

Chapter 2

The Problem with Promising

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Abstract

Why have philosophers since Hume regarded promising as problematic? Owens distinguishes two problems raised by Hume. The problem of the bare wrong is the problem of how it can make sense to avoid a wrong when the wrong does not affect any intelligible human interest. The problem of normative power is the problem of how something can be a wrong simply because it has been declared to be a wrong. Owens argues that the problem of the bare wrong is more basic. Owens then examines the attempts of practice theorists like Hume and Rawls to overcome the problem of the bare wrong by arguing that, whenever breach of promise seems like a bare wrong, in fact human interests are adversely affected, because a socially valuable practice is damaged. Owens argues that the explanations of the practice theorists cannot cover all the cases. He then formulates an assumption that is shared by all practice theorists (and others), namely the assumption that we take promises seriously because they serve our interest in social co-ordination. Owens argues that, if this social co-ordination hypothesis were true, then there need be no practice of promise-keeping for promises to bind. Furthermore, were this hypothesis true, promising would be a social tool that we could largely do without. And so long as the intelligibility of promising is in doubt (because of the problem of the bare wrong), an adherent of the social co-ordination hypothesis should assume that we largely do without promising. So, Owens concludes, anyone who gives promising a key role in human social life must reject the social co-ordination hypothesis.

Hume regarded a part of ordinary morality as deeply problematic in that it is hard to see how it would make any sense for people to conform to its rules, except when extraneous considerations were in play. I'll focus particularly

on what Hume says about promising, but he sees property rights, the power of consent and political authority as raising essentially the same issues. What makes Hume's discussion so compelling is that it is driven by two widely held assumptions—one about human action, the other about obligation—assumptions that appear to conflict.

The widely held assumption about action is that sensible people can be moved to do something only if they can see some point in doing it, and that they can see some point in doing it only if doing it strikes them as good or desirable in some respect (whether or not it is either good or desirable on the whole). In Hume's hands, this becomes the psychological claim that "the Will exerts itself when either the good or the absence of the evil may be attained by any action of the mind or body" Hume (1978: 439).¹ Other philosophers may prefer the normative claim that a *reasonable* agent must see some good in what he does. In one form or another, this assumption is shared by philosophers who differ dramatically both about what makes it the case that something is good and about precisely how facts about what is good enter into our thinking about what to do.

The widely held assumption about obligation comes out in a question Hume puts to himself "may not the sense of morality or duty produce an action, without any other motive?" Hume (1978: 479). We often keep a promise, or respect someone's property rights, out of a sense of obligation, and without regard to any good this might do. Nor do we think this irrational. Breach of such an obligation is something most people would seek to avoid even though it appears to constitute what I shall call a *bare wrong*. The tension between our two assumptions generates the problem of the bare wrong.

I. THE PROBLEM OF THE BARE WRONG

Let's begin with property:

Here are two persons who dispute for an estate; of whom one is rich, a fool and a bachelor; the other poor, a man of sense and has a numerous family. The first is my enemy; the second my friend. Whether I be actuated in this affair by a view to public or private interest, by friendship or enmity, I must be induced to do my utmost to procure the estate to the latter. Nor would any consideration of the right and property of the person be able to restrain me, were I actuated only by natural motives. (Hume, 1978: 532)

Once we eliminate all the extraneous reasons for respecting someone's right to inherit, the admitted fact that it is still *theirs* seems a negligible consideration, one which shouldn't weigh with us *at all*. Now promise:

I suppose a person to have lent me a sum of money, on condition that it be restored in a few days; and also suppose that after the expiration of the term agreed on, he demands the sum: *I ask, what reason or motive have I to restore the money?* (479)

For what if he be my enemy, and has given me just cause to hate him? What if he be a vicious man, and deserves the hatred of all mankind? What if he be a miser, and can make no use of what I would deprive him of? What if he be a profligate debauchee, and would rather receive harm than benefit from large possessions? What if I be in necessity, and have urgent motives to acquire something to my family? In all these cases, the original motive to justice would fail; and consequently the justice itself, and along with it all property, right and obligation. (482)

Hume concludes:

From all this it follows, that we have naturally no real or universal motive for observing the laws of equity, but the very equity and merit of that observance; and as no action can be equitable or meritorious where it cannot arise from some separate motive, there is here an evident sophistry and reasoning in a circle (483)

Now Hume finds neither obligation nor the idea of acting on an obligation intrinsically problematic.² For example, Hume says that “A rich man lies under a moral obligation to communicate to those in necessity a share of his superfluities” Hume (482). Here it would make perfect sense for the rich man to discharge this obligation, for he would thereby serve an obvious human interest. So why do the obligations generated by promising, property, and so on, and the wrongs associated with them, seem any more problematic to him?

To see why we should reformulate the first of Hume’s assumptions as follows:

(1) It makes sense to do something because you are obliged to do it only if the discharge of this obligation would serve some interest.³

A human interest in *x* makes it sensible to want, or at least to value *x*, by ensuring that *x* is good for us in some respect. Here I shall confine myself to the interest human beings have in the fulfillment of a promise.

Things are worth wanting or valuing for many different reasons. Hume implies that these considerations all, in the end, concern human welfare.⁴ The “natural” obligations he recognizes (to care for one’s children, or help the needy, or even return favours rendered—Hume, 1978: 478–479) involve a desire to benefit people, or to avoid harming them. Exactly whom one desires to benefit will depend on other factors—who your children are, who will benefit the most, who has been good to you—but the promotion of someone’s welfare is the aim in all cases. Now in the examples Hume describes, nobody

will be harmed should he violate his obligations, not Hume, nor the beneficiary, nor the public, and some will be much better off; hence the problem of bare wrong.

