reasons. First, decisions—even decisions not to do certain things—are generally not conceived of teleologically (by the agents who make them), as *means* to doing the things decided on. Hence the consideration that, with respect to cases of displacement refraining, favors identifying the refraining with some overt action is not present here to favor identifying the refraining with the making of the decision. Second, one can intentionally not do a certain thing without having decided not to do it.[[4]](#footnote-4) Even if refraining from *A*-ing requires having an intention not to *A*,[[5]](#footnote-5) one can come to have such an intention other than in making a decision. Decisions resolve practical uncertainty, uncertainty about what to do. But (in a variant of the case) Ann might have had no uncertainty about whether to reach for a chocolate; she might have come to intend not to do so as soon as she saw them, without any question arising about whether to reach.

Cases of periodic refraining or abstaining, too, frustrate attempts to find some action that is identical with the agent’s intentionally not doing something. Certainly no action that Bob has performed in the last thirty years is his abstaining over that period from eating meat. Some fusion of actions—say, all of the acts of eating that Bob has performed during this period—might be proposed as what his abstaining is, but Bob can claim to have abstained for the thirty-year period, not just on the occasions when he ate. (It might be that he would have eaten meat on some other occasions, had he not abstained.) If credit is due, then Bob (like an addict in a twelve-step program) gets it for the whole period.

On many occasions when someone omits to do a certain thing, the agent does not intentionally not do that thing. Indeed, in many of these cases, the agent isn’t even aware that she isn’t doing the thing in question. We may call these cases of *unwitting omission*.[[6]](#footnote-6) Again, these may be episodic or periodic. An example of the first: Carla has the duty of turning on the pool pump evenings when an overnight freeze is forecast (a precaution against burst pipes), and she routinely fulfills it; but one evening, despite knowing that a freeze is forecast, she forgets to turn on the pump and omits to do so. An example of the second: David has a standing plan to pull weeds in the garden for at least an hour each month, but he omits to do so in June, not realizing until the month is over that he has neglected the garden.

An unwitting omission is a failure to exercise agency; it is not itself an exercise of agency. Not being such, it isn’t an action. It is thus wrongheaded to seek an action performed by the agent in question with which such an omission might be said to be identical. Indeed, it is not clear that there is any entity of any kind that is an unwitting omission. Certainly people unwittingly omit to do this or that; but that truth does not obviously imply that when one unwittingly omits to do a certain thing, there is something that is one’s omission.[[7]](#footnote-7)

*2. A Familiar Distinction and Two Conditions*

It is common in discussions of moral responsibility to distinguish between, on the one hand, *direct* or *basic* responsibility and, on the other, *indirect* or *derivative* responsibility. An agent bears the latter for something if she bears responsibility for it that derives from her responsibility for something else. The derivation is, in part, explanatory: when one is indirectly responsible for something, one is responsible for it at least partly *because* one is responsible for something else. Direct responsibility for something is responsibility that is not in this way derivative.[[8]](#footnote-8)

It is generally thought that intentional actions, or at least some kinds of these, are among the things for which we can be directly responsible. A state of the world apart from one’s body that results from one’s intentional action, it is thought, is something for which one can be at best only indirectly responsible. What about omitting to act or refraining for action? Can an agent be directly responsible for either of these?

Two kinds of condition are generally thought to be necessary for direct responsibility for something. One is a control condition. In the case of intentional action, this condition is usually thought to require that the action is freely performed. Exactly what this freedom comes to, even in the case of intentional action, is a contested matter. (For example, there is debate about whether it requires an ability to do otherwise.[[9]](#footnote-9)) A theory of responsibility for omitting or refraining ought to say whether a control condition for direct responsibility can be satisfied in these cases and, if so, whether it is the same as or differs from the control condition required in cases of action.

The second condition is an epistemic condition. This is usually thought to concern belief or awareness of what one is doing, and it is often said to concern as well knowledge or awareness of the moral status of one’s conduct. But whether it is *actual* belief or awareness that is required, or instead a *capacity* for one or the other of these things can fulfill the requirement, is a point of contention.[[10]](#footnote-10) Evidently, in cases of unwitting omission, in which the agent is unaware and lacks a belief that she is omitting to do the thing in question, a condition requiring actual belief or awareness would go unsatisfied.[[11]](#footnote-11)

Indirect responsibility is likewise thought to require satisfaction of at least two conditions. Something for which one is indirectly responsible must, in the first place, *result from* or *be a consequence of* something else for which one is responsible. It is a disputed matter whether the consequence must be *caused* by the thing in question, or whether relations (or quasi-relations) of other kinds can satisfy this portion of the requirement.[[12]](#footnote-12) Further contested is whether the agent must have been able, by acting otherwise, to prevent the outcome in question.[[13]](#footnote-13) An epistemic requirement is also generally thought to apply: at the time of the thing responsibility for which the agent’s indirect responsibility stems from, the agent must have believed or been aware, or have been capable of believing or being aware, that the result in question was likely to ensue. Several questions arise concerning responsibility for consequences of omissions since, as we have observed, omissions are sometimes unwitting and, further, it is a disputed matter whether omissions can be causes.[[14]](#footnote-14)

*3. Responsibility for Intentionally Not Doing a Certain Thing*

When an agent’s refraining from *A*-ing is simply identical with her performing a certain action, we might think that if the agent is directly responsible for performing the action, then she is directly responsible for refraining. An account of direct responsibility for action, it may seem, applies straightforwardly to direct responsibility for refraining in such a case.

