

CONVENTIONALISM AND CONTINGENCY IN PROMISSORY POWERS

ABSTRACT. Conventionalism about promising is the view that the power to make binding promises depends essentially on the existence of a social practice or convention of promising. This paper explores an objection to conventionalism that says that—(allegedly) contra conventionalism—there is no morally acceptable world in which we lack the power of promise. Instead, normative powers theorists claim that our power of promise is morally basic or necessary. I argue that the conventionalist need not deny this claim. There are several ways to develop a noncontingent conventionalism: a version of the view that can accommodate the insight that the power of promise is indispensable to morally acceptable lives. Then, I argue that the conventionalist is indeed on the hook for accommodating this insight. I wrap up by considering the state of play in the debate over conventionalism about promising. Once we note the theoretical possibility of noncontingent conventionalism, it looks like the theatre of battle shifts to the difficult question of whether “natural” morality always provides “moral necessities.”

Keywords: promises; conventionalism; normative powers

Conventionalism about promising is the view that our power to make and obligation to keep promises depends essentially on the existence of a social practice or convention of promising. This view has a rich and storied history; it enjoys considerable plausibility and popularity. It also faces some powerful objections. In this paper I will focus mainly on one such objection, which targets the purported contingency of our power to make binding promises on the conventionalist account.

It is primarily advocates of what has been called the normative powers view who raise this objection.¹ According to this view, the power to place oneself under promissory obligation is already given by the structure of our moral and practical reason. Free moral agents have the power to bind themselves morally by promising in much the same way that they have the power to change the normative landscape for themselves and others by commanding and consenting. According to the objection from contingency, conventionalism fails to recognize this power as one we morally *must* have.

I will argue that there are good reasons for holding that the power of promise is *necessary* in the way that the normative powers theorist suggests, but that a plausible, noncontingent conventionalism is able to take this point on board. I conclude by considering what these arguments tell us about the location of the disagreement between conventionalists and normative powers theorists.

1 *Conventionalism*

The conventionalist account of promissory obligation has it that this species of obligation depends essentially on there being a social practice of promise-keeping. The central tenet of conventionalism, then, is that promissory obligation is *practice-dependent*.

¹ Normative powers theorists include Shiffrin (2008), Raz (1972; 1977, Watson (2009), and Owens (2012).

The *loci classici* for view are Rawls and Hume. While the two differ on the features of a practice of promising that render it fit for generating obligations, the structures of their respective views are roughly the same. We begin with a social practice of promising. That is, we posit the existence of set of widely known and generally followed rules about what is required to make a promise and what is entailed by the making of one. There are, we suppose, certain expectations about the behavior of others that entrain general knowledge of the content of these rules and the fact of adherence to them. Next, we identify some morally salient feature of these social facts that suffices to generate a certain type of moral obligation. For Hume, we recognize the general utility of the practice and so approve of conduct that adheres to it. We likewise disapprove of actions that undermine it. So we see that we ought not break our promises lest we undermine a valuable practice, draw the disapproval of others and perhaps end up excluded from participating in other useful activities predicated on fidelity and trust.² For Rawls, the relevant moral principle is a prohibition on freeriding. The practice of promising, so long as its rules are just, affords us certain benefits; it is, in many cases, indispensable to the pursuit of one's ends insofar as it provides "rational means whereby men can enter into and stabilize cooperative agreements for mutual advantage."³ When we avail ourselves of the benefits of this practice by invoking it, Rawls's principle of fairness demands that we abide by the rules of the practice rather than exploit it.⁴ On both views, then, "the analysis of the obligation arising from a promise is a two-stage affair:"⁵ there is a social practice in virtue of certain social facts, and there is a moral judgment about these facts that yields an obligation to relate to the practice in a way that does not abuse or undermine it.

