

The Making and Breaking of Promises

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I, Henry Sheehan confirm that the work presented in this thesis is my own.
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Abstract

In this thesis I shall answer two different questions about promising: how do we make binding promises and what is the distinctive wrong that we commit by breaking promises. In the first chapter I shall answer the first of these questions by arguing that promising is a practice. This explains how a promise can bind us to act as we said we would because all practices restrict how we can permissibly act in some way. In the second chapter I shall defend a Rawlsian explanation of why we should be morally obliged to obey the rules of the practice of promising and why promises generate obligations rather than merely restricting our actions. This will only be a partial defence, however, since in the third chapter, I will show that conventionalist accounts such as Rawls's cannot explain the distinctive wrong of breaking a promise. I shall argue that this is the case because they cannot explain how a broken promise wrongs the promisee in particular, because they cannot capture the directed nature of the wrong of breaking promises. In the fourth and final chapter I shall offer an explanation of the distinctive wrong of breaking a promise close to the expectationalist account presented by Tim Scanlon. I shall argue that in order to explain the wrong of breaking a promise there must be a practice of promising to allow the promisor to solicit the beliefs and expectations of the promisee which explain the distinctive wrong of promise breaking. Overall I will argue that these two separate questions require two different approaches, one conventionalist and the other non-conventionalist, that fit together to provide a coherent account of the phenomenon of promising.

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Chapter 1: Solving the Generative Problem

There are a number of difficult problems and questions that are suggested by the phenomenon of promising. The question that I wish to answer in this chapter is the question of how we are able to make binding promises. An action that was only optional before the promise was made becomes mandatory because of the promise. Promising is unusual in this respect because we do not normally have this kind of control over whether certain actions are mandatory or merely permissible. If I simply declare that 'I am now bound to X' then I can expect the moral status of X to remain exactly the same as it was before. What makes promising different from this kind of utterance and how does it enable us to create moral obligations out of thin air? I intend to argue that we are able to make binding promises because we participate in a practice of promising. I will begin by explaining why the question of how we are able to make binding promises actually presents a philosophical problem before showing how it solves the problem to argue that promising is a practice.

1.1 What is the problem?

When we successfully make a promise we are bound to perform the promised action. We generate an obligation to act as we said we would. Normally, however, we do not just have obligations, we are obliged for a reason. We can explain why we should be obliged to act as we are. It would be extremely mysterious for us to be obliged to act in a certain way but not be able to explain why we should be so obliged. Often we will explain why you are obliged to act in a certain way by describing what would be wrong with failing to fulfil that obligation, by describing what you would be guilty of if you failed to fulfil that obligation. Consider, for example, the obligation that we have not to assault innocent people. Assault is a crime which causes a substantial amount of physical and emotional harm to the victim. I can explain my obligation not to assault others, therefore, in terms of the harm that would be caused if I were to violate that obligation and assault someone. Similarly a father has a number of obligations towards his children. He (along with the children's mother) is obliged to ensure that the children are properly fed, clothed and educated. Should any father breach these obligations then the wrong he would be perpetrating would be that of failing to properly look after his children.¹ The obligation to not assault people makes sense because we can understand what would be wrong with someone who violated this obligation, similarly we can understand what would be wrong with the father who did not ensure his children were properly fed. To violate an obligation

¹ If we felt the need then we could potentially put this in terms of the harm that a lack of proper care would do to the children, but I do not think that we need to do this to capture what is wrong with a father not feeding his children properly.

is to act in a way that is morally wrong and so if we are to claim that we have an obligation to X then we must be able to explain why it would be wrong to fail to X.²

Since promising generates an obligation we should therefore be able to explain why we should be obliged to carry out the content of our promises. But when I am asked to explain why I should be obliged to keep my promise I simply want to reply 'I must because I promised'. It also feels like I should not have to say any more than this. Raz writes, 'There is no doubt that explanation of action taken or intended in terms such as 'but I promised I'll do it' do sound complete. To add 'therefore it was my duty to do it' is, we feel, to unpack what is already contained in the first statement, not to add to it'.³ If I told someone that I had to X because I have promised to do so and they replied by saying 'I understand that you have promised to X, but why should you X?' then I would simply think that they did not understand what the word 'promise' means rather than taking it as a reasonable request for explanation. Normally we would think that one should be able to explain why we have certain obligations but in cases of promising we feel as though 'because I promised' is enough and that we shouldn't have to say any more to explain our obligation. Anscombe eloquently describes the difficulties that we have in articulating what is wrong with breaking a promise while asking what kind of necessity compels us to keep our promises, writing,

'We may say: the necessity is one of making the description come true – or being guilty of something. Of what? Of breaking a promise. And what is that? A description which someone gives and which because he has given it he must make come true or be guilty. Of what? Not to just go running round in the circle let's try again and say: of an injustice, a wrong against the one to whom the sign, the description, was given. But what *wrong* was that? The wrong of breaking a promise...'⁴

The reason why it would be wrong not to carry out the content of your promise is that this would be breaking your promise and that you would be guilty of breaking a promise. It seems that we cannot explain either why you should keep your promises or what would be wrong with failing to keep your promises since any attempted answer will simply appeal to the importance of keeping your promise. But since the original question was why it should be important to keep your promise this gets us nowhere. We seem entitled to ask why you are obliged to keep your promise and to expect some kind of explanation about why we should have this obligation but we are also unable to answer this question satisfactorily. The reason why explaining how we can make binding promises is a problem rather than just a question is that it is hard to see what makes the promissory obligation intelligible. There is a tension between requiring an

² Owens introduces the phrase 'wrong base' to refer to what explains that it is wrong to commit certain actions. The difficulty that we have in describing why it is wrong to break your promises introduces what he calls the problem of bare wronging which is close to the problem that I have described. See Owens (2012) pp. 124-127

³ Raz (1977) pp. 212

⁴ Anscombe (1978) pp. 320

explanation for the obligation to keep promises and the intuition that we should not have to provide any additional explanation. Resolving this tension and explaining why we are obliged to keep our promises will be my aim in this chapter. I shall hereafter refer to this problem as the generative problem.⁵

1.2 *Some tempting answers*

It may seem that in the problem as I have presented it above quite a bit of weight is placed upon the intuition that 'because I promised' is a sufficient and complete explanation of why we should carry out the content of our promises. This may seem like quite a bit of weight to place on an intuition that is almost certainly not shared by everyone. However, even if you do not share this intuition then you are still faced with the problem of explaining why you should keep your promise or what you would be guilty of if you failed to do so. I will consider a few candidates which may seem to provide plausible explanations of why it is wrong to break promises and argue that they all fail. I do not intend the candidates I discuss to be taken as an exhaustive list of every answer that could be given. Instead I hope to demonstrate the general difficulties that would have to be overcome if one were to try and give an explanation of why we should be obliged to keep our promises that did not come down to 'because I promised'. These difficulties are substantial and provide significant support for my claim that you cannot say anything more to explain why you should keep your promises. So my argument should not rest merely on the intuition that you shouldn't have to say more than 'because I promised' to justify keeping your promise, but also the following argument to the effect that there is nothing more you could say even if you tried.

There are three candidate explanations for why we should keep our promises that I intend to discuss and reject. One would be to say that the wrong involved in breaking a promise is the wrong of damaging the practice of promising or the wrong of harming the promisee, to claim that the wrong of breaking a promise is that it causes harm to someone or to the culture as a whole. Alternatively one might say that the reason one must keep one's promises is that a promise leads the promisee to trust the promisor. Failing to keep your promise would constitute a breach of that trust. It seems at least plausible that we should be able to wrong someone by breaking their trust. If we think that promising is a particular way of creating a trusting relationship between two parties then the promisor who breaks her promise may simply be guilty of betraying that trust. Finally we might think that a promise is a statement about the way that you will act in the future, it is a claim that you will perform the content of the promise. Therefore, if you fail to keep your promise the wrong that you have perpetrated may be a wrong of dishonesty. You said that you would do something and so if you fail to do so then you make

⁵ Shiffrin uses this term to describe a problem which is either the same or very similar to mine in her (2008) and I am adopting her terminology

yourself a liar. In short the three candidate explanations for the obligation to keep a promise are harm, trust and honesty.⁶

Although they may initially seem plausible answers to the problem described earlier, we cannot explain what is wrong with breaking a promise simply by saying that the promisor has caused harm to others, betrayed another's trust or been dishonest. This is because, although they may capture what we sometimes do wrong when we break a promise, they do not tell us about the wrong we commit whenever we break a promise in virtue of breaking that promise. Our utterances can have many effects that change the moral landscape. They can encourage reliance, lead others to form dangerous beliefs and change others' expectations about how we will act in the future in ways that are morally significant. I have no doubt that we often make promises that have these kind of effects such as leading people to act differently in ways that change the normative landscape. I could promise to pick a friend's children up from school for example, one result of which will be that this friend will no longer try to pick up her own child, relying on me to do so instead. In this instance I act wrongly if I do not keep my promise because I violate the friend's reliance on me and because I am likely to harm and upset the child. But this is an effect that is specific to this particular promise. Not all promises cause the promisee to rely on the promisor in this way and not all promises will cause any harm to concerned third parties if they are broken. Describing these features of the situation helps us to understand why it would be wrong to break this promise, but not why it is wrong to break promises in general. Promising is a single, unified phenomenon and if all promises create obligations then there should be a single explanation for why they do so that applies equally to all of them. Describing features of the situation which explain why it would be wrong to break certain promises, but not others, does not get us any closer to understand how promises, qua promises, generate obligations. It is no use focusing on features of individual promises if those features do not tell us anything about promising in general. Just as there must be a single explanation of why we are obliged to keep our promises so there should also be a single explanation of what we do wrong when we violate that obligation. We should want to know what we would be guilty of every time we broke a promise of, in virtue of the fact that we have broken a promise. It is not sufficient to point to a feature that will only correspond with most promises or a large proportion of promises. Our explanation of what is wrong with breaking a promise must be a universal explanation of what is wrong with breaking all promises. It is here that the three candidates I have described fall down because although each will probably capture many or most instances of promising, none of them can explain what one does wrong every time one

⁶ These three candidates are suggested by various different approaches to promising that are taken in the literature. Some thinkers have presented and defended utilitarian accounts of promising, others have proposed accounts based on trust and some have argued that the moral importance of promising comes from how it generates beliefs and expectations. These are all quite sophisticated positions and what I say is in no way intended as a response or objection to them. I chose these examples because the literature seems to clearly testify to their intuitive appeal. A trust based account is defended in Pink (2009) and one based on beliefs and expectations is defended by Scanlon in his (1999)

breaks a promise. Therefore none of them can possibly capture the wrong of breaking a promise or explain why promises generate obligations. They only identify, at best, wrongs that often accompany broken promises and explanations for why certain promises should generate obligations.

Consider, for example, the possibility that the wrong of breaking a promise is the wrong of harming others. Clearly this cannot be capturing what is wrong with breaking a promise because there is no reason to think that all broken promises harm people. One could make a promise that was extremely ill advised and that would produce harm if kept rather than broken. A promise to eat unhealthily or to act unpleasantly towards others or to put oneself in danger could all be made and would all be equally binding in spite of the fact that they were likely to cause more harm than good. One could respond and say that in this instance breaking the promise would still cause harm because it would damage the institution of promising. People would start to lose faith in the reliability of promises in general which would be seriously harmful given the importance and value of our ability to make promises. However one could not urge this response if the promise was broken in secret. Foot gives an example of an explorer who promises his guide that he will not try to take the guide's photo because of the guide's deeply held beliefs. The guide could take a photo of the guide asleep and no one need ever know that the guide broke the promise.⁷ In this kind of case it is hard to see how the breaking of the promise could cause any kind of significant harm.

Just as we could not appeal to harm to explain what is wrong with breaking all promises we could not appeal to trust either. This is because we do not always trust the people who make promises to us, we can accept a promise from someone and still not trust them. In fact one of the uses of promising which makes it so valuable to us is that it allows us to bind ourselves to each other in cases where we do not trust each other but need each other to act in certain specific ways. I may be assigned to complete a task alongside a work colleague who I particularly dislike and do not trust at all. I may elicit a promise from her so that I can be sure that she will act as I need her to precisely because I do not trust her. Similarly, we can break a promise to someone without in any way impairing the trust that they have for us. The explorer and guide case gives an excellent example of a promise the breaking of which could not possibly impair the trust that the promisee has for the promisor. We can make promises without causing the promisee to trust us and we can also break promises without impairing the trusting relationship between us.

It also seems clear that dishonesty cannot be the wrong that we perpetrate when we break a promise. First of all one may be concerned that honesty is susceptible to exactly the same kind of circularity argument that promising is. Hume describes honesty as an artificial virtue alongside promising and we may struggle to explain what is wrong with dishonesty just as we

⁷ See Foot (2001) p. 47-48

struggle to explain the wrong involved in breaking a promise.⁸ This is a complicated issue however. A more simple reason why the reason promises cannot be broken cannot be that it would be dishonest is that we can make binding promises with the intention of deliberately misleading another. There is nothing incoherent about the idea of a dishonest promise. For example a child may want to go out with her friends but her mother may worry that she is not working hard enough in the run up to her exams. The daughter may attempt to reassure her mother to stop her worrying and to stop her from pestering her. With this in mind the daughter may promise not to go to one of her friend's houses that night. With her mother suitably assuaged the daughter would then be perfectly free to go to a different friend's house instead without breaking her promise. If the wrong of breaking a promise were dishonesty then we should have difficulty with a promise that was made to deceive the promisee since this would seem to commit the same wrong as breaking the promise but this is clearly to not be the case.⁹

It may seem, at first, that there are many different ways that we could try to explain why we should keep our promises. Under closer inspection, however, these candidates turn out to be unsatisfactory. The reason for this is that if promises are always binding then there must be one single reason why all promises are binding. The problem is that we can make promises in a huge number of different ways and for a huge number of different reasons. The variety of potential promises and the need for a single explanation of how promises generate obligations is a serious problem for any putative explanation of the promissory obligation. The difficulty involved in explaining why we should keep our promises gives good reason to think that looking for a candidate explanation such as trust or honesty is simply not the right way to proceed. I conclude, therefore, that not only does it feel right simply to say 'because I promised' but that we cannot say any more to explain why we should be obliged to keep our promises. As I have argued above, this may seem concerning because we can generally explain why we should be bound by our obligations and what we would be guilty of if we violated them. What I will argue in the rest of this chapter is that we do not have to say any more to explain why we should keep our promises, that there is something different about promises that means we don't have to explain our promissory obligations as we would have to explain most obligations. I shall show this by arguing that promising is a practice.

