

THE
METHODS OF ETHICS

BY

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tuitively seen to be true by the common reason and conscience of mankind. There is, no doubt, a vague general habit of obedience to laws as such (even if bad laws), which may fairly claim the universal *consensus* of civilised society: but when we try to state any explicit principle corresponding to this general habit, the *consensus* seems to abandon us, and we are inevitably drawn into controversies which seem to admit of no solution except that offered by the utilitarian method.¹

§ 5. We have next to treat of Good Faith, or Fidelity to Promises; which it is natural to consider in this place, because, as has been seen, the Duty of Law-observance has by some thinkers been based upon a prior duty of fulfilling a contract. The Social Contract however, as above examined, seems at best merely a convenient fiction, a logical artifice, by which the mutual jural relations of the members of a civilised community may be neatly expressed: and in stating the ethical principles of Common Sense, such a fiction would seem to be out of place. It must, however, be allowed that there has frequently been a close historical connection between the Duty of Law-observance and the duty of Good Faith. In the first place, a considerable amount of Constitutional Law at least, in certain ages and countries, has been established or confirmed by compacts expressly made between different sections of the community; who agree that for the future government shall be carried on according to certain rules. The duty of observing these rules thus presents itself as a Duty of Fidelity to compact. Yet more is this the case, when the question is one of imposing not a law, but a law-giver; whose authority is strengthened by the exaction of an oath of allegiance from his subjects generally or a representative portion of them. Still, even in such cases, it can only be by a palpable fiction that the mass of the citizens can be regarded as bound by an engagement which only a few of them have actually taken.

We may begin our examination of the duty of Keeping Promises by noticing that some moralists have classified or even identified it with Veracity. From one point of view there certainly seems to be an analogy between the two; as we fulfil the obligations of Veracity and Good Faith alike by effecting a

¹ Into the ethical difficulties peculiar to International Law, I have not thought it worth while to enter.

correspondence between words and facts—in the one case by making fact correspond with statement, and in the other by making statement correspond with fact. But the analogy is obviously superficial and imperfect; for we are not bound to make our actions correspond with our assertions generally, but only with our promises. If I merely assert my intention of abstaining from alcohol for a year, and then after a week take some, I am (at worst) ridiculed as inconsistent: but if I have pledged myself to abstain, I am blamed as untrustworthy. Thus the essential element of the Duty of Good Faith seems to be not conformity to my own statement, but to expectations that I have intentionally raised in others.

On this view, however, the question arises whether, when a promise has been understood in a sense not intended by the promiser, he is bound to satisfy expectations which he did not voluntarily create. It is, I think, clear to Common Sense that he is so bound in some cases, if the expectation was natural and such as most men would form under the circumstances: but this would seem to be one of the more or less indefinite duties of Justice, and not properly of Good Faith, as there has not been, strictly speaking, any promise at all. The normal effect of language is to convey the speaker's meaning to the person addressed (here the promiser's to the promisee), and we always suppose this to have taken place when we speak of a promise. If through any accident this normal effect is missed, we may say that there is no promise, or not a perfect promise.

The moral obligation, then, of a promise is perfectly constituted when it is understood by both parties in the same sense. And by the term 'promise' we include not words only, but all signs and even tacit understandings not expressly signified in any way, if such clearly form a part of the engagement. The promiser is bound to perform what both he and the promisee understood to be undertaken.

§ 6. Is, then, this obligation intuitively seen to be independent and certain?

It is often said to be so; and perhaps we may say that it seems so to unreflective common sense. But reflection seems at least to disclose a considerable number of qualifications of the principle; some clear and precise, while others are more or less indefinite.

In the first place, thoughtful persons would commonly admit that the obligation of a promise is relative to the promisee, and may be annulled by him. And therefore if the promisee be dead, or otherwise inaccessible and incapable of granting release, there is constituted an exceptional case, of which the solution presents some difficulty.¹

Secondly, a promise to do an immoral act is held not to be binding, because the prior obligation not to do the act is paramount; just as in law a contract to do what a man is not legally free to do, is invalid: otherwise one could evade any moral obligation by promising not to fulfil it, which is clearly absurd.² And the same principle is of course applicable to immoral omissions or forbearances to act: here however, a certain difficulty arises from the necessity of distinguishing between different kinds or degrees of obligatoriness in duties; since it is clear that a promise may sometimes make it obligatory to abstain from doing what it would otherwise have been a duty to do. Thus it becomes my duty not to give money to a meritorious hospital if I have promised all I can spare to an undeserving friend; though apart from the promise it might have been my duty to prefer the hospital to the friend. We have, however, already seen the difficulty of defining the limits of strict duty in many cases: thus (*e.g.*) it might be doubted how far the promise of aid to a friend ought to override the duty of giving one's children a good education. The extent, therefore, to which the obligation of a promise overrides prior obligations becomes practically somewhat obscure.