There is, however, a well-known objection to the conventionalist view as described. We can call this objection the objection from directed obligations.⁶ According to this objection, the wrong of abusing a valuable social practice is an impersonal wrong. But breaking a promise is not an impersonal wrong. When I make you a promise, I have an obligation *to you*. So while it's true that the conventionalist account yields an obligation to keep our promises, it does not seem to yield an obligation *to the promisee*; and surely this is not merely a theoretical cost but a fatal flaw. The conventionalist account does not give us reasons of the right kind to keep our promises. Pithily, it gets the wrong wrong.⁷

To make the point vivid, consider the following pair of cases. In one, I promise you that I'll pick you up from the airport, and then welch. In the other, I promise *your sister* that I'll pick you up from the airport. Again, I renege. On the conventionalist view, there is no difference between these two cases. I was obligated to perform the same action for exactly the same reason. But we can easily recognize that the obligations in play in these two situations are not the same. In the first

² Hume (2007: 331-7) [*Treatise* 3.2.5]

³ Rawls (1999: 303-4)

⁴ Rawls (1999: 303-6)

⁵ Scanlon (1998: 295)

⁶ See Scanlon (1998: 316), Darwall (2011: 263-4), Owens (2012: 135)

⁷ It is perhaps worth noting that no one (so far as I know) is denying that the moral obligation identified by the conventionalist is a genuine one. The worry is just that it does not exhaust the normative force of the promissory circumstance, and indeed fails to get at the most *central* or *basic* normative aspect of the promisor's predicament.

instance, I have a promissory obligation to you. In the second, I have a promissory obligation to your sister. The conventionalist account misses this entirely.⁸

I regard this as a decisive objection to these classic, pure conventionalist account of promissory obligation. But such accounts are not the only ones on offer. Recently, some theorists have offered up “hybrid accounts” of the obligation to keep our promises.⁹ These views are attractive because they are meant to remedy the problems with both purely conventional accounts and the principal rival account, proffered by T.M. Scanlon, by combining these views’ respective virtues. Scanlon has influentially argued that we need no convention to explain the obligation to keep a promise. Instead, a promissory obligation is simply a special instance of a more general obligation not to intentionally induce in others expectations regarding one’s behavior, only to defy these expectations.¹⁰ The expectationalist theory is grounded in a prohibition on unfair manipulation and deception, and so seems to succeed where the conventionalist account fails with respect to directed obligations.¹¹

The trouble for Scanlon, however, is that while the promisee’s expectation is supposed to be what explains the promisor’s obligation, it also seems like the expectation can in many cases only be explained by the existence of an obligation. That you are obligated to perform is precisely the reason I expect you to perform. So the view is mired in circularity.¹²

Enter social practice. Hybrid theorists Niko Kolodny and R. Jay Wallace suggest that a social practice of promising will suffice to get the right sort of expectations off the ground, making room for Scanlon’s expectationalist Principle of Fidelity to explain why we have directed obligations to the recipients of our promises.¹³ Similarly, Neil Tognazzini argues that we can generate obligations of the right sort by appending a weaker expectationalist moral principle—the Principle of Loss Prevention—to a social practice of promising.¹⁴ These views retain the key conventionalist commitment that promissory obligations, properly understood, depend for their generation on a robust social practice of promising. I take it they are labeled “hybrid” rather than “pure” conventionalist views because the moral principles they ultimately invoke do not themselves make essential reference to any social practice: the Principles of Fidelity and Loss Prevention can in principle be triggered in ways that do not involve any social practice at all.¹⁵

Neither, I should note, is pure conventionalism dead in the water. Theorists who favor more thoroughgoing practice-dependence in their promissory obligations can tinker with the classic views to accommodate concerns about directed obligations. C.M. Melenovsky, for instance, advances an updated Rawlsian view that appeals to a Principle of Legitimate Expectations.¹⁶ Unlike

⁸ The example is borrowed directly from Melenovsky (2017: 110). One might object that I *still* have an obligation to you in the second case, and not merely to your sister. That might be true, but doesn’t undermine the point that clearly the cases should be analyzed differently. It’s also not at all clear that the obligation would be a promissory one.

⁹ Kolodny and Wallace (2003), Tognazzini (2007).

¹⁰ Scanlon (1990; 1998: Ch. 7)

¹¹ Though see Gilbert (2004) for some doubts.

¹² Scanlon is aware of the problem and attempts to wriggle out of the worry by suggesting that expectations in performance can be incited through confidence in another moral principle prohibiting willful deception (1998: 306-9). While there is no doubt the move is clever, it strikes me as an open question whether it is convincing (see Kolodny and Wallace [2003: 139-44]).

¹³ Kolodny and Wallace (2003).

¹⁴ Tognazzini (2007). See Scanlon (1998: 300-1) for the original statement of the principle.

¹⁵ See Melenovsky (2017: 117-18) for a brief discussion of this point.