1.3 Promising as a practice

The right way of explaining how promises are able to generate obligations is not to find another way of explaining why you should keep your promises, such as the harm that broken

⁸ See Hume (1978) p. 477-484

⁹ In their (2003) Wallace and Kolodny consider what they refer to as a principle of veracity which states that having asserted your intention to act in a certain way when making a promise you are then bound to act in that way to prevent your statement from being made falsified and the promisor being made a liar. This seems very close to the idea that I am discussing here. For further discussion and reason to reject this position see pp. 27-31

promises cause or the way that broken promises cause a breach of trust. Rather, I will argue, we should accept that you should keep your promises simply because you promised and explain why Anscombe's circularity is not the problem that it immediately seems to be. My response to the generative problem will involve claiming that promising is a practice and using certain features of practices to show that there is nothing wrong with simply claiming that you cannot break your promises because you promised. We cannot explain why you should keep your promises without referring to the practice of promising because promising is not naturally intelligible, it only makes sense given the practice. First, however, I must describe what I mean when I say that promising is a practice.

There is a reasonable amount of philosophical literature devoted to discussing the notion of a convention, which I take to be more or less the same thing as a practice. In explaining what I mean by 'practice' I wish to draw heavily upon Millikan's account of conventions since I believe that the way she describes the concept seems to be an appropriate way of describing the practice of promising. I do not wish to commit myself to saying that Millikan definitely gives the right account of what a convention is, only that her account seems to be the most helpful for understanding what kind of practice promising is. Millikan presents her account as an explanation of the concept of a convention with a particular interest in applying the concept to the philosophy of language rather than promising, so I will depart from her account but only slightly. She describes her account of so-called natural conventionality by presenting just two conditions which she describes thusly,

Natural conventionality is composed of two, quite simple, related characteristics. First, natural conventions consist of patterns that are reproduced in a sense to be defined. Second, the fact that these patterns proliferate is due partly to weight of precedent, rather than due, for example, to their intrinsically superior capacity to perform certain functions. That is all.¹⁰

What it means to say that a convention consists of a pattern is that there is a certain pattern of people acting in a certain way, or responding in the same way to relevantly similar situations. Let us consider, as Millikan does, the practice of shaking hands. This practice consists of a regular schema of action and reaction wherein one person extends her hand, the other person grasps that hand and then the two of them move their hands up and down before releasing the other's. The pattern that is reproduced here is the first person extending their hand and the second person reacting to this action in a certain way, by grasping the hand and moving it up and down. We follow this pattern of activity whenever we shake hands with someone. The second feature of Millikan's account is that the patterns of activity proliferate because people follow precedent rather than because that pattern of action is somehow privileged over other alternatives. People almost always have something to drink when they feel thirsty for example but no one would say that this was a practice. Similarly when trying to

¹⁰ Millikan 'Language Conventions Made Simple' (1998) pp.162

travel somewhere people almost always take the fastest and most direct route, but again this does not seem like a practice. What stops these examples from seeming like practices is that this particular way of reacting to this situation is clearly privileged above the alternatives. If one were to not take a drink when one felt thirsty then one would be left with an uncomfortable thirst that we would all rather avoid. Similarly if one were to choose a roundabout route to one's destination rather than a direct one then one's journey would be a longer and more tedious affair. With these two cases it seems like one way of acting is clearly much better than the others. A practice does not seem like a way of acting which is obviously the best, or the only sensible option in a certain situation. If we return to our handshaking example we can see that this is obviously not privileged over other alternatives. There is no reason why we should greet people by shaking their hands rather than by using any other gesture. The reason why we shake people's hands is that we have always greeted people in the past by shaking their hands. It is something that we learned to do at quite a young age by following the example set by others and have done ever since just because it is what we have always done.¹¹ So the two features of a practice are that it is a pattern of acting in a certain way in certain situations that proliferates by weight of precedence and we have seen how shaking hands satisfies both of these conditions.

Let us now turn back to promising and see how this all applies to the practice of making promises. The pattern that we follow when we make promises is that one person says 'I promise I will X' (or otherwise issues a promissory utterance) and then that person performs action X. Promising is a more complicated practice than shaking hands, however, and so there is a little more to the pattern than just this. Also part of the pattern are the kind of statements, and the contexts in which they occur, that constitute making promises. We don't always make promises by saying 'I promise I will X', so the pattern must be a little less specific, identifying a range of different utterances and different contexts that bind us to acting as we said we would. The reason that this pattern proliferates is that people learn how to make promises and how promises work as they grow up by copying others. We make promises to our children and around our children and eventually those children learn what a promise is. They then begin to make promises of their own and attempt to elicit promises from others because they understand that if someone promises then they must do what they promised they would. Along the way children are likely to break promises for which they will be admonished and learn that this is not how promises work. So it seems absolutely to be the case that we proliferate the practice of promising due to the weight of precedent, because we learn to make promises by copying precedent. One could object that the ability to make promises is of such use or such importance for people living together in organised and peaceful society that it is absolutely

¹¹ Owens describes this feature of conventions writing, 'it often makes sense to choose to do something because you yourself have repeatedly chosen to do it... But it also makes sense to do something because others have chosen to do it, because there is a practice of doing it'. (2012) p. 157. It is precedent rather than the superiority of the pattern that explains why people reproduce it.

necessary, and as such the pattern proliferates out of necessity rather than simply due to precedence.¹² It is certainly the case that the ability to make promises is a very important part of our lives and our ability to live together but this does not mean that promising is not a practice. As stated above the pattern of promising is more than just making and keeping promises but also what kind of utterances make promises. Although it may be necessary that we should have some practice of promising there is no reason why it should not cause promises to be made through a different range of potential utterances. Although some practice of promising may be necessary, the precise practice of promising that we participate in will depend on the precedent that we are following and reproducing.

There is one further feature of practices that I wish to emphasise. This is the only feature I endorse that Millikan does not discuss as part of her account of conventions and it is the idea that practices are rule-governed. When we learn to participate in a particular practice by learning to follow and replicate certain precedents we learn a set of rules which we must follow if we are to replicate the pattern that constitutes that practice. When I learn to play chess I learn the rules governing how all of the pieces move and when I learn the etiquette of formal meals I learn a number of rules governing how I can and cannot act in those situations. These rules dictate how I must act if I am to fit the pattern of that practice and I must abide by those rules if I am to participate in the practice. The idea of a practice being rule-governed is, therefore, closely related to its being a certain pattern so I believe that it should be quite compatible with Millikan's account of conventions, it is just of greater immediate importance in the discussion of promising than of language which is her main focus. Talking about the rules of a practice helps us to understand something which is crucial to understanding the practice of promising, however, which is that practices restrict your appropriate actions in a certain sort of way. If you are to participate in a practice, or while you are participating in a practice, you must follow the rules of that practice. You cannot play chess and move your king more than one space in a turn, so the practice of chess changes what actions are appropriate to perform since your actions are constrained by the rules of the practice. If you fail to follow the rules of the practice of promising then you either do not understand how chess works or you are cheating at chess, similarly if you break the rules of etiquette then you are being rude. It is appropriate to reproach someone for breaking the rules of a practice, although the character of the reproach will depend upon the practice whose rules they are violating. Just as with other practices, promising has rules and making a promise changes the actions that are appropriate for you to perform. Having made a promise it is no longer appropriate for you to fail to perform the promised action since this would violate the rules of the practice. So there are three features of the practice of promising: firstly it is a pattern of people acting in a similar way in similar circumstances; secondly it proliferates due to weight of precedence rather than because it is privileged over any other potential pattern of activity; and

¹² Shiffrin makes an argument along these lines in her (2008) arguing that if there is a practice of promising then it must be a necessary practice. I am quite happy with her conclusion that there must be some practice of promising and I do not think that this threatens my position.

finally it has rules and participating in the practice changes what actions are appropriate to perform as one submits oneself to those rules.

1.4 Why Millikan gives the right account for a discussion of promises

Before moving on I should explain why I think that Millikan's account of conventions is a better fit for the practice of promising than other accounts of conventions that are prevalent in the literature. The most popular alternative to Millikan's account of conventions is the account which was originally presented by Lewis and which is commented on and developed by Burge, hereafter the Lewis/Burge account.¹³ According to this account a convention is a certain regularity in action which people adhere to since it solves a certain coordination problem. A coordination problem is a situation involving two or more agents in which the outcome of the actions each agent could take is partially determined by the actions that are performed by the other agents. So each agent must decide how to act based on her expectations of how the other(s) will act if she is to try and bring about a particular desired outcome. One example that Lewis gives is that of a phone call that disconnects halfway through. A coordination problem then arises because both agents wish for a certain outcome, for the phone call to be reconnected, but their action can only result in that outcome if the other agent does not perform the same action. If both wait for the other to call again then the phone call will not resume, and similarly if both try to call the other then both phone lines will be busy. So if they are to reconnect the call then each agent must decide to act on the basis of how they expect or predict how the other agent will act. One may think that this account gives a better way of approaching the practice of promising since so many thinkers have argued that promising is indispensable in helping people to coordinate their actions.

There are two reasons why I prefer Millikan's account of conventions to the Lewis/Burge account when it comes to promising. Both of these reasons lead me to believe that it is wrong to think of the practice of promising as a solution to a particular coordination problem. Many thinkers have described the need that people have to coordinate their actions and argue that promising is extremely valuable because it allows people to do so.¹⁴ We might think that this presents a coordination problem which can neatly be solved by introducing a practice of promising. Many situations will arise in which how you act is determined by whether or not you can be sure that others will act in a certain way. The practice of promising helps you determine

¹³ Lewis' account of conventions is given in his (1969). Burge builds upon this account in his (1975).

¹⁴ This idea is very common in the literature surrounding promising. Hume, for example, writes, 'experience has taught us, that human affairs wou'd 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.' [(1978) p. 522]. Another example of this would come from Anscombe who argues that promising is useful because it gives us a way of making people do things when we lack the ability to physically coerce them or otherwise compel them to do so. See (1969) pp. 73-75

how you should act by allowing you to be sure that the others in question will act as they promised they would. I have my doubts, however, that this is the kind of coordination problem that we need to rely on the practice of promising to solve. After all, promising is not the only way that we can bind ourselves to perform certain actions, we can also make contracts and agreements with others both of which help us to coordinate with each other. I think that it is far from clear exactly what kind of coordination problem we regularly face that we could only solve by making or eliciting promises rather than by making agreements or contracts with those we are trying to coordinate with. Once we can make agreements and contracts with each other what coordination problems remain unsolved for promising to deal with? I doubt that the practice of promising is fundamentally the solution to a certain coordination problem, or set of coordination problems, because it seems unlikely to me that there are any such problems that could only be solved by the practice of promising.

The second reason that I prefer Millikan's account of conventions to the Lewis/Burge account is that even if promising does allow us to solve a coordination problem this is not why promising is valuable or why we participate in the practice. Shiffrin and Raz both argue very persuasively that the importance of promising is that it allows us to make and develop intimate relationships in ways that we otherwise could not. ¹⁵Raz points out that by choosing to elicit or not elicit a promise from someone concerning matters of importance to us we are able to express our trust for them in ways that would otherwise not be possible and that making promises is a constituent part of certain relationships. On a similar note Shiffrin argues that situations arise in relationships where one party is far more vulnerable than the other and will suffer some unpleasantness if the other does not choose a very specific course of action. She argues that the ability to make promises prevents the vulnerable party from having to bargain or plead with the others in ways that could be highly destructive to the relationship. Given the existence of agreements and contracts, as described above, it seems to me that the importance and value of promising is much better captured by talking about its importance in forming meaningful relationships. Describing promising as fundamentally the solution to a coordination problem not only seems questionable in itself but also seems to pass over what is really important about promising and the reason why we seem to need a practice of promising. For these two reasons I prefer Millikan's account of conventions since it would not carry with it the implication that we make promises just to solve certain coordination problems. I do not mean to argue that Millikan's account is the superior account of conventions, merely that it is the account which best captures what I mean when I say that promising is a practice. I have not attempted to show that the Lewis/Burge account was a false or unsatisfactory approach to conventions as a whole, merely that it does not properly capture what the practice of promising is or what I mean when I say that promising is a practice. I am adopting Millikan's account not to say something about conventions in general but just to describe the practice of promising.

¹⁵ See Shiffrin (2008) pp. 502-510 and Raz (1977) pp. 227-228 and (2012) pp. 2&15

1.5 How does it help to describe promising as a practice?

So having explained what I mean when I say that promising is a practice, I must now explain how this allows us to solve the problem I described earlier. The aim of this chapter is to explain how we are able to make binding promises. The reason that I highlighted the rule-governed nature of practices is that it helps us to answer this question. When I sit down to play chess my actions become restricted in a number of ways that they were not before. When not playing chess I can pick up pieces and put them down wherever I want and whenever I want. Once I start playing, however, I can only move certain pieces to certain specific spaces and I must take it in turns to move those pieces with my opponent. I become restricted in ways that I was not before because it is only by obeying certain restrictions that I can play chess. When we participate in a practice we submit ourselves to the rules of that practice and allow ourselves to be restricted by those rules in order to allow us to act in ways that were not possible before. So when I make a promise I enter into the practice of promising and submit myself to the rules of that practice. One of the rules of the practice of promising is that having made a promise you must perform the content of your promise (*ceteris paribus*) and so when you make a promise you submit yourself to that rule and restrict your actions accordingly. In short, promising is a practice and practices are rule governed. It is a rule of the practice that you must keep your promise so when you make a promise you must keep it unless you are released from the promise by the promisee. However, at the start of this chapter I did not only pose a question but also a problem. The problem was that when we are obliged to perform an action we can generally explain why we should fulfil that obligation. In the case of promising, however, we want to just say that I should keep my promise 'because I promised', this seems complete as an explanation of why we should carry out the content of the promise and it doesn't feel like we should have to provide a further explanation than this. The problem is therefore to explain why we should not have to give a further explanation of the account of promising. What is special about promising that means we do not have to give any further explanation of why you should keep your promises beyond 'because you promised'.

