

Commentary on Erin Taylor's
"Conventions and Moral Requirements"

Jon Garthoff
Northwestern University

I'd like to begin by expressing thanks to Erin for her excellent paper. I am sympathetic to her goal of irenically synthesizing the central claims of conventionalists and anti-conventionalists about promising. In these comments I will urge that we adopt a yet more irenic posture towards these claims; I suggest that they not only "sit alongside one another in a unified theory", as Erin maintains, but more strongly that they must be *integrated into one another*. Let us take a closer look at Erin's position, in order to help explain what I have in mind.

Erin maintains, with the conventionalists, that the moral contours of promising cannot be captured completely by any moral principle, such as Scanlon's Principle F, that abstracts from the existence of a convention of promising. Neither Principle F nor any similarly abstract competitor principle captures the morality of promising, since such principles make reference to facts that are insufficiently public to ground mutual expectations of action. Principle F, for example, refers to the intentions, aims, and beliefs of promisor and promisee, and Erin contends that these mental states are too opaque to ground the participants' expectations of each other.

I would note, as an aside, that I am not clear on the modality with which this claim is advanced. It strikes me as false, if asserted as a universal generalization about conventions that successfully specify moral requirements. Suppose there is a group within which the following convention is observed: when a phone call is cut off, the person who wants the conversation to continue more reestablishes the connection. This convention is inferior to one according to which the original caller calls back, since there will be many cases where it is unclear who wants the conversation to continue more. But in most cases this convention will work, notwithstanding the fact that it makes reference to the mental states of the participants. It strikes me as a contingent matter whether such a convention would inevitably die out. (Similarly, I am not sure I see why a convention of promising that has each promise's defeasibility conditions built into it must, for that reason, fail to sustain mutual expectations of action. It may typically be known in advance that the defeaters do not obtain.)

I call this an aside because I do not think that this consideration, even if it has force, undermines Erin's broader goal in her paper. There *is* something right about conventionalism, and as Erin notes, Scanlon's example of Profligate Pal helps expose this. I am happy to follow her in the judgment that Profligate Pal acts wrongly even though he fails to violate Principle F,

and that this exposes that Principle F is not an exhaustive account of the morality of promising. Erin characterizes what Principle F leaves out as “potential damage done to a useful institution”, however, and I will try to resist that claim.

Erin argues with the anti-conventionalists – and to my mind persuasively – that in typical cases the most important reasons for keeping promises do not pertain to the perpetuation of the institution of promising. That I have induced another person to rely on an expectation of my future performance may be far more significant, relative to its corrosive effect on the institution of promising, in explaining what is wrong with my failure to fulfill a promise. The difficulty for the anti-conventionalists is a case like that of Profligate Pal. Erin purports to solve this problem for the anti-conventionalist, if I understand her, by concluding that the source of Profligate Pal’s requirement to fulfill his unreliable promise is the damage that his failure to perform may do to the institution of promising, which for most promises is not a paramount consideration.

There are other strategies for synthesizing what is correct about each of these families of accounts of promising, however, and to introduce another strategy I suggest we look at Profligate Pal’s case from his point of view. His promise fails to induce reliance in his promisor, and so his failure to perform thus cannot be wrong for the reason that it induces such reliance. But neither, I suggest, is this failure to perform wrong solely, or even principally, for the reason that it damages the institution of promising. What this characterization appears to leave out is the fact that the promise is owed *to the promisee*, even when the promisee does not expect performance. Even in Profligate Pal’s case, I would say, using Erin’s apposite construction, that “the moral force of the convention properly recedes far into the background”.

I suggest that this is because the institution of promising itself must be backed by extra-social moral norms if it is to generate moral obligations in particular social contexts. The anti-conventionalists also believe this, I think, which is why they invoke principles like Principle F; but as Erin has argued, the obligations of promising are not captured by this or any other abstract principle. (Nor is the convention of promising normatively backed only by its ability to secure the mutual advantage of its participants, though it would take us too far afield to attempt to argue for that claim here.)

I don’t know how best to characterize the extra-social moral norms that underlie the obligation-generating force of promises, but I doubt these norms are anywhere near as specific as Principle F. Perhaps it is enough for our purposes to suggest, rather vaguely, that the institution helps enable relationships of mutual respect. For once we understand promising as helping to enable relationships of mutual respect, we already have resources for explaining why it generates obligations in Profligate Pal’s case. Pal’s profligacy is, crucially, internal to his agency. This

entails, I suggest, that no convention of promising can be such that his profligacy defeats the generation of obligations. Under such a convention both Pal and his promisee treat Pal as though he is incapable of keeping promises, which is incompatible with respecting him as a person.

I'm not sure whether Erin disagrees with these claims; but it seems to me that they raise complications for some central theses of her essay. Consider her claim that we should "reject the supposition that the explanation of my moral requirement to keep a promise must be the same as the explanation for why I ought to keep a promise once I have made one". If my claims are true, then there is less space between these two explanations than Erin's exposition suggests, as mutual respect between promisor and promisee is the central moral consideration that explains both of these things. Profligate Pal is obligated to keep his promise in the first instance out of respect for his promisee, rather than so as to refrain from damaging the institution of promising.

Consider also the claim that a promise entitles the promisee to make an inference "about the expectations and intentions of the parties" that will be valid "for the narrow purposes of the convention". I'm not clear on what is asserted here. If the claim is that a promise gives the promisee entitlement to believe that the promisor *will* perform, this fails to generate promissory obligations for Profligate Pal; the promisee's entitlement to believe he will perform is defeated by his knowledge of Pal's profligacy. If the claim is that the promise gives the promisee entitlement to believe that the promisor *should* perform, then I'm not sure what to make of the example of the Azande oracle. The Azande are not entitled, on the basis of oracular declaration, to infer that the individual picked out by the oracle should be treated as a witch, even for the purposes of their convention. If the convention is sincere, it is trying to identify witches, not simply to designate them. (To think that there is such an entitlement appears to entail, to adapt a term from Rawls, that the oracle's activity is an instance of pure procedural *injustice*.) And just as the oracle must tap into extra-oracular epistemic considerations if it is to generate warrant for accepting its declarations, a promise must tap into extra-social moral considerations if it is to generate moral requirements. I would thus urge that we qualify Erin's assertion that "the existence of the social convention of promising is sufficient ... to explain the wrong in breaking a promise", and call attention to the extra-social moral considerations also needed to complete this explanation. This is what I had in mind when I suggested, at the opening of these comments, that the claims of conventionalists and anti-conventionalists must be integrated into one another.

With thanks again to Erin for her illuminating paper, I'll leave off there, in the interest of conserving time for Q&A. I assume that we'll follow our usual convention at Northwestern, and begin by taking a question from the audience member most loved by God.