**A capacitarian account of culpable ignorance**

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Forthcoming in *Pacific Philosophical Quarterly*.

**Abstract**

Ignorance usually excuses from responsibility, unless the person is culpable for the ignorance itself. Since a lot of wrongdoing occurs in ignorance, the question of what makes ignorance culpable is central for a theory of moral responsibility. In this paper I examine a prominent answer, which I call the ‘volitionalist tracing account,’ and criticize it on the grounds that it relies on an overly restrictive conception of responsibility-relevant control. I then propose an alternative, which I call the ‘capacitarian conception of control,’ and on the basis of it I advance an account of culpable ignorance that avoids the skeptical upshots of the volitionalist proposal. If correct, my account establishes three important truths: agents can be directly in control of their ignorance, they can be directly responsible for more than actions and omissions, and their moral obligations extend beyond the performance of intentional actions and omissions.

**1. Introduction**

Ignorance is standardly recognized as one of the preeminent excuses from moral blame[[1]](#endnote-1): if you perform a morally wrong action, but you ignore it’s wrong, then you’re off the hook—unless you’re responsible for the ignorance itself. When the latter is the case your ignorance is culpable, and culpable ignorance doesn’t exculpate (at least not completely).[[2]](#endnote-2) But what does it take for ignorance to be culpable? This is the central question I will address in this paper.

You may initially think that the interest of this topic is rather narrow; after all, how common could ignorant wrongdoing be? Well, a moment’s reflection suggests that it’s likely to be *extremely* common (Rosen 2004; Zimmerman 2008: ch. 4; Sher 2009; Clarke forthcoming b). This is because only one specific type of wrongdoer fails to act from ignorance, namely the *clear-eyed* *akratic wrongdoer*. In general, an agent acts akratically when he acts against his best judgment about what he ought to do all things considered; the kind of akratic wrongdoer at issue here does wrong while *consciously* judging that his action goes against what he ought *morally* to do all things considered. In other words, he commits wrongdoing while believing that his conduct is all things considered morallywrong. Of course, the question of how much actual wrongdoing is perpetrated by clear-eyed akratic agents is an empirical one; for present purposes, however, I will assume that very little does.[[3]](#endnote-3) (Taking into account the propensity of human beings to rationalize their conduct so that it appears under a favorable light, this seems like a relatively safe bet.) Now since ignorance normally excuses, ignorant wrongdoers won’t be culpable for their actions unless they are culpable for their ignorance.[[4]](#endnote-4) So if ignorance is indeed as pervasive as I have suggested, then the question of what makes ignorance culpable turns out to be central for a theory of moral responsibility.

My negative aim in the paper is to discard a prominent answer to this question, which I call the *volitionalist* *tracing account* of culpable ignorance.[[5]](#endnote-5) (I henceforth refer to the advocate of this account as ‘the volitionalist.’)[[6]](#endnote-6) As we’ll see, the volitionalist advances two bold claims on the strength of this account: first, that most ordinary ascriptions of culpability for ignorance and for unwitting wrongdoing are mistaken or at least unfounded; second, that a form of global skepticism about moral responsibility follows, since most wrongdoers perform their wrong actions ignorantly (Rosen 2004; Levy 2011: ch. 5).[[7]](#endnote-7) I will attack the volitionalist account by attacking its basic assumption—that ignorance is necessarily beyond the agent’s direct control—and the conception of control that supports it.

My positive aim is to present an account of culpable ignorance that vindicates ordinary attributions of culpability for ignorance and that avoids the skeptical upshot mentioned above. My account is grounded on an alternative conception of the kind of control that is relevant for ascriptions of responsibility, which I call the *capacitarian account of control* since it appeals not to what the person knowingly and intentionally does but rather to a set of responsibility-relevant capacities the person has. (I henceforth refer to the advocate of this account as ‘the capacitarian.’) If correct, my account establishes three important claims that are often denied: agents can have direct control over their ignorance; they can be directly responsible for more than actions and omissions; and their moral obligations extend beyond the performance of intentional actions and omissions.

A brief methodological note is in order before we proceed. Since I don’t have a knock-down direct argument against the volitionalist’s conception of control, I concede that he can dig his heels in and refuse to accept the alternative conception I’ll offer as well as my account of culpable ignorance. But my argument isn’t addressed to the volitionalist himself, but rather to those who are worried about the consequences of the volitionalist’s position. I’ll show that the volitionalist is mistaken in assuming that if we accept both the relevance of control for responsibility and the pervasiveness of ignorance a skeptical upshot follows, given that there is a plausible conception of control that isn’t undermined by ignorance—the capacitarian one. I assume that we have an interest in vindicating (at least some of) our ordinary attributions of blame, including attributions of blame for ignorance and ignorant wrongdoing; if so, my conception of control, along with my account of culpable ignorance, should be preferred over the volitionalist’s on this count.

This is the plan of the paper. In section 2 I explain briefly the kind of ignorance I’ll be concerned with here. In section 3 I introduce the volitionalist tracing account of culpable ignorance and bring to light the assumptions I’ll be denying. In section 4 I present my capacitarian accounts of control and of culpable ignorance, and establish the three important claims mentioned above. Finally, in section 5 I consider an argument against the third important claim.

**2. Morally relevant ignorance**

I’ll be working with the following conception of morally relevant ignorance, i.e., ignorance that can potentially[[8]](#endnote-8) excuse a wrongdoer from blame:

*Morally relevant ignorance.* An agent’s ignorance is morally relevant if he lacks an occurrent true belief (awareness) of his action’s or omission’s wrong-making features that together make it all things considered wrong.[[9]](#endnote-9), [[10]](#endnote-10)

Three clarifications are in order. First, ignorance for present purposes is lack of true belief rather than lack of knowledge, given that lack of knowledge proper about one’s action’s wrong-making features is never in itself an excusing condition (Rosen 2008: 596; Peels 2014: 493-4). Second, I’ll assume that the belief in question must be occurrent rather than dispositional for the following reason: I want to be able to say that an agent who forgets some relevant piece of information acts from ignorance, since many cases that intuitively are cases of culpable ignorance involve forgetful agents. When someone lacks an occurrent true belief about X he lacksawareness of X and so, for present purposes, ignorance is lack of awareness.[[11]](#endnote-11) Third, the X that is relevant here concerns the non-normative features of one’s action or omission that make it all things considered wrong, since ignorance of them is what can potentially excuse a wrongdoer.[[12]](#endnote-12)

Let’s turn now to the question of what makes ignorance thus understood culpable.

**3. The volitionalist tracing account of culpable ignorance**

*3.1 The volitionalist’s argument*

The volitionalist tracing account of culpable ignorance emerges from the following quintet of assumptions:[[13]](#endnote-13)

i) culpability for ignorant wrongdoing requires culpability for ignorance;

ii) direct (or original) culpability for X presupposes direct control over X;

iii) one can’t have *direct* control over one’s ignorance;

iv) one has control over one’s ignorance only through the mediation of epistemic duties of care;

v) the breach of epistemic duties of care usually occurs in ignorance.

Three terminological clarifications are necessary. First, if an agent has control over X only because he has control over Y and there is some sort of connection between Y and X, then the agent’s control over X is *indirect* (or *derivative*). Control that isn’t indirect is direct. Second, if an agent is responsible (i.e., blameworthy)[[14]](#endnote-14) for X only because he’s responsible for another thing Y and there is some sort of connection between Y and X, then the agent’s responsibility for X is *indirect* (or *derivative*). Responsibility that isn’t indirect is direct (or original). Third, *epistemic duties of care*[[15]](#endnote-15) are duties of care that concern specifically the agent’s awareness of the permissibility of his conduct. When an agent is subject to an epistemic duty of care, he must take certain steps to ensure that he learns, notices, remembers, or otherwise is aware of some morally relevant consideration at appropriate times.

I will illustrate the volitionalist’s argument with the following example provided by Rosen (2004: 303):

Suppose a surgeon orders that her type A patient be transfused with type B blood, that she does this only because she is mistaken about the patient’s blood type, and that she is mistaken about the blood type only because she neglected to double-check his chart (which had just been updated) immediately prior to surgery, as standard practice requires.

From assumption i) follows that the surgeon is culpable for negligently harming her patient only if she is culpable for her ignorance of the latter’s blood type. However, from assumptions ii) and iii) follows that the surgeon can’t be directly responsible for her ignorance. Thus, culpable ignorance is always a matter of indirect (or derivative) responsibility. It follows from iv) that the surgeon’s responsibility for her ignorance derives from her responsibility concerning her failure to discharge an epistemic duty of care (in this case, to double-check the patient’s chart). However, more likely than not—and as v) anticipates—this failure will have been an unwitting one, in which case the surgeon has a potential excuse for it, namely that at the pertinent time she was ignorant of the fact that she was omitting to comply with her epistemic duty. The recursive structure of the argument becomes apparent here: the volitionalist happily concedes that the surgeon should have known better, but then points out that, given that her failure to comply with her epistemic duty occurred in ignorance, assumptions i) through iv) apply all over again. Thus, we must find in the ‘culpability chain’ a *further* failure of the surgeon to comply with a *further* epistemic duty from which her ignorance concerning the original duty (i.e., to double-check the chart) derives.