Is Hume taking too narrow a view of what constitutes a harm or a benefit? Perhaps human beings have an interest in knowing what is going to happen, even if no further interest would be served by this knowledge. One important method of securing such knowledge is by making wills and accepting promises. And if this epistemic interest is what moves people to extract promises and make wills and if it is always damaged whenever a promise is broken or the terms of a will are ignored, perhaps Hume's two characters (the person who borrowed money from Hume and the profligate debauchee) are harmed after all.

It is doubtful whether being given a false belief, even a false belief about matter that interests you, is in itself a harm. The Russian anthropologist Maklay promised not to photograph a Malayan servant who feared the loss of his soul and so refrained from doing so even while the servant was asleep (Foot, 2001: 47–50). Can Maklay have supposed that he would be harming the servant by taking the photograph simply because he would be falsifying one of the servant's beliefs about what would happen to him? Even if there is a harm here, this proposal fastens on something inessential to a breach of promise. Hume's debauchee might be so debauched that he neither knows nor cares whether his affairs are being managed honestly, or whether promises made to him are being kept. Still he can be wronged in either fashion. A more sober character might forget the promise or have little faith that the promisor will perform without thereby invalidating the promise.

Can we avoid Hume's problem by instead abandoning the assumption that human beings are concerned only with the promotion of human welfare? Human beings naturally take an interest in people's getting a fair share, in issues of distributive justice.⁵ Suppose what would constitute someone's fair share can be determined without knowing either what they own or the promises that have been made to them. Then our concern with fairness could motivate compliance with an obligation without presupposing a prior concern with what we are obliged to do.

We do distinguish between whether someone *deserves* to have something (given their talents, efforts, what they have already got, what use they will make of it, and so forth), and whether they are actually entitled to it (Feinberg, 1970: 85–87). We are able to consider whether it is appropriate or fitting for them to have it apart from whether they have a right to it (e.g. because they own it).⁶ It is a moot point whether satisfaction of this interest in fairness makes our lives go better. Perhaps our interactions with others tend to lose their savor unless they are informed by fair principles of cooperation (cf. Scanlon, 1998: 161–164). If so, this concern with fairness is an interest in

the sense in which that term is used in (1). On the other hand, fairness may simply be something in which we reasonably *take* an interest even though its frustration would make our lives no worse. I shall leave these questions open, since I doubt that an interest in a fair or reasonable distribution can explain why we take bare wrongs seriously, however that interest is to be understood.

In the cases Hume considers, neither of the characters entitled to the money deserve to have it: they have too much already. Other people deserve it more, and things would be fairer if they got it. Still these others are not entitled to it, and many (Hume included) would think that the money ought to go to those who are entitled to have it. So the problem remains even once we allow that human beings are moved by their fellows' deserts as well as by concern for their wellbeing. A bare wrong does no one any harm. Nor is it wrong because it deprives someone of an item they deserve, or gives someone an item they don't deserve. A bare wrong has no *wrong-base*. How, Hume asks, can we take such bare wrongness seriously as a guide to action?

II. THE PROBLEM OF NORMATIVE POWER

As well as property-based and promissory obligations, Hume discusses at some length the obligations generated by the commands of our rulers. What all these obligations have in common is that they are created (or remitted) by the exercise of normative powers. Let me explain what I mean by this.

Many obligations are the product of our choices. I am obliged not to drink only because I chose to drive my car. And you are obliged to wait for me to pass (and not run out in front of me) only because I chose to drive along the road. In this case, the changes I make in the normative situation may not be intended or even foreseen by me. But even if the imposition of such an obligation is both foreseen and intended, and in that sense chosen, it is a product another choice: the decision to drive a car.

Now some obligations are a product of choice in a stronger sense than this. Some obligations exist because someone has communicated the intention of imposing such obligations (on themselves or on someone else) by communicating this very intention.⁷ For example, the promisor is obliged to perform because he has communicated the intention of putting himself under an obligation to perform by communicating this very intention.⁸ Of course, the promisor will need to do things in order to communicate this intention, and, where he succeeds, his obligation will be a product of this (intended) activity (speech or whatever). But, unlike the decision to drive a car, what makes this activity generate an obligation is the fact that it communicates the choice of this obligation. This is an obligation you *undertake*

rather than *incur*.⁹ Even if your driving communicates such a choice (and is so intended), that is not why it imposes the relevant obligations either on yourself or on others.

It is not just promissory obligations that are chosen in this stronger sense. When I order you to do something, I impose an obligation on you by communicating the intention to do exactly that. When I give you my car, I impose on myself and on others an obligation not to use it (without your consent) precisely by communicating the intention of creating such obligations. These examples all involve the exercise of a *normative power*, of a power to change what people are obliged to do by communicating the intention of so doing. People often exercise normative powers by employing a conventional forms of words: “I promise” (give, consent, marry, order etc.) and philosophers have used the notion of a *performative* to pick out this class of verbs. But one can communicate the intention to undertake an obligation without using a dedicated form of speech.

Hume expresses doubts about the intelligibility of this sort of speech-act: how can the mere fact that someone has promised, given, ordered, and so on—make sense of our behaving differently from the way we would have behaved before? Speaking of promising in the *Treatise*, he says:

’tis one of the most mysterious and incomprehensible operations that can possibly be imagined, and may even be compared to *transubstantiation* or *holy orders*, where a certain form of words, along with a certain intention, changes entirely the nature of an external object, and even of a human creature. (Hume, 1978: 524)

How does Hume’s puzzlement about normative power relate to the problem of the bare wrong? I suggest that they are two sides of the same coin. What makes breach of promise a wrong is that someone has communicated the intention that it constitute a wrong. Now something can be declared to be wrongful whether or not it is harmful, or constitutes unjust enrichment, or bears on human interests in any other way. So such wrongfulness raises the problem of the bare wrong: What sense is there in refraining from doing something simply because it has been *declared* to be wrongful? Yet how could bare wrongs, wrongs which have no adverse effect on anything that matters to us come into being unless we did indeed have the power to create them by declaration?