As was explained earlier, practices typically restrict our actions in certain ways. Practices all have rules and we have to submit ourselves to those rules if we are to participate in the practice. If you are playing chess then you cannot move your king more than one space because it is against the rules. When at a formal dinner one cannot pass the port to the right because it would be a terrible breach of etiquette, port has to be passed to the left. These considerations seem to explain why you should not perform the action, we explain why you cannot move your king three spaces by saying that it is against the rules and that you cannot pass the port to the right because this would be a breach of etiquette. What seems clear, however, is that these considerations only seem relevant to our decision making process in very specific circumstances. Imagine that you have finished your game of chess and you are packing the pieces away into the box. It would be absurd for someone to demand that you must

take turns to move your pieces back into the box. The game is over, you no longer have to follow the rules. Similarly we could imagine people doing the washing up after a formal dinner. There is nothing objectionable at all about passing the port to your right if you are giving it to someone to clean the decanter and it would be absurd for anyone to take offense at your doing so. 'It's against the rules' or 'that would be rude' can explain why we shouldn't act in certain ways but not by themselves when set apart from the relevant practice. By themselves it is unclear why these should make any difference to the way we act at all, but when we are in a particular context, when we have submitted ourselves to the relevant practices of chess or etiquette these considerations seem to give good reason not to act in a certain way. The rules of chess and etiquette, indeed the rules of any practice, are not naturally intelligible. What this means is that they have no purchase on us outside the context of the practice. It is only from within the practice, or when we make reference to the practice, that these kind of considerations give us reasons to act or not act in a particular way.

Promising, I have been arguing, is a practice just like any other. We tell people that we must perform certain actions because 'we promised that we would' and this seems like a complete justification for that action. We find, however, that we cannot give any further explanation of why we should perform that action, 'because I promised' seems sufficient. This is because it actually is sufficient, this is all that we need to say to explain why we should carry out the content of our promises. However, this explanation presupposes the practice of promising, it takes for granted that we are governed by the rules of the practice of promising. 'Because I promised' says all that we need to in order to explain why we should keep our promises, but this justification is only intelligible from within the practice of promising. If we look for a further explanation, if we look for a reason why we should keep our promises outside the practice of promising then we will not be able to find one, but all this shows us is that promising is not naturally intelligible. This does not pose a problem, however, because no practice is naturally intelligible and so, given that promising is a practice, we should not expect it to be. The problem was that the obligations generated by promising seem to be different from most moral obligations because we cannot explain why we should fulfil them and it is unclear how promising is different that would justify this inability to provide a natural explanation. The answer is that promising is different because it is not natural and does not create naturally intelligible obligations. Promising is a practice and promissory obligations are only intelligible in the context of the practice that generates them.

1.6 Conclusion

I began by asking a question which was 'how are we able to make binding promises' and describing a problem which arises when we try to answer this question. The problem is that we do not seem to be able to explain why we should be obliged to keep our promises as we are able to explain almost all of our other obligations. We want simply to say 'I must X because I

promised I would' and can say no more to explain why we must do so. I discussed three potential explanations of why we should keep our promises based on the harm caused by a broken promise, the breach of trust that we can commit when we break a promise and the dishonesty involved in breaking a promise but argued that each of these fails to solve our problem since it cannot apply to all promises. I solved the problem and answered the question I began with by arguing that promising is a practice and that although practices generally restrict our actions, they are not naturally intelligible and we cannot explain why we should follow their rules outside the context of that practice. We can make binding promises because promisors submit to be bound by the rules of the practice of promising. We cannot say any more than 'because I promised' to explain why we must keep our promises because promising is a practice and no deeper justification needs to be given, or can be given, for why someone participating in the practice should follow the rules of that practice

I have argued that we can explain how we can make binding promises by describing promising as a practice and noting that all promises restrict our actions in some way. By itself, however, this does not seem entirely satisfactory. Promises don't merely restrict our actions, they generate moral obligations. Although all practices must restrict our actions in some way it is almost certainly the case that most practices do not do so by generating obligations. You should pass the port to your left but you are certainly not obliged to do so. The question that I will take up in my next chapter, therefore, is to explain why the practice of promising should not only restrict one's actions but also generate moral obligations.

Chapter 2: A conventionalist Explanation of the Promissory Wrong

In this chapter I intend to describe a problem raised by the phenomenon of promising. The problem is how we can explain the distinctive moral wrong of breaking a promise. I will then describe a prominent conventionalist explanation of the distinctive wrong of breaking a promise which is the account presented by Rawls. Rawls argues that when you break a promise you free ride on the practice of promising and I intend to defend this claim. I will go on in later chapters to argue that this cannot completely explain the distinctive wrong of breaking a promise since this cannot capture the directed nature of this wrong. I do believe that Rawls captures something important about promising, however, and the aim of the chapter will only be to describe and defend Rawls's position. My criticism of Rawls will come in the next chapter.

2.1 Recapping the Previous Chapter

In the previous chapter I focused on answering one particular problem posed by promising which I called the generative problem. The challenge was to show how we can make binding promises in such a way as to allow us to explain why one should keep one's promises or what would be wrong with failing to do so. The reason that this was so difficult, I argued, is that when there is a valid obligation there should be an explanation of what would be wrong with violating that obligation. In the case of promising, however, we want to explain why you should keep your promises simply by saying that 'you must keep your promises' and the wrong involved with breaking a promise simply seems to be that it would be breaking a promise. I argued that this seems to capture something true about promising, the fact that you have promised seems like sufficient reason, without further explanation, to keep your promise. I also argued that the diversity of promises that can be made makes it extremely difficult to find any other reason why it would be wrong to break a promise.

To solve this problem I argued that promising is a practice. That it is a pattern of people responding to similar situations in similar ways that is reproduced by people replicating precedents they have encountered and that is governed and constituted by a number of rules which dictate how one should act if one is to participate in the practice. I argued that normally it seems perfectly reasonable to ask what would be wrong with violating a certain obligation and to expect an explanation of the wrong that corresponds with the obligation. However, in this specific instance we cannot expect an answer when we ask what we would be doing wrong when breaking a promise since practices are not naturally intelligible. 'Because I promised' seems like, and is, a perfectly good explanation of why you should keep your promise albeit only in the context of the practice of promising.

2.2 The problem this raises

In answering the generative problem I take myself to have explained how we can make binding promises. Promising is a practice, and in order to participate in a practice one must follow the rules of that practice. The reason why you must keep your promises is that you must conform to the rules of the practice of promising. Promising restricts your permissible actions in the same way that all practices do. When we make a binding promise, however, we are not merely restricted but become bound by a moral obligation to carry out the content of the promise. Although all promises restrict our actions in some way most practices do not generate moral obligations and there is nothing morally wrong with breaking the rules of most practices. When you are dining in a formal context, for example, you must always pass the port to the left rather than the right. If you pass the port to the right then you are doing something wrong, you are acting impolitely or you may be considered to be vulgar. But it would be very strange to think that you have an obligation to pass the port to the left and it is certainly not a moral wrong to pass the port to the right. When we discuss promising however we would say exactly this, we are obliged to keep our promises and it is morally wrong to break your promises. We are not just restricted when we enter into a promise we are morally bound to keep that promise. Promising is therefore set apart from most other practices in that promises do not only restrict your actions but also generate moral obligations. All practices restrict our actions as we submit ourselves to their rules, but the rules of the practice of promising seem to have a moral import that is extremely rare among practices. We must therefore explain why the practice of promising has this peculiar moral importance. What is it that makes promising different from most other practices, how do binding promises generate obligations rather than just restrictions and why is it morally wrong to break your promises?

In this piece I intend to describe and present a conventionalist solution to this problem and an explanation of why we are morally obliged to keep our promises. The solution that I give will be the account of promising that is presented and defended by Rawls. My defence of Rawls's account will only be partial, however. I think that Rawls's account captures an important fact about the moral effects of a broken promise but that it cannot tell us everything about the distinctive wrong of promise breaking. In this chapter, however, I will merely present and defend Rawls's account. In the next chapter I will explain why it cannot tell us everything about the distinctive wrong of promise breaking.

2.3 A conventionalist solution

The solution that I have urged to the generative problem is a conventionalist approach, so called because it makes promising's status as a convention (although I have used the term practice instead) crucial to explaining how promises are able to generate obligations. Just as there are conventionalist solutions to the generative problem, so there are conventionalist explanations of the distinctive wrong of promise breaking. A conventionalist explanation of the

distinctive wrong of breaking a promise would involve arguing that there is something about the practice of promising that makes breaking its rules a moral wrong whereas a non-conventionalist explanation would not make any reference to the practice of promising. I will now present Rawls's conventionalist explanation of the moral wrong of breaking a promise. I do not believe that any conventionalist account of promising can completely explain the distinctive wrong of promise breaking but I do think that Rawls's attempt captures something important about what we do wrong when we break a promise. In later chapters I will go on to supplement this account by presenting a non-conventionalist explanation of the distinctive wrong of breaking a promise since by itself Rawls's account seems incomplete.

Rawls argues that you are bound to keep your promises by the principle of fairness. He presents the principle of fairness as follows,

'a person is required to do his part as defined by the rules of an institution when two conditions are met: first, the institution is just (or fair), that is, it satisfies the two principles of justice; and second, one has voluntarily accepted the benefits of the arrangement or taken advantage of the opportunities it offers to further one's interests.'¹⁶

If you benefit from other people following the rules of an institution then you must follow the rules of that institution when those rules make demands of you as long as the institution is not unjust. To do otherwise would be unfair on all those people who enabled you to benefit from the institution by following its rules and would be free riding on that practice. We could imagine an established practice among a group of parents which consists of them taking it in turns to drive all of the group's children to school so that each parent only had to do the school run once a week. If one parent were to happily send her children off with the other parents four days a week but then refuse to drive all of the others when her turn came we would think that this was completely unfair, the reason being that she had benefitted from the others following the rules of this practice but refused to follow those rules herself. This parent would be violating the principle of fairness and free riding on the practice of shared school runs. The principle of fairness has clear intuitive appeal and doesn't require any specifically Rawlsian arguments to support it since it identifies a familiar way that participating in practices generates moral obligations.

Rawls argues that promising is a practice that is not unjust and that we benefit from. Breaking a promise therefore violates the principle of fairness and free rides on the practice of promising. It would be unfair to benefit from other people following the rules of the practice of promising and then to not follow those rules when they demand that you should keep your own promises. The practice of promising therefore generates moral obligations since breaking the rules of the practice violates the principle of fairness. You are morally restricted by the rules of the practice since it would not be fair to break them. Since Rawls's account picks up on two

¹⁶ Rawls (1999) P. 96

features of the practice of promising, which are that it is just and that the promisor benefits from it, and relies on them to try and explain the wrong of breaking a promise his account is therefore a conventionalist account of promising.

There is one term used in Rawls's statement of the principle of fairness which seems a little ambiguous which is the idea of a just institution. When Rawls is describing what he means by a just institution he writes that, "it satisfies the two principles of justice' that is the liberty principle and the difference principle. What is required is not that an institution be required for justice or that it is somehow of vital moral importance, it must merely be an institution that is not unfair or unjust.¹⁷ So all that is required for an institution to be just in the sense that is required by the principle of fairness is that it does not cause or perpetuate an unjust distribution of 'social and economic inequalities'¹⁸ and that it does not unduly limit the freedom of those who participate in it. Rawls writes that so long as we are not bound by promises that we did not make deliberately of our own free will then the practice should be just in the sense that is required for promisors to be bound by the principle of fairness. The requirement that an institution should be just is very easy to meet and we can be fairly certain that promising is a just practice.

Rawls sets quite a low bar in requiring that the practice of promising be just but it may be quite a lot harder to also satisfy the second requirement of the principle of fairness which is that the promisor should always have benefitted from the practice of promising. Rawls's account does not tell us anything interesting about promising unless it applies to all promises rather than just some, but it seems to be possible to make promises that do not benefit the promisor at all. I may find myself in a situation, for example, in which my friend is panicking that she will not be able to get to the airport in time. I could assuage her by promising to take her myself if she cannot find another way to get there even though it would be a long and highly unpleasant drive for me. I seem to be bound by this promise even though it is likely to cause me nothing but misery since even if I am never called upon to make the drive the fact that I am bound to do so would be a highly unpleasant prospect. This would give an example of a promise made for the sake of the promisee even though it would do no good for the promisor at all. We may also appeal to the ability we have to make completely trivial promises. A promise does not have to be important to be binding and I should be able to make promises that will not significantly harm or benefit anyone at all. If I am to argue, therefore, that Rawls's account tells us something true about the wrong of breaking a promise then I must show that the promisor will always benefit or have benefitted from the practice of promising even in cases where the promise will be to the detriment of the promisor or just not make much difference at all.

¹⁷ This point is made particularly clear when Rawls discusses how the principle of fairness would apply to games and sports which are certainly not necessary for a just state. Rawls discusses games as bound by the principle of fairness at p. 303

¹⁸ This phrase is used to state the difference principle at p. 53

2.4 Rawls and Hume on the Value of Promises

I will begin my demonstration that the promisor will always have benefitted from the practice of promising by describing two different ways in which the practice of promising can be extremely beneficial or valuable. The first of these is that promising enables us to cooperate much more easily with others since it helps us to coordinate our actions. This benefit of the practice of promising is given particular importance by Hume and Rawls who both present similar arguments to establish the importance of being able to make promises. There are times when we have to work with others to achieve things that we would not be able to by ourselves. One classic example of this comes from Hume who describes two farmers who each requires the help of the other to properly tend their crops.¹⁹ Since people are of limited generosity neither farmer could trust the other to help purely out of the goodness of her heart. Without the other's help each will be unable to harvest all of his crops, so they will be wasted and each farmer will lose out as a result of their inability to trust the other farmer. In this instance it is invaluable for the farmers to be able to elicit promises from each other. Even though they may not trust the generosity of the other they know that once the other has promised they are therefore bound to perform the promised action. Each can therefore proceed in the sure and certain knowledge that their efforts will not go unrewarded when they labour to take in the other's crops. Hume describes the importance of promising by saying, 'experience has taught us, that human affairs wou'd 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 a particular incident.'²⁰ The example of the farmers presents a single example of a broader class of situations which Hume argues would be problematic if we could not make promises. These are cases in which we wish to exchange commodities with another but cannot do so simultaneously. The case of the two farmers is one instance of this general type of situations because the farmers would have to work together on one farmer's field before going on to work on the other's for both to benefit from the exchange. In these situations we must be able to make promises if we are to be sure that we will receive what we are entitled to and to be sure that we will not end up labouring or giving away goods for no reward.

