

Putting the Agency in Agent-Regret

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In “Voluntary Acts and Responsible Agents,” Bernard Williams sketches what it means to be a mature agent. This mature agent tries to make sense of their own life, which is a life that is shared with others. The idea of maturity is important to understanding agent-regret: it lets us move from recognizing that there is an emotion we sometimes feel when we harm others (through no fault of our own), to trying to understand why this matters. That is because the mature agent will “recognize his relation to his acts in their undeliberated, and also in their unforeseen and unintended aspects. He recognises that his identity as an agent is constituted by more than his deliberative self.” (Williams 1995, 32). The mature agent will see that the things they feel agent-regret about are still their own actions and that these actions affect who that agent is.

I think that some very brief reflections on how we are related to the unintended aspects of our actions can help us begin to understand why agent-regret matters. These reflections are meant to extend and supplement Gavin Enck and Beth Condley’s excellent work on why the concept of agent-regret has an important role to play in healthcare.

Enck and Condley’s cases of Dr. C and Nurse M make clear why agent-regret is distinct from the broader category of moral distress and why we might need to pay attention to agent-regret. There are many distressing things that one may experience while working in healthcare, but moral distress applies when one is constrained *externally*, such as by systems or other agents (Enck and Condley, 8). Agent-regret involves regretting one’s own actions, but it does also involve an important constraint—albeit an *internal* one that is very different from the constraints faced when one feels garden variety moral distress. It is the constraint imposed on us by being human agents in the first place.

We are, quite simply, always fallible in our agency. But this does not mean, as Joseph Raz put it, that we are “in an alien environment, tossed about on the waves of fortune whenever we venture beyond our thoughts and intentions” (Raz 2011, 237). While we sometimes gamble, other times we act purposively, even though our success depends “on matters over which we have little influence” (Raz 2011, 237). And some actions lie somewhere in the middle of this spectrum (Raz 2011, 237-238), such as the riskier actions we undertake. It means that we can have agency while there are still “factors outside [our] control or the result of chance” (Enck and Condley 2023, 10). In Enck and Condley’s picture, there is agency and there are factors outside of an agent’s control; but perhaps it is more accurate to say that agency always *depends* on factors outside of an agent’s control.

In fact, Enck and Condley’s Dr. C (2023, 3) illustrates this thought nicely: Dr. C must choose whether to perform CPR on Billy, a 10-minute old baby who enters cardiac arrest, and Dr. C knows that the chance of Billy surviving CPR and being discharged is 55%.¹ There are many factors that determine whether Billy will survive. Even if Dr. C is exceptionally knowledgeable and good at CPR, the chance of survival will always be far from certain. There’s simply nothing Dr. C can do that will *guarantee* Billy survives. And this is true of basically anything we do: we cannot guarantee that our agency functions as intended, even when we act in a skillful and appropriately intentioned manner.

I have argued that calling cases like Billy’s death an accident is a problem, because it may suggest that there is no agency involved—and that can be damaging to an agent (Wojtowicz 2022). As I argue elsewhere (Wojtowicz 2022, 505), when we say something is an accident, we risk suggesting that our role is—in Thomas Nagel’s words—“swallowed up by the order of mere events” (Nagel 1979, 36). Something has happened, and it has happened in a way that involves Dr. C; but, as an accident, it does not concern Dr. C’s agency.² This picture is flawed and we must resist it.

¹ As Enck and Condley rightly put it, “Agent-regret means that the person regrets *their* agency in the event” (2023, 9); but it is compatible with this that might do the same thing again - after all, Dr. C took a risk to save Billy, it did not pay off, but it may have nonetheless been the right choice (see Williams 1982, 31).

² I’m not sure it quite makes sense to label this an “accident,” but the broader point persists that efforts to comfort Dr. C will often mistakenly rely on minimizing her agency.

When Dr. C feels agent-regret, she recognizes that Billy's death was not just part of the order of mere events; rather, the traumatic nature of Billy's death was an unintended, even if foreseen, outcome of Dr. C's action. It was a risk Dr. C took, and so it should be seen as something Dr. C did, not as a mere part of the world that stands unrelated to human agency.³ Her regret is a recognition of this fact. As Enck and Condley point out, reducing this to an accident risks "losing the crucial elements, motivations, obligations, and reasons clinicians use to understand and make sense of their daily activities, procession, and even self" (Enck and Condley 2023, 11).

Agent-regret is not about regretting the fact one is an agent. It is about embracing that fact. While we do regrettable things, sometimes through no fault of our own, we are only able to do *anything* through this fallible, shaky agency. But if one is not open to agent-regret, one also cannot consistently be open to feeling good about the achievements of one's agency (Wojtowicz 2019, 130-134). And if one is not open to agent-regret, one does not have a mature understanding of oneself as a fallible agent. To push things further, failing to allow space for agent-regret—and the recognition of fallibility that comes with it—risks failing to accept that one is an agent at all. This is because the model of the self, the model of agency, that agent-regret forces us to recognize is one where fallibility is central.

These reflections lead on to a broader question: What does it mean to be a mature medical agent? More specifically, this leads to questions like: What peculiarities of medical practice (and this might vary across contexts or countries) affect how this fallibility should figure in medical decision-making? How should the agent view themselves? How should we structure systems not only to be able to account for this in legal pictures, but to support an agent

³ Enck and Condley also talk about how "there are some accidents in which a person may reasonably hold they have agency" (Enck and Condley, 11). This is one way of putting it; another is that Dr. C took a risk, or Dr. C made a decision. Enck and Condley's picture perhaps risks focusing too much on the *accident* part, and thus inadvertently might reduce Dr. C's role, too.

who has caused harm through flawless decision-making (see Enck and Condley, 13)?⁴

Enck and Condley's paper makes clear that these questions are not merely theoretical. Dr. C felt "deep depression and grief" (Enck and Condley, 3) about Billy's death, despite conversation with friends and counselors. I don't think it is reasonable to expect support systems to remove that deep depression and grief. A mature agent who lives a life with others needs to realise that they might, simply through acting as a fallible agent, harm others, and this can be depressing. But we should build systems that ensure that agents in these scenarios experience the right sort of sadness. They should be helped to recognize they have harmed others, which is different from having made the wrong choice or having done something inadequately; and the practical steps required to move on from this will be different to those required when one has harmed others through error or inadequacy.

References

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⁴ Perhaps my approach, which puts more stress on the fallibility of agency, moves us away from the And-Stance. Enck and Condley see it as capturing the "often contradictory elements that are vital to agent-regret" (Enck and Condley, 13). I deny the contradiction: fallibility is part of agency, it does not stand in contrast to it.