Nevertheless, it might be suggested that the problem of normative power has a life of its own. That would be an interesting result for the following reason. The problem of the bare wrong arises only if we impose some substantive constraints on what kinds of consideration can make sense of an action along the lines suggested by (1). And constraints that are at all restrictive are also likely to be controversial. Now suppose that there were an independent problem with the idea that promising and other performatives

can make something a wrong. That further problem might be one we can't get around simply by expanding our list of the sorts of considerations that can motivate sensible action. But what could this further problem amount to?¹⁰

It can't be maintained that the communication of an obligation-creating intention makes literally no difference to the situation. After all, this communication is a real event and so why shouldn't its occurrence be enough to make sense of our tendency to behave differently in the light of it? Perhaps the utterance of something like "I promise" can make the right sort of difference only if "I promise" means something that it can't possibly mean. For example, Anscombe asks rhetorically

how on earth can it be the meaning of a sign that by giving it one purports to create a necessity of doing something—a necessity whose source in the sign itself, and whose nature depends on the sign? (1981: 100)

But precisely what prevents one creating a motive, a motive that can explain why something is done, by communicating one's intention so to do to another human being? Any answer must invoke a substantive doctrine about the range of motives capable of making sense of human action. And such a doctrine will render promising problematic only in so far as it makes breach of promise look like a bare wrong.

Most breaches of promise are not bare wrongs, because most promises encourage some sort of reliance on (or at least expectation of) their fulfillment. Nevertheless, if my discussion is along the right lines, the atypical promise whose breach does no harm is, in a way, the central case of promising. Most frequently the wrong of breach of promise, the wrong made possible by declaration, is embedded in various other wrongs. Because promisors generally think that it is wrong to breach a promise, their promises tend to generate expectations of performance, and this fact tends to make breach of promise wrong in other ways. To appreciate what worried Hume about promising, we must pare off these other wrongs. We must focus our attention instead on *pure* cases of breach of promise, where breach of the promissory obligation is the only wrong done.

I'll assume that Hume's puzzlement about promise derives from his commitment to something like (1). That is what generates the problem of the bare wrong, and so the problem of normative power. Can these problems be solved without abandoning (1)?

III. PRACTICE THEORIES: HUME AND RAWLS

Hume thinks he can locate a human interest that makes sense of our inclination to keep our promises, respect property rights, and so forth, namely our

interest in social coordination, in our knowing what each of us is going to do so that we can coordinate our activities. Few would deny that we have such an interest, and that it makes sense to act on it. How is this interest threatened in Hume's examples?

The problem of the bare wrong is posed by cases in which nobody will benefit from an individual promise's being kept, for example, from a debt's being paid. The people who need the money lose it, and those who acquire it don't benefit from having it, and so on. But, Hume will say, we are in danger of focusing too closely on the individual case. We all have an interest in being able to rely on the promises others make to us and in being able to make promises to them on which they can rely. This interest is served by everyone's firm adherence to a policy of keeping promises. It is not well served if we all retain the option of breaking our promises should we judge that the interests of the individuals involved would be furthered by breach of a particular promise. To give others the assurance they need if we are to cooperate, our promise must be more than an expression of our present view of what future action would be best.

If Hume is correct, the wrongs he considers are not so bare after all. When I refuse to repay my debt as promised on the grounds that everyone is better off if I keep the money, I undermine a valuable social practice, and thereby harm everyone who has an interest in the maintenance of that practice. How exactly is the practice undermined? Considering a case in which there is no apparent good in adhering to a rule of justice, Hume comments:

Taking any single act, my justice may be pernicious in every respect; and 'tis only upon the supposition, that others are to imitate my example, that I can be induced to embrace that virtue. (Hume, 1978: 493)

By breaching my promise, I cause others not to keep promises where they judge it would be best not to keep these promises and so we are all led not to rely on promises. This reflection alone can get me to keep my promise even where there is no good in it.

Hume's is often called a *practice* theory of promissory obligation, in that he thinks that the wrong involved in breach of promise can be understood only by reference to the existence of a social practice of making and keeping promises. I agree with Hume and other practice theorists that promises don't bind unless people actually treat them as binding, but I reject their other claims. I contend that the function of a promise can't be to serve our interest in social coordination, and I suspect that, to identify the true function of a promise, we must reject the constraint (1) places on compliance with an obligation. But before broaching those more general concerns, I want to examine the two leading practice theories of promissory obligation—those of Hume

and Rawls—in detail, and note some of the problems which they encounter, and which a better version of the theory must avoid.

The practice theory in all its guises faces what we might call *Prichard's Problem*. Prichard (1968: 169–172). Let us allow that, once the practice of making and adhering to promises somehow gets going, we all have an interest in maintaining and preserving it. Still, that does not explain how the practice could possibly arise amongst normal human agents, how it could ever make sense for us to keep our promises. The practice of promising is a practice of giving point to a future act of promise-keeping by communicating the intention of giving it that point. If such a procedure makes no sense, the fact that it would be greatly to everyone's advantage if it did make sense is of little consequence.

