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Causation, Liability, and Internalism

Almost all of us believe that it matters who caused the damage: all things being equal, the person who did it should pay for it. If C harms A, then A has a claim against C for compensation; and C is liable *because* of the fact that he caused the harm.¹ This much seems clear. What is not at all clear is *why* causality should matter in this way. This is the sort of issue that is typically neglected by contemporary moral philosophers: secure in their intuitive judgments, they do not search for a theoretical explanation. Yet such neglect seems unjustified, for without a plausible account our confidence in this view is probably unwarranted; at the very least, our understanding of ethics will remain inadequate.

One of the most attractive features of Judith Jarvis Thomson's fascinating and suggestive article, "Remarks on Causation and Liability," is her insistence on the need for an explanation of why causality matters for liability.² Furthermore, Thomson herself goes on to suggest such an explanation. Unfortunately, however, her comments on this issue are somewhat obscure, in part because they are concentrated into a few difficult pages. What I want to do, therefore, is to reconstruct Thomson's argument, and see whether she has provided the necessary account.

I

Why does causality matter for liability? Thomson takes the key to the answer to lie

1. On most views, causality is only necessary for liability, not sufficient. See footnote 6.

2. *Philosophy & Public Affairs* 13, no. 2 (Spring 1984): 101–133. All page references in the text are to this article. Thomson also discusses a good many other related issues in her paper.

in the value we place on freedom of action, by which I mean to include freedom to plan on action in the future, for such ends as one chooses for oneself. We take it that people are entitled to a certain 'moral space' in which to assess possible ends, make choices, and then work for the means to reach those ends (p. 108).

Presumably what this means is that a person should be morally free to dispose of his time and resources as he sees fit—unless there is a sufficiently strong reason for morality to require him to act in a particular way. Thomson does not explicitly note this qualification, but surely it must be added. For all those who deny egoism must admit that some limitations on a person's freedom of action are legitimate. Nonetheless, it should be clear that the value of freedom of action does rule out limitations on that freedom that cannot be adequately supported. Thomson is going to suggest, then, that the importance of freedom of action explains why liability should be limited to those who cause harm.

Very well, suppose that A has been harmed, and he requires a certain amount of compensation in order to be returned to the level he was at previous to being harmed. From whom is A entitled to seek compensation? Who should pay for the damages?³ Intuitively, of course, we believe that the one(s) who caused the harm should be liable. But how does freedom of action explain this?

Thomson begins by claiming that, at the very least, freedom of action rules out the possibility that a randomly selected individual can legitimately be held liable. That is, even though A has been harmed, he is not entitled to seek compensation from a person, X, chosen at random. Thomson's argument here is difficult to understand, however, so I want to quote from her at some length. (I have numbered her sentences to aid discussion.) A has been harmed, and wants to be brought back to his previous level of well-being:

(i) But the freedom of action of other people lends weight to the following: (ii) If A wants the world changed in that (or any other) way, then—other things being equal—A has to pay the costs, in money, time, energy, whatever is needed, unless he can get the voluntary

3. Thomson claims (pp. 105–106) that there need not actually be a moral requirement that the person who is liable pay the damages himself. That is, it may be morally acceptable for a third party to pay them for him. I want to leave this point aside, however, and for simplicity of exposition I will write as though damages should be paid by the one who is liable.

agreement of those others to contribute to those costs. (iii) Again, A's wanting the world changed in that (or any other) way is not by itself a reason to think he may call on another person to supply him with what he needs to change it. (iv) It follows that A is not entitled to call on a person unless that person has a feature other than just that of being a person, which marks *his* pockets as open to A. (v) A cannot, then, choose a person X at random, and call on X to pay the costs—on pain of infringing X's freedom of action (p. 109).

Now the desired conclusion, of course, is expressed in (v); and as far as I can see, (iv) is intended simply as another way of stating the conclusion. If A cannot seek compensation from a person chosen at random, then he may only seek compensation from someone who is appropriately distinguished in some way—that is, someone with some particular feature by virtue of which he is legitimately held liable. Presumably the mere fact that X is able to pay and has been randomly selected is not a feature of the appropriate sort. Does Thomson's argument establish her conclusion?