Now at this point two possibilities arise: either there is such further epistemic duty that was disregarded by the surgeon or there isn’t. If there is indeed a further epistemic duty she was subject to (e.g., if she’s forgetful, asking a colleague to remind her about the chart), the regress will be stopped at this point only ifshe *knowingly* disregarded it, in which case the surgeon’s culpability for this breach of duty reverberates all the way down, making her culpable for her ignorance of the patient’s blood type and for negligently harming him. But if there wasn’t such further duty, then it follows from iv), plus the assumption that responsibility requires some form of control, that the surgeon’s ignorance concerning her failure to discharge the original epistemic duty is non-culpable.[[16]](#endnote-16) This entails, in turn, that her first-order ignorance (i.e., of the patient’s blood type) and her negligent wrongdoing are non-culpable as well. Thus, we arrive at the following conception of culpable ignorance:

*Volitionalist culpable ignorance.* An agent S is culpably ignorant of some pertinent truth *p* if, and only if, his ignorance of *p* is the *foreseen*[[17]](#endnote-17) upshot of his having *knowingly* disregarded an epistemic duty of care.

If we add the assumption that the epistemic duty in question wasn’t counterbalanced by any other duty, and the assumption that undefeated duties give rise to all things considered reasons to act, it follows that an agent is culpably ignorant if and only if he akratically flouted an epistemic duty at some point. Therefore, and as Rosen (2004: 307) brazenly puts it, according to the volitionalist ‘the only possible locus of original responsibility is an akratic act.’ Ignorance is culpable when, and only when, it can be traced back to such an act—or so the volitionalist claims.

*3.2 Unpalatable consequences of the volitionalist account*

The volitionalist account of culpable ignorance entails two unpalatable consequences, which are nevertheless happily endorsed by volitionalists themselves. First, that our ordinary judgments about culpability for ignorance are mistaken or, at least, unfounded. For, the volitionalist will ask rhetorically, how often are we warranted in assuming that putative instances of culpable ignorance are rooted in the akratic failure to discharge an epistemic obligation? Consider the surgeon again. I presume that ordinary intuitions in this case lean heavily towards the judgment that, absent some pretty compelling excuse such as extreme fatigue or other kind of overwhelming mental incapacity, the surgeon is culpably ignorant of the fact that her patient’s blood type is A rather than B. I also presume that we emphatically wouldn’t count the retort ‘But I never even thought about checking the chart or taking any other precaution!’ on the surgeon’s part as pointing to such an extenuating circumstance. However, the volitionalist will insist that the intuitive judgment about the surgeon’s culpability isn’t warranted unless and until we have evidence of her having akratically flouted an epistemic duty at some point. It thus follows from the volitionalist’s position that the aforementioned retort is, if true, an extenuating circumstance after all.

The second unpalatable consequence of the volitionalist account is that it leads to global skepticism about moral responsibility by extending the reach of the regress argument.[[18]](#endnote-18) In effect, Rosen (2004) begins by noting that most ordinary wrongdoers act from one or another type of ignorance (factual or moral). At the minimum, most wrongdoers ‘act from ignorance about what is to be done all things considered’ (Rosen 2004: 307). If this is indeed the case, then the regress argument implies that, in order to judge them blameworthy for their ignorant wrongdoing, we need to ascertain first whether they’re culpable for the ignorance from which they act—which, as per the regress argument, forces us to locate an akratic act in the culpability chain. Of course, there is a type of wrongdoer who doesn’t act from ignorance about what should be done all things considered, namely, the akratic wrongdoer. So we face Rosen’s dictum again: ‘the only possible locus of original responsibility is an akratic act’ (idem). If we add the observation that in making ordinary judgments of blameworthiness we’re rarely (if ever)[[19]](#endnote-19) justified in thinking that either the wrong act was akratically performed or that an instance of akrasia lies somewhere in the culpability chain, the skeptical upshot follows: we’re rarely (if ever) justified in making judgments of blameworthiness.

*3.3 Finding a way out*

Three basic assumptions stand out in the volitionalist’s account:

a) culpability for ignorant wrongdoing requires culpability for ignorance;

b) culpable ignorance results from (must be traced back to) the agent’s failure to discharge an epistemic obligation;

c) ignorance is necessarily beyond the agent’s direct control.

I think that a)—what I call the Culpable Ignorance Principle—is correct, although I can’t provide a defense of it here (though see the end of 4.5 for some brief considerations in its support). Concerning b), I will argue below that a restricted version of this claim is plausible;[[20]](#endnote-20) in other words, tracing *per se* isn’t the problem. Rather, what fuels Rosen’s skeptical argument is c). In effect, it’s the latter that gets the regress argument going, for it implies that an agent who is unaware of a morally relevant consideration is never directly blameworthy for his ignorance. Why does Rosen (and other volitionalists) find c) obviously true? The reason, I suggest, is that c) follows almost by definition from the *volitionalist conception of control* that Rosen and other volitionalists accept. This conception can be stated along these lines:

*Volitionalist control*. An agent S has direct control over an action or omission if, and only if, S performs it intentionally and in full awareness of its moral valence.[[21]](#endnote-21)

Assumption c) obtains almost by definition from this conception of control by way of the following reasoning. Begin by noting that an agent’s ignorance is a passive matter in this respect: whether an agent recalls something he should—for instance, whether the surgeon recalls that she should double-check the chart before ordering a transfusion—isn’t something he does *intentionally*. In effect, recalling that *p*, along with noticing that *p*, foreseeing that *p*, being aware that *p*, etc., aren’t themselves actions[[22]](#endnote-22) and so failures to recall, notice, foresee, or be aware of something aren’t omissions to act. This means that they don’t fall under the purview of the above definition of direct control. As a consequence, ignorance that results from the agent’s failure to recall, notice, foresee, or be aware of a morally relevant consideration isn’t under his direct (volitionalist) control either. The volitionalist insists that one can *do* things to influence one’s state of awareness—this is precisely the point of the agent’s being subject to epistemic duties of care. But, the volitionalist concludes, this fact only reinforces the point that agents necessarily lack *direct* control over their ignorance, as well as the corollary that responsibility for ignorance is necessarily derivative.

If what I just said about the origin of assumption c) is correct, then in order to discard it we need to provide an alternative to the volitionalist conception of control. Such alternative conception must be able to make sense of the seemingly puzzling idea that agents can have direct control (in the responsibility-relevant sense) over their ignorance and so can be directly responsible for it.[[23]](#endnote-23) With such conception of control at hand, it will be possible to offer an explanation of culpable ignorance that short-circuits the regress present in the volitionalist account without needing to postulate an akratic act in which the culpability chain bottoms out.[[24]](#endnote-24)

**4. A capacitarian account of culpable ignorance**

I’ll argue now that a suitable *capacitarian* *conception of control* provides the needed cornerstone to build a more appealing account of culpable ignorance. The basic idea of my account can be simply stated as follows: an agent is culpably ignorant of some pertinent consideration if, and only if, he *should* and *could* (in a sense to be made precise below) have been aware of it. So, for example, if it’s true of the surgeon not only that she should have been aware of the need to double-check the chart, but also that she had the requisite capacities for realizing this plus a fair opportunity to exercise them,[[25]](#endnote-25) this suffices for her to be (directly) culpably ignorant of the need to discharge this epistemic duty and (derivatively) culpably ignorant of her patient’s blood type—so no akratic act is needed. I proceed to unpack this basic idea, beginning with a characterization of capacitarian control.

*4.1 Capacitarian control*

The key insight of the capacitarian conception of control is that the control that matters for ascriptions of direct responsibility consists in the possession, rather than the actual exercise, of a set of responsibility-relevant capacities or abilities (I use these terms interchangeably). I divide these abilities in two main camps: awareness-related and moral ones.

4.1.1 Awareness-related abilities

What I call awareness-related abilities are a suit of psychological abilities that allow an agent to be aware of relevant considerations (moral and non-moral ones). Clarke (forthcoming a: 6) provides a nice summary of these abilities:

Some are capacities to do things that are in a plain sense active: to turn one’s attention to, or maintain attention on, some matter; to raise a question in one’s mind or pursue such a question; to make a decision about whether to do this or that. Some are capacities to do things that aren’t intentional actions. These include capacities to remember, to think of relevant considerations, to notice features of one’s situation and appreciate their normative significance, to think at appropriate times to do things that need doing.