¹⁶ Melenovsky (2017). See also Melenovsky (2020) for further discussion off this principle.

the Principles of Fidelity and Loss Prevention, Melenovsky's principle *does* make essential reference to social practices: it assigns *claims* to contributors to a just social practice who in turn expect performance from those who benefit from the practice. The assignment of a claim does justice to the idea that promisees are *owed* promissory fidelity.

These updates to conventionalism suggest that some form of the view has a shot at wriggling free of the objection from directed obligations. Doubtless, a closer examination of the success of these updates for this purpose is still required. But I will not undertake that examination here. Instead, I will take the initial plausibility of these remedies as an invitation to turn our attention to another important objection to conventionalism. Assessing this second objection will be my task for the rest of the paper.

2 *The objection from contingency*

We can call this the objection from contingency. As the name suggests, this objection targets the contingency that appears to be definitionally at the heart of the conventionalist account. Recall that conventionalism is the view that the ability to make binding promises depends on the existence of a social practice of agreement-making. According to this objection, there is something wrong with saying that the power of promise *depends* on something that we could conceivably go without. The possibility of promissory obligation, it is thought, is not contingent in this way.

This formulation is somewhat inchoate. To bring the worry into focus, I will consider two ways of developing the objection.

2.1 *The modal objection*

The most straightforward way to run the contingency objection is to interpret the conventionalist thesis on strictly modal terms and deny the modal claim. Joseph Raz, for example, glosses the claim as the “common belief that promises can exist only if there is a social practice to that effect.”¹⁷ In other words, there is no possible world in which we have the power to place ourselves under promissory obligations in the absence of a social practice of promising. If this is the point under discussion, then the way forward for the contingency objection is clear: one need only argue that it's perfectly possible to make promises in the absence of a practice.

Unfortunately, it's hard genuinely to *argue* this point. Raz writes, “It is admittedly difficult to conceive of a human society in which some form of promising is not practiced. But it is imaginable.” And just as imaginable is a man in it who “communicates to another his intention to undertake by the very act of communication, an obligation to perform an action and confer a corresponding right on his interlocutor.”¹⁸ What is this if not a promise? Conventional means of making promises are quite useful, Raz says, insofar as they give everyone involved a clear way to know what's going on. But they nonetheless “are not essential” to the act of promising.

Judith Thomson proceeds in much the same way. She asserts that for one person successfully to bind herself by giving her word, “it is not necessary that there be hordes of others in the background, engaged in the ‘practice’ of making and keeping promises.”¹⁹ Rather, the absence

¹⁷ Raz (1977: 214)

¹⁸ Raz (1977: 214)

¹⁹ Thomson (1990: 303)

of any such felicitous background conditions “is compatible with its being the case that I make you the first promise that our society has ever known.”²⁰

Although these claims seem plausible, it is difficult to assess them as arguments. Indeed, even if they are plausible, they seem to amount to little more than straightforward denials of the conventionalist thesis. Scanlon makes essentially the same point as Thomson and Raz but goes a step further, attempting to pump our intuitions with a case set in the state of nature. Suppose you and I are strangers in the state of nature, hunting on opposite banks of a river. In the course of the hunt, we each clumsily launch our respective weapons of choice across the river. Realizing what’s happened, I lead you to believe (perhaps through pantomime) that I’ll return your boomerang if you do the same with my spear. In light of this belief, you toss my spear back to me, at which point I proceed to “walk off into the woods with it, leaving the boomerang where it fell.”²¹ As far as Scanlon is concerned, my conduct in the state of nature is wrong—and wrong in exactly the way it’s wrong to break a promise. Since no practice of promising was needed in this case, it looks to be a counterexample to the conventionalist thesis.

Again, I find this intuition pump difficult to assess as an argument. Scanlon seems to recognize the limitations of the point, for he glosses some worries about it before going on to discuss other cases with slightly different implications. Perhaps there are confounding variables in the state of nature, or we covertly assume some practice of agreement-making when we consider the case.