Issues of fairness may cloud our assessment of the argument itself. After all, why should X be singled out for liability? His situation is not relevantly different from that of countless others. It seems to me a possible reply that if X was genuinely selected *randomly*, this somewhat mitigates the charge of unfairness. Matters would be quite different were he deliberately chosen, for example, because of his race. (Matters would also be different if, through bad luck, the random process regularly chose him.) But it might still be thought unfair that X should be liable for *all* of the damages, rather than merely a portion of them. Why shouldn't all n of the people able to provide partial compensation each be held liable for $1/n$ of the damages?⁴ It does seem to me that such an arrangement would be more fair; and this provides an objection against selecting a single random individual. So let us ask, instead, whether A is entitled to seek partial compensation from each X that could contribute. I take it that Thomson's conclusion is meant to rule out this possibility as well. Unless some particular feature marks X's pockets as open to A, A is not entitled to seek compensation from X—presumably not even partial compensation.

4. Collecting from all of these people might be an unfair burden to place upon A. Perhaps this could be solved by having the government—acting as the agent of the public—provide the compensation out of tax revenues.

Now as both (v) and (i) make clear, Thomson thinks that the importance of freedom of action supports this conclusion. But how exactly does it do this? The answer presumably lies in (ii) and (iii): freedom of action apparently supports these two claims, and they in turn yield the conclusion. However, since Thomson does not explicitly provide the intermediate connections, we must try to do that for her.

Obviously enough, if A is entitled to seek compensation from X, then X's freedom of action is more limited than it would otherwise be. *Any* moral claim against X at least partially restricts X's freedom of action (putting limits on how X may act or dispose of his resources). But, of course, the value of freedom of action does not justify a blanket rejection of purported claims against X. As I noted above, restrictions on freedom of action are justified if there are sufficiently significant reasons for them. So the question is this: is the fact that A has been harmed a sufficient reason for restricting X's freedom of action by making him liable for (partially) compensating A?

Both (ii) and (iii) answer this question in the negative. Taken on their own, all that they explicitly say is that the mere fact that A has been harmed and wants to be compensated does not entitle him to seek compensation from X. This is little more than a reassertion of the conclusion. But in context, given the suggestion in (i) that the view expressed by (ii) and (iii) is supported by freedom of action, I take it that there is a tacit appeal to the judgment that the mere fact that A is in need of compensation is not sufficiently significant to limit X's freedom of action.

If we grant Thomson's tacit judgment, her conclusion surely follows. For if A's need for compensation (and X's ability to pay) is not by itself a significant enough reason to limit X's freedom of action by making X liable to A, then someone *will* be liable (if anyone at all is) only under conditions that are more restrictive than these. That is, a person will be liable only if some particular (yet to be specified) feature marks his pockets as open.

But why should we grant Thomson's tacit judgment? We should start by noting that—although I am sure it is unintentional—Thomson may get some illegitimate intuitive mileage from the way she states (ii) and (iii). In speaking of A's desire to be returned to the level of well-being he had previous to being harmed, Thomson writes of "A's wanting the world changed in that (or any other) way." The implicit suggestion is that in evaluating the judgments made by (ii) and (iii) it is irrelevant what desire

we ascribe to A. This may tempt the unwary reader into thinking that the question at issue is whether the mere fact that A desires something or the other (it doesn't matter what) is a reason to believe that A is entitled to seek the means of satisfying that desire from X. But this would be a mistake. In the issue at hand, X's freedom of action is not being restricted to satisfy any old whim of A's, but rather something more important: the desire for compensation for having been harmed.

Indeed, it might be suggested that A's desire for compensation is, strictly speaking, irrelevant. A's *entitlement* to compensation (should he desire it) has nothing to do with whether or not he actually *wants* to be compensated. Thus, the question is simply whether A's having been harmed provides a significant enough reason to justify restricting X's freedom of action by entitling A to seek partial compensation from X. Thomson's tacit judgment is that A's injury does *not* provide sufficient reason to make X liable.

Of course, even if we are clear about the precise nature of Thomson's tacit judgment, we may very well still find it intuitively acceptable. But Thomson promised to go beyond intuitive judgments—to offer a theoretical explanation that would justify the intuitions. Unfortunately, nothing in the argument we are considering offers such a theoretical justification. In effect, Thomson is saying that if we think about it we shall agree that the mere fact that A needs compensation is not enough reason to require X to help provide it. And perhaps she is right. But why *isn't* it a sufficient reason?

What we would like to have is a theoretical account explaining which considerations are significant enough to justify restricting freedom of action, which ones are not, and why. Little or no explanatory progress has been made if we merely replace our original intuition—that A is not entitled to seek compensation from X—with the new intuition—that A's need for compensation is not important enough to restrict X's freedom of action by making him liable. As Thomson herself says in another context, our “question has not been answered: we have merely been offered new language in which to ask it” (p. 108).

