

REASONS TO KEEP OUR PROMISES

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ABSTRACT

ADAM CURETON: *Reasons to Keep Our Promises*
(Under the direction of Thomas E. Hill, Jr.)

I argue that none of the main accounts of our fiduciary obligations can explain why we should keep our promises in all (or most) cases that involve binding promises. T. M. Scanlon's expectation view is subject to a fatal circularity in paradigm cases in which our only reason to keep a promise is an awareness that, having made a promise, we are obligated to keep it. Hume's view cannot explain why we ought to keep a promise the breaking of which is unlikely to undermine the institution of promising. And Rawls' view (along with Hume's) cannot explain why it is wrong to break promises that are made when no institution of promising exists. After arguing for these claims, I sketch a pluralist account according to which a family of fiduciary principles, including ones similar to those suggested by Hume, Rawls and Scanlon, explains why we ought to keep our promises.

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REASONS TO KEEP OUR PROMISES

1. Introduction

Promises are valuable because they allow us to receive assurances that others will act in certain ways and give these assurances ourselves. Assurances are worthwhile because they can give us peace of mind, we can use them to establish and stabilize private schemes of cooperation and, anyway, we often have good reason to want people to do (or not do) certain things. The obligation to keep a promise derives in some way from the value that assurances provide.¹

Accounts of our fiduciary obligations divide over the role they assign to social practices. David Hume and John Rawls argue that promising creates in others the relevant assurances only if there exists a social practice of promising in which most everyone knows that people generally fulfill their promises. These philosophers think that our fiduciary obligations depend essentially on an institution of promising, but they disagree about why we have an obligation not to violate its rules. Hume seems to think that promise-breaking is wrong in virtue of impartial disapproval towards acts that undermine the practice of promising while Rawls argues that it is wrong to break a promise because doing so exploits a just institution

¹ A note on terminology. For ease of presentation, I will take the following expressions to be approximately equivalent: “I have an obligation to keep my promises”; “I have a duty to keep my promises”; “It is wrong to break my promises”; “I ought to keep my promises”. For a discussion of some interesting distinctions that ordinary language draws between, “obligation”, “duty”, “wrong” and “ought”, see Brandt (1964).

of promising from which we have voluntarily benefited.² In contrast to these practice views, Thomas Scanlon maintains that our obligation to keep a promise does not necessarily depend on any social convention; instead, he argues that we ought to keep our promises because we have a duty not to frustrate certain expectations that our promising can induce in others.³

These three views are often presented as competing accounts of the most fundamental reason why we should keep our promises. I believe that none of them, however, can explain our fiduciary obligations in all (or most) cases that involve binding promises. Scanlon's expectation view is subject to a fatal circularity in paradigm cases in which our only reason to keep a promise is an awareness that, having made a promise, we are obligated to keep it. Hume's view cannot explain why we ought to keep a promise the breaking of which is unlikely to undermine the institution of promising. And Rawls' view (along with Hume's) cannot explain why it is wrong to break promises that are made when no social practice of promising exists. Moreover, neither practice views nor expectation views alone can fully explain the wrongs involved in breaking promises that both invoke the rules of a social practice of promising and lead others to form certain expectations about our actions. This suggests that there is no single, fundamental reason why we should keep our promises.

After arguing for these claims, I go on to sketch an alternative account according to which a family of fiduciary principles, including ones similar to those suggested by Hume, Rawls and Scanlon, explains why we ought to keep our promises. A principle is a fiduciary principle if it explains why one or more promises are binding. On this view, no single

² Hume discusses his views about promising primarily in section 3.2.5 of A Treatise on Human Nature (2000). He also seems to think that we have an obligation to keep our promises in virtue of impartial approval towards the social practice of promising. Rawls most clearly expresses his views about fidelity to promises in chapter 6 of A Theory of Justice (1999).

³ Scanlon's views about promises can be found in chapter 6 of What We Owe to Each Other (1998). See also Scanlon (1990). Examples of other philosophers who argue for so-called expectation views include Atiyah (1991) and MacCormick (1972).

fiduciary principle explains why all binding promises generate obligations and often one or more fiduciary principle will apply in a given case, possibly over-determining why we should keep that promise. For example, principles of the sort proposed by Rawls and Scanlon would each give us sufficient reason to keep a promise that invokes the rules of a just institution of promising and also arouses certain expectations in others. A pluralist account of this sort, I argue, provides a better framework for understanding the nature of our fiduciary obligations.

2. Scanlon's Expectation View

Scanlon claims that the value of assurances justifies the following moral principle, which he thinks can account for the most fundamental reason why we should keep our promises:

Principle F - If (1) A voluntarily and intentionally leads B to expect that A will do X (unless B consents to A's not doing so); (2) A knows that B wants to be assured of this; (3) A acts with the aim of providing this assurance, and has good reason to believe that he or she has done so; (4) B knows that A has the beliefs and intentions just described; (5) A intends for B to know this, and knows that B does know it; and (5) B knows that A has this knowledge and intent; then, in the absence of special justification, A must do X unless B consents to X's not being done.⁴

Suppose I tell you that I will wash your car tomorrow. You are rather anxious for some assurance that I will actually do this, so you ask "Do you promise?" and I respond "Yes, I promise that I will wash your car tomorrow." In order for my promise to assure you that I will follow through, you must believe that my act of promising gives me some additional motivation to wash your car. If all goes well and you form this belief then my promise can succeed at providing the assurance you want.