In addressing this problem, Hume and Rawls distinguish two stages in the evolution of the practice. At the first stage, people are motivated to keep their promises by something other than a sense of obligation. Once this practice is firmly established, we reflect on its role in our lives, and, realizing how we all benefit from this arrangement, we feel obliged to maintain it. At this second stage, we may keep our promises out of a sense of obligation. Let's see how this idea is implemented first in Hume and then by Rawls.¹¹

Hume

According to Hume,

interest is the *first* obligation to the performance of promises. Afterwards, a sentiment of morals concurs with interest, and becomes a new obligation upon mankind. (Hume, 1978: 523)

“Interest” here is our interest in having a reputation for reliability:

When a man says *he promises anything*, he in effect expresses a *resolution* of performing it; and along with that by making use of this *form of words*, subjects himself to the penalty of never being trusted again in the case of failure. (522)

Should it become known that my promises are not to be trusted, I will no longer be able to get people to do things for me by promising to do things for them. To use Hume's own example, I won't be able to get my neighbour to help me take in my harvest by promising to help him take in his Hume (1978: 520–521). And this incapacity would be a serious blow to my interests.¹²

Once the practice of promising is up and running, powered by the motivational fuel of self-interest, what role remains for the “sentiment of morals,” the sentiment that concurs with, or endorses, the motive of self-interest when we reflect on the social benefits of everyone keeping their promises? Hume notes that while “a present interest” may blind us to the deleterious

but remote consequences of our own actions, “it takes not place with regard to those of others; nor hinders them from appearing in their true colours, as highly prejudicial to the public interest, and to our own in particular” Hume (1978: 545). The sentiment of morals leads us to condemn other people’s breaches of promise, decrying the promisor’s failure to recognize that his breach of promise harms everybody’s interest, including his own. And that reinforces the motive of self-interest, by putting potential violators in fear of being condemned by third parties in addition to being excluded from their mutually beneficial arrangements. This is how the sentiment of morals backs up self-interest, and ensures that we keep our word.

But aren’t we inclined to fidelity by our own sense of what is right, and not just by fear of other people’s? The practice of promising, as we usually think of it, covers many cases in which it is pretty clearly not in the promisor’s interests to keep their promise. If keeping the promise would be costly, and I’m reasonably sure that I will never have to deal with the promisee (or anyone who knows of the breach) again, the canny thing to do might well be to breach. (Think of a promise to purchase or sell a house.) Perhaps I won’t even be subject to condemnation by third parties. True, I’m rarely completely sure that my reputation won’t suffer. Nevertheless, it is often unlikely that it will, and yet abundantly clear that I am bound to perform. The motive of obligation must outrun that of self-interest, so how can our sense of obligation be no more than our endorsement of a practice based on the motive of self-interest?

Thus far I have been giving Hume’s text the orthodox reading, a reading that fits much of his discussion. There is another interpretation. Toward the end of his treatment of promising, and *after* having described how the practice serves both private and public interest, Hume says:

We cannot readily conceive how the making use of a form of words should be able to cause any material difference. Here, therefore, we *feign* a new act of mind, which we call the willing an obligation; and on this we suppose the morality to depend. (Hume, 1978: 523)¹³

Apparently, all of the above notwithstanding, Hume takes himself to have made no sense of the idea that we can give ourselves a motive for doing something by communicating the intention so to do. In the course of his discussion, we have gone from the superstition that we can do it, to the disillusioned pretence that we actually are doing it, but the act of promising itself remains unintelligible.

One can reconstruct Hume’s two-stage genealogy of promises around this passage as follows. At the first stage, we are all mired in confusion. We imagine that it is possible to give an action a point by communicating the intention to give that action a point. And provided you don’t reflect on what you

are doing, you can act on that confused thought. Given how generally beneficial this confusion is, it would be no surprise if it occurred to us naturally and, with regular reinforcement, became a custom or a habit. The psychological mechanisms that generate and entrench this confusion—instinct, imagination, custom or habit—appear regularly in Hume’s philosophy. Furthermore, reflection will not undo the work of imagination, for, as well as the nonsensical character of promising, reflection reveals its great social usefulness. Reflection actually reinforces our confused motive for participating in the practice.

This reading of Hume will not please philosophers uncomfortable with Hume’s irrationalism, but it does enable Hume to avoid the problem raised earlier, for at no stage does the practice run on the fuel of self-interest alone. Perhaps we *make* promises only when we expect to gain by so doing. But where keeping the promises turns out not to be in our interests after all, we may still *imagine* ourselves (in our confusion) as bound to keep the promise even before we reflect on the social benefits of the practice. And, once we do come to reflect how beneficial this confusion is, we will continue to honor a wider range of promises than those recommended by mere prudence.

By allowing Hume to bite Prichard’s bullet, we secure him the first stage of his genealogy of promising, but the second stage remains problematic, for we are still unable to endorse our tendency to keep all of the promises usually thought binding. Where a breach of promise will remain completely undetected, there is no fear that the practice of promising will be damaged:

if we suppose, that the loan was secret, and that it is necessary for the interest of the person, that the money be restored in the same manner (and when the lender would conceal his riches), in that case the example ceases, and the public is no longer interested in the actions of the borrower; though I suppose there is no moralist, who will affirm, that the duty and obligation ceases. (Hume, 1978: 480)

Potential promisors won’t be any the less likely to keep their promises because of a breach they know nothing about, and so, provided the promisee’s interests are not damaged in any other way, even the most altruistic promisor would have no intelligible motive for keeping the promise. Confusion of thought might get him to keep the promise anyway, but a moment’s reflection will reveal that (in this case at least) the confusion serves no purpose, that his sense of obligation, though real enough, is absurd.