Suppose that it is not (as some say) only mental actions of certain kinds (decisions, volitions, etc.) for which one can be directly responsible, but that one can also be directly responsible for overt bodily actions, such as moving about in certain ways or holding still. Then the mime might be directly responsible for her action of holding still. Suppose that she is. Since her refraining from moving is her action of holding still, it might seem to follow that she is directly responsible for refraining from moving.

The inference is invalid. For one thing, given that commonly a single action can be described in a variety of ways, the epistemic requirement appears to concern not actions but actions-under-descriptions. One might be aware of what one is doing under one description but unaware of it under another description. An attribution of responsibility employing the first description might then be true while one employing the second description is false. Responsibility ascriptions thus seem to be intensional: substitution of co-referring expressions can fail to preserve truth-value.

Still, it is easy enough to see that the epistemic condition for the mime’s direct responsibility for not moving can be satisfied: when she is holding still, she is aware that she is refraining from moving, and we may suppose that she is aware as well of any moral significance her so refraining moving has. So far so good.

There is a second worry about the inference considered three paragraphs back. Examples due to Harry Frankfurt (1969)—Frankfurt cases, they are called—have convinced many that an agent can be directly responsible for an action of *A*-ing even if she could not have avoided *A*-ing. But some theorists convinced of this view nevertheless maintain that one can be directly responsible for not *A*-ing only if one was able to *A*. If both of these claims are correct, then the control condition incorporates an asymmetry: direct responsibility for an action does not require an ability not to perform that action, whereas direct responsibility for not performing a certain action requires an ability to perform that action.[[15]](#footnote-15)

Suppose that although the mime acted freely in holding still, some entity was poised to intervene and ensure that she not move had she not freely held still. She was unable to move. If there exists the asymmetry in question, then the mime might be directly responsible for holding still but not directly responsible—indeed, not responsible—for not moving.

Does this possibility show that the proposed identity of the mime’s refraining with her holding still is mistaken? Perhaps not; perhaps, instead, we find here another way in which the intensionality of responsibility attributions shows up.[[16]](#footnote-16) In any event, it seems plain that even if there is the purported asymmetry in control conditions, in cases of (what appear to be) simple identity, an agent can be directly responsible for refraining from doing a certain thing. (Frankfurt cases are, after all, quite rare!)

Cases of displacement refraining, too, seem to allow for direct responsibility for refraining. Suppose that Ann had shoved her hands into her pockets in order to—and thereby did—prevent herself from reaching for a chocolate. If her refraining from reaching is her act of shoving her hands into her pockets, then she might satisfy not only the control but also the epistemic condition for direct responsibility for so refraining. For she might freely shove her hands into her pockets while remaining able (and having the opportunity) to reach; and she might be aware that by shoving her hands into her pockets she is thereby refraining from reaching, and aware as well of any moral significance of her refraining.

What of the version of Ann’s case in which she performs no act as a means to refraining? She might be directly responsible for deciding not to reach, but that decision is not her refraining, and in any event she might refrain from reaching for a chocolate without making a decision not to reach. (She might intentionally not reach without having made a decision not to reach.)

Whether she makes the decision or not, Ann’s refraining is an exercise of a capacity to do things intentionally. In this respect it is like performing an intentional action. Further, refraining in such a case is “basic” for the agent in a way that many intentional actions are: it is something that the agent can do without having to do anything else as a means to doing it. Thus, there is reason to think that just as an agent can be directly responsible for a (basic) intentional action, Ann can be directly responsible for refraining from reaching for a chocolate, even when her so refraining isn’t an action.

It is easy enough to see how refraining in a case of this last kind might satisfy the epistemic condition for direct responsibility. But how might it satisfy the control condition? It might be thought that this condition is satisfied just in case the agent freely refrains, but what does freely refraining come to, when refraining isn’t performing an action?

Consider:

An agent freely refrains from *A*-ing just in case she intentionally doesn’t *A* while remaining free to *A*.

Even if this is correct as far as it goes,[[17]](#footnote-17) it raises two further questions: what does intentionally not doing a certain thing come to, particularly when this isn’t identical with performing any action; and what is it to remain free to *A*, when one intentionally doesn’t *A*.

There are proposals concerning the first of these questions, but there is no consensus on the matter.[[18]](#footnote-18) This is one point at which further work on agency is needed if we are to have a comprehensive theory of responsibility.

Perhaps the second question might be addressed as follows. When an agent intentionally doesn’t *A*, she is on that occasion free to *A* if she is then able to and has the opportunity to *A*.[[19]](#footnote-19) Having both the ability and the opportunity to *A* on that occasion, the agent can—in J. L. Austin’s (1979: 229) all-in sense—*A* then.

If we have sufficient conditions for direct responsibility for an omission in this kind of case, one in which the omission is not (identical with) an action, then it is not the case that moral responsibility is always grounded in responsibility for action.[[20]](#footnote-20) And yet, we have seen, we might get this result even though the control condition for direct responsibility concerns freedom of action. For in a case of omission, that condition might be satisfied not by acting freely but by remaining free to act.

So far we have considered episodic cases of intentionally not doing a certain thing. What about periodic cases? Bob, we imagined, has abstained for thirty years from eating meat. During some of that time he has been asleep, and when he is asleep he isn’t able then to eat meat. We might still say that he intentionally hasn’t eaten meat for thirty years, and the periodic inability doesn’t seem to undermine his responsibility for abstaining. Even periods of unexpected incapacitation need not undermine this; if he was accidentally knocked unconscious for some period during the thirty years, it may still be that he has abstained for thirty years. Might he be responsible for abstaining for thirty years but not responsible for abstaining during such a period of unconsciousness?