It is worth noting that Thomson goes on to offer an argument for the specific claim that causality is necessary for liability. (That argument will be examined beginning in Section III.) So far as I can see, however, that later argument does not presuppose the conclusion of the present argument. If it succeeds, therefore, it makes the present argument un-

necessary, for the conclusion will trivially follow: if causality is necessary for liability, A is not entitled to seek compensation from someone unless that person has a particular feature—namely, that he helped cause the harm. If I am right that the present argument is little more than an appeal to intuition, it may be just as well if Thomson can do without it.

II

Even if we grant the conclusion of the argument discussed in the last section, Thomson has obviously not yet defended the view that causality matters for liability. She has only shown that someone can be liable only if he has some particular feature (“other than just that of being a person”); she has not yet told us what that feature is. It might turn out that having caused the harm is a necessary feature for liability (as Thomson will go on to argue), but it might not turn out that way: other features might be sufficient for liability as well (or instead).

Thomson briefly considers the suggestion that although A may not be entitled to seek compensation from X (the random, average person), A may be entitled to seek it from someone who is rich. She attempts to sidestep this issue, admitting that “freedom of action is not the only thing we value, but I want to bring out *its* bearing on the question in hand” (p. 109). This remark is rather puzzling. Why doesn’t wealth deserve greater attention?

Apparently Thomson sees the issue this way: Freedom of action supports limiting liability to those individuals with certain features. Since freedom of action is not all that we value, however, there may be overriding external considerations that favor widening the circle of liability. But it is obvious that from an internal perspective, at least—that is, one limited to consideration of what is supported by freedom of action itself—there is no support for the position that greater wealth is a ground for liability.

Now it must be readily admitted that there is a sense in which freedom of action opposes grounding liability in wealth. After all, such liability restricts one’s freedom. But in this sense, it seems that freedom of action opposes liability on any grounds whatsoever (indeed it opposes any moral requirements at all). All along, the question has simply been whether a given reason is significant enough to justify a particular restriction on an agent’s freedom of action. In a sense, it seems that most such reasons

will have to be external—that is, external to freedom of action *per se*. But such externality is irrelevant to the question of whether the given reason is important enough to justify limiting freedom of action—and this is the only question at issue. So Thomson has no justification for putting aside the possibility that A may be entitled to seek compensation from someone by virtue of that person's greater wealth.

Perhaps Thomson had something like the following in mind: Internal to freedom of action itself is a justification for there being certain restrictions placed upon it. (For example, it is sometimes suggested that freedom of action itself supports a restriction on one's freedom to sell oneself into slavery.) Given the nature of the value of freedom of action, limitations on certain grounds have a direct and internal justification; other limitations may be justified as well, but these will be justified in terms of something *other* than freedom of action. And perhaps Thomson thinks that causation will be such an internally justifiable ground, and that it is intuitively obvious that wealth cannot be.

But all of this is mere speculation on my part. As Thomson's discussion stands, I cannot see why greater wealth should not be a legitimate, ground-level candidate as one of the features on which liability may be based. It is certainly possible, of course, that wealth does *not*, in fact, provide a basis for liability. But from the theoretical standpoint, I see no reason why the list of potential contenders for grounding liability—the list of features that need to be examined and evaluated—should not include wealth as well as causation.

Once again, it must be noted that if Thomson's later argument for the specific claim that causality is necessary for liability succeeds, then it makes the discussion of this section moot. For, trivially enough, if having caused the harm is a necessary condition for being liable, then the mere fact that someone is rich cannot itself be sufficient grounds. It is time to examine that argument.

III

Thomson's argument that causality is necessary for liability begins by asking us to consider and evaluate cases of this sort:

- (1) A caused A's injury, freely, wittingly, for purposes of his own; and no one other than A caused it, or even causally contributed to it (p. 110).

In cases of this kind, asserts Thomson, even if A later decides that he would like to return to his previous level of well-being, he is not entitled to demand the necessary funds from another, say, B. This judgment about cases of type (1) is totally independent of what we imagine about B: "B may be vicious or virtuous, fat or thin, tall or short; none of this gives A a right to call on B's assets" (p. 110). Indeed, even if B was acting *negligently* toward A, given that A's injury satisfies (1), B is not liable for the costs of it.

We will eventually need to examine this general judgment carefully, but first let us consider the rest of Thomson's argument. Assuming that the judgment about cases of type (1) is correct, what follows?

