1. **What’s the problem?**

The right and wrong thing to do, if there is such a thing, is not up to me. But there are some obligations that seem to be generated simply by act of will. Two particularly notable examples that have puzzled moral philosophers are **promising** and **consent**

In the case of promises it seems that I can create an obligation to Φ

*ex nihilo* simply by promising to another that I will Φ

Some find this puzzling. Imagine I borrow some money from someone and promise to repay to him in future. Surely I should repay? But…

*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 wou’d deprive him of? What if he be a profligate debauchee, and wou’d rather receive harm than benefit from large possessions? What if I be in necessity, and have urgent motives to acquire something to my family? (Treatise of Human Nature, Book III, Part II, Sec 1)*

We could reply that promissory obligation is only pro tanto. But Hume is pointing to a deeper problem.

A sentimentalist like Hume will ask: how could our moral sentiments change so significantly, and in an instant, simply because of a promise?

A non-sentimentalist might ask: what exactly does the act of promise change in reality such that the moral order must change?

i.e.: how could a simple thing like a promise generate a whole new obligation?

1. **Act-Utilitarians**

Consequentialist account: bad consequences result from either breaking promises, or not having the general rule that we ought to keep our promises, or both

Act-utilitarian (AU) account:

1. Actions are morally preferable if they produce more net-positive utility
2. Breaking promises reduces utility
3. It is morally preferable to keep promises

Why accept b? One answer: promises engender expectations in others, who come to depend on us. Hence breaking promises can cause great pain for those who rely on the promiser

Problem A: must I keep a promise to someone who has died if they were the only other inhabitant of my desert island?

Reply A: one measure of utility is interest satisfaction. But interest satisfaction can mean: what a person wants to happen actually does happen. That needn’t change after death.

(see Jan Narveson, ‘The Desert-Island Problem’ *Analysis* 23(3) 1963 pp.63-67)

Problem B: it seems b. would not be true in an ideal act-utilitarian society

For consider: I live in an ideal AU society – call it Utilitariton. All in Utilitariton act to maximise utility. If Peter promises me he will Φ, I expect him to Φ only if it maximises utility. The promise alters the utility of Φ only if the promise changes my expectations, but given my expectations are only reasonably indexed to the utility of Φ, the bare fact of the promise gives me no independent reason to expect Peter to Φ. So the fact that Φ was promised makes no difference to the utility of Peter Φ-ing.

See DH Hodgson *Consequences of Utilitarianism* Clarendon Press (1967) especially pp. 38-39

The lesson from Problem B: a utilitarian account would need to show we have more reason to perform an action **because it is promised** than we otherwise would have

Reply B: the question is not, why keep a promise. The question is, who make a false promise? Their negative utility wuld prevent their occurrence in Utilitariton

(See Peter Singer, 1975, “Is Act Utilitarianism Self Defeating?”, Philosophical Review, 81: 94–104.)

Counter reply B: what about those who made a sincere promise and later realise that Φ would be bad?

1. **Rule-utilitarians**

Rule-utilitarian account:

1. Rules are morally preferable if they produce more net-positive utility
2. The rule prohibiting broken promises produces more net-positive utility
3. It is morally preferable for us to act in accordance with the rule that prohibits broken promises

Consider an analogy with practices of punishment:

Why do we punish criminals?

1. they deserve punishment (retributivist)
2. it would be good for society if we punish them (utilitarian)

But (b) might lead to punishing the innocent (e.g. scapegoating)

Consider a different question: why do we have the practice of punishment?

Better for utilitarians. Practice increases utility, decisions within the practice deploy retributivism

The analogy with promising:

Why ought I to keep my promise?

Because it is a rule within the practice of promising

Why ought we to have the practice of promising?

 Because such a practice is better for society

1. **Rawls on Rules**

Rawls’ account of this depends on a sophisticated account of rules

Summary rules – rules of thumb that summarise a pattern of past decisions on a certain recurrent issue e.g. write the introduction of your essay only once you have finished the main body of the essay

Practice Rules – rules without which the relevant practice would not exist e.g. the rules that determine how a pawn can move in chess

If we partake in a practice, we cannot meaningfully ask whether we should keep to its rules. If I refuse to keep to the rules of chess, I am not cheating – I am not even playing chess!

Rawls: if we agree that the practice of promising is beneficial, we cannot meaningfully ask whether we abide by this constitutive rule

See: John Rawls, 'Two Concepts of Rules', The Philosophical Review, 64, no. 1 (1955): 3-32

1. **Conventionalism**

Conventionalism: artificial obligations are generated by a combination of

* A particular social convention e.g. that one keeps ones promises
* An additional non-conventional (natural) moral duty e.g. duty against harm

The supposed mystery of the promissory obligation “created at will”?

It is created by a complex of contextual factors: (1) the promisor intentionally does something (expresses a commitment to Φ) (2) in the context of a convention of promising and promise-keeping that is subject to (3) some other natural moral duty

Classical example, Hume: (2) promising is a human convention, and thus promissory obligation is artificial, not natural, and (3) that human convention is valuable to us

For more on Hume’s conventionalism see A.E. Pitson, 1988, “Hume on Promises and Their Obligation”, *Hume Studies*, 14(1): 176–190.

1. **Criticisms of rule-utilitarians and conventionalists**
2. David Lyons general objection to rule-utilitarianism applies: utility rules have to make so many exceptions that they collapse back into act utilitarianism

See David Lyons, 1965, Forms and Limits of Utilitarianism, Oxford: Clarendon Press. Pp. 177-197 (on promising specifically)

1. Harming the convention vs harming the promisee: what is wrong with breaking a promise? For the conventionalist, the answer appears to be: it fails to appreciate the value or importance of the practice of promising

But surely the wrong is primarily a wrong against them, not “the convention of promising”!

See TM Scanlon What We Owe to Each Other (Cambridge, MA: Harvard University Press, 1998), ch. 7, p.316

1. Scanlon’s state of nature wrongs: the wrong of failing to do as another expects me to, when I have led them to expect it, cannot depend in all cases on a relevant social practice

Also in What We Owe to Each Other (Cambridge, MA: Harvard University Press, 1998), ch. 7

For responses to both (b) and (c) on behalf of a revised conventionalism, see Kolodny, N. and Wallace, R.J., 2003, “Promises and Practices Revisited”, Philosophy & Public Affairs, 31(2): 119–154.

**Next lecture:** contractualism and normative powers

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