But how does my act of promising give me the extra motivation that you are supposed to believe I have? Scanlon's answer is that, by promising to wash your car tomorrow, I

⁴ Scanlon (1998, 304).

typically do a number of things: I lead you to expect that I will wash your car then. I intend you to form this expectation and I have good reason to believe you have done so. I also intend you to recognize that I intend to do this. I know that you want to be assured that I will wash your car tomorrow and you know that I know this. According to Scanlon, if these features of the situation are mutual knowledge between us, and certain special circumstances do not obtain, then Principle F generates an obligation for me to keep my promise (unless you consent to me not doing so). As a conscientious person, my awareness of this obligation gives me an additional reason to wash your car. Supposing you know that I am a moral person of this sort, my promise can succeed at assuring you that I will follow through. That's how Scanlon thinks promises allow us to give and receive assurances.

Principle F can generate obligations that have nothing to do with keeping promises. Suppose that instead of making you a promise, I tell you that I will wash your car because I want to enjoy the nice weather. If this leads you to expect that I will wash your car, Principle F might still require me to follow through. Scanlon thinks that promises are distinctive in part by the way in which they satisfy condition (1) of Principle F. He thinks that, in normal cases, when I promise you that I will do X, I attempt to lead you to expect that I will do X. According to him, I do this by suggesting to you that I will have a particular sort of motivation to do X that derives from having actually made you a promise. What sort of motivation is this? It might be independent of the obligation that my promise creates. For example, I might convince you that I am averse to social penalties enforced on promise breakers or that I am committed to the institution of promising. Scanlon thinks it is more plausible to suppose, however, that the motivation that is characteristic of promising is an

awareness that, having made a promise, I am obligated to keep it.⁵ Whether or not this motivation is necessary to promising, if you know that I have one of the reasons I have described then Scanlon thinks that, given this belief, promising you that I will do X gives you reason to think I will be motivated to do X, which in turn gives you reason to expect that I will actually do X.

Condition (1) of Principle F will occupy most of my discussion of Scanlon's view. This requirement needs some clarification. It holds that I generate an obligation under Principle F to do X only if I voluntarily and intentionally lead you to expect that I will do X (unless you consent to me not doing so). I satisfy this condition only if I lead you to expect that I will do X. What does it take for me to lead you to expect this? At least two claims must be true, in virtue of the meaning of condition (1). First, you must actually form the expectation that I will do X; second, I must lead you to believe that I will intend to do X.⁶ Consider the second requirement. In order to lead you to think I will have this intention, I must lead you to think that I will be motivated to do X since I cannot form an intention to do X unless I am motivated to do X.⁷

I will now discuss two objections to Scanlon's view.

⁵ Scanlon (1998, 306). More precisely, my motivation is an awareness that, having promised, I am *thereby* obligated to keep it. Thanks to Jerry Postema for suggesting this clarification.

⁶ We might wonder why Scanlon thinks my promise to do X generates an obligation only if you form an expectation that I will do X, as opposed to you merely having good reason to form that expectation. On Scanlon's view, a promise generates an obligation only after you form the appropriate expectation whereas it seems that a fiduciary obligation is brought in to existence at the time of the act of promising. Although we might investigate further whether or not this is a problem, the value of assurances gives Scanlon *some* reason to think that my promise becomes binding only when you form the requisite expectation. If my promise does not lead you to expect that I will mow your lawn, but it merely gives you reason to expect this, then I have not successfully assured you that I will do so. Expectation views can explain how promises allow us to give and receive assurances by appealing to the expectations that promises actually creates in others.

⁷ Scanlon expresses these requirements as follows: "According to [expectation] accounts, saying 'I promise to...' creates an obligation only if it convinces the recipient of the speaker's intention to do the thing in question. But it can do this only insofar as it gives the recipient reason to believe the speaker has reason to do that thing" (Scanlon 1998, 307).

3. The Circularity Objection

The Objection

Hume, Elizabeth Anscombe and Geoffrey Warnock have all worried that expectation views like Scanlon's are subject to a fatal circularity.⁸ Here is one way to express their doubts, which focuses on what I call a paradigm promise, which is a promise in which my only reason to keep it is an awareness of the fact that, having promised, I am obligated to do so. Promises of this sort are paradigms because they allow us to give and receive assurances without requiring us to have any other motivation to keep our promises.