Rawls

Like Hume, Rawls responds to Prichard’s Problem with a two-stage account (1999: 301–308). At the first stage, we have a practice of keeping promises, a practice which serves both public and private interest by facilitating social

coordination without invoking the notion of obligation. At the second, those who already conform to the rules of this practice come both to appreciate its benefits and to realize that they are obliged to conform to its rules.

Rawls does not tell us how people begin to make and keep promises, what gets them to participate in the practice to start with. Rawls just assumes that the practice has certain constitutive rules that people tend to obey. Now it is widely held that obedience to a rule involves a tendency to conform that one has because one thinks that one *ought* to conform. On this view, those who participate in the promising practice treat its rules as guides to what they ought to do. Yet this ought cannot be the ought of obligation, otherwise Prichard's problem will return. Nor can it be the ought of prudence, otherwise the scope of the practice will be curtailed. Rawls might avoid this difficulty by maintaining that conformity to the constitutive rules of a practice is a mere custom or habit. Rawls says that his account of why we are obliged to uphold the promising practice once it exists is meant to apply to the practice "however it may have come to be established" (1999: 307). But since Rawls implicitly endorses the assumption that agents must see some good in what they are doing,¹⁴ it looks as if such a practice could not be established amongst rational agents.

Rawls's real advance over Hume comes at the second stage, when we come to assess the practice. Here Hume relies on the thought that the practice will be damaged should we breach, and thus the public interest in social coordination will be harmed. Rawls agrees that we are obliged not to undermine a just and socially useful practice, but he thinks that those who have "voluntarily accepted the benefits of the practice" have a further obligation. According to Rawls's *Principle of Fairness*, they "are obliged to do their part as specified by the rules of the institution" (1999: 301).¹⁵

For example, it is unfair to exploit the practice by promising your neighbour that you will help him with his harvest if he first helps you with yours unless you mean to perform. This is exploitation, because you would be trying to secure the benefits of the practice (i.e. present aid) without being willing to bear the costs of it (i.e. future performance). Note the problem here is not that you would be damaging the practice by failing to perform. Should your breach somehow go undiscovered, there may be no damage. Rather the point is that, whether found out or not, you would be getting something that you did not deserve in view of your unwillingness to reciprocate.

Here Rawls expands the wrong base, the list of considerations that give breach of promise its wrongful character. No longer is it just harm. The violator may do no harm, either to the promisee or the practice of promising. Still, he is taking something that he does not deserve. Anyone tempted to behave like this might intelligibly refrain for this very reason, even where their breach would go undiscovered. The idea that this item would be

undeserved does not depend on some prior obligation not to take it. Rather (we are supposing), desert can provide a ground for a judgement of wrongness.

Rawls may now respond to our earlier worries about how stage one of his account is meant to work by biting Prichard's bullet. Suppose the practice of promising did indeed originate in a widespread confusion of thought. Nonetheless once the practice has got going, even the clearheaded among us may feel obliged to keep our promises, since the practice is a socially useful one. And those of us who voluntarily accept the benefits of the practice will have an even weightier (and perfectly rational) obligation so to do.¹⁶

Imagine that, by expanding the wrong base in the way Rawls suggests, we could bring all wrongful breaches of promise, including the seemingly bare wrongs, within the scope of the practice theory. Still, extensional adequacy is not the only test such a theory must pass. The wrong the practice theorist detects in a breach of a promise must be a wrong of the right sort (cf. Scanlon, 1998: 316). A breach of promise is primarily a wrong against the promisee, since the promisee is the person to whom the performance is owed. Third parties (including potential beneficiaries) may also be wronged by the breach, and perhaps these other wrongs are, in the end, more serious. Nevertheless, they presuppose that the promisee has himself been wronged. Can Rawls accommodate this structural fact?

Consider a case in which the promisee is not harmed by the breach. Rawls argues that the promisor has not played fair, and so his breach is still a wrong. But who is wronged by this breach? Rawls would reply that the promisor is dealing unfairly with all of those who uphold and maintain the practice; we are *all* wronged whenever the practice of promising is exploited in this way, regardless of whether the promisee (or anyone else) is actually harmed. Even so, there is surely a distinct wrong of breach of promise, a wrong directed specifically at the promisee. And where is *this* wrong to be found when the promisee is unharmed by (and perhaps even ignorant of) the breach?

Rawls might respond that, though the violator is being unfair to all of us who uphold the promising practice, he is being especially unfair to the promisee, whose individual propensity to rely on promises he is exploiting. Even when the promisee is not harmed, he is exploited in a way that others are not, and it is *via* the exploitation of him that the practice as a whole is exploited. This sounds plausible enough when we are dealing with a promisee who conscientiously keeps his own promises. But suppose Hume's debauchee is happy to accept my promises, even though he doesn't take his own promises very seriously. I would still wrong him by failing to pay my debt as promised (whether or not he is harmed).¹⁷ Yet it could hardly be said that *he* deserves this sort of consideration, that I would be exploiting the

practice of promising by exploiting *his* devotion to it in particular. He is no more willing to play fair than I.

In this section, I have raised doubts about the two most detailed and influential practice theories of promissory obligation. Implicit in both is a certain view about the function of a promise, namely that promises are here to facilitate social coordination. In the final section, I shall ignore the detail of these theories and focus on that shared assumption.

IV. SOCIAL COORDINATION

Promises bind because people actually treat them as binding. That is the truth in the practice theory. The leading practice theorists have also maintained that promising's function is to enable us to coordinate our activities with other human beings. In their view, that is why it makes sense to make, accept and keep promises. Call this the *social coordination hypothesis*. In this section, I shall argue that the latter hypothesis cannot sustain the former insight. First, we could have social coordination without a *practice* of promising, and, second we could have social coordination without a practice of *promising*.