2.2 *The moral objection*

It is not clear how much progress we can make speculating about “promises” in the state of nature.²² It is also not clear that this way of running the objection presents the deepest and most interesting worry in the neighborhood. For one thing, intuitions may vary about the kinds of cases described by Raz, Thomson and Scanlon. I, at least, do not have strong ones. For another, contingency as such is not objectionable. The fact that the possibility of promises is contingent on there being people around to make them is, of course, not an objection to any view that would concede as much (as I take it any reasonable view should). The more pressing concern here is essentially a *moral* one. Consider how Seana Shiffrin develops the objection:

The conventionalist story has it that promises are not among the fundamental moral elements, so to speak...On this theory, promises are inventions that we could have failed to invent and still gotten by morally, although perhaps less well and less efficiently. But is it really plausible to imagine a morally acceptable world—or even simply morally acceptable, complex, and close relationships—without the power to promise?²³

Her concern is not so much that the conventionalist gets the modal facts wrong regarding the possibility of binding promises in the state of nature. Rather, it is that they get the facts wrong about the modal space under examination. And that could mean *either* that they are mistaken about which social worlds are relevant to the issue at hand, *or* that they are mistaken about what is

²⁰ Thomson (1990: 304)

²¹ Scanlon (1998: 296-7)

²² Shiffrin (2008: 498) also expresses skepticism about the decisiveness of this strategy.

²³ Shiffrin (2008: 498)

going on in these worlds. Once we limit our inquiry to morally acceptable worlds, it's no longer true that "promises are inventions that we could have failed to invent." The power of promise is a necessary condition for life on morally acceptable terms. The state of nature is, perhaps by definition, not a morally acceptable world; it is the unacceptable state of affairs from which morality is meant to liberate us. So claims about whether we could make binding promises in the state of nature, whether or not they are true, are not particularly relevant to the question of whether the power of promise is *morally necessary*.²⁴

This way of developing the objection occupies an interesting space, dialectically. Construed one way, it is simply another claim about the modal facts. If the conventionalist continues to insist that the power of promise is not necessary even in a modal space duly circumscribed to morally acceptable worlds, then she simply has the facts wrong. But a different way to frame the point is essentially as a moral complaint. We should not accept a moral theory on which the power of promise is not morally basic. To deny the necessity of the power of promise is to deny the guarantees we need to live freely and as equals. A moral theory with this sort of contingency built in is objectionable in the same way as a moral theory that, for example, regards the wrongness of torture and slavery as a contingent matter.

Of these two ways of framing things, the moral framing is prior to the modal one. How we answer questions about what's required for a morally acceptable social world fixes the modal space under examination. Just as the laws of nature determine which worlds we ought to look at when we talk about nomic necessity, facts about what's required for a morally acceptable world determine which worlds we ought to look at when we talk about *moral necessity*. Shiffrin accuses the conventionalist of regarding the power of promise as morally unnecessary. In treating our possession of this power as a matter of some accident, they morally countenance social worlds where we lack something integral to personal autonomy and decent interpersonal relations. This, it seems, is simply to get the *moral* facts wrong.

3 *Noncontingent conventionalism*

This sort of objection encourages the conventionalist to clarify a significant aspect of her position. The objection as it stands includes as a premise the claim that the practice of promising is something we could go without. That is why Raz, Thomson and Scanlon end up talking about the state of nature. They assume that having a practice of promising at all is a contingent matter, and so that the conventionalist's position entails promising's dependence on something contingent. But once we circumscribe the modal space under examination, it is not so clear that the conventionalist must think that a practice of promising is anything other than necessary. In the rest of this section, I will argue that the conventionalist *need* not claim that the sort of moral contingency in question is a part of their view. This will involve making conceptual space for what I call *noncontingent conventionalism*. Noncontingent conventionalism says that while the ability to morally obligate oneself by making a promise depends on there being a functioning promising practice, the existence of such a practice is indeed morally necessary.

²⁴ Hereafter, I will often drop the qualifier "binding" when referring to *binding promises*. That is, I will assume that to promise is to *successfully make a promise* by deliberately performing an action that results in one's being under a directed obligation, owed to the promisee, to perform the promised action. I will also use the phrase "the *power of promise*" to refer to the ability to promise in this sense. Thanks to an anonymous referee for urging clarification on this issue.

3.1 *Coordinating conventions and moral necessity*

One might think that the objection from contingency gets its legs precisely from the idea that if one treats promises as a matter of convention, one *must* think that there is an alternative arrangement where we lack the power of promise but which is at least about as good (with respect to whatever the promising practice is good for). If this was right, then the objection would stick: the conventionalist would have failed to appreciate the moral importance of the power of promise.