Cases of this sort are underexplored. It is far from obvious what account is to be given of agents’ responsibility in them.

*4. Responsibility for Unwitting Omission: Direct (Or Nearly So)*

Surprisingly, cases of unwitting omission have (of late) received quite a bit of attention, perhaps singled out because they are, prima facie, the least like cases of action, and hence are thought to present the toughest challenge for a theory of responsibility meant to cover omitting and refraining as well as action. They are indeed challenging.

Consider, first, an episodic case, such as Carla’s. Despite being committed to turning on the pool pump evenings when an overnight freeze is forecast, one evening, although she has heard that a freeze is forecast, she forgets to turn on the pump and omits to do so. Writers are divided on whether an agent can be directly responsible for her omission in a case of this kind.

One kind of view on which an agent can be responsible for such an omission, without her responsibility for it having to derive from responsibility for any action or other omission, includes commitment to a general theory of responsibility known variously as *Attributionism* or *Responsibility as Answerability*.[[21]](#footnote-21) (I’ll use the latter name.) On this theory, direct responsibility does not require voluntariness; agents can be, and commonly are, responsible for non-voluntary attitudes such as desires, emotional states, cares, and concerns, without their responsibility for these attitudes having to derive from responsibility for any actions or omissions to act. Proponents of this theory need not eschew a control condition altogether; as they often observe, the attitudes in question are “judgment-sensitive,” generally responsive to our evaluative judgments or judgments about what reasons we have.[[22]](#footnote-22) Coming to have such an attitude, then, is commonly an exercise of reason, even though not an intentional action. The attitudes and the actions that reflect them are then said to be attributable to agents as a basis for moral responses to these agents, who are said to be answerable for these attitudes and actions, in that it makes sense to ask their reasons for them.

Unwitting omissions, too, can stem from and reflect the attitudes in question, and, it is said, one can be similarly answerable for them. Thus, on this theory, one can be as directly responsible for an unwitting omission as one can be for an action.[[23]](#footnote-23)

The requirement that an unwitting omission reflect one’s attitudes, if one is to be in this way responsible for it, might be thought to be (at least part of) a control condition. But what does it come to? In the case of action, reflecting the agent’s attitudes is in part a causal matter: the attitudes in question are causes of the action, or of changes partly constituting the action.[[24]](#footnote-24) But are unwitting omissions caused? Recall that it is not clear that there is any entity at all that is one’s omission, when one unwittingly omits to do a certain thing. If there isn’t, then there is nothing to serve as a causal relatum here.[[25]](#footnote-25)

It might be proposed that one’s attitudes can *explain* an unwitting omission even if they can’t cause it. Perhaps Carla’s interest in the Grateful Dead documentary she was watching on Netflix explains her forgetting, and thus her omitting to turn on the pool pump. An informative account would have to spell out what explanation comes to here (if it isn’t causal explanation).

In the case of action, attitudes that play a crucial causal role commonly rationalize the action, and the action’s reflection of them might be thought to be not just a causal matter but an expressive one: the action is not mere evidence of those attitudes, it is an expression of them. But attitudes that explain an unwitting omission need not similarly rationalize that omission. Carla’s omission to turn on the pump, even if explained by her interest in the documentary, isn’t in this way an expression of that interest. Her interest in the documentary is not, and is not thought by her to be, a reason not to turn on the pump. (Neither is the documentary, or the fact that it was available on Netflix.) For the theory of responsibility in question here, then, there is work to be done in spelling out what the reflection of attitudes comes to in cases of unwitting omission.

Suppose that unbeknownst to Carla, the pool pump was broken; even if Carla had flipped its switch, the pump would not have operated. She wasn’t able to turn it on. On the assumption that she is not responsible for the pump’s being broken, she is not then responsible for its not operating that night; and it seems just as clear that she is not responsible, either, for not turning it on (even if she is responsible for not trying to turn it on). If this is correct, then the control condition for direct responsibility in a case of this kind might require something—an ability to do otherwise—that (if Frankfurt is right) is not required for direct responsibility for action.[[26]](#footnote-26)

What about the epistemic condition? Carla isn’t aware that she is omitting to turn on the pump; she is thus unaware of an aspect of the moral significance of her conduct. Still, if having a capacity for such awareness can suffice for responsibility, Carla might nevertheless satisfy the requirement. Here we will want an account to say more about what such a capacity is and what having it comes to.

Some proponents of Responsibility as Answerability reject the epistemic condition altogether.[[27]](#footnote-27) But suppose that Carla had been rendered incapable on this occasion of thinking to turn on the pump. If she is not responsible for the incapacity, it is doubtful that she is responsible for her omission, even if it does reflect her interest in the documentary. It seems unreasonable to expect someone to do something if she isn’t even capable of thinking to do it.

Theorists who embrace Responsibility as Answerability commonly hold that an agent is *blameworthy* for such an omission only if it reflects attitudes that are *morally objectionable* (or some objectionable complex of attitudes). Theirs is a *quality of will* view, and on it one is blameworthy for conduct only if it reflects ill will or a lack of good will. If Carla’s omission reflects no objectionable will, she is not to blame for not turning on the pump.