As to the first point, it might seem obvious that, if promise is to be of any use as a tool of social coordination, people must be in the habit of fulfilling their promises. Given that we take promises seriously because they enable social coordination, it follows that promises would lose their binding force unless people were in the habit of keeping them. Yet at least one of Hume's contemporaries maintained that there need be no practice of promising for promises to serve our interest in social coordination. Writing in response to Hume's *Treatise*, Thomas Reid wondered why the obligation of a promise should depend on the existence of a prior practice of promise keeping. Reid did not doubt that promises would be "useless" unless people were (a) disposed to trust them and (b) disposed to keep them (1969: 443). But why, he asked, can't these dispositions be "an effect of their constitution" (444)? Perhaps people are innately disposed to both trust and respect promises, and have innate common knowledge of this fact about one another.¹⁸ Call this the *innateness hypothesis*.

Reid argues at some length that the innateness hypothesis is true, but our concern is not with its truth. Rather I am interested in Reid's further claim that, were his hypothesis true, that alone would ensure that promises were binding. The practice theorist can't agree, so long as he maintains that promises do not bind unless human beings are in the habit of making and keeping promises. You can't be in the habit of doing something that you have never done. There is no such thing as an innate habit. Yet, given the innate

dispositions and common knowledge Reid outlines, surely promises would serve the function of coordinating our activities regardless of whether there was any custom of so using them. Human history might, in principle, contain only a single promise, a promise that was entered into because it served at least one party's interest in coordination, and that was binding because breach of it would harm that interest. By adopting the social coordination hypothesis, the practice theorist breaks the connection between the existence of a practice and the normative force of a promise.

I take it Hume would regard the innateness hypothesis as psychologically implausible. He makes fun of the idea that our respect for property might be the product of an "original instinct." The rules governing the acquisition and transfer of property are too complex and variable for this to be at all plausible. (Hume, 1975: 201–203). Doubtless he would say the same of the rules governing promissory obligation. We need not assess Hume's argumentation here, since latter-day practice theorists are unlikely to take the same tack. Their claim is the normative one that taking promises seriously makes sense only when there is a practice of promising. Reid's hypothesis constitutes a conclusive objection to this claim, at least so long as it is underwritten by the social coordination hypothesis. Let's now assess the merits of this hypothesis.

All of the most considerable practice theorists maintain not just that promising serves our interest in coordinating our activities with other human beings over time, but that this key interest can be served only by something like a promise.¹⁹ They appear to endorse Hume's view that the "invention" of promising is "absolutely necessary" (1978: 484), because, at least when dealing with strangers, we can't generate the sort of cooperation required to get the harvest in unless human beings are in the habit of making and keeping promises.²⁰

For Hume, promising is made necessary by the "confined generosity" (1978: 495) of human beings. Hume is no egoist. He allows that human beings care for family and friends as well as for themselves. Indeed he maintains that they have a greater affection for those close to them, taken together, than for themselves (487). What he denies is that we have any considerable interest in the welfare of strangers (at least so long as the brute instinct that leads us to empathise with the physical suffering of another creature, human or animal, is not in play—481). Given this, human beings cannot rely on the altruism of strangers to facilitate cooperative relations with them. As Hume says when discussing respect for property rights, "benevolence to strangers is too weak for this purpose" (492).

Hume's doubts about generalized benevolence seem well grounded, but there is another potential source of motivational support for cooperative activity. Among the virtues that are "common in human nature," Hume

mentions gratitude (e.g. 1978: 479).²¹ If someone does me a favour, I'll be inclined to do him a favor. Conversely, if someone harms me, I'll be much less inclined to help him out in the future. Since this fact is widely known, why can't it be exploited to set up the very cooperative arrangements among strangers that supposedly require a promise?²²

Cooperation could arise as follows. I offer to help my neighbor bring in his harvest while making it clear that I am doing so because I expect my neighbor to be moved to reciprocate, and specifically to help me bring in my harvest next week. Since help next week is my expectation, other help given at other times would not constitute adequate reciprocation. Furthermore, since I am relying on this help, any failure to follow through would likely harm and thus wrong me. I might also make it clear that if he allows me to help without reciprocating, there will be a price to pay in that I will not depend on his gratitude again.²³

The mechanism is formally similar to a promise, as Hume presents it. There too I indicate that I expect reciprocation because I expect a certain motive to come into play, namely conscientious adherence to the promise. And I also indicate that if there is no performance, there will be a price to pay in that I will no longer depend on his conscientiousness. But the motive of gratitude lacks the feature of promising that so mystified Hume. What brings that motive into play is not just the communicated intention of bringing it into play, but the bestowal of a benefit.²⁴ And a failure to reciprocate constitutes a harm, where reliance is involved, or unfair dealing, where it isn't. Such harm or unfairness could form part of a wrong base that conformed to (1).

Considering this very possibility in his discussion of the two farmers, Hume says the following:

Men being naturally selfish, or endow'd only with a confin'd generosity, they are not easily induc'd to perform any action for the interest of strangers, except with a view to some reciprocal advantage, which they had no hope of obtaining but by such a performance. Now as it frequently happens, that these mutual performances cannot be finish'd at the same instant, 'tis necessary, that one party be contented to remain in uncertainty, and depend upon the gratitude of the other for a return of kindness. But so much corruption is there among men, that, generally speaking, this becomes but a slender security; and as the benefactor is here suppos'd to bestow his favours with a view to self-interest, this both takes off from the obligation, and sets an example to selfishness, which is the true mother of ingratitude. (Hume, 1978: 519–520)

Let's allow that pure self-interest would provide a surer foundation for the sort of cooperative activity underwritten by a promise than the motive of gratitude.²⁵ Since Hume has failed to show that self-interest can be harnessed in this way, the comparison is irrelevant. What we should be asking is whether

the procedure of invoking gratitude described above could provide a non-promissory foundation for cooperative activity. For this purpose, the motive of gratitude need only be as strong and ubiquitous as the motive (whatever it is) that actually underwrites the keeping of promises. Hume gives us no reason to doubt this. If human “corruption” really were sufficient to render gratitude useless for purposes of social coordination, the chances of coordination by any other means look slim.