And indeed the label “conventionalism” invites this interpretation. To see why, consider how those invested in the project of analyzing social conventions have come to understand the concept. Since Lewis’s influential treatment of the issue, the term “convention” has taken on specialized meaning.²⁵ On one popular conception of conventions associated with Lewis, they are definitionally solutions to coordination problems.²⁶ Coordination problems arise when a set of agents find themselves in a situation where there are multiple *equally good* ways to coordinate their actions for mutual benefit. The classic example is the predicament of which side of the road we shall drive on. There are two equally good solutions to this predicament: *we all drive on the left* or *we all drive on the right*. While there are strong reasons to settle on some rule or other, the selection will in an important sense be *arbitrary*.

If conventions are, as a matter of definition, solutions to coordination problems, then it seems there can be no noncontingent conventionalism in the sense that I propose. For that would mean that there is some alternative to a promising convention that is *just as good* as this convention. In our terms, that means there *could* be a morally acceptable world without a promising convention: one that used this equally good alternative convention.

This of course is a problem for the possibility of noncontingent conventionalism only if the conventionalists that interest us believe that the promising practice is a *coordinating convention* in the sense just sketched. But they do not. Melenovsky explicitly denies that he’s thinking of things in this way.²⁷ And the hybrid theorists I’ve mentioned operate with a thinner notion of conventions or social practices that makes no implicit or explicit mention of coordination problems.²⁸ So while a version of conventionalism about promising that invoked a convention in the strict, Lewisian sense would not be able to escape the objection from contingency, this fact is no obstacle to the possibility of an interesting form of noncontingent conventionalism.

3.2 *Arbitrariness and moral necessity*

Noncontingent conventionalism is not out of the woods yet, however. For while not all theorists of convention in the technical sense regard it as a matter of definition that conventions solve coordination problems, many *do* accept that some sort of *arbitrariness* is, as Andrei Marmor puts it, a “defining feature” of conventions.²⁹ Depending on how exactly we understand arbitrariness, it may seem that the essential arbitrariness of conventions threatens the idea that one can be a conventionalist about promising while maintaining that the power of promise is morally necessary.³⁰

²⁵ Lewis (2002)

²⁶ See Lewis (2002: 76) for his analysis.

²⁷ Melenovsky (2017: 106n; 2020: 6n)

²⁸ Tognazzini (2007: 203-4 *et passim*); Kolodny and Wallace (2003: 120 *et passim*).

²⁹ Marmor (1996: 351; 2009:9)

³⁰ I’m grateful to an anonymous referee for helping me fully appreciate the significance of this point.

I will now consider two ways to remain a conventionalist while respecting the objection from contingency. I believe at least one—if not both—of these options are available for the contemporary conventionalists that I mentioned at the top. Neither, that is, would require these theorists to change the letter or the spirit of their view. The first option is to deny that the promising practice is a convention in an arbitrariness-entailing sense, while nonetheless insisting that our promissory obligations are practice-dependent. The second is to accept that conventions are arbitrary, but hold that the fact that there are alternatives to some convention does not entail that those alternatives are morally acceptable.

Let's start with the first option. This approach avoids labeling the practice of promising a "convention" and thereby sidesteps the conceptual baggage the label entrains.³¹ As long as we are assuming that conventions must have similarly good alternatives, it is clear that we can have social practices that are not conventions.³² It is also clear that nonconventional social practices can do the work that our conventionalists ask of them. For the hybrid theorists I've mentioned, this work consists in being sufficiently valuable or just so as to trigger a moral duty that participants not exploit the practice. This moral duty in turn functions to ground the expectations that generate the promisee's claim to performance. No part of this story requires that the practice in question has viable alternatives or is arbitrary in any sense whatsoever.