It’s crucial to emphasize a point Clarke mentions here: not all awareness-related abilities are ‘active,’ that is, not all of them are abilities to perform intentional actions. So, for instance, whereas asking oneself a question in order to be sure that one doesn’t forget anything important—‘Is there anything else I had to do before leaving the office?’—is clearly an intentional action (albeit a mental one), recalling isn’t itself an intentional action. And the same occurs with the ability to notice normatively salient features of one’s situation. One can tell oneself ‘I must be very attentive because I might miss something relevant’ or take active steps to focus one’s attention on something, but the fact remains that noticing relevant features isn’t itself an intentional action. As will be patent in the discussion that follows, in my view the awareness-related abilities that are central for cases of culpable ignorance aren’t abilities to perform intentional actions. This is because ordinary cases of culpable ignorance involve agents who forget important considerations, fail to think of them at appropriate times, or fail to notice significant features of their situation and yet, as I will argue, they can be directly responsible for such failures despite not being omissions to perform intentional actions.[[26]](#endnote-26)

4.1.2 Moral abilities

The moral abilities that matter for moral responsibility are standardly factored into cognitive and executive (or volitional) abilities: these are, respectively, the abilities to recognize and respond to moral considerations (Wolf 1990; Wallace 1994; Fischer and Ravizza 1998; Vargas 2013).

The ability to recognize moral considerations is grounded on the awareness-related ability to appreciate the normative significance of features of one’s situation but goes beyond it. Whereas the latter allows one to realize that certain facts constitute reasons for action, the former does the same but concerning a more specific class of reasons, namely moral ones. It’s worth noting that even though I have referred to this ability as a “cognitive” one, this shouldn’t be interpreted as excluding emotional elements from it. Rather, it also seems plausible that certain emotional capacities (a capacity for empathy, say) may be necessary for an agent to be able to recognize certain moral reasons (Nelkin 2011: 22-3).

Turning to the executive (or volitional) capacity to respond to moral reasons, it suffices to state the obvious point that it amounts to the capacity to choose and act in accordance with the moral reasons one has recognized. In the cases of interest here, it includes the capacity to take precautionary measures against ignorance in cases where epistemic duties of care are involved. Importantly, neither the capacity to detect nor the capacity to respond to moral reasons are impervious to situational influences. On the contrary, an agent’s moral abilities can be deeply affected by features of his situation, some of which can significantly impair their adequate exercise. This is fully acknowledged in the account of responsibility for ignorance I present below, which states that, beyond the possession of the relevant capacities, an agent is responsible only if he has a fair opportunity to exercise them—or, in other words, if nothing in his situation decisively interferes with (or makes excessively difficult) the exercise of the relevant capacities.[[27]](#endnote-27)

In sum, I propose the following conception of responsibility-relevant control:

*Capacitarian control*. An agent S has direct control over φ if, and only if, S has the requisite awareness-related and moral abilities to make it the case that φ occurs and a fair opportunity to exercise them.

Crucially, in this definition the variable ‘φ’ is *not* restricted to actions and omissions. Thus, in my account an agent can have direct control (in the responsibility-relevant sense) over ‘doings’ that aren’t intentional actions such as recalling, noticing, foreseeing, or being aware of morally relevant considerations, provided that he has the requisite abilities to do these things and a fair opportunity to exercise them.[[28]](#endnote-28)

4.1.3 Attributing unexercised capacities

A central thesis of my capacitarian account is that blameworthiness is intimately tied to the agent’s possessing, but failing to exercise, certain responsibility-relevant capacities despite having a fair opportunity to do so. That is: if an agent has the requisite abilities (moral and non-moral) to recognize and respond to relevant considerations, and yet disregards the latter and commits wrongdoing (however unintentionally) despite having had a fair opportunity to exercise those abilities, then he’s a fitting target of blame—both for the wrongdoing and for his ignorance. Given this conception of blameworthiness, the capacitarian must explain on what basis unexercised capacities and the fair opportunity in question are attributed to agents.

At this point I adopt what I call a ‘commonsensical view of unexercised capacities and fair opportunity.’ In essence, the view is that the default stance, when considering whether a particular person has the requisite abilities and fair opportunity to be accountable for what he does or fails to do, consists in assuming that seemingly normal adults do have those abilities even when they fail to exercise them, and do have such opportunity even when they fail to take advantage of it. At the same time, we—that is, the ones trying to determine whether a particular agent is blameworthy for a bit of wrongdoing—are open to the possibility that certain pieces of evidence might defeat this default assumption. The kind of evidence that is relevant to play this role can be roughly divided in three camps:

i) evidence concerning impairments of the person’s mental capacities (for instance, we might get some evidence that the surgeon’s memory is damaged by a neurological disease);

ii) evidence concerning the person’s past performances in similar situations (for instance, there might be evidence showing that the surgeon nearly always forgets to double-check her patients’ chart before ordering a procedure);[[29]](#endnote-29)

iii) evidence concerning situational factors that decisively interfere with the deployment of the relevant abilities (for example, we might learn that, since the surgeon’s hospital is heavily underfunded, she was, at the time she forgot about the chart, in her third consecutive 12-hour shift and was completely exhausted as a result).

Evidence pertaining to these categories can defeat the initial assumption that the agent in question has the requisite capacities or fair opportunity that are necessary for moral accountability. However, as I said above, it’s my view that we don’t need to gather *positive* evidence before attributing to him the requisite capacities or opportunity.

A possible objection to the commonsensical account of unexercised capacities just sketched goes like this.[[30]](#endnote-30) There is a wealth of evidence from the situationist experimental tradition in social psychology showing that apparently unobtrusive situational influences—such as loud ambient noise (Matthews and Cannon 1975), time pressures (Darley and Batson 1973), other agents’ indifference (Latané and Darley 1970), the entreaties of an experimenter (Milgram 1969), etc.—make it significantly harder to recognize and/or respond to relevant moral considerations. But if this is so, then many of our commonsense judgments of blameworthiness will be erroneous, since normally the presence of those influences isn’t taken as evidence of lack of moral capacity on the agent’s part and, consequently, we will mistakenly attribute unimpeded moral competence even when the wrongdoing is at least partially explicable by those situational factors.

As a response, I want to point out that it’s implausible to think that agents in situationist experiments quite generally lack, because of the situational influences introduced by the experimenters, the requisites capacities or opportunity to detect and respond to the relevant moral considerations. For example, while it’s true that time pressures made it harder for agents in the famous Good Samaritan experiment (Darley and Batson 1973) to recognize the contrived suffering of an actor, this doesn’t necessarily mean that those pressures pushed their moral competence under the threshold required for moral responsibility. If they didn’t, then situational influences of this kind needn’t be construed as *exemptions*. Similarly, they needn’t amount to *excuses*: in effect, it seems tolerably clear that being in a hurry or other agents’ indifference don’t pertain to the same category as, for instance, duress or blameless ignorance, in that the former don’t seem to make it unfair to hold the agent accountable.[[31]](#endnote-31) One consideration in favor of the fairness of blaming wrongdoers subject to mild situational influences is the ordinary assumption that normal agents are able (within certain limits) to overcome those influences and behave correctly, and nothing in the situationist literature shows this assumption to be incorrect (although, of course, ongoing research may help us better understand what the reasonable limits of moral capacities look like). So if the influences and pressures tested in situationist experiments don’t amount to either exemptions or excuses, then we aren’t forced to retract attributions of blame when we learn that a particular wrongdoer was subject to them, even if their presence might warrant some leniency.

On the other hand, the objector is surely right that it’s possible for a particular wrongdoer to lack moral competence even when it seems to us that there is no evidence showing this. In these cases, attributions of blame will indeed misfire. However, this isn’t a problem for my view, since it doesn’t postulate that our judgments of blameworthiness are infallible. What I do claim is that situationist experiments fail to establish that there is a radical disconnect between our assessments of moral competence and the facts, since it’s one thing to show that is *harder* than one might have thought for a particular agent to correctly exercise her moral capacities in certain situations and, quite another, to show that one was mistaken in assuming that the required moral competence was there in the first place. Given a plausible theoretical conservatism concerning our blaming practices, we have good reason to interpret the situationist evidence in the former way rather than the latter.

4.1.4 Unexercised capacities, ill will, and blame

A different objection to my proposal takes its cue from my response to the previous one.[[32]](#endnote-32) Even if one accepts that, say, agents in the Good Samaritan experiment retained an adequate degree of moral competence and so could have known (and done) better, one thing the experiment strongly suggests is that their failure to detect the relevant considerations—the affected agony of a confederate of the experimenters—isn’t explicable by a deficiency of regard towards the suffering of others. But if this is the case, then the agent’s failure to detect the relevant considerations (and thus her ignorance) isn’t blameworthy, despite the fact that the situational pressures involved don’t count as excuses and despite the fact that she should and could have known better. Thus, unexercised moral capacities don’t yield blameworthiness in the absence of ill will on the agent’s part—or so the objector contends.

In stark contrast, my view is that in certain cases an agent’s ignorance and her subsequent wrongdoing *can* be blameworthy even when they aren’t explicable by ill will, understood as an objectionable underlying attitude toward the affected party. (I present an example in 4.4 below.) In my view, blame is appropriate when the following combination of factors obtain: capable agent plus wrong deed and no excuse. A natural question at this point is why blame would be appropriate simply because a capacity wasn’t exercised. A full answer requires a separate paper, but here I will briefly try to support this view in a roundabout way with an analogy from the sports realm.