1. Promising you that I will do X creates an obligation under Principle F for me to do X only if it produces in you an expectation that I will do X.
2. Promising you that I will do X produces in you an expectation that I will do X only if it gives you reason to believe that I will intend to do X.
3. Promising you that I will do X gives you reason to believe that I will intend to do X only if it gives you reason to believe that I will be motivated to do X.
4. Suppose that promising you that I will do X gives you reason to believe that I will have the following motivation to do X: I am aware of the fact that it would be wrong of me, having promised you that I will do X, not to do X. Suppose further that this will be my only motivation to do X.
5. In order for this to be a motivation for me to do X, I must be aware of the fact that it would be wrong of me, having promised you that I will do X, not to do X.
6. In order for me to be aware of this fact, it must be true that it would be wrong of me, having promised you that I will do X, not to do X.
7. It would be wrong of me, having promised you that I will do X, not to do X only if promising you that I will do X creates an obligation under Principle F for me to do X.
8. Promising you that I will do X creates an obligation under Principle F for me to do X only if it produces in you an expectation that I will do X.

⁸ T 3.2.5; Anscombe (1978, 318); and Warnock (1971, 96-101)

9. (8) is identical to (1) so this reasoning is circular.

As I discussed in the last section, in order to satisfy condition (1) of Principle F, my promise must lead you to expect that I will do X. Premises 2 and 3 express two requirements that must be satisfied in order for me to lead you to form this expectation. In particular, I must lead you to think that I will intend to do X, and this in turn requires me to give you reason to believe I will be motivated to do X. Premise 4 describes a paradigm promise and premises 5 - 8 generate the circularity that arises when we attempt to use Principle F to explain why we can have an obligation to keep promises of this sort.

Here is a rough way to put the worry. Suppose I promise you that I will mow your lawn in a month. Suppose further that my only motivation to mow it is (a) an awareness of the fact that (b) having made you a promise to mow your lawn, I am obligated to mow it. My promise gives rise to an obligation under Principle F only if my promise leads you to believe I have motivation (a). Now, I have motivation (a) only if (b) is true, which is to say, only if, having promised to mow your lawn in a month, I am obligated under Principle F to do so. But I have this obligation only if promising to mow your lawn in a month leads you to believe I have motivation (a). Therefore, I have motivation (a) only if (b) is antecedently true, but (b) is true only if I already have motivation (a).

We usually have motivations to keep our promises that do not depend on any prior fiduciary obligations. When this is true, the circularity objection does not apply since I can lead you to expect that I will do X by convincing you that I have these other motivations. For example, I might be a sentimental person who keeps his promises out of a sense of solidarity. If I convince you I am a person of this sort then promising you that I will do X can lead you to expect that I will do X, and so make it possible for Principle F to generate an

obligation for me to do so. Once this obligation is generated, my awareness of it can then count as an additional motivation for me to keep my promise. If you are aware that I have this extra motivation then it can strengthen your expectation that I will do X, and so (presumably) strengthen my obligation to follow through. The problem is that if the circularity objection is correct, my awareness of an obligation generated by Principle F can lead you to expect that I will do X only if I already have *another* reason to do X. Principle F cannot generate fiduciary obligations when our *only* motivation to keep a promise is an awareness that, having promised, we are obligated to do so.

Scanlon's Response

Scanlon responds to worries about circularity as follows. Consider two types of wrongs. The first is that of unjustified manipulation. Scanlon maintains that such acts are forbidden by a principle like:

Principle M - In the absence of special justification, it is not permissible for one person, A, in order to get another person B to do some act X (which A wants B to do and which B is morally free to do or not to do but would otherwise not do), to lead B to expect that if he or she does X then A will do Y (which B wants but believes that A will otherwise not do), when in fact A has no intention of doing Y if B does X, and A can reasonably foresee that B will suffer significant loss if he or she does X and A does not reciprocate by doing Y.⁹

The second is that of attempting to commit the first type of wrong. Scanlon argues that these acts are forbidden by:

Principle D - One must exercise due care not to lead others to form reasonable but false expectations about what one will do when one has good reason to believe that they would suffer significant loss as a result of relying on these expectations.¹⁰

⁹ Scanlon (1998, 298).

¹⁰ Scanlon (1998, 300).

If you know I am appropriately responsive to the fact that it is wrong to attempt to commit wrongs of unjustified manipulation then you know I have good reason not to make such attempts. You thus have good reason to think that (in normal circumstances) I would not attempt to persuade you that I will do something you care about me doing unless I actually have a “settled intention” to do it. Otherwise, I would be attempting to unjustifiably manipulate you, which you know I have good reason not to do.

Consider a case in which I promise you that I will do X. Scanlon asks us to suppose that I do the following:

(I) I give you good reason to believe I am attempting to persuade you that I have the settled intention of doing X if certain conditions obtain, and that I believe that, if you are persuaded, the truth of this belief will be important to you;

(II) I lead you to believe that I know and take seriously the fact that, under the circumstances, it would be wrong of me to attempt this unless I really had that intention.¹¹

According to Scanlon, if I succeed in (I) and (II), I give you reason to think I have a settled intention to do X in the relevant circumstances, which in turn gives you reason to expect that I will do X in those circumstances. Paradigm promises, according to Scanlon, give rise to expectations by accomplishing (I) and (II), so he thinks that Principle F can generate an obligation for me to do X without invoking any non-moral motivations or antecedent obligations generated by that principle.¹²

¹¹ Scanlon (1998, 308).