One might worry that this view does not deserve the label *conventionalism* and should instead be called something different, like *the social practice view*. As a matter of branding, perhaps this is correct. As a matter of substance, however, it need not detain us. For one thing, Shiffrin explicitly dubs practice views "conventionalist," since she "use[s] 'convention' or 'social convention' broadly and interchangeably to refer to a social practice or custom."³³ So as far as our featured critic of conventionalism is concerned, this view counts as conventionalist and is subject to the objection from contingency. Plus, it's plausible that it counts. On the social practice view, the practice of promising is an essential part of the mechanism by which we are able to generate promissory obligations for ourselves. This mechanism, furthermore, involves a "moral obligation concerning the proper use of a convention, such as the duty not to free-ride on or undermine a mutually beneficial social practice or custom, or the duty not to harm someone who is vulnerable because he or she has relied on one's invocation of conventional understandings and practices."³⁴ This, in Shiffrin's mind and in mine, is a theoretically significant form of *practice-dependence*. I conclude that one can perfectly well embrace an interesting form of conventionalism without regarding the practice upon which promissory obligation depends as a convention in the strict sense.³⁵

³¹ This may be how Tognazzini thinks about things: the word "convention" never appears in his article; he speaks only of a social practice.

³² See de Kenessey (2020: 223) for a related discussion of the notion of *assertion* as a move in a socially necessary practice.

³³ Shiffrin (2008: 482)

³⁴ Shiffrin (2008: 482-83)

³⁵ For a nice discussion of this issue which has significantly improved my own thoughts on the matter, see de Kenessey (2020: 223-24). De Kenessey characterizes his own view as a *nonconventionalist practice theory* of promising. For him, the relevant practice is the practice of joint practical deliberation (2020: 222). Promising is a specific move within this practice: the *proposal* of a certain joint plan of action that governs the actions of only one party (the promisor). It's important to note, however, that in eschewing the label of "conventionalism," de Kenessey is working with a Lewisian sense of convention, according to which a practice is convention only if it's "one of multiple different equally good solutions to a coordination problem."

Now, let's consider the second option.³⁶ Imagine a conventionalist who turns down our first option. That is, they hold that the promising practice is an *arbitrary convention* in the sense that there could exist some alternative practice that would in some sense serve the same purpose.³⁷ Here is the crucial thing to notice: the fact that they believe there is some such alternative practice does not commit them to believing it is a *morally acceptable* alternative.

With this in mind, consider how Marmor analyzes the notion of arbitrariness he believes is endemic to social conventions:

Given that A is the main reason for members of a population, P, for following a rule, R, in circumstances C,

R is an arbitrary rule iff

- (i) There is at least one other rule, R', so that if most members of P in circumstances C, were complying with R', then for all members of P, A would be a sufficient reason to follow R' instead of R.
- (ii) The rules R and R' are such that it is normally impossible to comply with them concomitantly in circumstances C.³⁸

This proposal gives us a viable gloss of the arbitrariness of a convention: our main reasons for conforming to it depends on others' conformity; and were others to conform to a different practice, we would, for the same reasons, have reason to conform to that one instead.

But a practice can be arbitrary in this sense while nonetheless being morally necessary in the sense that interests us. This is obviously conceptually true. Nothing about there being an alternative practice in Marmor's sense entails that if the operative practice is compatible with a morally acceptable social world, then the alternative is, too. To illustrate the point, imagine an extremely efficient practice of oath-making that involves publicly supplicating oneself to a vile, noxious monarch or deity. Such a practice has no place in a morally acceptable world. But if it is the only recognized way to provide assurances to others, then we would often have reason to participate in it. Moreover, these reasons will be the same reasons we would have to invoke a less repugnant practice were that practice the one that prevailed. Speaking more generally, it seems a practice may have moral defects that render it incompatible with morally acceptable social worlds but which do not compromise the main reasons one might have for participating in it. In such a case, there will often be a nearby practice that is morally acceptable and allows us to respond to the same reasons.

³⁶ It is worth mentioning more briefly a sort of intermediate option. Some theorists of convention deny that conventions must be arbitrary in a sense that entails viable alternative conventions. Margaret Gilbert (1992: 340-41), for example, argues that we should reject Lewis's assumption that "it is redundant to speak of an arbitrary convention" (Lewis [2002: 70]). And Seamus Miller (2001: 112-15) argues that there are plenty of examples of conventions that do not have any conventional alternatives. I admit I am not sure whether either of these particular views will help the conventionalist about promising. I mention them only to highlight that there may be at least some room to question the idea that the claim that calling the promising practice a convention entails that there are viable alternatives to it.

³⁷ Melenovsky (2020: 6n) expresses affinity for this view in a footnote, though it's not clear how deeply or lightly held this view is since he offers no explicit discussion of the matter anywhere else. As far as I can tell, no aspect of his argument or position depends on rejecting the first option canvassed in the main text.