Imagine a goalkeeper who commits a serious blunder that leads to a decisive goal against his team. He’s usually a very reliable player, so his teammates and the team’s fans have every reason to think that he has the requisite capacities to have caught this ball. Moreover, he doesn’t seem to have any excuse for his blunder: he wasn’t blinded by the sun; no other player blocked his visibility; the field was in excellent conditions; he didn’t suffer a sudden muscle cramp; the ball wasn’t kicked with unusual force, etc. In light of all this, it seems clear that the goalkeeper is an apt target of blame; not *moral* blame, of course, but some close analogue. The kind of response that his teammates and the fans will exhibit has a judgment component (‘who’s to blame for the defeat?’ ‘The goalkeeper is’) and an emotional component (they will resent him for the defeat and he will likely feel something close to guilt or shame) that look a lot like the ones that characterize moral blame. The crucial point I want to highlight is that the appropriateness of blaming the goalkeeper hinges exclusively on his having failed to exercise certain goalkeeping-relevant capacities despite having a fair opportunity of doing so. If this is correct, then there’s nothing strange in the idea that in many settings close analogues of moral blame can be appropriately leveled against an agent simply because he failed to exercise certain relevant capacities.

But what about *moral* blame? That is, why would we concede *moral* importance to the failure to exercise certain capacities? As in the goalkeeper’s case, many other social roles make their occupants liable to blame (or close analogues) in case they perform badly provided that they have the requisite abilities to act correctly and a fair chance of exercising them. What is peculiar about moral blame, I suggest, is the special nature of the role we occupy when we are potential targets of it, namely, that of a self-governing member of the moral community.[[33]](#endnote-33) The essence of this role is the constant demand of being alive to certain kinds of considerations that are particularly important for social creatures like us—considerations having to do with other people’s legitimate interests and the constraints and demands these impose on our pursuits. And judgments of moral responsibility are judgments about how good a job we and others are doing in living up to the demands of that role. When someone fails to exercise the capacities that are critical for performing well in this role—the awareness-related and moral abilities described above—and lacks a valid excused for this failure, moral blame is thereby the appropriate response.[[34]](#endnote-34)

Of course, much more must be said to fully defend this view, but I hope this sketch suffices for giving at least some plausibility to the capacitarian account of blameworthiness I’m relying on here.

*4.2 A capacitarian* tracing *account of culpable ignorance*

I turn now to put to work the capacitarian conception of control and blameworthiness sketched above to address the problem of culpable ignorance. As I said in 3.3, the appeal to tracing isn’t the substantial problem with the volitionalist account. On the contrary, tracing is a basic component of a comprehensive account of culpable ignorance because in many (though not all) cases the agent’s ignorance does derive from his having disregarded an epistemic duty of care. Thus, in these cases the agent’s culpability for his ignorance must indeed be traced back to the breach of such duty. What needs to be resisted is the volitionalist’s further claim that this breach must necessarily be a *knowing* one. If we reject this claim, a plausible tracing account of culpable ignorance emerges.

An agent’s ignorance traces back to the breach of an epistemic duty whenever he *can’t* become aware of the relevant consideration without first doing what an epistemic duty he’s subject to asks him to do. Take the case of the surgeon again. At the time she orders the transfusion, she’s unaware that her patient’s blood type is A rather than B and consequently is unaware that her action of ordering a type B transfusion is all things considered wrong. Since she can’t become aware of these facts (which by hypothesis she should be aware of) without first checking the patient’s chart, she’s under an epistemic obligation to do so. So if she’s culpably ignorant of her patient’s blood type and of the moral status of her action, her culpability must be traced back to her culpability for failing to check the chart. So what we need to find out is whether she had capacitarian control over her checking the chart—that is, whether she had the requisite abilities to do so and a fair opportunity to exercise them.

Now, more likely than not, the surgeon’s omission to check the chart will have been an unwitting one. But this by itself doesn’t deprive her of the requisite abilities to recall her obligation to check the chart and to comply with it, nor does it deprive her of the fair opportunity to exercise them. Thus, assuming that certain evidential defeaters of the kind discussed above are absent, we can attribute to the surgeon direct capacitarian control over her checking the chart. And if she had such control, then she’s directly blameworthy for her unwitting omission to do so. And since as a result of such omission she’s ignorant of relevant considerations awareness of which would have been secured had she complied with the obligation in question, her ignorance of such considerations is derivatively culpable. Therefore, according to the capacitarian account the culpability chain stops here: with the surgeon’s direct culpability for her unwitting omission to check the chart.[[35]](#endnote-35)

So there’s this crucial difference in the way the volitionalist and the capacitarian employ tracing. Whereas the volitionalist attempts to anchor responsibility in a previous moment in which the agent *actually* exercised control—a moment in which the agent knowingly performed some action, or omitted to perform one, from which his subsequent ignorance derives—the capacitarian anchors responsibility in a previous moment in whichthe agent was *capable* of exercising control and, had he done so, he would have avoided being ignorant of the relevant considerations. Thus, the capacitarian is able in this way to short-circuit the regress that, according to the volitionalist, must continue unless and until an akratic act is found.[[36]](#endnote-36)

*4.3 A capacitarian* non-tracing *account of culpable ignorance*

Now consider this objection from the volitionalist, answering which will allow me to introduce the non-tracing component of my account:

So far you have given us a story according to which the surgeon is derivatively blameworthy for her ignorance of the patient’s blood type and of the wrongness of her action because she’s directly blameworthy for her unwitting omission to pay heed to her epistemic duty to check the chart. Now since this omission was an unwitting one, the agent was, at the time it occurred, ignorant of the fact that she was failing to comply with such duty. But an agent is blameworthy for what he does, or omits to do, from ignorance only if he’s blameworthy for the ignorance itself. So the surgeon is culpable for her unwitting omission to check the chart only if she’s culpable for her *ignorance* concerning the need to do so. So at this point a dilemma arises for your account. On the one hand, suppose that the surgeon was subject to a further epistemic duty to do something to make sure she didn’t forget about the chart, like asking a colleague to remind her about it. If this is the case, presumably you will insist that the surgeon’s ignorance about the chart is derivatively blameworthy because it resulted from her omission to ask her colleagues to remind her about it. But if, as seems likely, she will have omitted this other precaution while ignorant too, the same question about her culpability for *this* bit of ignorance will arise again. So we must search further in the culpability chain. On the other hand, suppose that there wasn’t a further epistemic duty the surgeon was subject to beyond her obligation to check the chart. If this was the case and she forgot about the chart all the same, then her ignorance wasn’t the result of a further unwitting omission, in which case your tracing account fails to apply. So in this case, although the culpability chain does come to an end, it’s an abortive one: the surgeon’s ignorance of the need to check the chart isn’t culpable, and consequently she’s culpable neither for her failure to check it nor for the resulting ignorance concerning her patient’s blood type. In sum: either your tracing account must go on forever or it must come to an abrupt and abortive end. (Or else it must stop where I—the volitionalist—say it does: in an akratic act.) So in either case the culpability chain *cannot* successfully stop where you claim it does: in the surgeon’s unwitting omission to check the chart.[[37]](#endnote-37)

Unlike some recent writers (Guerrero 2007; Clarke 2014: ch. 7, forthcoming b; Talbert 2012; LittleJohn 2014), I do accept the Culpable Ignorance Principle—namely that culpability for ignorant wrongdoing requires culpability for the ignorance itself—that gets this objection going. But I don’t need to reject it in order to rebut the objection, since it follows from my capacitarian account of control that the surgeon is blameworthy, not only for her unwitting omission to check the chart, but also for her *ignorance* concerning the need to do so. Moreover, she’s *directly* blameworthy for this bit of ignorance because she had *direct* (capacitarian) control over recalling the need to check the chart, and she had the latter insofar as she possessed the requisite abilities to recall it (which we can confidently attribute to her in the absence of contrary evidence) and nothing in her situation decisively interfered with her doing so (e.g., another patient of hers suffering a heart attack at precisely that moment). So she’s blameworthy for her ignorance of the need to check the chart despite the fact that *this* bit of ignorance, unlike her ignorance of the patient’s blood type, doesn’t derive from—and so doesn’t trace back to—any prior failure to discharge an epistemic duty. These are the bare bones of my capacitarian *non-tracing* account of culpable ignorance.