Let us suppose that A is injured, and that B did not cause the injury, indeed, that he in no way causally contributed to A's injury. Then whatever did in fact cause A's injury—whether it was A himself who caused his injury, or whether his injury was due entirely to natural causes, or whether C or D caused it—there is nothing true of B which rules out that A's injury had the history described in (1), and therefore nothing true of B which rules out that A should bear his own costs. Everything true of B is compatible with its being the case that A's costs should lie where they fell. So there is no feature of B which marks his pockets as open to A—A is no more entitled to call on B than he is entitled to call on any person X chosen at random (pp. 110–11).

If this is right, then Thomson has succeeded in showing that causality is necessary for liability: for if by starting with the assumption that B did not causally contribute to A's injury we can conclude that B is not liable for the costs of A's injury, then it follows that someone could be liable only if he *did* causally contribute. Once again, however, the argument in the passage quoted is a difficult one to understand. One premise, it seems to me, may be stated somewhat imprecisely; and another premise—a crucial one—seems to be missing altogether. But Thomson's argument is a powerful one for all that, and it merits careful analysis.

As I understand it, the argument as stated comes to this: (i) If B did not causally contribute to A's injury, then "everything true of B" is compatible with A's injury being of type (1). (ii) Given our general judgment about cases of type (1), however, this means that everything true of B is compatible with its being the case that A is not entitled to seek compensation from B. That is, the facts about B are compatible with B's not being liable. (iii) Therefore, B is *not* liable.

Formulated in this way, the most pressing problem is the transition from (ii) to (iii): the argument appears to move illegitimately from the modest assertion that nonliability is possible, to the bold assertion that nonliability actually obtains. If this is not simply a non sequitur, and I do not believe that it is, then something must bridge the gap. But what?

At first glance, especially in my formulation of the argument, it looks as though Thomson may be trading on an equivocation in the use of such expressions as “everything true of B,” or “the facts about B,” and so on. For such expressions may be taken either narrowly, including reference only to nonevaluative (descriptive, naturalistic) features, or more broadly, including reference to evaluative (normative, moral) features as well as nonevaluative ones. The transition from (ii) to (iii) is easy if we take the broad reading: for if all the facts about B—including the evaluative ones—are compatible with B’s nonliability, then liability cannot be among the facts about B, and so B is not liable. However, (ii) is derived from (i), and (i) is question begging if we take the broad reading: since, by hypothesis, B is not liable in cases of type (1), to assume that the facts about B—including the evaluative ones—are compatible with the situation’s being of type (1) is already to assume that B is not liable. Thus (i) should not be granted unless we take the *narrow* reading. Yet if we maintain this reading throughout, the transition from (ii) to (iii) remains problematic. This prompts the thought that the argument relies on an equivocation between the narrow and the broad readings.

I do not believe, however, that Thomson’s argument actually does rely on such an equivocation. Presumably it is the narrow reading that is intended throughout the argument, and thus the transition from (ii) to (iii) is still in need of explanation. I suspect that Thomson would justify the transition through the use of an assumption that, unfortunately, she has not explicitly stated. Before we can supply this premise for her, however, some further discussion of (i) is necessary.

Even if we restrict our attention to nonevaluative facts, it is not clear that (i) is correct. Suppose that B did not cause A’s injury, but C did. Is it the case, as Thomson puts it, that “there is nothing true of B which rules out that A’s injury had the history described in (1)”?

Admittedly, the fact that B did not cause A’s injury is compatible with A’s injury being of type (1). By way of contrast, it can be noted that the fact that C did cause the injury is not compatible with a history of type (1). But isn’t it true of B that he lives in a world where C caused the injury? And this fact about B is clearly incompatible with the situation being of type

(1). Thus, it might be argued, it simply isn't true that so long as B did not causally contribute to the injury, everything about B is compatible with its being the case that the situation is of type (1).

This objection could be met by denying that the fact that B lives in a world where C caused the injury is a fact *about* B—that is, denying that this is something true *of* B. There may well be something to this metaphysical reply, but I do not think we need to discuss it here. For even if facts of this sort *can* legitimately be called facts about B, I doubt that Thomson meant to be claiming anything about such facts at all. She clearly had in mind a somewhat more limited set of facts when she claimed that nothing true of B ruled out the situation's being of type (1). At worst, then, we need to stipulatively restrict the scope of the expressions "facts about," "true of," and so on, yet again, so that they will exclude facts of the problematic kind. But how exactly is this to be done?