Rawls follows Hume in writing that promising is valuable because of its ability to help us 'set up and stabilize small-scale schemes of cooperation, or a particular pattern of transactions'.²¹ He also agrees that promising is particularly important in situations in which one party is to perform her part before the other does since in these cases the party who is to be the first to perform must be absolutely sure that the other party will play her part afterwards so that she doesn't lose out. He writes that,

'in these situations there may be no way of assuring the party who is to perform first except by giving him a promise, that is, by putting oneself under an obligation

¹⁹ Hume (1978) p. 520-521

²⁰ (1978) p. 522

²¹ Rawls (1999) p. 304

to carry through later. Only in this way can the scheme be made secure so that both can gain from the benefits of their cooperation.'²²

Hume and Rawls both argue that promising is important and beneficial in helping us to coordinate our actions with others and I think there can be no doubt that we often use promising to great effect in exactly this way.

2.5 *Shiffrin on the Value of Promises*

We do not only make promises to help us coordinate with others however. When I make promises to my friends and family these rarely concern coordination problems or the transfer of commodities, so one may well ask why promising is beneficial in these instances. Shiffrin presents quite a different explanation of how we benefit from being able to make promises.²³ She argues that we require a practice of promising to help us make and maintain intimate relationships. Consider the following situation: C is having a party and both A and B are invited. A wishes to attend the party but only if B also attends the party. A knows very few other people who will be at the party and worries that it will be extremely awkward for her unless B is also at the party. A wants to go to the party but needs to be sure that B will also go. B can express her intention to attend the party to A, but A cannot be sure that B will not change her mind because she is not bound to go to the party just after telling A that she intends to do so. In this situation A is more vulnerable than B since A is at risk of having a miserable time at the party if B does not also attend but B would be happy whatever the outcome. I will therefore describe this situation as an instance of asymmetric vulnerability. Shiffrin suggests that there are four different ways that A could proceed.

1. First of all A could simply go to the party, but she would do so knowing that she may end up having a miserable time if B does not attend and, 'this greater vulnerability may, in some cases, lead to feelings of powerlessness or frustration that can further make the relation more fraught.'²⁴
2. Secondly A could decide that it is not worth the risk and not go to the party. But this course of action can potentially make both A and B worse off since A actually wanted to go to the party and B would be disappointed if A were not there, so this could potentially damage the relationship as well since each could resent the other for leaving them in a sub-optimal situation.
3. The third option that Shiffrin discusses is one in which A tries to make it more likely that B will go to the party. A could, for example, tell B that she will do all of B's chores for a week if she goes to the party in order to entice her into doing so. If A does so then she will create an even greater inequality between the two parties in this relationship. At best this

²²(1999) p.305

²³ Shiffrin presents this argument in her (2008) pp. 502-510

²⁴ (2008) pp. 504

will promote an unhealthy dynamic for the relationship since it exacerbates the power disparity between the two and at worse could lead to serious resentment further down the line.

4. Finally A could try to simply persuade B that she really should go to the party and try and convince her that the option is much more attractive than she might have thought. Again though this seems to make the power disparity between the two parties extremely clear and is likely to be unpleasant or demeaning for A.

There are four different ways in which A could react to this situation of asymmetric vulnerability, all of which pose dangers for the relationship between A and B. Without the power to promise it seems almost certainly that the relationship between A and B will be damaged as a result of this situation.

Shiffrin argues that the great value of promising in this situation lies in the ability of a promise to pre-empt and prevent A's persuasion or bargaining and to allow her to go to C's party while feeling sure that B will also attend. If this situation were to arise A could simply ask B to promise her that she will attend the party. B's promise assures A in such a way that she can then attend with the certainty that B will also be at the party. There is no need for bargaining, further persuasion or worrying that B will not be at the party so long as A believes that B is of good moral character and appreciates the force of the promissory obligation. Not only does A no longer need to persuade B or bargain with B after B has promised to attend the party but this would be inappropriate on behalf of A. To do so would imply that A did not trust B or that she was unwilling to take her word. The promise acts as a 'conversation stopper' allowing A to go to the party without worrying that B will not also be there and without having to further entice B into going or persuade her that it is the best course of action. Shiffrin describes the importance of promising in these cases thusly,

'The capacity of a promise to end a conversation is not valuable merely because it forestalls tedious discussions that may kindle conflict or open wounds. It represents the power promises give friends to navigate around the fact that they are not identically motivated and may not always share the same agenda.'²⁵

These situations of asymmetric vulnerability will arise commonly in relationships between different people who have very different aims, interests and lives, and the ability to make promises is crucial to safely navigating through these situations. The kind of case in which one party is more vulnerable than the other which Shiffrin discusses seems to clearly demonstrate another way in which promising can be beneficial to the promisor. In this kind of case the assurance that is given by making a promise is not used to help people coordinate their efforts in a shared enterprise but rather to prevent a damaging bargaining process between two intimates.

²⁵(2008) Pp. 506

2.6 *The Universal Benefit of the Practice of Promising*

We have now seen two different ways in which promising can benefit the promisor. She could be using the promise to help her coordinate with another party for mutual benefit or she could be using the promise to safeguard or develop an intimate relationship with another. However, as I said earlier, if Rawls is right and we always violate the principle of fairness when we break a promise then it must always be the case that the promisor will always have benefitted from the practice of promising or taken advantage of opportunities that it presented her. Although Rawls, Hume and Shiffrin describe two very important roles that promising can play it does not follow that we will always be doing one of these two things whenever we make a promise. So how can we show that the promisor will always have benefitted from the practice of promising?

The answer is that the two uses of the practice of promising that I described are so valuable and so prevalent in society that we all benefit from them.²⁶ The first use that I described was that promising was crucial for establishing cooperative ventures. These cooperative ventures will include businesses, shops and other establishments that have been made possible by the ability of those who set them up to make promises to each other. How many shops that we regularly visit or businesses that market to us likely owe their establishment in part to the ability of people to make promises to each other at the time of their creation? We live in a society which is only made possible because the ability of people to make promises with each other enables them to embark on cooperative ventures that would otherwise rely too much on the generosity of others. Even if you do not benefit from the promise that you are making at the time it seems overwhelmingly likely that you will have benefitted or taken advantage of opportunities offered by ventures that were originally made possible by the ability of the founders to make promises to each other. Similarly we each have a number of intimate relationships, developed over the years with our friends and family. How many times over the years have these instances of asymmetrical vulnerability arisen for all of us and how many times have we circumvented the problems they posed without even thinking about it by making promises to the more vulnerable party? Anyone who is not a social recluse will have used her power to promise over the years to safeguard or develop her relationships in the way that Shiffrin describes. So even though we may be making a promise that benefits no

²⁶Although it is commonly expressed it is not totally uncontroversial that promises exist to help us coordinate with each other. For example Owens writes in his (2012) that, 'The function of a promise is not to serve our interest in social co-ordination but rather to serve our authority interest, our interest in controlling what others are obliged to do' p. 142. This is also defended in his (2006). If Owens is right, however, and the function of promising is to serve our authority interest rather than to help us coordinate with one another then this simply gives another way in which promisors benefit from the practice of promising. There are many uses and benefits of the practice of promising and even if I have chosen poorly by focusing on the positions of Rawls, Hume and Shiffrin, my argument should still go through so long as the practice of promising is valuable enough to benefit, or have benefitted, all promisors.

one or even makes the promisor substantially worse off it seems certain that she will have benefitted from the practice of promising in the past either by making use of the opportunities presented by cooperative endeavours that were made possible by promising or by using the power to promise to negotiate difficult moments in her relationships. The two uses of promising which I described earlier are valuable enough and common enough for us to be sure that everyone benefits from the practice of promising. Even in the unusual situation in which the promisor does not stand to benefit from the promise she is currently making she will certainly have benefitted from the practice in the past. Therefore, since promising is a just practice, it is always unfair for a promisor to fail to keep her promise since she has benefitted from others following the rules of the practice in the past.

2.7 The General Wrong of Promise Breaking

Rawls argues that if one benefits or takes advantage of the opportunities offered by a just institution then one must do her part as required by the rules of that institution. The practice of promising is a just institution because it does not violate the difference principle and, so long as we are not bound to keep promises that were not willingly or knowingly made, does not violate the liberty principle. Making a promise will often benefit the promisor and even when it doesn't we can still be certain that she will at some point have benefitted from or taken advantages of the opportunities offered by the practice of promising since it is so crucial to safeguarding relationships and establishing cooperative ventures. It would therefore be unfair for the promisor not to keep her promise, to do so would be free riding on the practice of promising.

We have seen that when one breaks a promise one free rides on the practice of promising. Promising is a just institution and everyone benefits from this practice so when we break a promise we act unfairly because we are refusing to follow the rules of a practice that we have benefitted from. The problem that faced us at the beginning of this chapter was to explain how promises can generate obligations and how breaking a promise can be a moral wrong. It is morally wrong to violate the principle of fairness and to free ride on just institutions that you have benefitted from. This is a moral wrong and we are obliged not to take unfair advantage of the rules of just institutions. I have argued that promising is a just practice and that we all benefit from it when we make promises. Therefore we can see how submitting to the practice of promising not only restricts how we may permissibly act but also generates obligations to follow the rules of that practice.

I have presented this as a solution to the problem raised by the fact that promises generate moral obligations. But I do not believe that Rawls's insights can completely explain the distinctive moral wrong of promise breaking. I will argue in the next chapter that Rawls's account cannot say everything that needs to be said about the wrong of breaking a promise because breaking a promise wrongs the promisee in particular while the wrong of free riding is a wrong done to all of those who participate in the practice of promising. I will therefore argue

that more needs to be said to explain the wrong of breaking a promise and that Rawls's account only tells a part of this story. Although I have not explained the distinctive wrong of promise breaking in this chapter I have explained the general moral wrong of promise breaking.

Chapter 3: The Directed Nature of the Promissory Wrong

In this chapter I will argue that a conventionalist explanation of the distinctive wrong of promise breaking will always be incomplete since it cannot capture the directed nature of the promissory wrong. I will first describe the directed nature of the promissory wrong which is the phrase I will use to describe the fact that a broken promise wrongs the promisee. I will argue that we can see that the promissory wrong has this nature by seeing how we expect the promisee to react to broken promises. A conventionalist account of promising cannot therefore explain the distinctive moral wrong of breaking a promise since it cannot capture the directed nature of this wrong. I shall then present three separate responses that the conventionalist may use to try to reply to my objection. The first will be an attempt to show that the practice of promising creates directed obligations between the promisor and promisee, the second will be that the promisee's reaction is justified by the meaning of the broken promise rather than the character of the wrong that it constitutes and the third and final response will be that the practice of promising contains rules that dictates how the promisee is justified in reacting to broken promises. I will finish by arguing that this shows that there must be another wrong that we commit when we break a promise, in addition to that identified by Rawls, which explains the directed nature of the promissory wrong.

3.1 Recapping the Previous Chapter

In the previous chapter I presented a problem that is raised by my solution to the generative problem. If we are to solve the generative problem by describing promising as a practice that restricts our actions just as all practices do then we must explain how it is that promises not only restrict our actions but also generate moral obligations. Although all practices restrict our actions not all practices generate obligations. Promises stand out from other practices in this respect and so we must explain what is special about promising that causes it to generate obligations. Rawls argues that when you make a promise you are bound to keep it by the principle of fairness. When one has benefitted from a just institution one must oneself follow the rules of that institution. To do otherwise would be to benefit unfairly from others who have correctly followed those rules. Since we all benefit from the practice of promising and since it is a just practice it would be unfair to break the rules of the practice. Therefore when one makes a promise one is not merely bound by the rules of the practice, one is also bound by the principle of fairness to follow those rules. The principle of fairness establishes a moral reason why we should keep our promises and explains how promises are able to generate obligations. Rawls describes one way in which we act immorally when we break our promises.

3.2 *The directed nature of promises*

When a promise is made it is between two people, a promisor and a promisee. Having made the promise the promisor must perform the promised action unless the promisee releases her from this obligation. The directed nature of promising is the phrase that I use to describe the fact that when one breaks a promise one does not merely commit a moral wrong, but one specifically wrongs the promisee. Just as when I steal from someone I wrong the person I steal from, when I break a promise I wrong the person that I made the promise to. The reason why Rawls's conventionalist explanation of the distinctive wrong involved in breaking a promise fails is that it does not award to promising the directed quality that it seems to have.²⁷ According to Rawls the wrong of breaking a promise is the wrong of free riding on a just institution. When you free ride on an institution you benefit unfairly from others following the rules of that institution and your action is unfair to, and wrongs, all of those who followed the rules and made it possible for you to benefit from the practice. So when you free ride on the practice of promising you wrong everyone who follows the rules of the practice of promising. This will include a huge number of people in addition to the promisee. But we directly wrong the promisee when we break a promise to them. The promisee is wronged by the promise to them being broken in a way that no one else is wronged. Rawls describes the wrong of breaking a promise in such a way as to deny it this directed quality and so Rawls's account seems incompatible with some of our basic intuitions about promising. When we break a promise we must do more than just free ride on the practice of promising to make sense of the fact that we directly wrong the promisee. So the challenge of explaining the distinctive wrong of promise breaking is more than just explaining how promises generate moral obligations, it requires us to explain how we wrong the promisee when we break those obligations. We have now moved beyond the generative problem and are addressing quite a different problem that is raised by promising.

I have chosen to address this criticism specifically to Rawls but I do not think that it is only a problem for his account of promising. The problem was that promising seems unique among practices in that the wrong of breaking a promise is a serious moral wrong and a different class of wrong from, for example, passing the port to the right. A conventionalist account of the wrong of breaking a promise seeks to explain what is wrong with breaking a promise by explaining the special moral significance of the practice of promising. In the Rawlsian account that I described earlier, for example, the practice of promising was special because it was a just institution that the promisor benefits from. This may explain why the wrong of breaking a promise is moral because it would show how promising was different from other practices, but we cannot explain the distinctive wrong of promise breaking in this way because it will always be the wrong of violating the considerations that make the practice of promising special. These considerations

²⁷ This objection to conventionalist accounts of promising is common in the literature and is commonly attributed originally to Scanlon in his (1998). Owens also presents it as an objection to Rawls in his (2012) p. 135

will always be objectionably general since they must apply to the practice as a whole rather than the specific relationship between this promisor and this promisee.