¹² Scanlon (1998, 309).

Replies to Scanlon

Scanlon's response to the circularity objection is meant to show how Principle F can require us to keep our paradigm promises. Here are four reasons to think that, even in light of this response, the circularity objection shows that Principle F cannot generate obligations to keep some (if not all) of our paradigm promises.

(1) We are sometimes required to keep a paradigm promise to do X even when, at the time of promising, we lack any intention to do X, settled or otherwise. Promises of this sort are possible when I *will* intend to do X.¹³ For example, suppose that my family pressures me in to promising marriage to someone. Suppose further that when I make her this promise, I have no intention to get married and she knows this; but when I have time to consider the matter, I come to be motivated to marry her by an awareness that, having promised, I am obligated to do so. Assuming I have no other motivations to get married, this is an example of a paradigm promise that can be binding.

Does Scanlon's response help to explain how Principle F can generate an obligation for me to keep this promise? Notice that cases of this sort do not pose a problem for Principle F if my motivation to keep my promise is a commitment to the institution of promising, a sense of solidarity or an aversion to sanctions that befall promise-breakers. If I have one of these motivations and she knows this then I can lead her to expect that I will marry her even though I lack any intention to do so at the time of promising, since she knows that once I have duly reflected, I will realize I have made her a promise and so come to be motivated in the appropriate way. However, on a natural interpretation of Scanlon's view, if my promise accomplishes (I) and (II), I thereby give this person good reason to believe I *currently*, at the

¹³ Thanks to Tom Hill for bringing to my attention these sorts of promises.

time of promising, have a settled intention to get married.¹⁴ But, in the present case, I only form this intention to marry her *after* I duly reflected on the matter. Scanlon's response applies only in cases in which we have a settled intention *at the time of promising* to do as we promise. Since some paradigm promises do not have this feature, Scanlon does not show how Principle F can generate an obligation to keep these promises in a way that avoids the circularity objection.

We might try to revise (I) and (II) to account for promises of this sort. Consider the following:

(I') I give you good reason to believe I am attempting to persuade you that I *will* intend to do X if certain conditions obtain, and that I believe that, if you are persuaded, the truth of this belief will be important to you;

(II') I lead you to believe that I know and take seriously the fact that, under the circumstances, it would be wrong of me to attempt this unless I really *will* have this intention.

How might I lead you to form the belief described in (II')? In normal circumstances, I can accomplish this only if that belief is true. But why should we think it is true? Scanlon maintains that the belief in (II) is true because "it is not unreasonable to refuse to grant others the freedom to ignore the losses caused by the expectations they intentionally or negligently lead others to form" (1998, 301). It is unclear, however, how this analysis can vouchsafe the belief in (II'). Suppose I never form an intention to marry the person I describe above, but I take reasonable steps to prevent any loss she might suffer as a result of not marrying her. Suppose, for example, that I give her reasonable warnings and appropriate compensation. Even though I attempted to convince her that I will intend to marry her and I also failed to

¹⁴ If I succeed at (I) then, among other things, I give her good reason to believe I am trying to persuade her that I *have* a settled intention of marrying her. And if I succeed at (II) then, among other things, I give her good reason to think that I would not try to convince her I have this settled intention unless I actually *have* it.

form the requisite intention, I nonetheless took appropriate account of the losses caused by the expectation she formed. This suggests that the belief in (II') is false because it is not wrong for me to attempt to convince her I will marry her and also for me never to form an intention to do so, as long as I have taken other reasonable steps to prevent any loss she might suffer as a result of the expectation she formed. It is therefore unlikely that I can lead her to form this belief, so I probably cannot accomplish (II'), which is to say, I probably cannot give her sufficient reason to think I will have any intention to marry her. Therefore, even with this modification to Scanlon's response, Principle F still cannot explain why my promise of marriage is binding.¹⁵

(2) Consider a case in which I make a paradigm promise to you that I will do X and, in doing so, I succeed at (I) and (II). According to Scanlon, I thereby give you reason to think I have a settled intention to do X, which is supposed to give you reason to expect that I will do so. Although it is unclear what Scanlon means by a "settled intention", in order for me to have a settled intention to do X, I must at the very least intend to X. And what does it take for me to intend to X? As I argued in the first section, I intend to X only if I am motivated to X, since I cannot form an intention to do X unless I am somehow motivated to do X.¹⁶ It follows that, in order for me to have a settled intention to X, I must be motivated to X. So what reasons are supposed to ground my intention to do X in this paradigm case of promising? Although Scanlon does not say, there are at least three possibilities. First, I might possess no reason to do X, in which case I cannot have a settled intention to do X. Second, I

¹⁵ Whether or not I have made a binding promise in this case is controversial, so it might not be a significant problem for Scanlon's view if it cannot generate an obligation to keep it. However, it is interesting to note that, if I am right, his view cannot generate obligations to keep *paradigm* promises like this – Principle F can often require us to keep such promises when they are not paradigm.