It won't do to understand the argument as referring only to intrinsic facts about B—ruling out relational facts. For it is clear that the scope of the expression "facts about B," and so on, is intended to include some relational facts as well. It is true that the fact that B lives in a world where C caused the injury is merely a relational fact about B, and we want to disregard this fact. But suppose it had been B that caused A's injury. This too would be a relational fact about B, and yet we would *not* want to disregard facts of this sort: it seems to be the right kind for inclusion as a fact *about* B. Thus the proposed restriction is too severe.

Rather than suggesting an alternative account of the desired restriction (something which, at any rate, I am unable to provide), I propose merely to label it. Facts about the fellow inhabitants of the world in which B lives seem too remote and external to be counted as facts *about* B in the relevant sense. On the other hand, facts about B's previous acts, or his motives (or his race, favorite foods, and so on) do seem sufficiently internal to count. Let us therefore call these *external* and *internal* facts, respectively.⁵

Once we understand the argument as referring to internal facts, (i) is more plausible. It is still not a trivial claim, of course: it relies on what we might grandiosely call a metaphysical judgment about the compatibility of states of affairs. But this judgment seems a plausible one to grant Thomson: if B did not causally contribute to A's injury then the internal

5. As should be clear, I am now using "internal/external" in a different sense than that of Section II. My use also differs from Thomson's use of these terms on pp. 128–32.

facts about B do seem to be compatible with that injury having a history of type (1). And so, given (i), we can conclude with (ii) that the internal facts about B are compatible with its being the case that B is not liable. But it is still not obvious how this enables us to move to the categorical assertion in (iii) that B is *not* liable.

I think we can make progress by considering the position of one who denies (iii). He holds that it is compatible with what we have been told about B, that B is liable. (B may not actually *be* liable, but nothing in the argument rules it out.) Thus one who denies (iii) but still accepts (ii) holds that all of the internal facts about B are compatible both with situations in which B is liable, and with situations in which B is not liable. But what would explain this difference in B's liability from the one kind of situation to the other? Obviously not a difference in the internal facts about B, for these stay the same: we are considering alternative situations compatible with the actual internal facts concerning B. Thus the difference in B's liability would have to arise from a difference in some of the *external* facts.

But Thomson may think such a position unreasonable. I suspect that Thomson believes that B's liability or nonliability must be determined solely by the *internal* facts about B. External facts have too little to do with B himself for it to be reasonable for them to play a role in determining B's liability. Thus the missing premise from Thomson's argument is

Internalism: A person's liability depends only upon internal facts about that person.

If internalism is true, and (ii) is correct, then (iii) must follow: if the internal facts about B are compatible with B's being nonliable, then—obviously enough—those facts are not themselves sufficient to ground B's liability; but since liability is based only upon internal facts, B must not, in fact, be liable.

Ultimately, then, Thomson's argument has three basic premises, and its structure seems to be the following: If B did not causally contribute to A's injury, then (given the metaphysical judgment) the internal facts about B are compatible with the injury being of type (1). This means (given the general judgment about cases of that type) that the internal facts about B are compatible with B's nonliability. Thus (given internalism) B cannot be liable. Therefore, causality is necessary for liability.

Before endorsing Thomson's argument, of course, we need to reexamine the basic premises, and see whether they should be accepted. But a preliminary observation may be in order. If her argument is sound, Thomson has succeeded in proving that causality matters for liability—and this is certainly a significant improvement over the mere appeal to intuition. But has she also met her goal of explaining *why* causality matters? This is less clear. We have the outline of an explanation, to be sure: causality is necessary for liability, because if someone has not causally contributed to harm, the internal facts about him are not sufficient to ground liability, for they cannot rule out a scenario in which he is nonliable. This is rather thin as an explanation, however, unless we also have an account of why liability must be grounded solely in the internal facts, and why others are not liable in cases of type (1). Thus we have all the more reason to examine the basic premises of Thomson's argument.

IV

It is interesting to note that in my reconstruction of Thomson's argument, the notion of freedom of action has so far played no role—despite Thomson's assertions that it provides the key to understanding why causality matters for liability. Where it does enter the argument, according to Thomson, is as an explanation for the general judgment about cases of type (1). So let us begin with this judgment.

Recall the details of Thomson's general characterization of the cases in question:

(1) A caused A's injury, freely, wittingly, for purposes of his own; and no one other than A caused it, or even causally contributed to it (p. 110).

Thomson's claim is that, even if A later wants to undo the damage, given that we have a case of type (1)

B's freedom of action protects him against A: A is not entitled to call on B's assets for the purpose—A is not entitled to disrupt B's planning to reverse an outcome wholly of his own planning which he now finds unsatisfactory (p. 110).

