

## Causal Responsibility without Causation: The Case of Omissions

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### Abstract

Omissions raise puzzles in metaphysics, responsibility, and the law. Even if omissions are deemed causally efficacious (something productive accounts deny), asymmetries obtain between active and omissive causation regarding responsibility. The law recognizes this, in requiring the violation of a positive duty for omissions to ground liability.

The asymmetry is illustrated in the Queen of England Problem: Neither the gardener nor the Queen watered the plant, yet only the gardener is responsible for the plant's death. If one caused the death (via omission), then, seemingly, so did the other. If neither caused the death (because omissions are not causal), why is only one responsible? The standard reply is that the difference between them is normative. This presents three options: (i) both caused the death, (ii) neither did; or (iii) causation itself is normative (only the gardener caused the death). Each has unwelcome consequences: The first, that many seemingly innocent actions cause harm. The second leaves unaccounted the gardener's responsibility for something he didn't cause. The third turns causation into a normative, non-natural relation.

I endorse (ii): neither caused the death, offering an alternative account of so-called 'causation by omission' that better explains omissive responsibility.

Following Dowe (2000), I argue that omissions are only quasi-causal: one can quasi-cause  $\phi$  by omission, when an action omitted would-have prevented  $\phi$ . Prevention, too is quasi-causal, grounded in counterfactuals about what *would have been caused*.

Attributions of responsibility for omissions involve: (1) quasi-causal counterfactuals, adjoined with (2) a duty or expectation that one would have acted otherwise, and (3) a contrastive condition, comparing the actual world with the world that would have been caused had the duty or expectation in (2) been comported with.

When one omissively fails to do her duty and a consequence obtains, blame for the consequence attaches only if she had a duty to prevent it, and comporting with her duty would have been efficacious in preventing it. This is not the case with (positive) causes, where neither the law nor common sense morality require positive duty (we are responsible for active harms to strangers) or the ability to alter the outcome (e.g. preemption).

When the conditions for omissive responsibility are met, we blame the agent, not for *causing* the consequence, but because she had a duty to prevent it. The judgment is from the possible world she had a duty to cause. Liability for damages in cases of omissions are a duty in corrective justice to place the plaintiff in the position she had a right to be in, had defendant done her duty (the world that defendant had a duty to cause).

This explains the law's duty requirement in omissions and the corresponding asymmetry with injury for actions. It also better explains the phenomenon of apparent 'normative creep' (Hitchcock and Knobe) in which ordinary ascriptions of causation seem to require norms. Finally, it is consistent with a productive account of causation, which has the additional advantages of being both metaphysically cleaner and having a better account of traditional overdetermination problems.