¹⁶ Wallace and Kolodny (2003, 141) suggest that a settled intention is "one that is grounded in compelling reasons to do X." If they are right, the same problem applies – what sorts of reasons are supposed to ground my intention to do X in cases of paradigm promising?

might have a reason to do X that derives from an awareness that, having promised to do X, I am obligated to do so. Principle F, however, is supposed to establish this obligation, so the circularity objection shows that we cannot appeal to it when trying to satisfy the conditions of that principle. Finally, I might have some other reason to do X, such as a commitment to the institution of promising. In the paradigm cases we are discussing, however, I have no other motivations of this sort. Therefore, in these cases, I have no non-question begging reasons to do X, which means that I have no settled intention to do so. It follows that, even if I accomplish (I) and (II), I (probably) cannot succeed in convincing you that I have a settled intention to do X. And if I cannot convince you of this then Scanlon has not shown how I can lead you to expect that I will actually do X, which, remember, I must do in order to satisfy condition (1) of Principle F. So, Scanlon fails to explain how Principle F can generate an obligation for me to keep my paradigm promises.

(3) Suppose next that my paradigm promise to do X somehow gives you reason to believe I have a settled intention to do X. Scanlon thinks that this belief gives you reason to expect that I will actually do X. In many cases, however, you can have good reason to believe I have a settled intention to do something and also have good reason to believe I will not do that thing. You might know, for example, that my circumstances might change, which might cause me to change my intention; that I often reevaluate my plans in a way that changes my otherwise settled intentions; and that I am often unable to follow through on my settled intentions due to weakness of will. If my personality has any of these features then you might have reason, all things considered, to expect that I will not do X, which means that, in these cases, condition (1) of Principle F will not be satisfied. Therefore, even if I

succeed at (I) and (II), Scanlon fails to explain how paradigm promises made in cases of this sort can be binding.

(4) Consider a different case in which I make you a paradigm promise but I do not possess any of the beliefs described in (I) and (II). Suppose I am the sort of person who sees nothing wrong with attempts at unjustified manipulation even though I am duly sensitive to obligations that arise from my promises. Even though I (probably) cannot succeed at convincing you that I have the beliefs described in (I) and (II), my promise can nonetheless be binding. Since Scanlon's response does not apply in cases of this sort, he does not explain how Principle F can generate an obligation to keep these promises.

In sum, Scanlon's response fails to show how Principle F can avoid the circularity objection in many, if not all, cases of paradigm promising.

4. The Conditionality Objection

Principle F faces another objection that has to do with the structure of the obligations that are generated by Principle F. In order to explain my conditionality objection, I first need to describe a case that does not involve promising.

Suppose once again that I attempt to convince you that I will mow your lawn in a month. Principle F generates an obligation for me to do so only if I lead you to expect I will mow your lawn then; and I lead you to form this expectation only if I give you reason to believe I am motivated to do so. Suppose I tell you that I am motivated to mow your lawn then only because I need the practice to prepare for a new job. Would this lead you to expect that I will mow your lawn at the designated time? It seems not because I have not given you any reason to think I will mow your lawn if I no longer need the practice. Instead I have only given you

reason to form a conditional expectation, which says that I will mow your lawn in a month if I still require lawn training. Appropriately construed, I satisfy condition (1) of Principle F in this case by leading you to expect that if I still need the practice then I will mow your lawn in a month (unless you consent to me not doing so). If we assume that the other conditions of Principle F are satisfied then, in the absence of special circumstances, that principle generates an obligation for me to fulfill your conditional expectation (unless you consent to me not doing so). What does it take for me to satisfy my obligation? You might release me from it. Since my obligation is conditional, I also satisfy it if I no longer need mowing practice, since this would make the antecedent of the obligation false and so satisfy the obligation itself. I violate my obligation if only if I still need lawn practice and I fail to mow your lawn in a month (and you refuse to consent to me not doing so).

Why is this a problem for Principle F? Suppose now that I promise you that I will mow your lawn in a month. According to Scanlon, promises are distinguished in part by the motivations we lead others to think we have for doing as we promise. As I discussed in the first section, examples of these motivations might include an aversion to social sanctions that befall people who break their promises, a commitment to the institution of promising, and an awareness of the fact that, having made a promise, we are obligated to keep it. Suppose you believe I have a motivation of the appropriate sort *M* to keep my promise to mow your lawn in a month and you believe that this is my only motivation to do so. In light of these beliefs, Scanlon thinks that my promise can lead you to expect that I will mow your lawn then and that, if certain other conditions obtain, Principle F can generate an obligation for me to do so. However, this is incorrect. By convincing you I have motivation *M* to mow your lawn, whatever that motivation is, I gave you reason to expect I that *if I have motivation M when*

the time comes then I will mow your lawn in a month. I gave you no reason to expect that I will mow your lawn if I lack that motivation in a month. Therefore, suitably understood, I voluntarily and intentionally led you to expect that if I have motivation M in a month then I will mow your lawn then (unless you consent to me not doing so). This means that, if anything, Principle F actually generates an obligation for me to fulfill your *conditional* expectation (unless you consent to me not doing so).