Consider cases in which a parent forgets to drop off her infant at daycare, forgets the infant in the car when she parks at work, and discovers the infant in the car at the end of the work day, dead from heatstroke. The parents who do this are typically decent people, loving parents and, except on this occasion, attentive to their children. Afterwards they are devastated, usually blaming themselves for the child’s death and commonly suffering severe depression. Perhaps mercy, as well as the recognition that we, too, could make such a mistake, precludes our blaming them at all. But it is not clear that they are blameless; they certainly don’t think they are.[[28]](#footnote-28) “I just forgot” explains that their misdeed wasn’t of another kind, but it isn’t an excuse.

A different kind of view that allows for direct responsibility for unwitting omissions embraces a version of the control condition on which it concerns freedom of the kind exercised in intentional action. Of course, an unwitting omission isn’t an *exercise* of this kind of freedom, but the agent might nevertheless be *free to* perform the action that she omits, where being free to do this requires having the ability and opportunity to do that thing intentionally. Accounts of this kind focus on agents’ capacities, abilities, and opportunities to explain how agents might satisfy both control and epistemic requirements for direct responsibility in such cases.

Our agency relies on our having capacities to notice the need to act, think to act when needed, and remember to act as we intend. Commonly we do these things without taking any action to ensure that we do; commonly no such action is needed. But we can also take action to ensure such things, for example, asking ourselves whether there are conditions we might have failed to notice, or whether there is something we are forgetting to do.

Unusual circumstances can excuse failures to act that stem from failures to think to do, remember to do, or see the need to do certain things. We might excuse Carla if she had received a call that evening informing her that her father had just passed away. But absent such circumstances, we expect agents to see the need to do things that they ought to do, when they have the capacity to do so. The expectation is normative: absent excusing conditions, agents with obligations to do certain things and capacities to think to do these things should think to do them. On this view, if such agents fail to do so, they can be at fault for omitting the actions in question.[[29]](#footnote-29)

Carla, we may suppose, is capable of remembering on this occasion to turn on the pump. And we may suppose that she is able and has the opportunity to turn it on—there is nothing wrong with her motor control, she has access to the switch, and the pump is in good working order. She is free to turn it on, and capable of remembering to do so and of realizing that, in continuing to watch the documentary, she is wrongly omitting to do so. Absent an excusing condition like the disturbing call, she may be to blame for her omission, and for the damaged pipes should they burst. Her responsibility for the omission, on this view, can be direct, not having to derive from responsibility for any other thing.

Do agents in cases of unwitting omission generally have these capacities and abilities? Commonsense says they do, and we may reasonably take commonsense to be innocent until proven guilty here. What is the evidence for the prosecution?

First, it might be objected that although Carla has a general capacity to remember to act as she intends, she isn’t capable of so remembering on this occasion.[[30]](#footnote-30) For she is watching TV and, it might be said, she is not capable of thinking of turning on the pump while so engaged.

It would not be at all unrealistic to imagine that Carla routinely remembers to fulfill her obligations, including safeguarding the pool pipes, even when she watches TV in the evening, and even which she watches things as interesting as the Grateful Dead documentary. Barring general skepticism about unmanifested capacities, there might be no reason to think that Carla lacks the capacity in question on this occasion.[[31]](#footnote-31)

Second, it might be objected that we can reasonably expect people to do things only if they can do them *rationally*, where what an agent can do rationally is understood to be a function of what the agent takes her reasons to be. Carla, it might be said, can’t reasonably be expected to turn on the pump on the evening in question, because she could only do so irrationally.[[32]](#footnote-32)

But Carla knows that she has reason to turn on the pump, for she knows that a freeze is forecast. If prompted, she can easily identify the reason. Further, commonsense says that she is capable of being aware on this occasion of such reason. Capable of being so aware, she is able to act on a reason of which she is aware in turning on the pump on this occasion. She is thus able to perform that action rationally, in the indicated sense.

Third, it might be objected that direct responsibility for an omission requires that the agent have an *opportunity*, at the time in question, to perform the omitted action, and that in a case of unwitting omission the agent lacks that opportunity. Having an opportunity to do something that one omits to do, it might be said, requires actually being aware that one is not doing that thing.[[33]](#footnote-33)

If having promised to call my daughter I omit to do so simply because I forgot, I shouldn’t tell her that I didn’t have the opportunity to call. Lacking the opportunity would be lacking access to a phone, or being tied up with more important matters, or some similar circumstance. The objection might be taken as stating that actual awareness that one is omitting to do a certain thing is a requirement for its being the case that one *all-in can* do that thing. But if one has the capacity to think to do it on this occasion, and one is able to and has the opportunity to do it, then it appears that one all-in can do it.

Note, further, that if it isn’t true that Carla all-in can turn on the pump on the evening in question, then there might be a surprising implication concerning her obligation: if “ought” implies “can”, then, if she cannot, it isn’t true that she ought. We could be relieved of obligations, then, simply by forgetting to do what we had been supposed to do! That hardly seems to be so.

Finally, it might be objected that an agent such as Carla cannot be *blameworthy* for her omission unless it reflects objectionable attitudes of hers. If it does not, then we should not take offense or be indignant toward her for it; and if no such reactive attitude is appropriate, then (the objection goes) she is not blameworthy.[[34]](#footnote-34)

Of course, an agent can be *responsible* for something that is morally deficient without being *blameworthy* for it. But there may be a case for blameworthiness even when passionate reactive attitudes are inappropriate. Even if Carla, rather than forgetting, had decided not to bother with the pump on the evening in question, resentment or indignation might be overblown. Still, we might think her to blame for risking burst pipes, and she might later blame herself. If she is to blame, it is for failing to turn on the pump when she should have, not for having bad attitudes.