§ 7. Further qualifications of the duty of fidelity to promises, the consideration of which is involved in more difficulty and dispute, are suggested when we examine more closely the conditions under which promises are made, and the consequences of executing them. In the first place, it is much disputed how far promises obtained by 'fraud or force' are binding. As regards fraud, if the promise was understood

¹ Vows to God constitute another exception: and it is thought by many that if these are binding, there must be some way in which God can be understood to grant release from them. But this it is beyond my province to discuss.

² The case is somewhat different when the act has become immoral after the promise was made: still, here also, the prior duty of abstaining from it would be universally held to prevail.

to be conditional on the truth of a statement which is found to be false, it is of course not binding, according to the principle I originally laid down. But a promise may be made in consequence of such a fraudulent statement, and yet made quite unconditionally. Even so, if it were clearly understood that it would not have been made but for the false statement,¹ probably most persons would regard it as not binding. But the false statement may be only one consideration among others, and it may be of any degree of weight; and it seems doubtful whether we should feel justified in breaking a promise, because a single fraudulent statement had been a part of the inducement to make it: still more if there has been no explicit assertion, but only a suggestion of what is false: or no falsehood at all, stated or suggested, but only a concealment of material circumstances. We may observe that certain kinds of concealment are treated as legitimate by our law: in most contracts of sale, for example, the law adopts the principle of 'caveat emptor,' and does not refuse to enforce the contract because the seller did not disclose defects in the article sold, unless by some words or acts he produced the belief that it was free from such defects. Still, this does not settle the moral question how far a promise is binding if any material concealment is shown to have been used to obtain it.

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We have also to consider the case in which an erroneous impression has not been wilfully produced, but was either shared by the promisee or produced in some way unintentionally. Perhaps in this last case most would say that the bindingness of the promise is not affected, unless it was expressly conditional. But on all these points Common Sense seems doubtful: and somewhat similar difficulties present themselves when we endeavour to define the obligation of promises partly obtained by some degree of illegal violence and intimidation.

§ 8. But, secondly, even if a promise has been made quite freely and fairly, circumstances may alter so much before the time comes to fulfil it, that the effects of keeping it may be quite other than those which were foreseen when it was made. In such a case probably all would agree that the promisee ought to release the promiser. But if he declines to do this,

¹ What is here said of a 'statement' may be extended to any mode of producing a false impression.

it seems difficult to decide how far the latter is bound. Some would say that he is in all cases: while others would consider that a considerable alteration of circumstances removed the obligation—perhaps adding that all engagements must be understood to be taken subject to a general understanding that they are only binding if material circumstances remain substantially the same. But such a principle very much impairs the theoretical definiteness of the duty.

This difficulty assumes a new aspect when we consider the case already noticed, of promises made to those who are now dead or temporarily out of the reach of communications. For then there is no means of obtaining release from the promise, while at the same time its performance may be really opposed to the wishes—or what would have been the wishes—of both parties. The difficulty is sometimes concealed by saying that it is our duty to carry out the 'intention' of the promise. For as so used the word Intention is, in common parlance, ambiguous: it may either mean the signification which the promisee attached to the terms employed, as distinct from any other signification which the common usage of words might admit: or it may include ulterior consequences of the performance of the promise, which he had in view in exacting it. Now we do not commonly think that the promiser is concerned with the latter. He certainly has not pledged himself to aim generally at the end which the promisee has in view, but only so far as some particular means are concerned: and if he considers these means not conducive to the end, he is not thereby absolved from his promise, under ordinary circumstances. But in the case supposed, when circumstances have materially changed, and the promise does not admit of revision, probably most persons would say that we ought to take into consideration the ulterior wishes of the promisee, and carry out what we sincerely think *would* have been his intention. But the obligation thus becomes very vague: since it is difficult to tell from a man's wishes under one set of circumstances what he would have desired under circumstances varying from these in a complex manner: and practically this view of the obligation of a promise generally leads to great divergence of opinion. Hence it is not surprising that some hold that even in such a case the obligation ought to be interpreted strictly: while

others go to the other extreme, and maintain that it ceases altogether.