3.3 Defending the Directed Nature of the Promissory Wrong

Why would we think that promising has this directed nature? Well, when someone breaks a promise to someone we would expect the promisee to react in a very different way to that broken promise than we would expect of any third party. This expectation has both an evaluative and a non-evaluative component. Firstly we would expect the promisee to react differently to anyone else in the non-evaluative sense that we would predict a different kind of reaction from the promisee and secondly we would expect the promisee to react differently to everyone else in the evaluative sense that it seems appropriate for the promisee to react differently to everyone else when a promise to them is broken. When I talk about how we would expect the promisee to react to a broken promise I will generally mean it in both of these senses. We would normally predict that the promisee would resent the promisor more or in a different way to any third party when a promise to them has been broken. We also generally think that a different kind of reaction to a broken promise is appropriate on behalf of the promisee compared to what would be appropriate coming from a third party. When a third party, someone not directly involved in the promise, comes to resent the promisor they will do so because she broke a promise. But when the promisee comes to resent the promisor they do so because she broke a promise to them. This is a very different reason to resent the promisor and justifies a different kind of reaction and will often involve resenting the promisor more than any third party would. The promisee will have this particular reason to resent the promisor, because they broke a promise to them, which no one else could possibly share and which justifies a different response to the broken promise.

Although we would expect the promisee to react differently to any third parties there could be situations in which our non-evaluative expectations turn out to be false, in which a third party comes to resent the promisor more than the promisee does. Even in these deviant cases, however, in which the promisee's reaction is less extreme than a third party's, the promisee is still entitled to resent the promisor in a different way, for having wronged her rather than just for having done something wrong. The promisee is entitled to feel personally offended by a broken promise in a way that no one else is entitled to. Not only is the promisee entitled to react to a broken promise particularly forcefully in virtue of the fact that the promise was made to them but they are also entitled to react in a different way entirely, taking the broken promise almost as a personal insult. Why a broken promise should justify this response is a question that I will consider in a later chapter. Here I simply wish to assert that we expect people to react in a different way to a broken promise when the promise was made to them and that it seems appropriate for them to do so.

What may seem like the obvious way to explain why the promisee seems entitled to react in this manner would be to say that the promisee is the one who has been wronged by the broken promise, or that they have been wronged in a different way because the promise was made to them. When we resent or blame someone we normally seem to do so because we think that they have acted in a way that is morally wrong and the way in which we react depends on the specific type of wrong that we perceive to have been perpetrated.²⁸ We do not react to thieves in the same way as murderers after all. The promisee is entitled to react in a very different way to any third party and the best way to explain this fact seems to be that the promisee is wronged in a different way to anyone else by the broken promise. As will presently be made clear there are other ways to explain why we would expect the promisee to react differently to third parties, but I will attempt to show that the best explanation is that the promisor wrongs the promisee in a different way. My argument for the directed nature of the promissory wrong therefore takes the form of an inference to the best explanation. We all expect promisees to react differently to everyone else when a promise is broken. Therefore, since we react differently to different types of moral wrong, it seems like the best explanation of this expectation is that we perceive the promisee to have been wronged in a different way to everyone else.

3.4 Potential Conventionalist Responses

The argument that I have presented has four steps. Firstly I note that we would expect the promisee to react differently to everyone else when a promise to them is broken both in terms of what behaviour we would predict and also what kind of reaction would be appropriate. Secondly I have argued that the best way to explain our expectation that the promisee will react differently is to say that the promisee is wronged by a broken promise in a way that no third party is. I have referred to this as the directed nature of the wrong of breaking a promise. Thirdly I have argued that a conventionalist explanation of the wrong of breaking a promise cannot capture the directed nature of this wrong since a conventionalist explanation will focus on the importance of the practice of promising and the wrong involved with violating that practice, which must be general rather than directed. Therefore no conventionalist explanation of the wrong of breaking a promise can explain how breaking a promise wrongs the promisee. I conclude therefore that there must be a non-conventionalist explanation of the distinctive wrong of breaking a promise.

There are therefore three different stages that the conventionalist could challenge: they could argue that we do not expect promisees to react differently to broken promises; that there is a better explanation for this behaviour than postulating a directed quality to the wrong of

²⁸ In his (1994) Wallace argues that 'any particular state of reactive emotion must be explained by the belief that some expectation has been breached' (p. 33) which seems correct to me. See his (1994) for more on the relationship between blame and perceived moral wrongs.

promise breaking or that a conventionalist account of promising could explain the directed nature of the wrong. A challenge to this first step seems implausible to me but more importantly would be anthropological or sociological in nature rather than philosophical so I will not discuss it here. I will however discuss how the conventionalist could argue that there is a better explanation for the way that promisees react to broken promises as well as how they could attempt to capture the directed nature of the promissory wrong. I will consider the latter before moving on to the former.

3.5 Explaining the directed nature of the promissory wrong

The first argument that I will consider is an attempt to show that a conventionalist account of promising could explain how the wrong of breaking a promise has its directed quality by describing the rules of the practice in a particular way.²⁹ The most important rule of the practice of promising is that having promised that you will X you then have to X unless the promisee releases you from this obligation. One could argue that the rule is actually that having promised to X the promisor then owes the promisee performance of X unless she is released from that obligation. The rules of the practice could give the promisee something like a claim right to the content of the promise. So the promisor does not just have to keep her promise, she has to keep it for the sake of the promisee. Therefore if the promise were broken the promisee could complain that the promisor had wronged her by breaking the promise because the rules of the practice dictated that the promisor owed it to her. We may well ask why the directed nature of the wrong of breaking a promise could not be provided by a conventionalist account of promising by describing the rules of the practice of promising in such a way that they stated that the promisor owed the content of the promise to the promisee. The promisor would therefore wrong the promisee by breaking the rules of the practice were she to break a promise.

To argue this, however, would be to forget the problem that I introduced in the previous chapter. We can make binding promises because promising is a practice and we restrict our actions when we participate in a practice. But practices only produce restrictions on our actions and not obligations. Although it is wrong to break the rules of a practice it is not morally wrong to do so. So it may well be the case that the rules of the practice of promising state that the promisor owes performance of the promised action to the promisee but it would not follow from this that the promisor has a moral obligation to the promisee to keep her promise and it would also not follow that breaking the promise wrongs the promisee morally. The promisee could claim that 'the promisor let me down when she broke her promise to me' and this would be a fair complaint to make but it would not constitute an accusation of immoral action if all that she meant was that the promisor had broken the rules of promising. More carefully describing the

²⁹ In his (2008) Shienman emphasises that promising involves a relationship between the promisor and the promisee. Although I do not wish to attribute this objection to Shienman, it is that kind of thinking that I imagine would make this response seem attractive.

rules of the practice or what the practice requires of the promisor cannot explain how the wrong of breaking a promise is a directed wrong since the rules of the practice are not moral rules.

To explain how breaking the rules of the practice of promising is a moral wrong I introduced Rawls's account of promising and we encounter a similar problem even once this particular obstacle has been overcome. According to Rawls's account, the moral wrong involved in breaking a promise is supposed to be the wrong of free riding on the practice of promising. If this is the only moral wrong that one commits when one breaks a promise then one has wronged the promisee in exactly the same way as one wrongs everyone else who makes and has made promises. Even if the rules of the practice of promising dictate that the promisor owes performance of the promised action to the promisee it would still be the case that the wrong of breaking this rule is the wrong of free riding and not any particular wrong done to the promisee. Whatever the rules of the practice are or whatever they dictate, if Rawls's explanation of the wrong of breaking a promise is right then the wrong of the practice of promising is the general wrong of free riding on the practice and not a wrong that is directed at the promisee and this will remain the case no matter how we specify the rules of the practice.

3.6 Challenging the directed nature of the promissory wrong

I argued that the wrong of breaking a promise is directed because this is the best way of explaining the fact that we expect the promisee to react to a broken promise in a different way to everyone else. I shall now consider two arguments that the conventionalist could make which both aim to show that this is not the best explanation of the evidence by presenting alternative explanations for this expectation. The first argument aims to show that the promisee's reaction is explained by features of the promise that make it more significant, or have a greater meaning to them than others. The second argument is that the practice of promising could also contain rules governing how one should react to a broken promise in addition to rules governing what counts as making a promise.

a. Significance over Wrong

When we blame someone we typically do so because we believe that they have acted immorally. Blame is a reaction to a perceived moral wrong. But the way in which we blame someone and the way in which we react to moral wrongs will depend on a number of features besides the character of the wrong that we perceive. Scanlon draws a distinction between the permissibility of an action and the meaning of that action, which he describes as two separate dimensions of moral evaluation, and the conventionalist could well draw on something like this here.³⁰ Permissibility is 'determined by those features of our situation that we should take as

³⁰ The distinction is explored thoroughly in his (2008)

counting for or against an action' and 'the question of permissibility is one that can be asked by a deliberating agent, and one that a normal agent can be expected to be able to answer'.³¹ An action is permissible if there are no reasons counting against that action that the agent considering the action could reasonably be expected to be aware of.³² So if an action is impermissible then it is one that the agent should be able to realise she should not perform. Scanlon makes it absolutely clear that the agent's intentions and reasons for performing an action are not relevant to any action's permissibility. Instead, Scanlon argues that they form an important part of the second moral dimension which is meaning. Meaning is of particular interest to us here because, although an action is either permissible or impermissible, the same action can have a different meaning for different people. He writes, 'by the meaning of an action for a person, I mean the significance that person has reason to assign to it, given the reasons for which it was performed and the person's relation to the agent'.³³ He gives an example of a person making a phone call to a very sick relative. This action is always permissible regardless of the reason for which it was performed, but it could have many different meanings depending on the reason for which it is performed. The caller may be contacting his relative for three reasons that Scanlon describes: she may genuinely care about the wellbeing of his relative, she may simply desire to ingratiate himself with a wealthy relative or she may be calling with the intention of deriving malicious pleasure from how unwell her relative sounds. In all of these cases the action is permissible but has a very different meaning and we would judge the caller differently accordingly.

The reason that this distinction, or something close to it, could help the conventionalist explain our expectations concerning the promisee is that the same action may have a very different meaning for different people. Scanlon gives one example of someone who gives a lot to help a particular cause, which could be by volunteering for or donating to a charity. The action will have a very different meaning depending on whether one supports this cause or a rival cause. If I think that giving money to help animals is a waste then someone's donation to Battersea Dogs' Home will have a different significance to me than it would to someone who was herself a supporter of the same charity. Similarly an action may have different significance for some people if those people have different values. Someone who deeply values family relationships would find different significance in calling an ill relative than someone who has never thought family relationships were very important. Finally Scanlon also argues that our relationship with the agent will change the significance of their action for us. An action will have a very different meaning for the parent of that agent than it would for a total stranger.

³¹ Scanlon (2008) p.50&51

³² What is meant by the idea of a reason counting against that action is something like a reason that would be sufficient to justify not performing that action since Scanlon does not think of reasons as considerations that are to be weighed and compared to each other as some thinkers do.

³³ (2008) p.54

Now that I have described the distinction between permissibility and meaning I am in position to describe a potential response to my earlier argument. It could be the case that the reason why we expect the promisee to react differently to a broken promise is not that she is wronged in a different way but that the broken promise has a different meaning to the promisee. Scanlon gave three different ways in which the significance could be different for different people which were that we could have different attitudes towards certain causes or values or that we could be related to the promisor differently. The third of these could clearly not explain why we would always expect the promisee to react differently to a broken promise because you can make promises to anyone, regardless of their relationship with you. But the other two options which Scanlon discusses seem more promising. Promises are generally made for the sake of the promisee and the promisee must take up promises for them to be binding.³⁴ A promisee would not elicit a promise that did not support a cause that she cared about and would not take up a promise that would support a cause that she did not approve of. It could therefore be argued that the promisee is always going to care about causes that are advanced by the promise. Similarly a promisee will only elicit a promise concerning matters that she cares about and so the content of the promise will probably align with certain values that the promisee holds in high esteem. One could therefore argue that broken promises will always have a special meaning for the promisee because promises that they have elicited and taken up will support causes that they approve of or relate to values that they hold dear. Our expectation that the promisee will react differently to a broken promise could therefore be explained by the fact that one would expect the promisee to find special significance in that broken promise.

The problem with this argument is that although we may often be able to explain our expectations by making reference to the meaning of the broken promise to the promisee we will not always be able to do so. There are some cases where we expect the promisee to react in a different way to everyone else even though the broken promise is just as meaningful to some third party as it is to the promisee. Consider the following situation: A desperately wishes for C to X, either because X is required by a value that A holds dear or because X would further a cause which A holds in high esteem, but A knows that her relationship with C is such that she would not be able to convince C to X. Therefore A asks B to talk to C and to try and elicit a promise from her that she will X. B succeeds and C promises B that she will X. In this instance, A cares deeply about X and so C's keeping or failing to keep her promise is of special significance to A because of the way X relates to the cause of C's X-ing and the values that lead her to desire C's X-ing. If it were the case that our expectations of the promisee were explained by the meaning of the broken promise for me then we should not expect B to react any differently to A in this case. The promise has special significance for A as well as B so even though A was not the promisee we should expect exactly the same reaction from both of them

³⁴ For an interesting discussion concerning the sense in which promises are for the promisee see Raz (2012)

if our expectations of the promisee were explained by the meaning of the broken promise. But even in this case we would still think that it was appropriate for B to feel personally wronged by the broken promise, to take it as an offense against her. Even though the broken promise had great meaning for A this kind of personal response to the broken promise would be completely inappropriate coming from her because the promise was not made to her. Even in situations where the broken promise has great meaning of significance for third parties this does still not justify the personal response that we would expect of the promisee.

The reason why an appeal to the meaning of a broken promise cannot explain why we expect the promisee to react differently to everyone else is that the considerations that determine the significance of an action for someone could apply to anyone and so there is no reason to think that a broken promise should always have a different meaning, in Scanlon's sense, for the promisee than it would have for anyone else. Anyone could approve of causes that were supported by the promise and anyone could approve of values that would be furthered by the promise. The challenge to the conventionalist is to explain why we always have different expectations of the promisee than we would have of any third party in terms of how they will react to broken promises. But since the features of the situation which determine the meaning of the broken promise determine the meaning for both the promisee and for third parties we cannot appeal to the meaning to explain why we would expect the promisee to react differently. Whatever features make a broken promise more significant to the promisee could also make the broken promise more significant to a third party. We cannot explain why we expect promisees to react differently to broken promises by appealing to the meaning of promises because there is no reason why promise breaking should always be more significant to the promisee than to any third party.

b. A Larger Practice of Promising

Another way in which we could explain why we would expect the promisee to react to a broken promise in a different way to any third party could be that this reaction is itself a part of the practice of promising. When I described the practice of promising in a previous chapter I argued that the practice consisted not only in a pattern of people reacting in a certain way to a certain situation, by keeping promises that they have made, but also in the types of utterances that are taken to be making a promise. One might ask therefore why the practice could not incorporate even more than this, why shouldn't the practice of promising also incorporate rules that dictate how it is reasonable to react to broken promises? Many sports have umpires, referees and punishments for players who break the rules of the games. We may think that this gives an example of practices that explicitly contain rules concerning what should be done if the other rules of the practice are broken. Why should we not think that promising is like this? Could there not be rules governing not only when you have made a promise but also how other people can justifiably react to you if you fail to keep your promise? This would explain why we

feel that promisees are justified in reacting to broken promises in a different way to third parties without implying that the promisee has been wronged in a different way to everyone else. We would expect the promisee to react in a different way to a broken promise because this is how promising works, the rules of the practice could explicitly state that a different kind of response is justified coming from the promisee than from anyone else.