Periodic cases of unwitting omission do not appear to present any additional challenges for an account of responsibility. When David omits to pull weeds in the garden in June, there is no particular interval during June at which we must locate his omission. Any period of weed-pulling an hour or more in length—even a fusion of shorter periods summing to an hour or more—would have fulfilled his commitment. Still, it seems that if any account can provide for direct responsibility for Carla’s omission, it can provide the same for David’s.

*5. Responsibility for Unwitting Omissions: Indirect*

Several writers maintain that responsibility for an unwitting omission can only be indirect, deriving from responsibility for some action or other omission. Of course, defenders of the possibility of direct responsibility can allow that sometimes responsibility for unwitting omissions is indirect; the issue is whether it can only be such. Defense of an affirmative answer will need, first, to show that no account of direct responsibility for such omissions is adequate. A further task is to provide an account of indirect responsibility.

Indirect responsibility for an unwitting omission might be said to derive, in some cases at least, from responsibility for a prior decision not to take precautions. Carla might have decided not to create a reminder on her phone when she learned that a freeze was forecast, or when she began to watch the documentary. She might be responsible for making that decision, and, it might be proposed, her responsibility for her unwitting omission to turn on the pump, on the occasion in question, derives from her responsibility for making the decision.

The unwitting omission might be said to result from the earlier decision. As has been noted, a question arises here about whether this can be a matter of causation. It is not clear that in a case of this sort there is any entity at all that is the agent’s omission, and if there is not, then no causal relatum is the omission. Spelling out what “resulting from” comes to here is part of identifying a control condition that can be satisfied for indirect responsibility in such a case. One question that must be addressed regarding the control condition is whether, for indirect responsibility, the agent must have had the ability and opportunity to do what she omitted to do.

It is usually thought that derivative responsibility requires satisfaction of an epistemic requirement. In the case in question, it might be proposed, at the time of the earlier decision, the agent must have been aware that in so deciding she risked the later omission; or, alternatively, it might be said, she must at least have been capable of such awareness at the time of the decision. A requirement of actual awareness will commonly be unsatisfied; if Carla made the decision we are imagining, she might have judged when she did that no reminder was needed. Further, if the epistemic requirement can be satisfied here by possession of a *capacity* for awareness of risk, it is curious why a capacity for awareness can’t satisfy the epistemic requirement for direct responsibility for the subsequent unwitting omission.[[35]](#footnote-35)

A second challenge for this view is that such a prior decision might be something for which the agent is in no way blameworthy. Carla might know that she has never before forgotten to turn on the pump when she knew that a freeze was forecast. She might have correctly judged that failing to create a reminder created no significant risk. Still, she forgot on the occasion in question. Despite her earlier blameless conduct, we (and she) might think she is to blame for the omission, and for the damaged pipes, should they burst.

Third, of course, Carla might not have considered taking any such measures to ensure that she would fulfill her obligation regarding the pool pump. And if in fact she has never before failed in her obligation, it might have been entirely sensible of her not to consider such measures. There is then no earlier decision responsibility for which her responsibility for the omission can be said to derive from.[[36]](#footnote-36)

The strategy under consideration might be supplemented with the idea that responsibility for unwitting omissions derives, in some cases, from responsibility for prior *witting* omissions. For example, it might be said, Carla need not have decided not to create a reminder. She need only have omitted earlier to create the reminder while aware then that she was so omitting, and while believing that in so omitting she was omitting to do something that would significantly reduce the likelihood of a subsequent omission to turn on the pump.[[37]](#footnote-37) The epistemic requirement for direct responsibility here is actual awareness, and for the derivation of responsibility it is actual belief in the likelihood of the outcome.

As before, an account will be needed of how unwitting omissions result from other omissions. But there is a further problem if, as some proponents of this view have it, lack of awareness that one is omitting to *A* deprives one of the opportunity to *A*. If while watching TV Carla lacks the opportunity to turn on the pump, and if she isn’t to blame for lacking that opportunity, she hardly seems to be to blame for not turning on the pump. It might be suggested that she can be indirectly to blame for lacking the opportunity, since (it may be said) the lack results from her earlier omission to create a reminder. But must we then require that at the time of the earlier omission, she believed that it would result in her later lack of opportunity? It is doubtful that agents commonly have such beliefs; even if I believe that something I am doing now is likely to result in my not doing something else later, I would not ordinarily believe that what I am doing now will likely deprive me of the opportunity to do that other thing later.

A further strategy for locating the basis of derivative responsibility for unwitting omissions points to prior actions that contributed to character traits that, in turn, resulted in these omissions. For example, if Carla cares little about fulfilling her duties, she might be said to be responsible for her omission on this occasion (in part) because she is responsible for earlier character-forming actions that resulted in her lack of concern. Of course, even agents without such bad traits sometimes unwittingly omit to do things they should do. Moreover, even when agents with such bad traits have contributed, via prior actions, to their bad character, they might well have lacked awareness at the times of the earlier actions that the subsequent omissions would result.[[38]](#footnote-38)

There are many cases of unwitting omission whose agents we commonly take to be responsible but in which, if direct responsibility is ruled out, plausible requirements for responsibility are not satisfied. If responsibility for an unwitting omission can only be indirect, then agents are responsible in such cases far less often than we think. A view that denies the possibility of direct responsibility for unwitting omissions is in this respect highly revisionist.