The problem with this is that my fiduciary obligation is satisfied if I merely lack the requisite motivation to mow your lawn in a month! Fiduciary obligations, however, don't work like that. Absent special circumstances, if I make you a promise to mow your lawn in a month then it seems that I am obligated to follow through regardless of whether I am actually motivated to keep my promise. Principle F, by itself, can only generate obligations that are conditional on the promisor being motivated in a certain way to keep her promises. Promising is distinctive, however, in part because it allows us to generate obligations that are *independent* of our motivations. That is, part of the point of promising is to bind ourselves in a way that does not depend on our motivations to do as we promise. By linking our fiduciary obligations to our motivations, Principle F fails to account for this distinctive feature of promising.¹⁷

5. Practice Views

The circularity and conditionality objections give us some reason to think that at least some of our fiduciary obligations must be explained in an entirely different way. Consider the following two practice views, which attempt to explain why we ought to keep our promises by appealing to a social practice of promising.

¹⁷ Thanks to Jerry Postema for his suggestions about how best to express this last point.

The Undermining Principle

Hume can be interpreted as subscribing to a utilitarian version of the practice view. According to Hume, the social practice of promising is a useful means for people to secure and stabilize cooperative schemes that are mutually advantageous. Consider two people who will each benefit if the other person performs some inconvenient act. If these acts must occur at different times then it is likely that neither person will do his part since each one of them has little reason to believe the other will act if he acts first. One useful way to assure performance is to make a promise to reciprocate if the other acts first. If both parties subscribe to the social practice of promising, and know this about each other, then the giving and receiving of promises increases the likelihood that they will cooperate. According to Hume, most of us have self-interested reason to keep our promises because failure to keep them hurts our reputation as cooperators and so diminishes the likelihood that others will cooperate with us in the future. Hume says:

[Promises] are the conventions of men, which create a new motive, when experience has taught us that human affairs would be conducted much more for mutual advantage, were there certain *symbols* or *signs* instituted, by which we might give each other security of our conduct in any particular incident. After these signs are instituted, whoever uses them is immediately bound by his interest to execute his engagements, and must never expect to be trusted any more if he refuse to perform what he promised.¹⁸

In order for promise-breaking to be wrong, Hume argues that the practice of promising must add to the overall good of a society. For Hume, we have a moral obligation to keep our promises because we recognize that the social practice of promising is instrumentally

¹⁸ T 3.2.5.11

valuable, and this causes in us attitudes of impartial approval towards the keeping of promises and impartial disapproval towards the breaking of them. He says:

All of them, by concert, enter into a scheme of actions, calculated for common benefit, and agree to be true to their word; nor is there any thing requisite to form this concert or convention, but that every one have a sense of interest in the faithful fulfilling of engagements, and express that sense to other members of the society. This immediately causes that interest to operate upon them; and 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. This sentiment of morality, in the performance of promises, arises from the same principles as that in the abstinence from the property of others.¹⁹

Why does Hume think we impartially disapprove of promise-breaking? One suggestion is that since the institution of promising is instrumentally valuable, we have good reason not to undermine it. The practice of promising is undermined in cases in which breaking a promise causes people generally to expect that others will not fulfill their promises, since promises would no longer assure others of cooperation.

If we set aside Hume's particular theories of ethics and psychology, his account of our obligation to keep a promise naturally suggests the following principle:²⁰

Undermining Principle – a person who makes a promise in accordance with a social practice of promising that is instrumentally valuable to its participants collectively must keep his or her promise when failing to do so would significantly undermine that practice.

This principle seems justified on the grounds that breaking certain promises denies an instrumentally valuable good to a group of people. Problems with this utilitarian account of our fiduciary obligations are notorious, however, so I will briefly mention only two of them.

¹⁹ T 3.2.5.11-12

²⁰ Hume also seems to think that we disapprove of promise-breaking because such actions exploit the cooperative efforts of others. See for example his response to the sensible knave (E 155-156).

First, it is unclear how breaking a single particular promise can undermine the practice of promising. Second, most of our promises, if broken, are unlikely to have any significant undermining effect on that social practice. In particular, breaking deathbed promise might not undermine the practice at all even though such promises appear binding.²¹ The Undermining Principle is thus unlikely to apply in many cases, but it nonetheless seems to give us some reason to keep our promises in cases in which it does apply.

The Principle of Fidelity

John Rawls offers a different version of the practice view, which he argues for as follows. In his discussion of moral principles that apply to the conduct of individuals, Rawls argues for the principle of fairness, which holds that a person is obligated to do his part as specified by the rules of an institution in all cases in which the institution is just and he has voluntarily accepted the benefits or opportunities afforded by that institution to advance his interests. When someone voluntarily takes advantage of the benefits of a just social practice, he should not benefit from the practice without doing his fair share, as specified by the rules of that institution. Otherwise he acts in an exploitative manner. We can acquire obligations under the principle of fairness by promising, agreeing, participating in a game, taking up political office, and otherwise engaging in forms of express or tacit undertakings.²²

The principle of fidelity derives from the principle of fairness as it applies to the social practice of promising. According to the:

²¹ For further discussion of these problems, see for example Ross (2002, Chapter II) and Rawls (1955).