But again, it was said that a promise cannot abrogate a prior obligation; and, as a particular application of this rule, it would be generally agreed that no promise can make it right to inflict harm on any one. On further consideration, however, it appears doubtful how far the persons between whom the promise passed are included in the scope of this restriction. For, first, it does not seem to be commonly held that a man is as strictly bound not to injure himself as he is to avoid harming others; and so it is scarcely thought that a promise is not binding because it was a foolish one, and will entail an amount of pain or burden on the promiser out of proportion to the good done to the promisee. Still, if we take an extreme case, where the sacrifice is very disproportionate to the gain, many conscientious persons would think that the promise ought rather to be broken than kept. And, secondly, a different question arises when we consider the possibility of injuring the promisee by fulfilling the promise. For when it is said to be wrong to do harm to any one, we do not commonly mean only what he thinks harm, but what really is so, though he may think it a benefit; for it seems clearly a crime for me to give any one what I know to be poison, even though he may be stubbornly convinced that it is wholesome food. But now suppose that I have promised *A* to do something, which, before I fulfil the promise, I see reason to regard as likely to injure him. The circumstances may be precisely the same, and only my view of them have changed. If *A* takes a different view and calls on me to fulfil the promise, is it right to obey him? Surely no one would say this in an extreme case, such as that of the poison. But if the rule does not hold for an extreme case, where can we draw the line? at what point ought I to give up my judgment to *A*, unless my own conviction is weakened? Common Sense seems to give no clear answer.

§ 9. I have laid down that a promise is binding in so far as it is understood on both sides similarly: and such an understanding is ordinarily attained with sufficient clearness, as far as the apprehension of express words or signs is concerned. Still, even here obscurity and misapprehension

sometimes occur; and in the case of the tacit understandings with which promises are often complicated, a lack of definite agreement is not improbable. It becomes, therefore, of practical importance to decide the question previously raised: What duty rests on the promiser of satisfying expectations which he did not intend to create? I called this a duty not so much of Good Faith as of Justice, which prescribes the fulfilment of normal expectations. How then shall we determine what these are? The method by which we commonly ascertain them seems to be the following. We form the conception of an average or normal man, and consider what expectations he would form under the circumstances, inferring this from the beliefs and expectations which men generally entertain under similar circumstances. We refer, therefore, to the customary use of language, and customary tacit understandings current among persons in the particular relations in which promiser and promisee stand. Such customary interpretations and understandings are of course not obligatory upon persons entering into an engagement: but they constitute a standard which we think we may presume to be known to all men, and to be accepted by them, except in so far as it is explicitly rejected. If one of the parties to an engagement has deviated from this common standard without giving express notice, we think it right that he should suffer any loss that may result from the misunderstanding. This criterion then is generally applicable: but if custom is ambiguous or shifting it cannot be applied; and then the just claims of the parties become a problem, the solution of which is very difficult, if not strictly indeterminate.

So far we have supposed that the promiser can choose his own words, and that if the promisee finds them ambiguous he can get them modified, or (what comes to the same thing) explained, by the promiser. But we have now to observe that in the case of promises made to the community, as a condition of obtaining some office or emolument, a certain unalterable form of words has to be used if the promise is made at all. Here the difficulties of moral interpretation are much increased. It may be said, indeed, that the promise ought to be interpreted in the sense in which its terms are understood by the community: and, no doubt, if their usage is quite