*6. Responsibility for Consequences of Omissions*

We commonly think that agents are responsible for (some) consequences of omissions—whether intentional or unwitting—for which they are responsible. If the mime’s not moving for quite some time delights a group of school children, then the mime might be responsible not just for refraining from moving but also for the resulting delight. If the parent is responsible for omitting to remove the child when she parks her car for the day, she might be responsible, as well, for the death of the child. Results of omissions can be as foreseeable and foreseen as can results of actions, so it is no mystery how an epistemic condition for responsibility for the former can be satisfied. What about a control condition?

We’ve seen reason to wonder whether omissions are causes, particularly in cases in which there appears to be no action by the agent that is her omission. Even if they aren’t, they might be “quasi-causes” of outcomes. Quasi-causation is characterized in terms of causation and counterfactuals of causation. For example, Carla’s omission to turn on the pool pump quasi-causes the bursting of the pipes if

i) Carla omits to turn on the pump;

ii) The pipes burst; and

iii) There is some condition *x* such that

a) *x* causes the bursting of the pipes; and

b) Had Carla turned on the pump, her doing so would have prevented the bursting of the pipes by causally interacting with a process due to *x*.[[39]](#footnote-39)

The freezing temperature might be the condition in question. Prevention, in turn, can be understood as quasi-causation of the non-occurrence of an event of some type, in this case, a bursting of the pipes.[[40]](#footnote-40)

Might simple counterfactual dependence of an outcome on an omission be the link that is required, and suffices as far as linking is concerned, for responsibility for that outcome?[[41]](#footnote-41) Such counterfactual dependence is not a necessary condition. Imagine that Carla had neglected a day earlier to purchase a part needed to repair the pool pump. Having forgotten today her earlier neglect, she sees the weather report and plans to turn the pump on this evening. But she forgets to do so, and she omits to hit the switch. Had she purchased the part and repaired the pump, we may suppose, still the pipes would have burst, for she would have forgotten to turn on the pump. And had she hit the switch, still the pipes would have burst, for the pump would not have operated, not having been repaired. Nevertheless, if Carla can be responsible for the damaged pipes in the initial version of the case, she can be responsible for that outcome in this version.

Note that, in this case, Carla is responsible for the fact that, on the evening in question, the bursting of the pipes does not counterfactually depend on her omission to hit the switch. Perhaps, then, a linkage required for responsibility for an outcome is that either the outcome counterfactually depends on one’s omission or, if it does not, one is responsible for the fact that it does not.[[42]](#footnote-42)

If we can have only quasi-causation or counterfactual dependence, and not causation, linking omissions with outcomes, this fact does not itself lessen our responsibility for results of omissions.[[43]](#footnote-43) One can offend by saying a certain thing that one should not say, or by not saying a certain thing that one should. In the first kind of case, one offends by acting, in the second, by omitting to act. In some pairs of cases, the duties that are violated might be equally stringent, and the harm that results equally bad and equally maliciously intended. It can be equally foreseeable and equally preventable. The agents can be equally blameworthy for it.[[44]](#footnote-44)

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1. However, as I observe in section 3, even when such an identity holds, there might be a difference in what is required for responsibility. [↑](#footnote-ref-1)
2. If this is correct, then expressions such as ‘the mime’s refraining from moving’ can be and sometimes are used referentially, with success, to pick out actions. Writers affirming this view include Clarke (2014: 21-28), Davidson (1985), Schaffer (2012), and Varzi (2006; 2008). Moore denies it, issuing the following challenge: “Imagine picking out *objects* by the properties they do *not* have” (2009: 438). Of course, we can easily do so, e.g., referring to Eris as the most massive non-planet directly orbiting the Sun. [↑](#footnote-ref-2)
3. Identifying Ann’s refraining from reaching with (say) her action of shoving her hands into her pockets requires that sometimes when one *A*-s by *B*-ing we can identify one’s *A*-ing with one’s *B*-ing. Several views of act-individuation allow such identification. On this point, see Clarke (2014: 24-25). [↑](#footnote-ref-3)
4. Pace Bach (2010: 52-54) and Moore (1979), who take deciding not to *A* to be necessary for refraining from *A*-ing. P. Smith (1986: 14) similarly holds that refraining requires performing some mental action in order to prevent oneself from doing the thing that one refrains from doing. [↑](#footnote-ref-4)
5. Although I’m inclined to think that intentionally not *A*-ing does require having an intention with some relevant content, I do not think that it requires having an intention not to *A*. On this point, see Clarke (2014: 65-71). [↑](#footnote-ref-5)
6. As ‘omit’ and ‘omission’ are used in ordinary English, only rarely when an agent unwittingly does not do a certain thing do these terms apply. A moment ago, without realizing it, you were not knocking the Moon from its orbit, but it would be a sharp departure from ordinary usage to say that you omitted to do so or that the case is one of omission. Exactly what distinguishes the cases in which the terms are applicable is a matter of some controversy. There are two features of this case that might be thought to disqualify it: you aren’t able to knock the Moon from its orbit, and there is no reason why you should do so. Here I’ll stick to cases in which, as I see it, the terms (with their ordinary meanings) do apply. (Thanks to Michael Zimmerman for suggesting that I address this point.) For further discussion, see Clarke (2014: 28-33). [↑](#footnote-ref-6)
7. If there is nothing that is an unwitting omission, what should we say about the claim, “An unwitting omission is a failure to exercise agency”? One thing we might say is that the proposition expressed by it does not quantify over omissions. The issue arises as well with talk of absences and lacks. Certain things are absent or lacking on certain occasions, but it is not clear that there is any entity that is an absence or a lack. For more on this point, see Clarke (2014: ch. 2). [↑](#footnote-ref-7)
8. The definitions allow that one can bear both direct and indirect responsibility for something, for one can have some responsibility for that thing that derives from one’s responsibility for some other thing and some responsibility for it that does not derive from one’s responsibility for anything else. (Thanks to Michael Zimmerman for help in formulating this point.) [↑](#footnote-ref-8)
9. Much of the debate stems from Frankfurt (1969). The discussion is extensive; for a collection of essays focusing on it, see Widerker and McKenna (2003). [↑](#footnote-ref-9)
10. For essays on the epistemic requirement, see Robichaud and Wieland (2017). [↑](#footnote-ref-10)
11. The two conditions do not seem to be not entirely independent. Freely performing an action arguably requires having some awareness of what one is doing, and hence some epistemic requirement might be included in the control condition. But part of an epistemic requirement for responsibility, such as knowledge or awareness (or a capacity for one or another of these things) of the moral status of one’s conduct, might be thought to be additional.