³⁸ Marmor (1996: 351-2). For an updated version of the analysis that shares the same spirit, see Marmor (2009: 2).

Furthermore, there is nothing about Marmor's arbitrariness that entails an alternative to a convention must be *just as good*. Indeed the alternative could *quite a bit worse* at its relevant without it being the case that the main reasons we have to participate in the ideal practice when it predominates do not also speak in favor of participating in the alternative when it predominates. This opens up the distinct possibility that the alternative does *such* a poor job at its relevant job that it has no place in a morally acceptable world.

I have focused on Marmor's view not because I think it's correct (or incorrect), but because it helps illustrate the compatibility of the claims that (i) the promising practice is arbitrary in a manner compatible with its being a convention in the more technical sense and (ii) the alternatives to the promising practice have no place in a morally acceptable world. In other words, attention to this view demonstrates that one can reasonably regard promising as conventional even in the more demanding, technical sense that invokes arbitrariness while simultaneously insisting that the power of promise is morally necessary.³⁹

Recall, however, that this point is in fact stronger than what I need to make my argument. For the first option for the conventionalist is simply to deny that the arbitrariness of the promising practice is any essential part of the practice-dependence that defines her view. The second option is recourse for the theorist who wants to insist that the promising practice is an arbitrary convention. Since my task is merely to open up the conceptual space for a form of conventionalism that respects the objection from contingency, I will not plump for either of these options. Instead I simply conclude that the fact that popular analyses of conventions treat arbitrariness as a defining feature of conventions need not be an obstacle for the conventionalist who wishes to respect the objection from contingency. I turn now to the task of arguing that the conventionalist should indeed be in the business of respecting the objection from contingency.

4 *The moral necessity of the power of promise*

One respects the objection from contingency when they affirm—or at least do not embrace a theory that requires them to deny—that the power of promise is morally necessary. In order to show that we should respect the objection, I will consider a handful of claims the truth of which would entail that the power of promise is not morally necessary. I will argue that there are reasons to reject each of these claims.

4.1 *Preliminaries*

Before doing so, it's worth considering what these arguments need and need not show if they are to have implications for the best version of conventionalism. So far, I have supposed for the sake of argument that the power of promise is morally necessary. This is the assumption I will attempt to vindicate below. But imagine for a moment that no vindication is forthcoming. Instead, suppose all I can show is that the power of promise is quite valuable: though there are some morally acceptable worlds where we lack this power, those worlds are nonetheless markedly morally worse than ones where we possess it. If this were the case, then it would appear to be no objection to conventionalism if it required us to say that the power of promise is not morally necessary. For it *would not* in fact be morally necessary.

³⁹ Naturally, in holding this position, one will be beholden to reasonable analyses of the notion of convention, since presumably it is not kosher to arbitrarily toggle the notion of arbitrariness that defines conventions.

Note, however, that the conventionalist should nonetheless proceed with caution in this case. For she is still on the hook for developing a view that respects what we might call the special moral value of this power. If, for example, she insisted that the promising convention is a convention in the sense that there are other *equally good* alternative conventions, she would obviously have failed to appreciate this special moral value. As I have already argued, the conventionalist *need* not endorse anything like this view. But if I can show that the power of promise indeed has special moral value, it will be clear that the conventionalist *should* not develop her view in a way that forces her to deny this special moral value. In other words, even if she does not opt for noncontingent conventionalist, she should certainly opt for what we might call *fully appreciative conventionalism*.

In what follows, I take up the more ambitious task of arguing that the power of promise is morally necessary. But if these arguments fall short, they may yet suffice to show that this power has great or special moral value—one that the conventionalist is on the hook for appreciating as she develops her view.

I will not offer a full theory of what makes a social world morally (un)acceptable. Schematically, we can say that morally acceptable worlds will have some properties the absence of which would render them unacceptable. I will assume that these properties—call them *moral necessities*—are *valuable*, and that a world that furnishes some moral necessity to that extent realizes some *value*. Of course not all valuable properties are moral necessities. Some values might be “moral luxuries.” For example, a fantastical social world in which all denizens were *guaranteed* flourishing would realize a tremendous moral value. But we do not think such a guarantee is morally necessary: there are some morally acceptable worlds where we lack this guarantee.