Is the distinction between promissory obligations and obligations of reciprocity as clear-cut as I have been supposing? In a particular case, it may be impossible to tell whether two people are bound by an obligation of reciprocation or by a promissory obligation. Say that my neighbor and I babysit for one another. No *explicit* agreement was ever reached, but I have got into the habit of babysitting on Friday night in the expectation of having a child-free Saturday night. One weekend the arrangement breaks down for no good reason, and I find myself having to cancel Saturday night’s entertainment. Here my expectations are disappointed, and I feel wronged, but what was the basis of my expectation? Did my neighbor tacitly promise to babysit for me this Saturday? Or is it rather that my neighbor is just not playing fair in helping me enjoy my night out as I helped him enjoy his night out? Such questions may have no clear answer, but that does not mean an obligation of reciprocation is no different from a promissory obligation. Rather what we have here are obligations of two quite different kinds that may serve the same purpose. Where social coordination is what matters, neither party will worry too much about exactly how it is being achieved. They will tolerate unclarity about precisely which social tool they are employing, and what the basis for their obligation is.

I have been assuming that obligations of reciprocation have a quite different normative basis from promissory obligations, but this may be doubted. When Rawls states his Principle of Fairness, he requires that the benefits of a social practice be “voluntarily” accepted, with the implication that one who has had the benefits imposed on him, or who cannot easily avoid receiving them, is not obliged to play his part. Something like this is, in many cases, a plausible restriction on obligations of reciprocation. What exactly does the notion of acceptance involve?

On one construal, someone who “voluntarily accepts” a gift *consents* to the imposition of an obligation of reciprocation. The consent here looks very like a promise to reciprocate, and seems to raise all the theoretical issues generated by such exercises of normative power (Hume 1975: 208). But this construal reads too much into the notion of acceptance. Someone can voluntarily accept a benefit simply by going out of their way to take advantage of it, without agreeing to take on an obligation to reciprocate, and indeed without even being aware that there is such an obligation (Simmons, 2001:

16–18). If I bring my children out each day at just the right moment for them to join the supervised crocodile that takes the children to school, I should expect to have to contribute to this arrangement at some point, if asked to do so. But the fact that I should expect this does not mean that I do expect it, let alone that I expressed such an expectation to anyone. The whole neighborhood may know how obtuse I am.

In this section, I have argued that our interest in social coordination can be adequately served without either a *practice* of promising or a practice of *promising*. Hume and his many followers are wrong to maintain that a practice of promising is indispensable, at least for that reason, to the social life of human beings. Hume is better placed than his followers, in that he makes a number of assumptions about human psychology whose truth might render such a practice indispensable. But later practice theorists show no inclination to adopt these assumptions, nor should they.

I'll conclude the paper by considering a final worry that prompts us to reconsider the overall direction of the argument. Hume and his fellow practice theorists are wrong to maintain that, without promissory obligation, social cooperation would become difficult, or even impossible, and human society could not exist in its present form. But can't an advocate of the social coordination hypothesis make do with the much weaker claim that promising is *one* perfectly good way of securing the needed cooperation, and that promises exist, and are taken seriously for just this reason? True, we have other tools of social coordination at our disposal, and so there may be some overlap in function, but the redundancy here is hardly complete. There are situations in which the motive of conscientiousness is available, but the motive of gratitude is not. Perhaps you have lost confidence in your neighbour's gratitude but not in their fidelity. Perhaps you have nothing to offer in return, but still hope that pity will lead them to promise without return. Why isn't this enough to explain why we have evolved more than one way of getting it together?

Were promissory obligation as firmly rooted in human interests as obligations of reciprocation, the practice theorist could be satisfied by this weaker claim. But, of course, our starting point was that (unlike the mechanism of reciprocation) promising appeared to generate bare wrongs whose connection to familiar human interests was obscure. Therefore, the very intelligibility of promissory obligation is in question. Since the attempts of Hume and others to allay these doubts failed, a picture of human life that minimized the role of promissory obligation, or even dispensed with it altogether, would be much more satisfying than one that had promissory obligation operating in tandem with other methods of coordination.

Recall Hume's farmers once more. We observe them conversing. The first farmer helps harvest the second's field today, and the second farmer

helps harvest the first's soon after. We then ask the second farmer why he helped the first farmer out, and he replies by citing an obligation. What is the most plausible account of why he thought himself obliged to do this? Were Hume right to maintain that the *only* available answer here involves a promise, we might have to swallow it, even if this involved placing a deeply confused thought at the foundation of our social life. Where confusion is completely unavoidable, it may also be a stable source of motivation, but where there is an alternative mode of cooperative motivation, both intelligible and widely available, the case is quite different. Since human beings wish to make sense to themselves, dispensable confusion will be dispensed with and intelligible motives will be adopted. The anthropologist should conclude that the mechanism of reciprocation does the work of social coordination anywhere it can.