    It is sometimes argued that moral responsibility requires, further, a capacity to respond to (specifically) moral reasons. Here I’ll set aside this matter by assuming that agents in all the cases discussed have any moral capacity required for responsibility. [↑](#footnote-ref-11)
12. For discussion, see Clarke (2014: 51-54), Dowe (2001), Moore (2009: ch. 18), and Sartorio (2016: 46-50). The mention here of “quasi-relations” is prompted by the consideration that if on some occasion when an agent omits to do a certain thing there is nothing at all that is her omission, it will be wrong to speak of an outcome’s *relation* to the omission, since there is no relation without its relata. This issue is discussed further in section 6. [↑](#footnote-ref-12)
13. Fischer and Ravizza (1998: ch. 4) require a kind of sensitivity of the outcome to one’s bodily conduct, but they do not require that one was able to prevent the outcome. [↑](#footnote-ref-13)
14. Dowe (2004) and Moore (2009: ch. 444-51) argue that omissions cannot be causes; Schaffer (2004; 2012) argues that they can be. [↑](#footnote-ref-14)
15. Fischer (1985-86) and Fischer and Ravizza (1991) argued for the asymmetry. Van Inwagen (1983: 161-80) advances the second half of it and judges the first half probably correct. Fischer and Ravizza (1998) subsequently rejected the asymmetry, as have Byrd (2007), Clarke (1994; 2011), Frankfurt (1994), and McIntyre (1994). Fischer (2017) and Sartorio (2005) each argue for a different asymmetry (from the one characterized in the text here) between responsibility for actions and responsibility for omissions (as does Clarke [1994; 2011]). Note, further, that other writers (e.g., Ginet [2003], Widerker [1995]) reject the asymmetry because they reject the first half. [↑](#footnote-ref-15)
16. Fischer (2017: 156) argues that in cases in which an omission is identical with an action, responsibility for the omission does not require an ability to do otherwise, because responsibility for an action does not require such an ability. The argument implicitly rejects the intensionality of responsibility attributions that is considered in the text here. Perhaps the rejection is correct, but the issue merits attention. [↑](#footnote-ref-16)
17. Consideration of Frankfurt cases might lead some to think that the proposal overstates what is necessary for freely refraining. It might then be restated as a conditional (rather than a biconditional) offering only a sufficient condition. (Thanks to Michael Zimmerman for raising this issue.) [↑](#footnote-ref-17)
18. For some examples, see Clarke (2014: ch. 3), Sartorio (2009), and Shepherd (2014). [↑](#footnote-ref-18)
19. Having the ability mentioned here should be understood to require (among other things) having what it takes mentally to do the thing in question. An agent with ordinary motor control might lack this kind of ability to touch a spider if she has a pathological fear of spiders. (Michael Zimmerman prompted this clarification.) [↑](#footnote-ref-19)
20. Contrary to what is claimed by Fischer (2017: 159). [↑](#footnote-ref-20)
21. Proponents of Responsibility as Answerability include Hieronymi (2014), Scanlon (1998: ch. 6), A. Smith (2005; 2015), H. Smith (2011), and Talbert (2017). A. Smith (2017) and Talbert (2017) apply the view to cases of unwitting omissions, and H. Smith (2011) applies it to cases of wrongdoing done from ignorance, in some of which the ignorance is due to unwitting omission. All three of these authors endorse the requirement, for blameworthiness, that the omission in question reflect morally objectionable attitudes (see the discussion in the text below). [↑](#footnote-ref-21)
22. ‘Judgment-sensitive’ is Scanlon’s (1998: 20) designation of the attitudes in question. As he puts it, “these attitudes are ‘up to us’—that is, they depend on our judgment as to whether appropriate reasons are present” (22). [↑](#footnote-ref-22)
23. See, e.g., A. Smith (2017) and Talbert (2017). It is an interesting question for what, on this theory, agents should be thought to be *directly* responsible. It might be thought to be the *attitudes* reflected by actions or omissions. If so, that would seem to make our responsibility for actions or omissions not quite direct (hence ‘*Or Nearly So*’ in the title of this section). Scanlon’s claim that these attitudes are “up to us” (quoted in the preceding note) suggests that we are directly responsible for *judgments* that partly constitute or rationalize these attitudes. [↑](#footnote-ref-23)
24. I remain neutral here between two ways of characterizing action: as caused in a certain way by certain things, or as a causing (of certain things, by certain things, in a certain way). My formulation is nevertheless committed to the idea that some of an agent’s attitudes play a key causal role when she acts. [↑](#footnote-ref-24)
25. It might still be said that we can have causation, albeit causation that is not relational. Lewis (2004) proposes this kind of view of causation involving absences. [↑](#footnote-ref-25)
26. An alternative diagnosis of Carla’s lack of responsibility for not turning on the pump in this case might note that (with the pump broken) Carla’s not trying to turn it on doesn’t cause (or quasi-cause) its not coming on. (Carolina Sartorio mentioned this alternative in correspondence.) On quasi-causation, see section 6. [↑](#footnote-ref-26)