Of course, if we stipulate that the surgeon, in virtue of her being prone to forget customary medical precautions, was subject to a further epistemic duty, then the culpability chain won’t stop at her unwitting omission to check the chart. In effect, as the objector anticipates, in this case I will insist that the surgeon’s culpability for her ignorance concerning the duty to check the chart must be traced further back to her omission to fulfill another epistemic duty, like asking a colleague to remind her about the chart. And it’s true that if the surgeon unwittingly omitted to do the latter, the same question about whether she’s culpably ignorant of this further duty will arise once again. But what’s false is that tracing must necessarily go on forever. If the surgeon had the requisite awareness-related abilities and fair opportunity to recall her epistemic obligation to ask for help, then her ignorance turns out to be culpable at this point (this is again the non-tracing element at play). On the other hand, if she also lacked capacitarian control to recall this further epistemic duty, then we may need to search for a further duty she may have breached. However, what’s more plausible is that in a case like this we would start wondering whether the surgeon lacked (capacitarian) control altogether and so whether she’s a responsible agent after all.[[38]](#endnote-38)

Thus, the objector is wrong to suggest that on my account tracing must either go on forever or come to an abortive end. Once we countenance the possibility of *direct* capacitarian control over one’s state of awareness, and consequently the possibility of *direct* blameworthiness for a bit of ignorance, a non-tracing component can be added to the capacitarian tracing account offered above in order to provide a successful completion of the culpability chain.

Putting together the tracing and non-tracing elements of my account, we arrive at the following conception of culpable ignorance:

*Capacitarian culpable ignorance.* An agent S is culpably ignorant of some pertinent truth *p* if, and only if, S’s ignorance of *p* is either: i) the *foreseeable*[[39]](#endnote-39) upshot of having disregarded an epistemic duty of care he had the abilities and fair opportunity to comply with; or ii) results from his failure to exercise an awareness-related ability despite having a fair opportunity to do so.[[40]](#endnote-40)

*4.4 Pure non-tracing cases of culpable ignorance*

So far I have showed that a successful capacitarian account of culpable ignorance must incorporate both tracing and non-tracing components in order to accommodate cases like the surgeon’s, where epistemic duties of care are at play. But not all cases of culpable ignorance are like this. There are many cases in which an agent seems to be culpably ignorant of some relevant consideration and yet there was no epistemic duty he failed to comply with at any point. Consider the following case:

*Nut cake.* Jill is preparing a small birthday party for his five-year old son. She’s about to bake a cake and other treats for the children when it occurs to her to check with other parents whether any of the kids has a food allergy. Only one of them, Rob, tells Jill that his daughter is severely allergic to nuts. However, as soon as she hangs up the phone and turns her attention to other tasks, Jill forgets what Rob has just told her and so when she’s finally mixing up the ingredients for the cake she isn’t aware that she shouldn’t put nuts in it. Later on Rob’s daughter eats a piece of cake and suffers an anaphylactic shock.

In this case, Jill has performed a wrong action from ignorance[[41]](#endnote-41) and she’s intuitively blameworthy for it and for its consequences. (Let’s stipulate that she’s a competent moral agent and that her situation wasn’t excessively taxing: it was after all a small party she was preparing and only one kid turned out to have dietary restrictions.) Moreover, the Culpable Ignorance Principle seems to hold good in her case: she’s blameworthy for her action only because she’s blameworthy for the ignorance from which she acted. And she’s blameworthy for the latter given that she had the requisites capacities to recall what Rob had told her about his daughter’s allergy and nothing in her situation made it excessively difficult for her to exercise them. Thus, she has no excuse for having forgotten about the girl’s allergy and for being unaware of her obligation to bake a nut-free cake.

At the same time, it’s plausible to suppose that Jill wasn’t subject to any epistemic duty of care on this occasion. If Jill isn’t an especially forgetful person, it was permissible for her to have entrusted to memory the very relevant piece of information Rob had transmitted to her.[[42]](#endnote-42) If this is correct, then we can’t trace back Jill’s ignorance to any breach of epistemic duty. So this is a ‘pure’ non-tracing case of culpable ignorance: Jill’s culpability for her ignorance is grounded simply on the fact that she could have remembered the relevant consideration and has no excuse for her failure to do so.[[43]](#endnote-43), [[44]](#endnote-44)

In this sort of case the three central features of my account mentioned at the outset stand out even clearer than in the previous ‘mixed case’ (the surgeon’s).[[45]](#endnote-45) First, an agent can be *directly* in control (in the responsibility-relevant sense) of his ignorance, since he can have direct capacitarian control over whether he notices, remembers, or otherwise is aware of a relevant consideration. Second, an agent can be directly blameworthy for something that isn’t an action or an omission to act:[[46]](#endnote-46) in effect, Jill is directly blameworthy for her failure to remember, which isn’t an omission to perform an intentional action. Third, an agent can have an obligation to do something that isn’t an action:[[47]](#endnote-47) Jill, for instance, was under an obligation to remember what Rob had told her about his daughter’s allergy, and yet remembering isn’t itself an action.

*4.5 Clarke’s account*

One of the distinctive features of my account is that according to it agents can be directly blameworthy for a bit of ignorance. In this subsection I want to emphasize this aspect of my view to contrast my capacitarian account with Clarke’s (2014: ch. 7, forthcoming a, b), which is the one extant account in the literature that more closely resembles mine.[[48]](#endnote-48) As will emerge, Clarke and I differ precisely on the question whether an agent can be directly blameworthy for his ignorance and this, in turn, entail significantly different verdicts in non-tracing cases of culpable ignorance, particularly pure ones.

Roughly, Clarke’s view is that an agent can be *directly* blameworthy for unwitting wrongdoing provided that: i) she has the requisites abilities and opportunity to have done the right thing; and ii) her lack of awareness of the wrongness of her conduct is faulty or substandard (Clarke 2014: 167). So he thinks, like I do, that blameworthiness in cases of ignorant wrongdoing needn’t trace back to an akratic action or omission. However, he’s inclined to deny that an agent can be directly blameworthy for the *ignorance* from which she acts or omits to act, on the strength of the following principle (Clarke forthcoming a: 12):

(DR) One can be directly responsible only for an action or an omission to act.[[49]](#endnote-49)

It follows from DR that an agent *can’t* be directly blameworthy for the failure to *think* (remember, be aware, etc.) to do what he ought to do, since this isn’t an omission to perform an intentional action, and so it follows that such an agent can’t be directly blameworthy for the resulting ignorance. If his ignorance can’t be traced back to a culpable act or omission (like the omission to comply with an epistemic duty of care), then, according to the view grounded on DR, such ignorance is blameless. However, Clarke notes that the agent’s ignorance can still be ‘morally faulty’ given his obligation to do the thing in question. So Clarke concludes that ‘given DR, we can have moral faults for which we aren’t to blame’ (forthcoming a: 13). Ignorance of relevant considerations is, in certain cases, an example of this (Clarke 2014: 171).

A view grounded on DR and a view like mine render similar verdicts in *tracing* cases of culpable ignorance, where the agent’s (derivative) blameworthiness for a bit of ignorance is grounded on a prior culpable omission to fulfill an epistemic duty of care. (Clarke’s view and mine also agree that such prior culpable omission needn’t be a knowing one.) However, the two views differ markedly when it comes to *non-tracing* cases. This is patent if we focus on pure non-tracing cases, like Jill’s above. Based on his tentative adherence to DR, Clarke is (tentatively) committed to denying that Jill is blameworthy for forgetting about the girl’s allergy and for the resulting ignorance of her obligation to bake a nut-free cake. (Remember that Jill wasn’t subject to any epistemic duty on this occasion.) On the contrary, I maintain that Jill’s failure to recall and her resulting ignorance are indeed blameworthy.[[50]](#endnote-50)

To strengthen this intuition,[[51]](#endnote-51) consider the following variant of the example. Suppose that Jill forgot that she ought not to put nuts in the cake but by sheer luck ended up baking a nut-free cake (what she thought were nuts were actually raisins, say). And suppose as well that, as in the previous version of the example, Jill wasn’t subject to any epistemic duty of care to ensure that she remembered. In this case, Jill didn’t perform any blameworthy action or omission: she baked a nut-free cake as she should and she didn’t fail to comply with any epistemic duty. And yet I think that she’s nonetheless blameworthy. This is clear if we adopt Rob’s perspective: he will be relieved to learn that the cake her daughter has eaten was nut-free, and at the same time he will likely blame Jill for forgetting about his daughter’s restrictions and thus for putting her in danger. Thus, this is a case in which the agent’s blameworthiness is due to nothing else but to her failure to recall a relevant consideration.

Clarke may respond by appealing to his distinction between morally faulty ignorance and blameworthy ignorance, but I think it’s implausible to try to pull apart moral faultiness and moral blameworthiness in a case like this. Imagine Rob saying to Jill: ‘You idiot! How could you forget about my daughter’s allergy? It was only a miracle that she didn’t get seriously ill. Oh, but don’t worry, I’m not blaming you.’ This would be a strange stance for Rob to take.

The underlying problem with Clarke’s view, and the main source of disagreement between his position and mine, is that instead of rejecting wholesale the volitionalist conception of control he merely adopts a variant of it. In order to see why, let’s ask ourselves what might justify DR. The only justification I can think of for this principle appeals to the following pair of ideas: i) direct responsibility requires direct control; and ii) direct control can only be had over actions and omissions. But, as we have seen, the only plausible justification for the latter claim is to embrace the idea that responsibility-relevant control is volitionalist control. The twist in Clarke’s view is that he thinks that the kind of volitionalist control that is relevant for ascriptions of direct responsibility can be *potential* rather than actual; that is, in his view one can have direct control over X in virtue of being *able* to do (or omit to do) X intentionally (Clarke forthcoming a: 9).[[52]](#endnote-52) But the fact remains that the only kind of control Clarke is willing to countenance is the kind of control agents have over actions or omissions.