uniform and unambiguous, this rule of interpretation is sufficiently obvious and simple. But since words are often used in different ways by different members of the same society, and especially with different degrees of strictness and laxity, it often happens that a promise to the community cannot strictly be said to be understood in any one sense: the question therefore arises, whether the promiser is bound to keep it in the sense in which it will be most commonly interpreted, or whether he may select any of its possible meanings. And if the formula is one of some antiquity, it is further questioned, whether it ought to be interpreted in the sense which its words would now generally bear, or in that which they bore when it was drawn up; or, if they were then ambiguous, in the sense which appears to have been attached to them by the government that imposed the promise. On all these points it is difficult to elicit any clear view from Common Sense. And the difficulty is increased by the fact that there are usually strong inducements to make these formal engagements, which cause even tolerably conscientious persons to take them in a strained and unnatural sense. When this has been done continually by many persons, a new general understanding grows up as to the meaning of the engagements: sometimes they come to be regarded as 'mere forms,' or, if they do not reach this point of degradation, they are at least understood in a sense differing indefinitely from their original one. The question then arises, how far this process of gradual illegitimate relaxation or perversion can modify the moral obligation of the promise for a thoroughly conscientious person. It seems clear that when the process is complete, we are right in adopting the new understanding as far as Good Faith is concerned, even if it palpably conflicts with the natural meaning of language; although it is always desirable in such cases that the form of the promise should be changed to correspond with the changed substance. But when, as is ordinarily the case, the process is incomplete, since a portion of the community understands the engagement in the original strict sense, the obligation becomes difficult to determine, and the judgments of conscientious persons respecting it become divergent and perplexed.

To sum up the results of the discussion: it appears that a

clear *consensus* can only be claimed for the principle that a promise, express or tacit, is binding, if a number of conditions are fulfilled: viz. if the promiser has a clear belief as to the sense in which it was understood by the promisee, and if the latter is still in a position to grant release from it, but unwilling to do so, if it was not obtained by force or fraud, if it does not conflict with definite prior obligations, if we do not believe that its fulfilment will be harmful to the promisee, or will inflict a disproportionate sacrifice on the promiser, and if circumstances have not materially changed since it was made. If any of these conditions fails, the *consensus* seems to become evanescent, and the common moral perceptions of thoughtful persons fall into obscurity and disagreement.

due to the actual order of society. For we have a strong conviction that positive laws ought, generally speaking, to be obeyed: and, again, our notion of Justice seemed to include a general duty of satisfying the expectations generated by custom and precedent. Yet if the actual order of society deviates very much from what we think ought to exist, the duty of conforming to it seems to become obscure and doubtful. And apart from this we cannot say that Common Sense regards it as an axiom that Laws ought to be obeyed. Indeed, all are agreed that they ought to be disobeyed when they command what is wrong: though we do not seem able to elicit any clear general view as to what remains wrong after it has been commanded by the sovereign. And, again, the positive laws that ought to be obeyed as such must be the commands issued by a (morally) rightful authority: and though these will ordinarily coincide with the commands legally enforced, we cannot say that this is always the case; for the courts may be temporarily subservient to a usurper; or, again, the sovereign hitherto habitually obeyed may be one against whom it has become right to rebel (since it is generally admitted that this is sometimes right). We require, then, principles for determining when usurpation becomes legitimate and when rebellion is justifiable: and we do not seem able to elicit these from Common Sense—except so far as it may be fairly said that on this whole subject Common Sense inclines more to the Utilitarian method than it does in matters of private morality.

Still less can we state the general duty of satisfying 'natural expectations'—*i.e.* such expectations as an average man would form under given circumstances—in the form of a clear and precise moral axiom. No doubt a just man will generally satisfy customary claims: but it can hardly be maintained that the mere existence of a custom renders it clearly obligatory that any one should conform to it who has not already promised to do so; especially since bad customs can only be abolished by individuals venturing to disregard them.

§ 6. We have still to examine (whether as a branch of Justice or under a separate head) the duty of fulfilling express promises and distinct understandings. The peculiar confidence

which moralists have generally felt in this principle is strikingly illustrated by those endeavours to extend its scope which we have just had occasion to notice: and it certainly seems to surpass in simplicity, certainty, and definiteness the moral rules that we have hitherto discussed. Here, then, if anywhere, we seem likely to find one of those ethical axioms of which we are in search. Now we saw that the notion of a Promise requires several qualifications not commonly noticed to make it precise: but this alone is no reason why it may not be fitly used in framing a maxim, which when enunciated and understood will properly claim universal acceptance as self-evident. For similarly the uninstructed majority of mankind could not define a circle as a figure bounded by a line of which every point is equidistant from the centre: but nevertheless, when the definition is explained to them, they will accept it as expressing the perfect type of that notion of roundness which they have long had in their minds. And the same potential universality of acceptance may, I think, be fairly claimed for the propositions that the promise which the Common Sense of mankind recognises as binding must be understood by promiser and promisee in the same sense at the time of promising, and that it is relative to the promisee and capable of being annulled by him, and that it cannot override determinate¹ prior obligations.