27. See, e.g., H. Smith (2017: 99-102). [↑](#footnote-ref-27)
28. Pace Talbert’s suggestion (2017: 24, n. 10) regarding a similar case, *agent-regret* is not the attitude that is fitting for these parents to have. That attitude might be fitting for a parent whose infant fell victim to SIDS after the parent put her down for a nap. The latter parent’s conduct (we may imagine) was not in any way faulty, and she could not reasonably have been expected to act so as to prevent the death. In contrast, the conduct of the parent who leaves a child in a hot car is plainly faulty, and she certainly can reasonably have been expected to act so as to prevent the death. [↑](#footnote-ref-28)
29. I advance a view of this kind in Clarke (2014: ch. 7; 2017a; 2017b). Sher (2009; 2017) advances a similar account, one to which my own is much indebted. Two differences: first, Sher does not require that the agent be able to do the thing that she omits to do. (In fact, he holds [2017: 12] that on the occasion of an unwitting omission, the agent is *incapable* of recognizing and responding to the reasons to perform the action in question. But a failure to recognize and respond does not entail the incapacity; further, it seems to me that an agent subject to such an incapacity would not be directly responsible for the omission.) Second, he requires that the agent’s failure to recognize the wrongness of her conduct be caused by “the interaction of some combination of his constitutive attitudes, dispositions, and traits” (2009: 88). (As noted in the text earlier, the requirement might be stated in terms of explanation rather than causation.) If the causal (or explanatory) requirement is needed, it can easily be added to the view as stated in the text here. Accounts of responsibility for negligent conduct, which commonly stems from omissions to advert, that similarly appeal to agents’ capacities are advanced by Hart (1968), Sverdlik (1993), and Raz (2011: ch. 13). [↑](#footnote-ref-29)
30. Nelkin and Rickless (2017: 127) raise this worry about a similar case. [↑](#footnote-ref-30)
31. There might be something in the circumstances that caused Carla not to remember to turn on the pump (if not-rememberings can be caused). However, “caused not to do” does not imply “rendered incapable of doing.” More would need to be said to support the denial of the capacity on this occasion. [↑](#footnote-ref-31)
32. Levy (2011: 127) advances an objection of this kind regarding cases of this sort. [↑](#footnote-ref-32)
33. Nelkin and Rickless (2017: 119) raise this objection to the account at issue here. [↑](#footnote-ref-33)
34. Talbert (2017) raises this objection. [↑](#footnote-ref-34)
35. Miller (2017) argues for the related point that there is an inconsistency in holding both that blameless ignorance excuses and that tracing requires foreseeability but not actual foresight. [↑](#footnote-ref-35)
36. Several writers note such limitations on the strategy of deriving responsibility for an unwitting omission from responsibility for a prior decision. See, e.g., Clarke (2017a) and Nelkin and Rickless (2017). [↑](#footnote-ref-36)
37. Nelkin and Rickless (2017) advance an account of responsibility for unwitting omissions that appeals to responsibility for an earlier witting omission of this sort. As they see it, awareness that one is omitting to do a certain thing is a requirement for having the opportunity to do that thing. Thus, when an agent unwittingly omits to do something, she lacks the opportunity to do the thing then. I raised objections to this claim in section 4. In the text to follow here, I discuss a problem for their view of indirect responsibility for an unwitting omission. [↑](#footnote-ref-37)
38. Again, if a capacity for awareness, without actual awareness, can suffice (as far as the epistemic requirement is concerned) for this derivation of responsibility for the subsequent omissions, it is curious why a capacity for awareness can’t satisfy the epistemic requirement for direct responsibility for unwitting omissions. [↑](#footnote-ref-38)
39. Modelled on Dowe (2001: 222) [↑](#footnote-ref-39)
40. Carla’s turning on the pump prevents the bursting of the pipes if

    i) Carla turns on the pump;

    ii) The pipes don’t burst; and

    iii) There is some condition *x* such that

    a) Carla’s turning on the pump causally interacts with a process due to *x*; and

    b) Had Carla not turned on the pump, *x* would have caused the bursting of the pipes.

    (Modelled on Dowe [2001: 221].) [↑](#footnote-ref-40)
41. Moore, who argues (2009: 444-51) that omissions cannot be causes, maintains (451-52) that counterfactual dependence is necessary for responsibility for outcomes that ensue from omissions. [↑](#footnote-ref-41)
42. Sartorio (2004) advances a view on which even the weakened condition suggested here is not required. [↑](#footnote-ref-42)
43. Moore (2009: 448) argues that the commonly lesser responsibility for omissions (than for actions with equally bad outcomes) is explained by the causal difference that actions cause their outcomes whereas omissions do not. [↑](#footnote-ref-43)
44. Many thanks to John Martin Fischer, Dana Nelkin, Sam Rickless, Carolina Sartorio, and Michael Zimmerman for comments on an earlier draft of this chapter. [↑](#footnote-ref-44)