By contrast, if we abandon the volitionalist conception of control and adopt my version of the capacitarian conception instead, we are in a position to defend the thesis that agents can be directly responsible for their failures of awareness and thus for their ignorance—a thesis that is needed to correctly account for cases like Jill’s. Importantly, and as I have shown in 4.3 above, defending this thesis isn’t at odds with defending the claim that an agent can be at the same time *directly* responsible for her unwitting wrongdoing. In effect, in my view an agent can be directly blameworthy *both* for his ignorance and for the unwitting wrongdoing prompted by it,[[53]](#endnote-53) since he can have direct capacitarian control both over his *being aware* of the relevant considerations and over his *doing* what he omitted to do (or over *avoiding* what he in fact did). And if this is so, we can stick to the intuitively correct Culpable Ignorance Principle that Clarke (2014: 174, forthcoming b: 20) felt compelled to put in doubt given his (tentative) endorsement of DR.

In sum, even though my account and Clarke’s give similar verdicts in cases of unwitting wrongdoing and in *tracing* cases of culpable ignorance, they definitely differ in *non-tracing* cases, especially pure ones; and this difference, I have claimed, speaks decisively in favor of my account.

**5. Expanding the range of what agents ought to and can do**

The most striking consequence of my account of culpable ignorance is that according to it the range of what agents ought morally to do extends well beyond the performance of intentional actions and omissions. This result clashes with the widely accepted view according to which our moral obligations—and consequently the things for which we’re directly responsible—are limited precisely to actions and omissions to act.[[54]](#endnote-54) I will close by attacking a prominent volitionalist argument in favor of this view. The argument in question is grounded on the Ought Implies Can (OIC) principle:

*OIC principle.* Necessarily, S ought to φ only if S can φ.

Roughly, the argument I have in mind can be summarized as follows:[[55]](#endnote-55)

i) An agent ought to φ only if she can φ;

ii) the ‘can’ in question is an agential can, that is, the ‘can’ of personal possibility;[[56]](#endnote-56)

iii) but what agents can do in this sense is restricted to those things they can intentionally do or refrain from doing;

c) therefore, what agents ought to do is restricted to those things they can intentionally do or refrain from doing.

I accept premises i) and ii), but reject premise iii) and with it the conclusion of the argument. So the central dispute is about how to understand the notion of agential ‘can’: the proponent of the argument affirms, while I deny, that it’s restricted to intentional actions and omissions. A way to resolve the dispute is this. It’s very plausible to think that the sense of ‘can’ operative in the OIC principle is intimately related to the notion of responsibility-relevant control. After all, this is the kind of control that renders agents potentially blameworthy for a wrong action, and since an action is wrong when it constitutes the violation of an obligation, it’s natural to suppose that the sense in which the potentially blameworthy agent can comply (or could have complied) with his obligation must be related to the control that renders him blameworthy when he fails to do so. If this is correct, then the OIC principle reads thus:

*OIC-*control. Necessarily, S ought to φ only if S has responsibility-relevant control over φ-ing.

But if, as I have argued, responsibility-relevant control is capacitarian control, it follows that the obligations agents have are directly tied to those things over which they have capacitarian control. As we have seen, some of those things will be actions and omissions (like checking the patient’s chart), but others won’t (such as recalling the need to check the chart). So one can have a moral obligation to be in a certain mental state when that mental state is the product of exercising an awareness-related ability, and one has obligations like these because one *can* fulfill them. Importantly, this last ‘can’ is indeed an agential one: when a person exercises his awareness-related abilities, this is an exercise of his agency. It’s true that this isn’t an exercise of *intentional* agency; but, as I have tried to show here, our agency—in the sense relevant for ascriptions of direct responsibility—isn’t restricted to those things we can intentionally do.[[57]](#endnote-57)