Intuitively, we may well agree with Thomson that A is not entitled to seek "compensation" from B. But how does an appeal to B's freedom of

action do anything to explain this? As always, if B were liable, this would be a restriction on his freedom of action, and thus could be justified only for a sufficient reason. Obviously enough, Thomson thinks that such a restriction is *not* justified. But what is the explanation for this judgment?

One might think that if the argument discussed in Section I had been successful it would have provided the necessary explanation. For if A is not entitled to seek compensation from a random individual, then—it seems—he is not entitled to seek it from B in the case at hand. But this is a mistake. For the conclusion of that argument was merely that someone could be liable only if he had some (yet to be identified) particular feature. For all that that argument showed, greater wealth, or having acted negligently, and so on, might be among the requisite features. And nothing in the case at hand rules out the possibility that B has one or another of these potentially relevant features. Since Thomson is after the general judgment that B is not liable, no matter *what* features B has—provided that we have a case of type (1)—nothing in the earlier argument will be of any use to her.

Presumably, then, Thomson thinks that there is something in particular about cases of type (1) that rules out B's liability. If we could identify the relevant feature of these cases, then no doubt we could say that—given that feature—making B liable would unjustifiably restrict his freedom of action. But Thomson's appeal to freedom of action does nothing to help us see what the relevant feature is; and it thus does nothing to explain the general judgment about cases of type (1).

One might try to provide Thomson with the missing account—isolating the relevant features of cases of type (1), and justifying the claim that those features rule out B's liability. But I will not attempt to offer such an account here. For it is puzzling why Thomson felt the need to bring in anything as complicated as cases of type (1) in the first place. Consider a much simpler type of case:

(O) A is not injured at all.

It seems obvious that B cannot be liable in cases of this type, for A is not in need of compensation at all. As we shall see, even this general judgment can be challenged, but surely anyone who accepts the judgment about cases of type (1) will accept the general judgment about cases of type (O). If this is so, Thomson could have argued as follows: even if A has in fact been injured, provided that B did not causally contribute to the injury, all of the *internal* facts about B are compatible with the

situation being of type (O) in which B is not liable. Thus (given internalism) B is, in fact, not liable.

If Thomson's original argument is sound then, so far as I can see, this second version must be sound as well. Note that although the argument still relies on a general judgment about cases of a certain type, as well as a metaphysical judgment about compatibility, these two premises here seem to verge on the trivial. This suggests that the real work of the argument is being done by the assumption of internalism. Let us, therefore, turn to this central premise.

V

Internalism is the view that a person's liability must depend solely on internal facts about that person. Since Thomson did not even state this basic premise of her argument, we can only conjecture as to what her reasons would be for accepting it. Perhaps Thomson finds internalism intuitively evident, and this helps to explain why she did not recognize the need to state and defend it. For it is, I think, an intuitively attractive view. Indeed, many will want to give internalism a far broader scope than I have given it.

I have merely ascribed to Thomson the view that *liability* must depend on internal facts. But some, I think, would hold that the same is true for all moral requirements altogether. And others might hold that the basic *rights* that a person has must also depend solely upon internal facts about that person. Such internalistic theses, I believe, can go a long way toward explaining many common intuitions about morality; and they deserve careful examination. But here we can limit ourselves to the question of what justification there might be for accepting internalism with regard to liability.

As I have noted, such internalism seems to find support in the intuition that a person's liability must be grounded in facts sufficiently connected to the person himself. After all, we might wonder, how can an obligation for a given individual to pay compensation get a "grip" on that person, unless the relevant facts about the person himself allow it to get a "hold"? This is, for many, a powerful intuition. But until we are told how to cash out the metaphors, the intuition seems too vague to be by itself an adequate defense of internalism.

Interestingly enough, freedom of action again appears to offer the key

to a possible account. If B's liability could turn on facts beyond his control, then his "moral space" would be in constant danger of shrinking or disappearing. Thus, it might be thought, freedom of action supports grounding liability only in facts over which the given individual has had the opportunity to exercise some control.

As it happens, not even all *internal* facts about B will satisfy this test (consider, for example, race). But this will not hurt Thomson's argument. Internalism merely claims that liability is determined solely on the basis of internal facts. Freedom of action may support an even bolder assertion—that liability is determined solely on the basis of internal facts over which B has had some control. But if the bolder assertion is true, then internalism is true as well. And that is all that Thomson needs for her argument.

Unfortunately, freedom of action does not actually support internalism at all. For internalism claims that liability is determined *solely* on the basis of internal facts. At best, freedom of action supports the conclusion that among the conditions necessary for grounding liability, *some* must be under the given individual's control. Provided that this is so, however, there is no reason why there should not be *additional* conditions necessary for liability, and among these might be the obtaining of external facts over which the individual has no control.