Far from giving promising pride of place in our social lives, the social coordination hypothesis renders it peripheral. That is exactly the conclusion several opponents of the practice theory have drawn. These writers contend that behind the façade of the exercise of normative power lies the reality of principles of reciprocity, adverse reliance, and due care for induced expectations.²⁶ For them, bare wrongs are an illusion. This conclusion can be avoided only by rejecting the social coordination hypothesis and amending the theory of rational agency implicit in (1).

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NOTES

1. I shall not go into the vexed question of whether Hume is a psychological hedonist. Certainly one could endorse this assumption without being a hedonist.

2. Though he does have a peculiar idea of what an obligation is. For Hume, one is obliged to do something when (a) the desire not to perform it would displease us, and (b) this sentiment is one we would endorse on reflection Hume (1978: 517).

3. On some views, whether we should perform an action depends on whether that action would manifest dispositions, motives or traits of character that we ought to have: the value of an action depends on the value of the motives, and so forth, it manifests. Indeed Hume himself seems to hold this Hume (1978: 477–8). (1) might appear inconsistent with such a view since it suggests that whether we should fulfill an obligation is a matter not of whether we should be motivated or disposed to fulfill it but rather of whether we should perform a specific action: the action of discharging it. As many authors have pointed out, these questions may have different answers (a generally valuable motive might be counterproductive in a particular instance, or might have beneficial effects on things other than the agent’s actions). But (1) is consistent with the view that we ought to assess actions by first assessing the motives etc. which give rise to them. What (1) does is to place a certain restriction on motives for action, namely that an agent must see some good in what he is doing: motives on which he acts must be to that extent directed at the good. This is a constraint that Hume, for one, clearly accepts. I thank Brad Hooker for pressing me on this point.

4. This welfarist assumption should not be confused with utilitarianism or consequentialism. A strict deontologist might object to coercion or deception on the grounds that they involve unjustified harm.

5. Hume includes “equity” on his list of “natural virtues” (1978: 578).

6. Something like this notion of what is fair or reasonable plays a foundational role in various accounts of moral obligation. See, for example, the notion of reasonable rejection in Scanlon (1998: 191–197).

7. They may communicate this complex intention without actually having it, so while the communication must be intentional, the imposition of the consequent obligation need not be. Owens (2008: 739–741).

8. This communication is not sufficient for the imposition of the obligation. In fact, various procedural conditions must be satisfied Owens (2007), and there may also be substantive constraints on the content of a valid promise. Nevertheless, the satisfaction of these various conditions need not ensure that breach of the promise threatens any human interest.

9. See Darwall's "Demystifying Promises," in this book.

10. I'm grateful to Shelly Kagan for pressing this question on me.

11. For a helpful discussion of both theories, see Kolodny and Wallace (2003: 120-125).

12. Hobbes takes a similar like in his reply to The Fool (1994: 90-92).

13. Mackie (1980: 100-104) gives us the orthodox reading, and dismisses this passage as a mistake on Hume's part.

14. For example, his remark that "the doctrine of the purely conscientious act is irrational" (Rawls (1999: 418).

15. Fried (1981: 14-16) offers a structurally similar theory of promise, appealing to the wrong of abusing a socially useful practice. Rawls speaks of accepting the benefits of a practice here, but perhaps the more neutral notion of accepting its products will serve just as well.

16. Thanks to Daniel Markovits for discussion of this point.

17. It would be a bit rich of him to complain of (or even resent) the breach, but it would be equally rich of a kidnapper to complain were his own children held to ransom. Both are still wronged, whether or not they are entitled to object.

18. Reid also argues that human beings can communicate the intentions involved in exercising various normative powers without employing conventional languages by instead using the natural language of voice and gesture (1969: 439-442). The practice theorist need not disagree with this, but will maintain that the normative significance of these communications depends on whether there is a practice of taking them seriously.

19. For example, Anscombe (1981: 18), Rawls (1999: 304-306), Foot (2001: 45), Prichard (1968: 174-175), Hart (1994: 193-200).

20. Hume also says that the rules of property are "not only useful but even absolutely necessary to human society" (1978: 501).

21. To bring the issue into focus here we must ignore some distracting connotations of the word "gratitude." There are *feelings* of gratitude, and gifts are often valued more as an expression of such feelings than anything else. Now such feelings cannot be *demand*ed and so, one might think, the whole idea of an obligation of gratitude is rather odd (Rousseau 1987: 73). What is needed to facilitate coordination between Hume's farmers is not gratitude so understood, but rather *reciprocation* in the form of hard labor, reciprocation which can be demanded. I owe thanks to Daniel Markovits for discussion here.

22. We could put the same question to Hobbes as follows: Why doesn't your fourth law of nature (recommending reciprocation) facilitate defensive arrangements just as well as your third law of nature (recommending the keeping of covenants made)? (1994: 89-95).

23. It has been suggested that empathy and reciprocal altruism are the twin foundations of social organization among animals (DeWaal 2006: 42-49). Only animals like ourselves who know about obligation can make any use of promising.



24. As with Rawls's principle of fairness, we should perhaps leave it open whether a benefit must be involved here. Perhaps the thing bestowed only needs to be accepted for a return to be required.

25. In fact, the motive of gratitude may have a wider scope than that of self-interest. It might lead you to reciprocate with the expected benefit even if, for some reason, no one would know whether you had reciprocated.

26. See Atiyah (1981: 184–215) and Scanlon (1998: ch. 7). Atiyah openly admits that significant parts of our promissory practice make little sense on his model. Scanlon is more hopeful of accommodating and explaining our practices without resort to normative powers. I have criticized various aspects of Scanlon's account, and proposed an alternative, in Owens (2006, 2007, 2008).