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1. At least since Aristotle (1985), who writes in the *Nicomachean Ethics* that ‘[actions] receive praise or blame when they are voluntary, but pardon, sometimes even pity, when they are involuntary’ (1109b30-33), and then adds: ‘What comes about by force or because of ignorance seems to be involuntary’ (1110a1-2). [↑](#endnote-ref-1)
2. It seems plausible to think that even culpable ignorance is exculpating *to some degree*, since it’s always worse to commit wrongdoing knowingly than ignorantly. On this point, see Holly Smith (1983: 569). [↑](#endnote-ref-2)
3. As an anonymous referee correctly pointed out to me, the ‘volitionalist’ thesis I will be arguing against is interesting even if clear-eyed akratic wrongdoing isn’t as rare as I’m assuming it is. All that’s necessary for the thesis to have interest is that *many* intuitively blameworthy agents fail to satisfy the akrasia requirement that, according to the volitionalist, is a necessary condition of blameworthiness. [↑](#endnote-ref-3)
4. Most philosophers accept that culpability for unwitting wrongdoing requires culpability for the underlying ignorance, but some deny it. See for example Talbert (2012) and, more cautiously, Clarke (2014: ch. 7, forthcoming b). [↑](#endnote-ref-4)
5. The most prominent defenders of the volitionalist tracing account are Michael Zimmerman (1997, 2008: ch. 4, 2016), Gideon Rosen (2004), and Neil Levy (2011: ch. 5). See also Carl Ginet (2000). In this paper I focus on Zimmerman’s and Rosen’s arguments. The seeds of the volitionalist tracing account can be found in Holly Smith (1983). Robichaud (2014) refers to the family of views I attack here as ‘volitionist.’ [↑](#endnote-ref-5)
6. I employ ‘volitionalist’ alternatively as a noun and as an adjective. I hope the context will make clear which is the use intended in each occasion. The same goes for my use of the term ‘capacitarian.’ [↑](#endnote-ref-6)
7. Not all volitionalists employ their account to mount a global skeptical challenge about moral responsibility. For instance, a prominent volitionalist like Zimmerman thinks that what he calls the ‘Origination Thesis’ does warrant a widespread revisionism about judgments of blameworthiness but, unlike Rosen and Levy, stops short of defending global skepticism (or, in Levy’s case, straightforward denial of moral responsibility). [↑](#endnote-ref-7)
8. I say ‘potentially’ in order to make room for culpable ignorance, which doesn’t excuse (or, more plausibly, doesn’t excuse completely). See fn. 2 above. [↑](#endnote-ref-8)
9. Peels (2014) argues that morally relevant ignorance concerns ignorance of one’s obligations. This conception is at bottom identical to the one discussed in the text, since whenever an action or omission has features that make it all things considered wrong not performing it becomes one of our obligations and, conversely, whenever we’re under an obligation not to perform a certain action this is because performing it would be all things considered wrong. (And whenever we’re under an obligation to perform a certain action, omitting to perform it would be all things considered wrong.) [↑](#endnote-ref-9)
10. An editor of this journal has correctly pointed out to me that there are cases in which an agent’s ignorance is relevant to his blameworthiness despite the fact that it concerns the *absence* of a *right*-making feature of the act rather than the presence of a wrong-making feature. For instance, Abe might be aware of all the relevant wrong-making features of killing an innocent person but mistakenly believe that it’s permissible to do so in this case since it would save hundreds of other innocent people. However, in reality the killing would have no such effect. Surely Abe’s ignorance of this fact is relevant for assessing his culpability, and yet it isn’t ignorance of a wrong-making feature of the act. The upshot is that the definition of morally relevant ignorance I present in the text is too narrow. I agree on this point, but have decided to leave it as it stands for the sake of simplicity. All the examples I employ below are correctly covered by this narrow definition. [↑](#endnote-ref-10)
11. This conception of morally relevant ignorance is in fact the most favorable to the volitionalist account of culpable ignorance I’ll be attacking (see Zimmerman 1997: 421-2). By contrast, Peels (2011) argues that having a dispositional belief is enough for avoiding ignorance, and so he has a much easier time discarding Rosen’s skeptical argument than I do. The downside is that he fails to attack the strongest possible version of it. [↑](#endnote-ref-11)
12. There is also such a thing as moral (as opposed to factual) ignorance, i.e., ignorance of moral truths or precepts. Here I’m concerned exclusively with factual ignorance. [↑](#endnote-ref-12)
13. The reconstruction that follows is meant to capture the basics of Zimmerman’s (1997, 2008: ch. 4, 2016) and Rosen’s (2004) accounts. The label ‘epistemic duties of care’ is mine; Rosen speaks of ‘procedural epistemic obligations’ instead, but the idea is the same. Levy (2011: ch. 5) offers a closely related argument for the conclusion that culpable ignorance is much rarer than usually assumed. [↑](#endnote-ref-13)
14. Responsibility also includes praiseworthiness, but in the present context only blameworthiness is at stake. [↑](#endnote-ref-14)
15. I will also refer to them simply as ‘epistemic duties’ or ‘epistemic obligations.’ [↑](#endnote-ref-15)
16. The volitionalist maintains that if an agent is ignorant of *p* but there was no precaution that he ought to have taken to prevent his ignorance, then he’s blameless for the latter given that it was beyond his control. For this point see Rosen (2004: 312, n.11). [↑](#endnote-ref-16)
17. The volitionalist claims that mere foreseeability doesn’t suffice for culpability for ignorance. Rather, it must have been the case that, besides the agent’s knowing breach of an epistemic duty of care, he also had an occurrent belief about the likely consequences of doing so—namely, to remain or become ignorant of *p* at a later time. Zimmerman (1986: 206-10) explains in detail why he thinks that mere foreseeability isn’t enough to ground culpability for results. I thank an anonymous referee for urging me to clarify this aspect of the volitionalist’s position. [↑](#endnote-ref-17)
18. As I said in fn. 7 above, this kind of global skepticism about responsibility is explicitly endorsed by Rosen but not by Zimmerman. However, there is just a small step from Zimmerman’s (1997) argument to the full-blown skepticism based on it that Rosen (2004) develops. [↑](#endnote-ref-18)
19. Rosen (2004: 308-10) provides a brief defense of the idea that we’re never justified in thinking that a presumptive akratic act was indeed akratic. He appeals to Richard Holton’s (1999) idea that in many cases where it may initially seem that the agent acts against his best judgment, what really occurs is that he undergoes a ‘judgment shift’—i.e., at the time of action he no longer thinks that the hitherto best option is indeed best. In this sort of case the condition of original responsibility laid down by Rosen won’t be satisfied, since the agent would be acting from ignorance about what’s to be done all things considered. On the other hand, Levy (2011: ch. 6) attempts to bolster Rosen’s argument by claiming that, *even* if we could identify a case of what Rosen calls ‘genuine akrasia,’ that wouldn’t defeat the skeptic, since, according to Levy, either akratic agents always fail to satisfy one or another of the necessary conditions of moral responsibility (freedom or awareness), or their akratic actions are subject to responsibility-undermining luck. Thus, Levy concludes that not even akratic acts are a locus of original responsibility. As we’ll see below, my response to the skeptical argument consists in denying that original responsibility necessitates an akratic act. [↑](#endnote-ref-19)
20. The restricted version of b) I endorse states that *many* cases of culpable ignorance involve the violation of an epistemic obligation. However, in 4.3 through 4.5 I will argue that the volitionalist is mistaken in thinking that *all* cases of culpable ignorance necessarily involve such violation. [↑](#endnote-ref-20)
21. I distill this definition of control from the writings of Zimmerman, Rosen, and Levy, none of whom present it explicitly in this form. However, it’s patent that all three adhere to it or something very close. Notice that the fact that this condition of control explicitly incorporates epistemic requirements goes against the usual assumption that the control and epistemic conditions on responsibility are separate ones. Levy (2011: ch. 5) argues against this separation (see also Zimmerman 1986: 205). [↑](#endnote-ref-21)
22. I say more about this point in subsection 4.1.1 below. [↑](#endnote-ref-22)
23. James Montmarquet (1999) also rejects Zimmerman’s assumption that ignorance is necessarily beyond the agent’s direct control, but he doesn’t reject Zimmerman’s conception of control. Rather, he tries to show that one can have direct volitionalist control over one’s beliefs in virtue of having direct volitionalist control over the degree of care one exhibits in their formation (he employs the analogy of having direct control over one’s whistling by way of directly controlling the degree of care with which one whistles). To my mind, Zimmerman (2008: 183-9) rebuts this suggestion convincingly. My proposal is that the best way to counter Zimmerman’s account of culpable ignorance is to reject his conception of control outright. [↑](#endnote-ref-23)
24. Just to be clear: I accepted at the outset that only clear-eyed akratic wrongdoers fail to act from ignorance, but what I’ll be denying is that clear-eyed akrasia is required for direct (or original) responsibility. [↑](#endnote-ref-24)
25. I borrow from Hart (1968) the idea that a fair opportunity to exercise one’s responsibility-relevant capacities is necessary for blameworthiness. Such fair opportunity amounts to what I call ‘situational aptness’: basically, the agent’s situation being apt for the deployment of his responsibility-relevant capacities. See fn. 27 below for more on this point. Brink and Nelkin (2013) also develop Hart’s suggestion in detail. [↑](#endnote-ref-25)
26. So although I agree with Clarke’s characterization of what I call awareness-related abilities, we disagree sharply about their normative relevance for cases of culpable ignorance. See 4.5 below for details. [↑](#endnote-ref-26)
27. Someone might complain that the fairness invoked here is a very indeterminate notion and of no help in actual practice. But this is not the case: we aren’t at a loss concerning which influencing factors deprive an agent of the fair opportunity in question by decisively interfering with the deployment of his responsibility-relevant capacities. This can be seen by noting that we have a pretty good grasp of the kind of situational factors that play the role of excuses, e.g., coercion, duress, extraordinary distractions, extreme mental fatigue, etc. I return to this point in 4.1.3 below. [↑](#endnote-ref-27)
28. Wolf (1990), Wallace (1994), Nelkin (2011), Brink and Nelkin (2013), and Clarke (2014, forthcoming a, b) offer conceptions of responsible agency that are broadly in the spirit of my capacitarian account of control. A crucial difference among us is that they restrict their attention to responsibility for actions and omissions, and so fail to develop the more radical implications of the capacitarian account. For these implications, see subsections 4.4 and 4.5 and section 5 below. [↑](#endnote-ref-28)
29. This, of course, wouldn’t automatically let the surgeon off the hook, for in this case she might be subject to a further epistemic duty, like asking her colleagues to remind her to check the chart. However, if we obtain further evidence that the surgeon nearly always forgets to comply with *all* of her epistemic duties, then this might give us pause in attributing to her the capacities needed to avoid ignorance and so we might be inclined to let her off the hook after all—unless, of course, we have grounds to suspect that her obliviousness is the result of her lack of commitment to her profession or of some other failure for which we can hold her accountable. [↑](#endnote-ref-29)
30. I thank an anonymous referee for presenting this objection. [↑](#endnote-ref-30)
31. Someone might suggest that the fact that being in a hurry or other agents’ indifference affects helping behavior in a significant number of cases shows that those influences do make it unfair the hold the agent accountable. But this is unconvincing, for the reason Amaya and Doris (2015: 263) lay out: ‘The problem is that statistical considerations like this are hardly ever, at least not by themselves, sufficient to indicate that behaving appropriately posed an onerous demand. Overstaying a parking meter, for example, is common, but the fact that it happens often gives no reason to suppose that the infractions occur under duress.’ [↑](#endnote-ref-31)