The reason that the practice of promising cannot contain rules that dictate how one should react to a broken promise is that these rules could not be learnt in the same way as we learn the rest of the practice of promising without undermining the practice as a whole. We learn to participate in a practice by following the precedent set by others in order to replicate a certain pattern of activity. The most crucial rule of the practice of promising is that having made a promise (as defined by the practice) you must perform the promised action (unless the promisee releases you from the promise). If we are to learn this rule by following the precedent that we experience then that precedent must consist of people almost always keeping their promises. If you do not experience people almost always keeping their promises then you will not learn the rule that promises have to be kept. But if there are rules determining how it is appropriate to react to a broken promise then you must also experience a large number of broken promises in order to learn these rules, especially since they are likely to be fairly complex. So if we were to learn that you must keep your promises and also learn the rules governing how you should react to broken promises then we would have to experience enough broken promises to be able to replicate the correct kind of response to broken promises in a variety of different cases and also have experienced enough promises that it could still be the case that almost all of those promises have been kept. So one could only learn both that you should always keep your promises and also the complex rules dictating how you may react to broken promises if you were to come into contact with a truly vast number of promises. You would have to experience a large number of broken promises to learn the rules governing how you should react to broken promises and this number should be dwarfed by the number of promises you experience that are kept if you are to learn that you must keep your promises. Together this would make learning the practice of promising a very difficult and protracted process due to the sheer quantity of promises you would have to have witnessed. This seems absurd because the practice of promising does not seem that difficult to learn. Fairly young children seem to understand the rules of the practice and be competent promisors. This should not be possible if learning the practice of promising requires experiencing a vast number of promises to be able to replicate the pattern properly. The reason why the practice of promising cannot contain rules to determine how you should react to broken promises is that the experience it would require to learn these rules conflict with the experience you require to learn the basic rule that you must keep your promises. We could not learn both of these rules for the practice without the practice becoming incredibly difficult to learn.

I wrote above that any rules governing how it would be appropriate to react to a broken promise would be very complicated. The reason for this is that there are a vast number of

different features which are relevant to determining how it is appropriate to react to a broken promise. If there were rules which determined how you should react to a broken promise then they would have to capture all of these different features which are important when determining how we should react to a broken promise. It seems completely implausible that the rules of the practice of promising should be so incredibly complicated. But how do we learn how we should react to broken promises if it is not by replicating precedent and learning the rules of the practice? Becoming a competent promisor is more than just learning the rules of the practice. It also involves integrating the moral notion of promising into a wider moral landscape. Learning how it is appropriate to react to broken promises is part of learning how the obligation to keep one's promises fits in to this wider landscape. Understanding how bad it is to break your promises comes as one learns how important the practice of promising is and how it relates to other moral considerations such as the needs of others and harm that the promised action could cause. Learning how to react to broken promises is something we learn as we come to appreciate the importance of promising rather than just by copying the reactions of others. As we come to better understand the importance of promising we also come to understand how bad it is when someone breaks their promises and are able to react accordingly. It makes much more sense to argue that we learn how to react to broken promises by coming to understand how severe a wrong breaking promises is rather than by postulating extra rules of the practice which would be absurdly complicated. For both of the reasons I have given the conventionalist could not explain how we expect the promisee to react to broken promises by adding extra rules to the practice of promising.

3.7 The Two Wrongs of Promise Breaking

I have shown that when you break a promise you wrong the promisee in particular and that a conventionalist explanation of the wrong of breaking a promise cannot capture this directed feature of the promissory wrong. So Rawls's explanation of the wrong of breaking a promise cannot explain this wrong because it cannot explain how breaking a promise directly wrongs the promisee. All this shows, however, is that Rawls's explanation of the wrong of breaking a promise is incomplete, that it does not say everything that needs to be said to explain the wrong of breaking a promise. It does not follow from the fact that Rawls's account of the wrong of breaking a promise cannot explain how the wrong is directed that breaking a promise does not violate the principle of fairness just as Rawls argues. In the previous chapter I argued that everyone benefits from the practice of promising and so it would be unfair on others to not follow the rules on that practice when those rules place demands on you. Nothing I have said in this chapter does anything to refute that argument. Therefore what we should say is that breaking a promise does free ride on the practice of promising but that there must also be another wrong that we perpetrate when we break a promise which explains how breaking a promise wrongs the promisee directly. So Rawls's account is incomplete in that we commit more than one wrong when we break a promise and his account only describes one of these

wrongs. Nothing I have said about the directed nature of the promissory wrong gives any reason to think that breaking a promise does not free ride on the practice of promising but it does give us reason to think that there must be another, directed, wrong that we commit when we break a promise. Rawls describes a general wrong that we commit when we break promises but does not capture the distinctive wrong of promise breaking.

The idea that we commit two wrongs when we break a promise may seem bizarre at first but it is actually quite common for wrongful actions to commit more than one kind of wrong. Consider an example in which A gives B £20 to do some shopping on the condition that B give her the change back. B spends £5 and gives A £5 in change, insisting that A only gave her £10 to begin with and takes the remaining £10 for herself. B definitely wrongs A in this situation and she does so in two different ways: she lies to A about how much money she gave her and she also steals half of the original sum from A. Whenever we break a promise we do something like this, both committing the general wrong of unfairly benefitting from the practice of promising and another wrong which is directed at the promisee. A conventionalist account may explain the general wrong of breaking a promise but not the directed wrong. I shall present a non-conventionalist explanation of the directed wrong of promise breaking in the next chapter.

3.8 Conclusion

I began this chapter by presenting an objection to conventionalist explanations of the wrong of breaking a promise which was that when you break a promise you wrong the promisee directly but conventionalist explanations of the wrong of breaking promises show that breaking a promise wrongs many people rather than just the promisee. Conventionalist explanations therefore cannot completely explain the wrong of breaking a promise. I then presented three separate responses that the conventionalist could make and demonstrated that each response failed. Having shown that conventionalists cannot explain the directed wrong of breaking a promise I argued that this shows that these conventionalist explanations are incomplete and that there is another wrong that we perpetrate when we break promises in addition to the general wrong that Rawls's account identifies. I shall describe this directed wrong in the next chapter.

Chapter 4: The Distinctive Wrong of Promise Breaking

In this chapter I shall present my own explanation of the distinctive wrong of promising and also explain how it fits into my account of promising alongside the solution to the generative problem that I gave in the first and second chapters. My explanation of the wrong of promising is very close to the expectationalist account provided by Tim Scanlon so I shall first describe Scanlon's position before explaining how I differ from it. I shall then demonstrate that Scanlon's account cannot respond to one particular objection which is common in the literature but that this objection is not problematic for my account at all once we see how the conventionalist and non-conventionalist elements fit together. I shall describe how the two elements of my account of promising fit together to both explain how we can make binding promises and what the distinctive wrong of breaking a promise is. Finally I shall explain the relationship between binding promises and promises that invite the distinctive wrong of promise breaking and describe how the two questions that I have answered have come apart. I shall conclude having presented separate solutions to two separate questions about promising that fit together to provide a single account of the phenomenon.

4.1 Recapping the Previous Chapter

In the previous chapter I urged the negative thesis that a purely conventionalist account of promising could not explain the wrong involved in breaking a promise. I argued that conventionalist explanations of why it is wrong to break your promise focus on features of the practice of promising that make its rules particularly important or make it morally wrong to violate those rules. However, because the moral importance of the rules of the practice will always come from features of the practice as a whole, according to conventionalist accounts the wrong will always be a general wrong that is done to all those who adhere to the practice. I argued that although we do commit such a general wrong when we break a promise, it cannot be the only wrong involved in breaking a promise. When one breaks a promise one wrongs the promisee in a way that one does not wrong anyone else, no matter how close to or concerned by the promise they were. I justified this claim by pointing out that we would expect the promisee to react in a different way to anyone else when a promise to them is broken, and it seems right that they should do so, and that the best way to explain this is to postulate a directed wrong done to the promisee. I concluded my chapter having shown that a conventionalist explanation of the wrong of breaking a promise could not possibly tell the whole story about that wrong. In this chapter I hope to explain what I think the distinctive wrong of breaking a promise actually is and so to tell the rest of that story.

4.2 *An Expectationalist Explanation of the Wrong of Promise Breaking*

The explanation that I will provide of the wrong of breaking a promise will be both an expectationalist and non-conventionalist one. It is an expectationalist explanation because it relies on the ability of promises to generate expectations in the promisee and takes this to be of primary importance when explaining the wrong of breaking a promise. It is a non-conventionalist explanation because it is based on what we do when we make a promise and the effects of making a promise, it does not make any reference to the practice of promising or its rules. Although promising is a practice I shall argue that what causes the distinctive wrong of promising is what happens when we employ the practice of promising rather than anything about that practice. The most prominent expectationalist account in the contemporary literature is the account which is presented and defended by Tim Scanlon. I will begin by sketching out his account to demonstrate what an expectationalist account of promising is like before explaining how I differ from Scanlon and present my own description of the distinctive wrong of promise breaking.

Scanlon argues that we are bound to keep our promises by the principle of fidelity, or principle F, which he defends through the process of reasonable rejection. The general idea is that if you knowingly and deliberately lead someone to believe that you will perform a certain action when you know that they want you to perform that action then you owe performance of that action to your audience unless they release you. Principle F is formulated as follows,

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 (6) 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.'³⁵

The wrong that we commit when we break a promise is the wrong of violating principle F. However not all instances of principle F are promises according to Scanlon. He writes, 'Promising is a special case [of principle F], distinguished in part by the kind of reason that the promisee has for believing that the promisor will perform.'³⁶ In order to count as a promise an instance of principle F must involve the promisee coming to believe the promisor for the right kind of moral reasons. The right kind of moral reasons being that the promisee thinks that the promisor understands that she has become morally bound to perform a certain action and that she will do so because she appreciates the force of the moral obligation she has undertaken. Scanlon describes the function of the expression 'I promise' to be, 'to indicate my awareness of the nature of the situation and my regard for the general moral fact that it would be wrong for

³⁵ Scanlon (1999) P.304

³⁶ P. 306

me to behave in a certain way.³⁷ This is contrasted with situations in which we convince people that we will act in a certain way for non-moral reasons. Scanlon uses the example of a man who is bound by the code of the reindeer brotherhood but we may just as well think of someone who we know is bound to act in a certain way by the rules of a club or by scouts' honour. These are instances in which one binds oneself under principle F but leads one's audience to believe that one will perform a certain action for reasons other than that one understands the moral obligation that one's putative promise has incurred.

According to Scanlon's account the promisor generates an obligation by leading the promisee to expect or believe that she will act in a certain way. Instead I believe that we generate obligations when making promises not by causing other people to believe that we will act in a certain way but by trying to make them believe that we will act in a certain way. Rather than causing others to believe us, what is important about promises is that they solicit or invite belief.³⁸ My explanation of the wrong of breaking a promise is very close to Scanlon's but differs in this one major respect.

4.3 Explaining the Distinctive Wrong of Breaking Promises

The distinctive wrong of breaking a promise is not explained by the fact that promises lead the promisee to believe the promisor will keep her promise but rather by the fact that the promisor solicits or invites the promisee's belief when she makes a promise. I shall begin my explanation of the moral wrong of promise breaking by explaining how making a promise exerts control over the beliefs of the promisee before showing how this fact explains the distinctive wrong of breaking a promise. When one makes a promise one becomes morally bound to carry out the content of the promise and it becomes morally impermissible to fail to do so. Even if it becomes inconvenient for the promisor or the promisor no longer desires to carry out the content of the promise she must still do so. When someone says 'I will X and that's a promise' the addition of 'that's a promise' at the end of the sentence generates a moral obligation on her behalf to X and it also changes the way in which the promisee's belief that the promisor will X is justified. When someone says 'I will X' or 'I intend to X' we must consider how likely they are to change their intention or to care enough to carry out their intention or to be dissuaded by minor inconveniences if we are to rationally determine whether or not to believe that they will X. When the speaker adds 'and that's a promise', however, our deliberation about whether or not to believe her dramatically changes. If the promisee appreciates that she is morally bound to X having promised to do so then she will know that her intention cannot change, that she cannot

³⁷ P. 307

³⁸ Pink presents an account of promising based on trust rather than belief and focuses on the way that promises solicit or invite trust rather than actually causing trust in his (2009). Although I think that belief is the key to understanding promising rather than trust I still follow Pink in preferring an account based on soliciting belief to one that involves promises causing belief. MacCormick also focuses on the ability of promises to induce belief in his (1972)

simply not bother to X and that minor inconveniences are no longer enough to justify her not X-ing. Therefore if we are in the position of the promisee and we are trying to determine whether we should believe that the promisor will X such considerations are replaced by the question of whether the promisor will appreciate the force of the moral obligation that she is under. Once someone has made a promise the question of whether or not to believe that she will carry out the content of the promise becomes almost entirely determined by how seriously the promisee believes the promisor will take the obligation that she has generated. Therefore to judge that she will X is to judge that she is of good moral character while to judge that she will not is to judge that she is of poor moral character.

I should note that promising does not make considerations such as whether the promisor will forget or fail to keep her promise irrelevant, especially if the promisor is particularly forgetful or inept at the promised task. Nevertheless the fact that the promisor has bound herself to perform the promised action makes our judgement of whether or not to believe that she will do so depend almost entirely on our judgement of how seriously she takes this obligation. Someone who takes their promises seriously will try extra hard to keep them despite their ineptitude or their forgetfulness. So making a promise dramatically changes the nature of the promisee's deliberation about whether or not to believe that the promisor will carry out the content of the promise.