The same problem arises, I think, even for the vague intuition that there must be some fact about the individual by virtue of which an obligation to pay compensation is able to get a "hold." At best, this intuition supports the view that internal facts must be among the necessary conditions for grounding liability. It does not support the claim of internalism that liability must depend on the internal facts alone.

Could Thomson's argument work if she retreated to the more modest claim that internal facts must be among the necessary grounds for liability? I do not think so. Thomson's argument turns on the claim that if B did not causally contribute to the injury, then the internal facts about B are compatible with a scenario in which B is not liable. But by itself, this only shows that the internal facts coupled with one possible set of external facts yield nonliability. Unless we think that the internal facts are the only ones relevant for liability, we will have no reason to rule out the possibility that the internal facts yield B's liability when coupled with the external facts that actually obtain.

Thus Thomson does need internalism for her argument to succeed,

yet I can see no obvious way to defend it. This does not, of course, prove that internalism is false. But it does leave a significant gap in Thomson's argument.

If it *could* be shown that internalism is false, that would deal a fatal blow to the argument. However, I do not think that such a demonstration can be easily provided. Internalism, to be sure, faces serious problems. But it is far from clear to what extent it can meet them.

For example, it seems plausible to hold that B's liability may turn in part on whether or not A gave his permission to be injured. The existence of A's permission, however, does not appear to be an internal fact about B. Thus we seem to be provided with a straightforward counterexample to internalism. This conclusion is too hasty, however, for there are at least two ways in which an internalist might try to meet the objection (other than rejecting the relevance of A's permission). First, it might be claimed that although the existence of A's permission is an external fact, there is an *internal* fact about B that corresponds to it: the fact that B acted with A's permission. If this is indeed a legitimate internal fact, attention to it should enable the internalist to sort out the various cases appropriately. (Or perhaps one could make do with the internal fact about B that he took himself to be acting with A's permission.) Second, one might modify internalism. Rather than claiming that B's liability must depend solely upon internal facts about B, one might hold that B's liability to A must depend solely upon internal facts about the *relation* that holds between B and A. Since A's having permitted B's act would be an internal fact about the relation between the two, such a modified internalist could recognize the relevance of this fact to B's liability.

I do not know whether either of these possibilities could be adequately defended. (Nor is it clear whether the second alternative would be compatible with Thomson's argument.) Examining these responses, however—not to mention considering other possible objections and replies—would obviously require a fuller account of internalism than we have room to develop here. As a consequence, I am simply going to avoid taking a position on whether or not internalism is true.

However, even if we leave the issue of the truth of internalism unresolved, the fact remains that Thomson's argument appeals to internalism without defending it. Yet in the absence of such a defense, it seems plausible to think that Thomson's argument merely begs the question. That is, I believe that Thomson's use of internalism begs the question against one who denies that causality is necessary for liability.

The denial that causality is necessary for liability is, of course, compatible with a variety of alternative views about what liability actually requires. It is not possible to survey more than a few such alternative views here; but these should, I think, suffice to show that Thomson's unsupported appeal to internalism is illegitimate.

Consider, first, the view of one who holds that when A has been injured against his will (perhaps by C, who has since died), A is entitled to seek compensation from B by virtue of B's greater wealth. Such a person might well hold that were A *uninjured* he would have no claim on B's funds, but since he *has* in fact been injured, he is entitled to seek the cost of damages from the wealthier B. On this view, B's liability depends, in part, on whether or not A has been injured by some third party. But this fact about A's injury is surely not an internal fact about B. Thus, on this view, B's liability partly turns on an external fact; that is, the view involves the rejection of internalism. Therefore, obviously enough, it would simply be begging the question to attempt to refute this view by assuming internalism without defending it.

As a second possibility, consider the view of one who holds that if A has been injured against his will (perhaps by C, who has since died), he is entitled to seek compensation from B by virtue of B's having negligently performed an act that ran a great risk of injuring A. (Perhaps B and C performed similar risky acts, but through mere chance C's act caused an injury, while B's act did not.) Such a person might well hold that had A not been injured he would not be entitled to seek funds from B, but since he was injured, he is entitled to seek the cost of damages from the negligent B. On this second view, as with the first, B's liability turns in part on an external fact about A's injury. Thus this view, too, involves the rejection of internalism, and Thomson's failure to defend internalism means that her argument begs the question against it.