32. I thank the same anonymous referee for this objection as well. [↑](#endnote-ref-32)
33. This is an ubiquitous role, one that competent adults occupy during the entirety of their waking lives. I am indebted here to Tamar Schapiro, who suggested to me this way of framing my position. [↑](#endnote-ref-33)
34. It’s worth stressing that I’m not claiming that the quality of the agent’s will is *irrelevant* for ascriptions of moral blame. For instance, I have insisted several times that unwitting wrongdoing is less blameworthy than knowing wrongdoing, and a plausible explanation appeals precisely to the respective quality of the wrongdoers’ will (knowingly doing wrong exhibits a worse will than doing wrong from ignorance, even culpable one). What I do deny is that ill will is *necessary* for blameworthiness. Amaya and Doris (2015: 269) advance a similar suggestion. [↑](#endnote-ref-34)
35. I’m borrowing here from Clarke’s (2014, forthcoming a) account of *direct* responsibility for unwitting wrongful omissions to explain *derivative* responsibility for ignorance in cases like the surgeon’s. However, Clarke and I differ markedly on the question whether an agent can be *directly* responsible for a bit of ignorance, since he tentatively denies this possibility while I defend it in the next three subsections. I explore the significance of this divergence in 4.5 below. [↑](#endnote-ref-35)
36. My capacitarian tracing account resembles in some respects the account of culpable ignorance William FitzPatrick (2008) offers, for he claims that ignorance can be culpable even in the absence of an episode of akrasia so long as ‘the agent could reasonably have been expected to take measures that would have corrected or avoided it, given his or her capabilities and the opportunities provided by the social context’ (p. 609). However, a crucial difference with my account is that FitzPatrick goes on to stipulate that the agent’s failure to take those precautionary measures must have been ‘the result of *voluntary* exercises of vices such as overconfidence, arrogance, dismissiveness, laziness, dogmaticism, incuriosity, self-indulgence, contempt, and so on’ (p. 605, italics added). In my view, this stipulation is doubly problematic. On the one hand, it’s problematic because it requires that a vice or a defect of character be at the root of every culpable failure of awareness. On the other, because it reintroduces the volitionalist conception of control through the back door, since according to FitzPatrick a voluntary act must be the ultimate cause of the agent’s ignorance. By contrast, in my account it’s sufficient if we can trace the agent’s ignorance back to his failure to comply with an epistemic obligation despite being capable of doing so. In my view, then, a defect of character or the voluntary exercise of a vice aren’t required. I think this is all to the good, since the surgeon in the example can be culpably ignorant despite having a virtuous character and despite her ignorance not being the product of a voluntary vicious action or omission. [↑](#endnote-ref-36)
37. I have concocted this objection based on Rosen (2004). [↑](#endnote-ref-37)
38. This is as it should be, since we cannot rule out the possibility that some culpability chains are indeed abortive. What I need to dispute is the objector’s claim that in my account these chains are *necessarily* abortive (or else go on forever). [↑](#endnote-ref-38)
39. Unlike the volitionalist, the capacitarian maintains that mere foreseeability suffices for the ignorance that results from a breach of epistemic duty to be culpable. For the contrary volitionalist view, see footnote 17 above. [↑](#endnote-ref-39)
40. Note that the surgeon’s ignorance is culpable under both disjuncts of my definition: her ignorance of the patient’s blood type is culpable under i), whereas her ignorance of the need to check the chart is culpable under ii). [↑](#endnote-ref-40)
41. It may sound odd to say that Jill was *ignorant* of her obligation to bake a nut-free cake, given what Rob had just told her. But recall that in section 2 I defined morally relevant ignorance as lack of *occurrent* true belief or as lack of awareness. And in this sense it’s perfectly legitimate to say that Jill was, at the time she was baking the cake, ignorant of the fact that she shouldn’t put nuts in it. [↑](#endnote-ref-41)
42. You may disagree with my claim that Jill wasn’t subject to any epistemic duty, but this won’t matter for my overall point so long as you agree that there are cases with the following two features: i) an agent forgets, or fails to notice, a morally relevant consideration he should have recalled or noticed; ii) there was no epistemic precaution the agent should have taken to ensure that he remembered or noticed. Such cases aren’t hard to find. For instance, suppose that Paul arrives home and finds his wife lying on the sofa with red watery eyes; however, he fails to notice this fact or to infer its relevance. If Paul is a normal agent, we can say that he should and could have noticed that his wife had been crying and so he’s blameworthy for his failure to do so. And yet it seems clear that, absent very peculiar circumstances, there wasn’t any epistemic precaution Paul ought to have taken in advance to bolster his perceptual or inferential capacities. [↑](#endnote-ref-42)
43. An additional cost for the volitionalist account of culpable ignorance is that it entails that agents are *never* blameworthy for their ignorance in this sort of case, since according to the volitionalist ignorance is necessarily blameless if it doesn’t derive from a failure to comply with an epistemic obligation (see again Rosen [2004: 312, n.11] for this point). Clarke (2014: ch. 7, forthcoming a, b) tentatively accepts this claim, too. I discuss Clarke’s position in 4.5 below. [↑](#endnote-ref-43)
44. Holly Smith (2011) also discusses non-tracing cases of culpable ignorance. However, her treatment of these cases is very different from mine, since she proposes an attributionist account according to which agents are blameworthy for their ignorance in non-tracing cases only if their lack of awareness reveals an objectionable underlying attitude. I think this account isn’t very promising, since there are many non-tracing cases that intuitively involve culpable ignorance despite the agent’s lack of an objectionable attitude that caused his failure of awareness. Jill’s case can be taken as an example, for I haven’t said anything about an objectionable attitude on her part that prompted her failure to recall. Oddly enough, Smith herself concludes (for other reasons) that the attributionist account can’t vindicate most ordinary intuitions about culpable ignorance in non-tracing cases and so she ends up doubting the accuracy of these intuitions. My capacitarian account alleviates these doubts. [↑](#endnote-ref-44)
45. The surgeon’s is a mixed case because it incorporates both tracing and non-tracing elements. Of course, the three key features of my account listed in the text are already present in the non-tracing component of the surgeon’s case. [↑](#endnote-ref-45)
46. Robert Adams (1985) and Angela Smith (2005) have also argued in favor of this thesis, but they have done so by *rejecting* the importance of control for responsibility. The distinctiveness of my account is that it preserves the centrality of control and at the same time argues that a proper understanding of it entails that one can be directly responsible for more than actions and omissions. [↑](#endnote-ref-46)
47. Harman (2011) also adheres to this thesis, since she defends the existence of ‘moral norms that apply to *beliefs* themselves, not to the management of one’s beliefs,’ for example the norm that ‘we morally ought to believe the moral truth’ (p. 459). However, she fails to explain *why* we have an obligation like this—i.e., an obligation that goes beyond the performance of an intentional action or omission. I sketch such explanation in section 5 below. [↑](#endnote-ref-47)
48. I thank a second anonymous referee for pressing me to emphasize the differences between Clarke’s account and mine. My position also bears comparison to Sher’s (2009) account of responsibility for unwitting wrongdoing, since both of us appeal to what can reasonably be expected of the ignorant wrongdoer given his capacities and situation. However, a crucial point of disagreement between us concerns whether the proposed account vindicates or refutes the importance of control for responsibility. Sher opts for the latter option, since he thinks that what matters for blameworthiness isn’t whether the agent had control over his cognitive failure and subsequent wrongdoing but rather whether they *originated* in him (that is, whether the failure of awareness was caused by the person’s “constitutive” psychological traits). By contrast, in my view the crucial question is whether the agent had capacitarian control over the cognitive failure that led to his ignorance. [↑](#endnote-ref-48)
49. An anonymous referee correctly pointed out to me that Clarke doesn’t endorse this principle outright and doesn’t rule out its rejection. (He does write that he finds it ‘rather plausible’ [forthcoming b: 8], though.) However, I think it’s fair to say that Clarke’s considered view is that DR, along with the related idea that culpability for ignorance is necessarily derivative, are most likely true. See for instance his discussion of culpable ignorance in Clarke (2014: 168-174), particularly his claim that, in the absence of prior blameworthy actions or omissions from which blameworthiness for a bit of ignorance might derive, ‘it seems that I’m not blameworthy for this ignorance’ (171). For further textual evidence, see fn. 54 below. [↑](#endnote-ref-49)
50. Just to be clear, let me emphasize that what is under dispute between Clarke and I at this point is exclusively whether Jill is culpable for her *ignorance*, not whether she is culpable for her *action* of baking a cake with nuts in it. In Clarke’s view Jill would indeed be blameworthy for the latter despite the fact that it was performed ignorantly and even though Jill’s ignorance would be, in Clarke’s view, non-culpable. So Clarke and I would agree that Jill’s ignorant action is blameworthy, but would disagree on the further question of whether her ignorance is blameworthy as well. The variant of the example discussed in the next paragraph is meant to lay out this difference in a stark way. I thank an anonymous referee for urging me to clarify this point. [↑](#endnote-ref-50)
51. Someone might have doubts about the relevance of these intuitions for a theory of responsibility. However, Clarke clearly accords pride of place to intuitions about blameworthiness, and he seems to be guided by the underlying principle that the more ordinary moral intuitions a theory is able to vindicate the better. On this point see Clarke (2014: 162, 167). [↑](#endnote-ref-51)
52. Clarke (forthcoming b: 24) writes: ‘I’m not denying that the ability to act that is required by the control condition for direct responsibility is an ability to *intentionally* do a certain thing.’ [↑](#endnote-ref-52)
53. Harman (2011) defends a similar idea, namely that an agent can be directly blameworthy both for his false moral beliefs and for the unwitting wrongdoing prompted by them. However, she provides a completely different rationale for accepting this idea, appealing to a quality of will conception of blameworthiness inspired by Arpaly (2003) rather than to a control-based conception like mine. [↑](#endnote-ref-53)
54. In addition to Zimmerman (1997), Rosen (2004), and Levy (2011), see for example Finkelstein (2005), Alexander *et al.* (2009: ch. 3), and (more tentatively) Clarke (forthcoming a). Clarke (2014: 167) seems to endorse this idea outright, when he writes: ‘remembering isn’t an action, and it isn’t subject to obligation.’ Later on he insists: ‘I failed to remember, but remembering isn’t itself something we’re obligated to do’ (p. 173). [↑](#endnote-ref-54)
55. Zimmerman (1986) argues in this way, although he doesn’t explicitly draw the conclusion of the argument (which he would clearly accept, though). Clarke (forthcoming a) tentatively endorses this conclusion, whereas Clarke (2014: 167, 173) seems to accept it outright. [↑](#endnote-ref-55)
56. Zimmerman contrasts personal possibility with logical and metaphysical possibility and claims that the latter two are irrelevant for the OIC principle. I agree with him on this point, but disagree about what personal possibility involves. [↑](#endnote-ref-56)
57. For helpful comments I thank Michael Bratman, Tamar Schapiro, Jorah Dannenberg, Moises Vaca, and two anonymous referees for this journal. I am especially grateful to Manuel Vargas for his invaluable help and his copious written comments. [↑](#endnote-ref-57)