The judgement that someone is of poor moral character is normally one that we would be extremely wary of making. Judging that someone is careless enough to break their promises is a fairly serious indictment of them as a person and is not a judgement that we would make without very good reason. Since the judgement of whether or not we believe that someone will keep their promise is almost entirely determined by how we judge their moral character, therefore, it becomes quite difficult not to believe that the promisor will carry out the content of their promise. Obviously it does not become impossible. When we have good reason to believe that someone does not take promises seriously or frequently forgets to keep them then we can still withhold our belief. Even in these cases, however, it is more difficult not to believe the promisor after they have made a promise than it would have been had they merely stated their intention. The promisor does not compel the promisee to believe that they will keep their promise but they do exert a substantial amount of power over the promisee's beliefs when they make a promise. They do not force the promisee to believe that they will keep their promise but they alter the nature of the decision to believe to make disbelieving them as hard as possible.

Whenever one exerts control or power over another one takes on certain responsibilities or obligations in virtue of that use of control. For example, when a lecturer begins to speak before a group of students she assumes a certain degree of control over the students' beliefs because a student will commonly believe their lecturer simply because of their position. If that lecturer were to deliver a lecture containing substantial falsehoods because she had not properly prepared for it then she would be wronging her students. Taking on the authority of a lecturing position brings with it the obligation to ensure that your lecture is informative and is not

misleading. To deliver a terrible lecture wrongs the students to whom the lecture is delivered. When you make a promise you use your power to promise to exert control over the beliefs of the promisee. When you exert this control over the beliefs of the promisee you generate obligations to the promisee and it is these obligations, which you violate when you break a promise, which is why broken promises specifically wrong the promisee. The wrong of breaking a promise is the wrong of violating your responsibility to the promisee whom you exercised control over. Having tried to make someone believe that you will perform a certain action you then owe it to them to do so, to do otherwise would be to misuse the power that making a promise gives you over their beliefs.

When you make a promise you make it very difficult for the promisee to doubt that you will carry out the content of the promise since this would require her to doubt that you take such moral obligations seriously and that you are therefore a morally bad person. You thereby exert a degree of control over the beliefs of the promisee as you try to compel her to believe that you will carry out the content of your promise. This is what I refer to when I talk of promising soliciting belief. Whenever one exerts control over another one thereby generates obligations to ensure that that control is not misused. One misuses one's control over another's beliefs when one tries to make someone believe that you will act in a certain way by promising to do so and then fails to carry out that action. In so doing you wrong the person whose beliefs you tried to control. This is the distinctive and directed wrong that we commit when we break a promise.

4.4 The Circularity Objection

Scanlon's account of promising fails because it cannot answer one objection which is commonly raised to his account which I shall refer to as the circularity objection.³⁹ This argument is of particular interest because it may seem to present a serious problem to my account as well. I will first describe the objection and how it poses a problem for Scanlon's account before explaining why it seems to present a similar difficulty for my own. The circularity objection is as follows, we generate an obligation through principle F when we deliberately make someone believe that we will perform a certain action that they want us to perform. An instance of principle F is only a promise if the putative promisee believes that the promisor will keep her promise for the right kind of moral reason, because she appreciates that she is morally bound by the promise that she has made. The problem is that the obligation is only generated under principle F once the promisor has succeeded in leading the promisee to believe that she will carry out the content of the promise, but an instance of F is only a promise if the promisee believes the promisor because she thinks that the promisor is already bound to keep her promise and knows that fact. The promissory obligation therefore appears twice in this process, first of all it causes the promisee to believe that the promisor will keep her promise and

³⁹ This objection is discussed by many thinkers including Scanlon himself in his (1999), in Mason (2003) and Wallace and Kolodny (2003)

then it arises as a result of the belief that the promisee comes to have. But the promisor's obligation cannot cause the promisee's belief because it only arises as a result of the promisee's belief. The promisor is only bound to keep her promise once she has successfully made the promisee believe her and so her obligation cannot explain how the promisee comes to believe her because the obligation does not exist until the promisee believes that the promise will be kept. The promissory obligation cannot both explain how the promisee comes to believe the promisor and also arise as a result of the promisee coming to believe the promisor. It is this objection which I think is ultimately fatal to Scanlon's account as he presents it.

The circularity objection will apply just as much to my explanation of the promissory wrong as to Scanlon's. I have argued that when one makes a promise one morally binds oneself to perform the promised action which solicits the belief of the promisee, exerting power over their beliefs and giving rise to new responsibilities owed to the promisee. According to my account the promisor must already be morally bound to keep her promise in order to be able to solicit the belief of the promisee since she is only able to exert any power over the promisee because she is already morally bound at the moment of her utterance. But if the responsibilities owed to the promisee only come about after the promisor solicits her belief then how can the promisor use the fact that she is morally bound to solicit belief in the first place? Once again the obligation seems to both be required to solicit the belief of the promisee and produced as a result of soliciting that belief and the same obligation cannot perform both of these roles.

4.5 Responding to the Circularity Objection

Scanlon has a response ready for this objection. Rather than present principle F by itself Scanlon describes it as part of a family of moral principles which each describe similar and related moral wrongs. One of these is principle D or the principle of due care which is as follows,

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'⁴⁰

In the process of making a promise one expresses one's intention to another in such a way that makes it likely to generate belief in the promisee. The promisor is therefore bound by principle D to take care to ensure that she does not mislead her audience when she expresses this intention. You could therefore justifiably form the belief that I will keep my promise even before I am obliged to do so by principle F because, 'I would not attempt to persuade you that I intend to do a certain thing... unless I actually had a settled intention to do that thing.'⁴¹ When

⁴⁰ (1999) p.300

⁴¹ P. 308

one makes a promissory utterance one is bound by principle D to take care not to do so in a way that is likely to mislead the promisee. The promisee can then reason that the promisor understands that she is bound by principle D and that she will carry out the content of the promise because of this. So the promisee can come to believe that the promisor will keep her promise for the right kind of moral reason since there are other moral principles which can bind the promisor before principle F comes into play.

Scanlon's response to the circularity objection fails for at least two reasons. First of all principle D cannot justify sufficiently robust beliefs on behalf of the promisee to constitute assurance and secondly principle D only comes into play when the promisee could suffer significant harm and so it will not apply at all to a large number of promises. I will take these two in turn. Principle D dictates that we must take due care when expressing our intention not to lead others to form false beliefs that will later lead to their suffering significant harm. We are obliged under principle D not to make statements of intention that are likely to mislead others but this obligation only applies to how we act when we are stating our intention. Principle D does not bind us in such a way that we could not change our intentions and decide to do something else or simply fail to act as we intended due to akrasia or laziness. As long as your statement of intention was not misleading at the time of the statement then you have not violated your duties under principle D and you are morally free to change your mind and not act as you intended at the time of the utterance. Since principle D does not actually bind you to act as you intended then it could only justify a fairly limited form of belief on behalf of the promisee. The promisee who appreciated that the promisor was bound by principle D would be justified in believing that the promisor would probably keep his promise or that he would keep his promise unless he changed his mind, both of which are fairly weak forms of belief. For Scanlon, however, principle F and the ability to make binding promises are valuable because they allow us to provide people with assurance that we will carry out the content of the promise. This assurance allows the promisee to believe without reservation that the promisor will do as she promised, not merely that she will probably do so or that she will either do so or compensate the promisee for her loss. The reason why principle F could not be reasonably rejected is that it allows the promisee to be absolutely sure that the promisor will carry out the content of her promise since she is morally obligated to do so. An appeal to principle D cannot justify this kind of certain belief that the promisor will keep her promise since you have not violated principle D if you change your mind and do not do as you said you would. An appeal to principle D simply cannot explain how making a promise can provide the assurance that makes promising so important.⁴² It may justify the promisee coming to believe that the promisor will keep her

⁴² Wallace and Kolodny argue this point extremely well and forcibly, attempting to demonstrate that the only way that a statement which engages principle D could possibly produce the right kind of assurance to generate a promise would be if the promisee knew that the promisor had a non-moral practice based reason, such as the reindeer code, which bound the promisor to act as intended. They argue this at (2003) pp. 139-144

promise but it will not justify the right kind of particularly robust belief that promises exist to bring about according to Scanlon's account.

A second reason why Scanlon's response fails is that principle D explicitly includes the proviso that it only binds the speaker if the speaker's failure to act in accordance with her expressed intentions would cause significant harm to the audience. The problem with this is that promises do not only bind the promisor when her failing to keep that promise would cause significant harm to the promisee. The clearest examples of this are cases in which the content of the promise is not about the promisee. Raz gives an excellent example of this, writing,

'Imagine a youth who promises his father never to smoke despite his father's protestations at the time that he sees nothing wrong in smoking. The son insists that he believes smoking is undesirable and therefore, he makes the promise in order to strengthen his resolve, even though he is aware that his father would prefer him to smoke. The father reluctantly accepts the promise as a favour to his son.'⁴³

If the son breaks his promise the father is not harmed in any way, he does not even have one of his preferences violated since he does not want his son not to smoke, nevertheless this promise seems to be binding. If Scanlon is correct then principle D will not come into play and so we will not be able to make this promise since it will not cause significant harm to the promisee if broken. This seems absurd. Quite clearly we can make promises that would not cause significant harm to the promisee if broken.

We can reply to the circularity objection much more successfully by relying on the practice of promising which I discussed earlier on in this thesis. In the first chapter I argued that we are able to make binding promises because we participate in the practice of promising and that this practice restricts our actions in such a way that we must keep our promises. In the second chapter I then argued that promising is a just institution that we all benefit from and that therefore violating the rules of the practice is morally wrong because it constitutes free-riding on the institution and would violate the principle of fairness. So when A promises B that she will X, B can come to believe that A will X because he believes that A understands that she is bound by the rules of the practice of promising and that she is morally required to follow them since to do otherwise would be to act unfairly. A can make B believe that she will X by submitting herself to the rules of the just practice of promising, making it morally impermissible for her to fail to X, which exercises the kind of power over B's beliefs which I have argued is what explains the directed moral wrong that we commit when we break a promise. So when one makes a promise one submits to the rules of the practice of promising, making it wrong for the promisee not to carry out the content of the promise. The promisor therefore exerts power over the promisee, making it much harder for the promisee not to believe that she will carry out the content of the promise. This power brings with it the obligation to the promisee to keep her promise since to

⁴³ Raz (1977) pp. 213-214

do otherwise would be to abuse the power she exerted. I use the principle of fairness and the practice of promising to fill more or less the same role as principle D does in Scanlon's response to the objection. The practice of promising explains how we are able to make binding promises and it is only because the practice enables us to bind ourselves that we are able to exert the power over others that explains the distinctive wrong of promising. We use the practice of promising to solicit the promisee's belief that we will act in certain ways which introduces a new potential moral wrong which has the directed quality discussed in the previous chapter.

4.6 The Two Components of my Account of Promising

The aim of this thesis was to answer two questions about promising. The first was 'how are we able to make binding promises', which I called the generative problem, and the second question was 'what is the distinctive wrong that one commits upon breaking a promise'. These two questions are quite different from each other and require separate responses. In the first chapter I presented a conventionalist answer to the first of these questions and in the fourth chapter I presented a non-conventionalist answer to the second of these questions. What I shall do now is quickly recap how I answered these two questions, explain why each of the two answers I gave can only answer one of the questions and not both and finally explain how the two separate parts of my account fit together. Wallace and Kolodny defend a similar position to this and describe it as a hybrid account of promising, one which takes and combines elements of both conventionalist and non-conventionalist thinking about promising.⁴⁴ I have followed Wallace and Kolodny insofar as my account makes use of both conventionalist and non-conventionalist elements. However, rather than fitting both of these together as part of a single solution to a single question I have instead presented them as two separate solutions to two separate questions. I do not believe that I am presenting a hybrid account of promising, I am merely answering two separate questions about promising in two different ways

The first question that I answered was the question of how we are able to make binding promises. This question was made problematic by the fact that we cannot explain why you should keep your promise or what you would have done wrong in breaking your promise without simply saying 'you have to keep your promises'. In response to this problem I argued that promising is a practice and that the practice of promising restricts how you may permissibly act when you participate in that promise in exactly the same way that all practices restrict how you may act. We cannot say any more to explain why you should keep your promises than 'because you promised' because practices are not naturally intelligible. This seems to give a complete and satisfactory explanation but only within the context of the practice of promising. Any attempt to provide a deeper explanation of why you should keep your promises would fail as it would involve discussing the rules of the practice of promising outside of its proper context.

⁴⁴ They present this account in their (2003)

My solution to the generative problem involved describing promising as a practice and relying on features of all practices to explain how we make binding promises. I shall therefore refer to it as the conventionalist element of my account.

The second question that I answered was the question of how to explain the distinctive moral wrong of promise breaking. This question was made problematic by the fact that when you break a promise you specifically wrong the promisee. The wrong of breaking a promise is directed at the promisee. Following Scanlon, I presented an expectationalist account of the wrong of breaking a promise. When one makes a promise one binds oneself morally to perform the promised action. As a result it becomes very difficult for the promisee not to believe that the promisor will do so since this would imply that the promisor was of bad moral character. By making it very difficult for the promisee not to believe that she will perform the promised action the promisor thereby exercises power over the beliefs of the promisee. Whenever we exercise power over another we generate obligations not to misuse that power and to do so would wrong the agent over whom we exercised that power. When we break a promise we violate these obligations and in doing so we specifically wrong the promisee. This is the distinctive and directed wrong of breaking a promise. In answering this question I did not rely on any features of the practice of promising and so I shall refer to this as the non-conventionalist element of my account of promising.

It may seem at first glance that each of these solutions should also be able to answer the other question. Why can we not explain what is wrong with breaking a promise by saying that it violates the rules of the practice of promising and why can we not explain why you should keep your promises or how you generate binding promises by saying that you have exercised control over the promisee and therefore owe performance of the promised action to them? In the second chapter I considered a conventionalist account of the distinctive wrong of promise breaking according to which when you break a promise you act unfairly by refusing to follow the rules of a just practice that you have benefitted from. This appeared to give a conventionalist explanation of the moral wrong of breaking a promise. I argued in the third chapter, however, that the wrong of breaking a promise is a wrong which is done specifically to the promisee and that the promisee is wronged in a different way to any third party. The conventionalist explanation of the wrong of breaking a promise therefore fails to capture the whole truth because it cannot capture the directed wrong that the promisor does to the promisee when she breaks a promise. Although we can give a conventionalist explanation of why it is morally wrong to break a promise there is an important part of the moral wrong of breaking a promise that it cannot capture. The conventionalist element of my account can therefore only explain how we are able to make binding promises and not what the wrong of breaking a promise is. By itself it is incomplete.