Both of these views agree with Thomson that A's being entitled to seek compensation depends in part on his having been injured. Since they deny that causality is necessary for liability, however, the dispute between Thomson and these views partly comes down to the question of whether the external fact of A's having been injured by someone else can be relevant to B's liability. Internalism, of course, would simply rule this possibility out a priori. But that is the very reason why an undefended assumption of internalism in an argument against these views is illegitimate.

It may be instructive to consider, as a final possibility, the view of one

who holds that when B has negligently performed a risky act toward A, A is entitled to seek funds from B—whether or not A has actually been injured by B or by anyone else. It may be somewhat strained (or perhaps even inappropriate) to speak of “compensation” here, for there is no injury that is being corrected. But one who holds this view may well believe that even if B’s act *had* injured A, this would affect only the appropriateness of the label “compensation,” and not the grounds of B’s liability: the latter would still be grounded simply in the fact that B had negligently performed the risky act.

Notice that this view, unlike the others, does not involve the rejection of internalism. Thus in this case, at least, Thomson’s undefended assumption of internalism does not beg the question. But, unfortunately, her argument fails here for a different reason. For one who holds this view will deny the general judgment about cases of type (1). Admittedly, in such cases, A’s injury is irrelevant for the question of whether A is entitled to seek funds from B. But in some cases of type (1), B will have negligently performed a risky act, and this will be sufficient to ground B’s liability. So it is false—according to the view under discussion—that in cases of type (1) B is never liable. For similar reasons, the general judgment about cases of type (O) will be rejected as well. Without these general judgments, of course, Thomson’s argument cannot proceed. But to assume these judgments, without more adequate defense than has been provided, begs the question yet again.

It is also worth noting that someone who holds the view we are discussing might, in fact, attempt to defend it through an appeal to internalism. He might argue that the question of whether or not a risky act *actually* results in injury—depending as it does on mere chance—is insufficiently connected to B himself to count as an internal fact. Thus, he might insist, an adequate account of internalism would rule out the possibility that causality can matter for liability. In short, the very assumption of internalism, on which Thomson’s argument turns, might be thought to support the rejection of Thomson’s own conclusion. There is no room to pursue this dispute here, but it should serve to underscore the significance of Thomson’s failure to provide an explicit account and defense of internalism.

It is not my intention to discuss whether any of the three views I have just sketched are particularly plausible; for our purposes here that should not matter. Thomson has attempted to argue that causality is necessary

for liability. I have claimed that her argument relies on premises that would be straightforwardly rejected by many who deny her conclusion. In the absence of an adequate defense of these premises, it seems to me that Thomson's argument simply begs the question.

This is not to say that Thomson's argument is unsound. For all that I have shown to the contrary, it might well be that Thomson's premises are correct. But three negative conclusions still seem to be in order. First, I take it that Thomson was trying to offer a *demonstration* that causality is necessary for liability. That is, she was trying to offer an argument that would satisfy even those not already convinced of her conclusions. Given the lack of defense of a controversial premise, this attempt, I think, must be judged inadequate. Second, Thomson set out to explain *why* causality matters for liability. She claimed that the key to the desired explanation could be found in the importance of freedom of action. If my criticisms have been correct, however, the appeal to freedom of action has been little more than a placeholder for the appeal to intuition. So far as I can see, Thomson has not shown that freedom of action would play any significant role in an explanation of why causality matters for liability.⁶ Finally, I have suggested that the explanation Thomson does offer actually relies most centrally on the assumption of internalism. But internalism is obscure as well as controversial. Without an adequate account of it, it seems to me that we have no real explanation of why causality matters for liability.

6. Noting that it is implausible to hold that causality is *sufficient* for liability (p. 111), Thomson suggests that "considerations of freedom of action will take us a long way—not merely into the question why causality matters, but also into the question when and where it does" (p. 116). Her argument (p. 115) is baffling, however. She suggests, plausibly, that given A's freedom of action, if B knows he will injure A, he must buy the right to do so in advance, if he can. She concludes, again plausibly, that if B knows he will injure A, but due to A's absence cannot buy the right to do so in advance, he must—nonetheless—pay for the right afterward, by compensating A. If this is so, however, as far as I can see A's freedom of action should equally support the following conclusion: even if B does not know he will injure A (because B will injure A by a freak accident that B could not reasonably have been expected to foresee), and so B justifiably fails to buy the right to injure A in advance, he must—nonetheless—pay for the right afterward, by compensating A. Yet Thomson denies that B is liable in cases of this latter sort, and she mysteriously implies without explanation that freedom of action justifies her judgment.