²² When the principle of fairness is publicly known and accepted, we can use it, along with principles that derive from it, to improve or establish mutually beneficial schemes of cooperation. The parties in the original position, Rawls thinks, will thus choose this principle because doing so is in the common interest (TOJ 297).

Principle of Fidelity – if a person makes a promise in accordance with a just social practice of promising and voluntarily benefits from that institution then he must keep his or her promise.²³

The social practice of promising is defined by rules that regulate certain communicative acts. These rules are not themselves moral principles, but rather conventions that constitute the practice. The central rule of promising is that when someone utters the phrase ‘I promise to do X’ in appropriate circumstances she is to do X, unless she is excused from doing so.²⁴ A social practice of promising is just in virtue of the conditions in which we make a promise and the conditions in which we are excused from doing as we promised. In a just institution of promising, circumstances giving rise to a promise include that the promiser is fully conscious and aware of the meaning of these words while conditions excusing her from keeping a promise include that she uttered the words under duress or coercion.

What benefits does the social practice of promising provide? By placing ourselves under an obligation to do as we promise, we help to assure each other of what we will do. Such assurances are valuable in part because they improve the likelihood of mutually beneficial cooperation. When making a promise, we voluntarily accept the benefits that such assurances provide. If most people follow the principle of fidelity, and this is public knowledge, then the practice of promising can be quite beneficial.

The Principle of Fidelity is not subject to the circularity objection because it does not require binding promises to lead others to form expectations about our conduct. On Rawls’ view, promising can still provide assurances when the social practice of promising is *generally* endorsed and followed. The Principle of Fidelity is also not subject to the

²³ I word this principle slightly differently than does Rawls.

²⁴ See Searle (1969, 57-62).

conditionality objection, for the same reason. Since I can make a binding promise under the Principle of Fidelity without leading you to form any expectations, my fiduciary obligations need not be conditioned on my motivations.

The Principle of Fidelity, however, cannot explain our obligation to keep binding promises when no just institution of promising obtains. Consider the following variant of one of Scanlon's examples:

Hunter – You and I are stranded in a strange land. We meet on opposite banks of a river. By accident, I come to possess your boomerang and you come to possess my spear. I promise you that if you throw back my spear then I will return your boomerang. This causes you to believe that if you throw back the spear, I will return your boomerang. As a result, you throw back the spear, but I fail to reciprocate.

This case assumes a linguistic convention that allows promising to signal our intentions; it does not, however, presuppose anything like a social practice of promising. An institution of promising exists when there is a public system of rules that places requirements on the making and keeping of promises and most everyone knows that these rules are generally followed.²⁵ Since no such institution exists in this case, the Undermining Principle and the Principle of Fidelity cannot explain why my promise is binding.

What about Principle F? For this principle to generate an obligation for me to keep my promise, I must lead you to expect that I will return your boomerang if you return my spear. How might I convince you of this? If we set aside paradigm promises, I might convince you that I am a very sentimental person who keeps his promises out of a commitment to solidarity. My promise could lead you to expect that I will return the boomerang if you return the spear (assuming I remain a sentimental person). If certain other conditions obtain, Principle F would then have no problem generating an obligation for me to fulfill this

²⁵ TOJ 47-48.

expectation. Cases of paradigm promising, as I have argued, are a different matter all together.

6. Reasons to Keep Our Promises

Principle F, the Undermining Principle and the Principle of Fidelity each cannot explain why we have an obligation to keep all of our binding promises. Since they appear to be the most plausible candidates for a comprehensive principle that explains our fiduciary obligations, we have some reason to consider a different strategy for investigating why we should keep our promises. In this section, I briefly sketch an alternative approach of this sort.

Most discussions of our fiduciary obligations fail to emphasize that we often have more than one reason to keep a promise. Consider a variant of another of Scanlon's examples:

Farmer – You and I are friends who live in a relatively isolated, small town. The institution of promising in our town is just and quite beneficial to our townspeople collectively. However, the practice is on the verge of collapse because of a recent series of defaults on important promises. Our town is faced with an impending flood from a stream that runs through my land and your land. If I help you build up the banks of your stream section, and afterwards, you help me build up mine, then our crops will be saved. I lead you to believe that I have a strong aversion to the penalties that befall promise-breakers and then I promise you that if you help me build up my stream section then I will help you build up yours. This causes you to help me.