I posed the generative problem in the first chapter by saying that we cannot explain why you should keep your promises or what would be wrong with failing to do so without simply saying 'because I promised' or 'because that would break my promise'. However in the fourth

chapter I gave an explanation of what we do wrong when we break a promise by saying that we misuse the power that we have exerted over the promisee. It may seem mysterious why the non-conventionalist element of my account cannot answer both of the questions that I posed rather than just one since it should allow us to explain what you do wrong when you break a promise. The reason why it cannot do so is that if the non-conventionalist element of my account were to stand alone then it would fall prey to the circularity objection presented above. The promisor must already be bound to be able to use this fact to solicit the belief of the promisee. There must therefore be another explanation of how we come to be morally bound to keep our word that precedes the non-conventionalist element of my account, some way of explaining how it is that we can be bound to keep our word before we have solicited the promisee's belief. I argued that what gives this preceding moral bond is the conventionalist element of my account, the fact that the promisee submits to the rules of the practice of promising and is morally bound to follow those rules by the principle of fairness. Although we can explain what you do wrong when you break your promise by referring to a misuse of the power exerted over the promisee we can only do so because the generative problem has already been solved. So the non-conventionalist element of my account is also incomplete by itself.

At this point it should be clear that the two questions I have been focusing on require different solutions, one a conventionalist solution and the other a non-conventionalist solution. Only a conventionalist can explain how we originally come to be bound by our promises and only a non-conventionalist can explain how promise breaking wrongs the promisee. It should also be clear that each of these elements leaves important questions unanswered without which they are only a partial account of promising. Without the conventionalist element the non-conventionalist element cannot survive the circularity objection and without the non-conventionalist element the conventionalist element is left unable to explain why we would expect the promisee to react in a different way to everyone else when the promise is broken. It is my belief that together these two elements solve two important questions about promising and also that they each require the other to fit together as part of a satisfactory account of promising. My account therefore has two parts, a conventionalist solution to the generative problem and a non-conventionalist solution to the problem of promise breaking. Together these two elements give the best possible approach to understanding the phenomenon of promising.

4.7 An Objection to My Explanation of the Promissory Wrong

I have argued that the distinctive wrong of breaking a promise comes about because the promisor exerts control over the promisee's beliefs by making it very hard for the promisee not to believe that she will keep her promise. The reason why it is wrong to break promises is that when you exert control over someone you generate responsibilities towards that person and breaking your promise violates those responsibilities. This may seem a little mysterious

because we seem to be able to exert some form of control over other people's beliefs without thereby generating any obligations towards them. If I provide someone with convincing evidence that supports a particular proposition then I can make it quite difficult for them to disagree with me. Similarly the confidence with which I comport myself and the eloquence with which I speak can make it much harder to disagree when I try to persuade you of something. The fact that promising influences beliefs doesn't immediately explain how we generate obligations to others when we make promises to them since we often influence others' beliefs without generating new obligations. How is promising different from speaking with authority and confidence or providing evidence in an effort to influence someone's beliefs?

There are two features of promising which I think explain how making promises is different from speaking eloquently or presenting evidence. One is how promising influences belief and the other is the kind of situation in which promising is typically used to influence belief. Promises influence belief because once the promisor is bound to perform the promised action the only real consideration on the basis of which the promisee should judge whether or not to believe that the promisor will do so becomes how likely the promisor is to understand and honour the promissory obligation. So when making a promise the promisor does not add new information or interpret existing information on the basis of which the promisee should make her judgement, instead she changes the nature of the decision so that previous concerns are no longer relevant or at least no longer have the same standing. Imagine, for example, that the promisee doubts that the promisor will perform the promised action because she knows that he finds that kind of task particularly arduous. When he promises to perform that action he does not address this worry by pointing out that he no longer finds or never found it arduous, but rather makes this concern irrelevant since now the promisee should not take his dislike of the promised action into account when judging whether or not to believe that he will carry it out. If she believes that he will take his obligation seriously then she need not worry how much he will dislike keeping his promise since he will feel bound to perform it in spite of that dislike.

The kind of situation in which we generally make promises is also relevant to understanding why promising generates responsibilities. What makes promising special is the ability it gives the promisor to assure the promisee and in most normal cases of promising either the promisee desires assurance from the promisor or the promisor believes that the promisee needs her assurance. When the content of the promise is something that is very important to the promisee or when the promisee has good reason to believe that the promisor will fail to perform the promised action the promisee may seek or desire the promisor's assurance that she will carry out the content of that promise. The more important the promised action is to the promisee the more certain that she must be that the promisor will perform it to not require his assurance. So when the content of the promise is very important to the promisee then she will require assurance unless she can be very sure that the promisor will perform the promised action and when the content of the promise is not very important then she can be fairly unsure and still not require assurance. Normally when we make promises it is because

the content of the promise is important enough and the promisee unsure enough that we will carry it out that we must make a promise to assure the promisee. It would not seem appropriate to make a promise to someone if you knew that they didn't really desire you to perform the promised action, the promise would seem redundant and more than a little bizarre in that context. Similarly it would seem quite suspicious if you were to promise to perform an action that the promisee had no doubt you would perform. Although such cases surely do arise it seems fair to say that we normally make promises because we believe that the promisee requires or desires our assurance.

The reason why promising is different from instances where we influence people's beliefs in other ways is that we use promises in situations where people have serious concerns that we will not perform an action that is important to them and rather than addressing these concerns the promisor promises to perform the desired action to exclude these concerns. The influence that the promisor wields over the promisee's beliefs is used to override her doubts and sweep those considerations under the rug. What leads to the distinctive wrong of breaking a promise is the fact that we make promises to bypass serious concerns that the promisee has. When we use promises to exclude these concerns we exercise a form of control over the promisee's belief that is much more important than what we generally exert by being persuasive or convincing. Were you able to somehow dismiss someone's serious concerns that you would act in a certain way that they cared about without promising then you would generate similar responsibilities to those that you acquire when you make a promise. But there are not many ways, besides making a promise, of making someone believe you by making their concerns irrelevant to their judgement of whether to believe you or not. What makes promising different from most ways that we influence other people's beliefs is that we normally only make promises because the promisee has serious worries about a matter that is of some importance to them that lead them to require assurance and that we sweep these concerns under the carpet rather than directly address them.

There seems to be an obvious reply to this though. It may be clear how exercising power over someone's belief to bypass important concerns they have when the content of the promise is something that is important to them leads to certain responsibilities. But surely not all promises begin with the promisee caring deeply about the action to be performed or with serious doubts about the likelihood of the promisee's performing that action. Let us return to Raz's example of the man who promises his father that he will stop smoking even though the father did not think smoking was dangerous and did not want him to stop smoking. The son made this promise purely to stiffen his resolve, because he knew that the knowledge that he had promised his father would help him to carry out his intention to stop smoking. In this case the promise is made purely to bind the promisor rather than to provide assurance to the promisee.⁴⁵ So if the distinctive wrong of breaking a promise is explained by the fact that we

⁴⁵ Owens describes this instance as an example of what he calls prophylactic promising. (2012) p. 196-198

use promises to exclude serious concerns that promisee's have about matters that are of great value to them then how can we explain the wrong that one commits when one breaks promises such as the one in this example which are not made in order to assure the promisee or assuage her concerns?

My answer to this is that the distinctive wrong of breaking a promise is not a wrong that one necessarily commits every time one breaks a promise. Sometimes we can make binding promises which do not lead to the distinctive wrong of promise breaking if broken. There is a practice of promising which explains how we can make binding promises and an expectationalist explanation of the distinctive wrong involved in breaking a promise, but the cases in which we are bound by the practice of promising are not always the same as the cases in which we commit the distinctive wrong of promise breaking. These are two separate features of the moral phenomenon of promising and sometimes they come apart.

4.8 The difference between the wrong and the practice of promising

I have spent the last two chapters trying to capture the distinctive wrong of promise breaking. What I have been trying to explain is the special way in which breaking a promise wrongs the promisee in cases where the content of the promise is of personal and moral significance, in other words when the promise matters to both parties. In these cases, which I take to be the most common and normal cases of promising, breaking the promise wrongs the promisee in a way which is, if not necessarily unique to promise breaking, unusual and interesting enough to warrant an explanation. In normal cases of promising there is a special wrong which the promisor does to the promisee when she breaks her promise, this is the distinctive wrong of promise breaking. I see no reason, however, to think that we should commit this distinctive wrong whenever we violate the rules of the practice of promising. The distinctive wrong of promise breaking is not the wrong that we commit if and only if we break the rules of the practice of promising. I described promising as a practice in order to explain how we are able to make binding promises and then argued that we should not appeal to the practice of promising in order to explain the distinctive wrong of promise breaking. The way that promises solicit beliefs and the way that the practice enables us to make binding promises explain two distinct and very different facts about the phenomenon of promising. In some cases they come apart, when we submit to the practice of promising and make binding promises but do not commit the distinctive wrong of promise breaking when we break them. We do not always commit the distinctive wrong of promise breaking whenever we break a promise but whenever we make a promise we do participate in the practice of promising. After all, this is what it means to make a promise. Whenever we participate in the practice of promising we submit to the rules of that practice and become bound by it. So whenever we make a promise we should keep that promise. All promises bind us, but sometimes the situation surrounding the promise is such that

if we were to break it we would only be breaking the rules of the practice of promising and not committing the distinctive wrong of promise breaking.

Let us return again to Raz's example of the son who promises his father that he will give up smoking. In this instance the promise is not made to assure the promisee or to convince him of something that he wants to believe. In this instance the promise is made purely so that the son can be bound by the practice of promising in order to stiffen his resolve to give up smoking. The promise in this instance is not for the promisee, it does not benefit the promisee at all, but is rather for the promisor so that he can help himself to go through with his intention to give up smoking. If the distinctive wrong of promise breaking had to be a wrong that we committed every time that we broke a promise then it would also have to cover this kind of case in which the promise is made for the sake of the promisor rather than for the promisee. But the distinctive wrong of promise breaking is a wrong that is done to the promisee, as I argued in the third chapter. It would seem very strange to say that this distinctive wrong was done to the promisee even in cases where the promisee is little more than an accessory to allow the promisee to bind herself. This instance gives a clear case in which the promisor is bound by the practice of promising but does not commit the distinctive wrong of promise breaking and wrong the promisee if she breaks that promise, she merely breaks the rules of the practice of promising.

There is a question of how we can make binding promises and another question of what the distinctive wrong of breaking promises is. These two questions are completely separate and require different solutions. Although it may be neater and more aesthetically pleasing if we were to commit the distinctive wrong of promise breaking every time we broke a binding promise, there is no reason to think that this is always the case. If we were to try and describe the wrong that one commits every time one breaks a promise we would lose the directed, personal element that makes this wrong interesting and distinctive in the first place. If we are to capture the distinctive wrong of promise breaking then we must accept that this will diverge from our explanation of how we are able to make binding promises.

4.9 Conclusion

In this chapter I presented an explanation of the distinctive wrong of breaking a promise, arguing that when we make promises we exert control over the beliefs of the promisee and in doing so generate responsibilities towards them which we violate if we break the promise. My account is very close to the account which is offered by Scanlon and so I considered the most commonly raised objection to Scanlon, which I called the circularity objection, and showed that it can also be raised as an objection to my account. I responded to this objection by arguing that we are able to solicit the promisee's belief because when we make promises we become bound by the rules of the practice of promising. Having shown that my explanation of the distinctive wrong of promise breaking can survive the circularity objection by relying on my

conventionalist solution to the generative problem I explained how the answers I have given to these two questions fit together. I have presented a conventionalist solution to the generative problem and an expectationalist explanation of the distinctive wrong of promise breaking. Each of these can only answer one of the two questions I posed and both are required for a satisfactory account of promising. I then presented an objection to my explanation of the distinctive wrong of promise breaking and in answering that objection argued that the practice of promising and my explanation of the wrong of promise breaking come apart. We do not always commit the distinctive wrong of promise breaking whenever we break a binding promise. I conclude this chapter having presented an explanation of the distinctive wrong of promise breaking, shown how the two elements of my account of promising fit together to provide a satisfactory approach to explaining the problems raised by promising, and argued that the two questions I have asked concern different situations and that the distinctive wrong of promise breaking is not the wrong that we always commit whenever we break a promise.

Bibliography

- Anscombe, G.E.M 'On Promising and Its Justice and Whether it Needs to be Respected in Foro Interno' in *Crítica: Revista Hispanoamericana de Filosofía*, Vol. 3, No. 7/8 (Jan. - May, 1969), pp. 61-83
- 'Rules, Rights, and Promises' in *Midwest Studies in Philosophy* (1978) pp. 318-323
- Burge, Tyler, 'On Knowledge and Convention' in *The Philosophical Review* Vol. 84, No. 2 (1975) pp. 249-255
- Foot, Philippa, *Natural Goodness* (2001, OUP)
- Hume, David *A Treatise Of Human Nature* (1978, OUP) Selby-Bigge, L.A. (ed.)
- Kolodny, Niko and Wallace, R. Jay, 'Promises and Practices Revisited' in *Philosophy and Public Affairs* Vol. 31, No. 2 (2003) pp. 119-154
- Lewis, David, *Convention: A Philosophical Study* (1969, Harvard University Press)
- MacCormick, Neil, 'Voluntary Obligations and Normative Powers' in *Proceedings of the Aristotelian Society, Supplementary volumes, Vol. 46*, (1972) pp. 59-102
- Mason, Elinor, 'We Make No Promises' in *Philosophical Studies: An International Journal for Philosophy in the Analytic Tradition* (2005) pp. 33-46
- Milikan, Ruth, 'Language Conventions Made Simple' in *Journal of Philosophy* (1998) pp. 161-180
- Owens, David, *Shaping the Normative Landscape* (2012, OUP)
- 'A Simple Theory of Promising' in *The Philosophical Review* (2006) pp. 51-77
- Pink, Thomas, 'Promising and Obligation', in *Philosophical Perspectives* (2009) pp. 389-420
- Raz, Joseph 'Promises and Obligations' in *Law, Morality and Society: Essays in Honour of H.L.A. Hart* (1977) ed. Raz, Joseph
- 'Is There a Reason to Keep Promises' (2012)
- Scanlon, T.M. *What We Owe to Each Other* (1998, Harvard University Press)
- *Moral Dimensions* (2008, Harvard University Press)
- Sheinman, Hannech, 'Promises as Practice Reason', in *Acta Analytica* (2008) pp. 287-318
- Shiffrin, Seanna, 'Promising, Intimate Relationships and Conventionalism' in *Philosophical Review* (2008) pp. 481-524
- Rawls, John, *A Theory of Justice* (Harvard University Press, 1999)
- Wallace, R. Jay, *Responsibility and the Moral Sentiments* (Harvard University Press, 1994)