But the case is different with the other qualifications which we had to discuss. When once the question of introducing these has been raised, we see that Common Sense is clearly divided as to the answer. If we ask (*e.g.*) how far our promise is binding if it was made in consequence of false statements, on which, however, it was not understood to be conditional; or if important circumstances were concealed, or we were in any way led to believe that the consequences of keeping the promise would be different from what they turn out to be; or if the promise was given under compulsion; or if circumstances have materially altered since it was given, and we find that the results of fulfilling it will be different from what we foresaw when we promised; or even if it be only our knowledge of consequences which has altered, and we now see that fulfil-

¹ I refer later (p. 360) to the difficulty before noticed in respect of such prior obligations as are not strictly determinate.

ment will entail on us a sacrifice out of proportion to the benefit received by the promisee; or perhaps see that it will even be injurious to him though he may not think so;—different conscientious persons would answer these and other¹ questions (both generally and in particular cases) in different ways: and though we could perhaps obtain a decided majority for some of these qualifications and against others, there would not in any case be a clear *consensus* either way. And, moreover, the mere discussion of these points seems to make it plain that the confidence with which the “unsophisticated conscience” asserts unreservedly “that promises ought to be kept,” is due to inadvertence; and that when the qualifications to which we referred are fairly considered, this confidence inevitably changes into hesitation and perplexity. It should be added, that some of these qualifications themselves suggest a reference to the more comprehensive principle of Utilitarianism, as one to which this particular rule is naturally subordinate.

Again, reflection upon the place of this duty in a classified system of moral obligations tends to confirm our distrust of the ordinary enunciations of Common Sense in respect of it. For, as was seen, Fidelity to promises is very commonly ranked with Veracity; as though the mere fact of my having said that I would do a thing were the ground of my duty to do it. But on reflection we perceive that the obligation must be regarded as contingent on the reliance that another has placed on my assertion: that, in fact, the breach of duty is constituted by the disappointment of expectations voluntarily raised. And when we see this we become less disposed to maintain the absoluteness of the duty: it seems now to depend upon the amount of harm done by disappointing expectations; and we shrink from saying that the promise ought to be kept, if the keeping it would involve an amount of harm that seems decidedly to outweigh this.

The case of Veracity we may dismiss somewhat more briefly, as here it was still more easy to show that the common enunciation of the unqualified duty of Truth-speaking is made without full consideration, and cannot approve itself to the

¹ I have omitted as less important the special questions connected with promises to the dead or to the absent, or where a form of words is prescribed.

reflective mind as an absolute first principle. For, in the first place, we found no clear agreement as to the fundamental nature of the obligation; or as to its exact scope, *i.e.* whether it is our actual affirmation as understood by the recipient which we are bound to make correspondent to fact (as far as we can), or whatever inferences we foresee that he is likely to draw from this, or both. To realise perfect Candour and Sincerity, we must aim at both: and we no doubt admire the exhibition of these virtues: but few will maintain that they ought to be exhibited under all circumstances. And, secondly, it seems to be admitted by Common Sense, though vaguely and reluctantly, that the principle, however defined, is not of universal application; at any rate it is not thought to be clearly wrong that untruths should be told to children, or madmen, or invalids, or by advocates, or to enemies or robbers, or even to persons who ask questions which they have no right to ask (if a mere refusal to answer would practically reveal an important secret). And when we consider the limitations generally admitted, it seems still more plain than in the last case, that they are very commonly determined by utilitarian reasonings, implicit or explicit.

§ 7. If, then, the prescriptions of Justice, Good Faith, and Veracity, as laid down by Common Sense, appear so little capable of being converted into first principles of scientific Ethics, it seems scarcely necessary to inquire whether such axioms can be extracted from the minor maxims of social behaviour, such as the maxim of Liberality or the rules restraining the Malevolent Affections: or, again, from such virtues as Courage and Humility, which we found it difficult to class as either social or self-regarding. Indeed, it was made plain in chap. viii. that as regards the proper regulation of resentment, Common Sense can only be saved from inconsistency or hopeless vagueness by adopting the ‘interest of society’ as the ultimate standard: and in the same way we cannot definitely distinguish Courage from Foolhardiness except by a reference to the probable tendency of the daring act to promote the wellbeing of the agent or of others, or to some definite rule of duty prescribed under some other notion.

It is true that among what are commonly called “duties to self” we find the duty of self-preservation prescribed with