I seem to have at least four separate reasons to keep my promise to help you. Firstly, as I have described the example, breaking my promise would significantly weaken the practice of promising in our town. Since that institution has proven quite useful to us (and perhaps also because it is just), this appears to give me a reason to keep my promise. Secondly, by making you a promise that caused you to help me, I voluntarily benefited from a just institution of promising. If I fail to do my part as specified by the rules of that institution,

which require me to reciprocate, I act wrongly by exploiting the cooperative efforts of others. This gives me an additional reason to keep my promise. Thirdly, I voluntarily and intentionally led you to expect that I would help you if you help me and I know that you wanted to be assured of this. If certain other conditions obtain, I have a duty not to frustrate your expectation, which gives me a further reason to keep my promise. Finally, our friendship might depend in part on mutual trust that would be severely damaged if I fail to help you, which would give me a non-moral reason to keep my promise.

It is difficult to say which, if any, of these reasons is most fundamental. When we have multiple reasons to keep a promise, their relative strength seems to vary depending on the circumstances of the situation. If a (just) institution of promising that provides great benefits to many people would be undermined by breaking a particular promise then this can provide reasons that are stronger than those that derives from relatively minor expectations that others have formed as a result of the promise. Or, if breaking a promise would not undermine or significantly exploit the practice, but the expectations created are very important, they can provide the stronger reasons to keep it. Indeed, it seems that our friendship with others can sometimes provide the weightiest reasons to fulfill our promises.

According to the pluralist view, there is a family of moral principles, including ones that are similar to the Undermining Principle, the Principle of Fidelity and Principle F, that explains why we should keep our promises. Each fiduciary principle in this family explains our fiduciary obligations in some cases, but none of them explains why we should keep our promises in all (or most) cases. Often more than one principle gives us sufficient reason to keep a promise, but sometimes only one of the principles does so. While this is only a sketch of a view, here are two further points to help clarify what I have in mind.

(1) We might worry that some of the fiduciary principles are justifiable only on grounds that are incompatible with the grounds needed to justify the other fiduciary principles. To evaluate this concern, we would need to choose a moral theory and see whether it could (at least) justify the three principles I mentioned (or justify suitably revised versions of them). Here is one way this might go on a Rawlsian contractualist theory. We can safely assume that the Principle of Fidelity and Principle F can be justified on a moral foundation of this sort.²⁶ What about the Undermining Principle, which seems most naturally justified on utilitarian grounds? Suppose that the parties to the original position have already chosen Rawlsian principles of justice to govern the basic structures of society. It seems plausible that they will also choose a natural duty of justice, which requires us to support and not undermine just institutions when they exist.²⁷ Rawls thinks this duty would be chosen because the principles of justice and the principles that apply to the conduct of individuals must cohere in an appropriate way. If the parties chose the principle of utility to govern the acts of individuals, for example, then the requirements that institutions place on our conduct and those placed on us by the principle of utility will not fit together properly. Moreover, Rawls argues that the natural duty of justice will be chosen because public knowledge that people generally support and comply with just institutions tends to stabilize just social arrangements. If the natural duty of justice could be justified on grounds of this sort then the following modified version of the Undermining Principle would be justifiable on this theory as well:

²⁶ It seems likely that, when choosing principles for the general regulation of behavior, parties to the original position will choose a principle like Principle F that requires us to fulfill certain expectations we create in others.

²⁷ TOJ 293-296.

Just Undermining Principle - a person who makes a promise in accordance with a *just* social practice of promising must keep his or her promise when failing to do so would significantly undermine that practice.

The Just Undermining Principle derives from the natural duty of justice as it applies to the institution of promising. While the Principle of Fidelity requires us to fulfill our promises only if we have voluntarily benefited from the practice of promising, the Just Undermining Principle requires us to keep our promises even if we have not benefited from that institution, as long as our failure to keep the promise would significantly undermine the practice.²⁸

(2) The pluralist view offers an effective way to respond to the circularity objection, at least in certain cases. Consider (for the last time) a paradigm promise in which I promise you that I will do X and my only motivation to do X is an awareness that, having promised, I am obligated to do so. Suppose that in making this promise I voluntarily benefited from the rules of a just institution of promising. This means that the Principle of Fidelity generates an obligation for me to do X. Once I have this obligation, I can be motivated to keep my promise by an awareness that, having promised, I am obligated under the Principle of Fidelity to keep it. If I succeed in convincing you that I have this motivation then I can satisfy condition (1) of Principle F, that is, I can voluntarily and intentionally lead you to expect that I will do X (unless you consent to me not doing so and I retain this motivation). Assuming I retain this motivation and the other conditions of Principle F are satisfied, Principle F now generates a duty to keep my promise (unless you consent to me not doing so), in addition to the fiduciary obligation that was already generated by the Principle of Fidelity. This explanation for why I should keep my promise seems appropriate since, if I

²⁸ It seems possible to make a promise in accordance with a just institution of promising and also receive no benefit from that institution. My promise might fall on deaf ears, fail to entice anyone to cooperate with me, cause others to ridicule me, and so on.

were to break my promise, I appear to act wrongly because I violated your expectations and because I exploited a just institution, even though neither Principle F nor the Principle of Fidelity can by itself explain both sorts of wrongs. This suggests that the best explanation for why we ought to keep our promises typically involves a plurality of moral principles.

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