The class of moral necessities will at least include those things that address our most fundamental needs and interests, such as the social bases of self-respect, the ability to relate to others as equals, the ability to receive assurances from others and offer them the same, a sphere of liberty in which to pursue one’s projects, etc. Especially important for our purposes is the idea that denizens of morally acceptable worlds must possess autonomy in a relatively robust sense associated with the possession of set of meaningful, valuable options in life, the ability to exercise control over the form important aspects of one’s life take, and the robust ability to regard their projects and relationships as in a meaningful sense their own.

I assume further than many of these valuable properties are in some sense a matter of degree and that at the fact that a social world realizes them *to some extent* does not suffice to show it’s a candidate for moral acceptability. That is, there are apparently thresholds for moral acceptability when it comes to the valuable properties that interest us: a world is morally acceptable only if it realizes certain values *to a certain degree*. We can be more and less autonomous, better and worse able to receive and offer assurances. Poor scores on these metrics can render a world morally unacceptable even if the score is not zero.

4.2 *Vindicating moral necessity*

With these preliminaries out of the way, we can consider what it would take to vitiate the claim that the power of promise is morally necessary. The truth of any of claims (a)-(c) in this section would mean the power is not morally necessary. I will argue that none of these claims are true.

(a) *The practice of promising realizes some value in our moral lives, but is not the only way of realizing this value to this degree.*

Suppose there was some other social practice that would suffice to realize exactly the value that inheres in the practice of promising, though it did so with a different set of social facts. In such a case, it would be true that the practice of promising is something we could have gone without, morally speaking. The absence of a practice of promising would be no threat to a moral life well-lived because, on this claim, we could simply plug in some other practice that's just as good.

This, in effect, is the claim that the practice of promising is a *coordinating convention* in the sense discussed above. The practice is said to be *arbitrary* in the strict, Lewisian sense that there is some possible alternative practice that could do its job just as well and that we have no antecedent reason to disprefer.

What might such a practice be? Obviously the answer will depend on what value we think promising realizes. But to illustrate the point, we can consider a proposal that Scanlon mentions only in passing.⁴⁰ Suppose we identify the value of promising as the value of *assurance* (as does Scanlon). The value realized by the practice of promising is the value of being able to assure others that you will perform some promised action and the value of being able to receive such assurance. Assurance, we may note, is particularly valuable in cases where there are no “independent reasons” for performance, such as when one receives a promise on one’s deathbed, or when you want to be sure that someone will help till your fields after you’ve done the same for them. Now imagine a society with a comprehensive system of assigned roles and a practice of unfailing performance of one’s roles duties. In such a society, we can speculate, there would be far less uncertainty about the motivations and future conduct of others. People’s well-defined roles would suffice to produce legitimate expectations regarding their conduct; the value of assurance would be realized by a set of norms totally distinct from those of promising.

Now, this particular proposal surely would not suffice to realize the exact value of promising. First, part of the value of assurance as realized by promising is in its flexibility. While a comprehensive system of roles might reduce the frequency with which we have an interest in producing and receiving assurance spontaneously or at will, it would not eliminate this interest. Second, part of the reason this proposal is even plausible as a conventional alternative to promising is that we assumed for the sake of argument that the value inherent in the set of social facts that constitute the practice of promising is the potential to produce and receive assurance. But many critics of Scanlon’s account hasten to point out that assurance does not seem to be the only or most basic value realized in promising. Most notably, Shiffrin argues that the role played by promising in “our capacity to conduct our relationships in a minimally morally decent way” has a value broader and deeper than that of an ability to generate assurance. That promises provide assurance is part of this role, of course. But it seems that promises matter in our relationships even when they fail to incite the desired expectations and sometimes in a way that does not depend on their having incited these expectations.⁴¹

Of course, it is difficult to prove the negative—that there is *nothing other* than promising as we know it that is equally suited to play the valued role(s) identified. Our ability to imagine viable alternatives is likely limited by the fact that promising is so embedded in our moral world and

⁴⁰ Scanlon (1998: 316-17)

⁴¹ Shiffrin (2008: 486-93, 502-10)

apparently has been for such a long time. But note that the more valuable roles we identify for promising, the more likely it seems that there is no other specific set of social facts positioned to realize the values that promising does, and realize them to the same degree. Perhaps something else could help us generate assurance. But could it play the sort of elemental role in our intimate relationships Shiffrin identifies for promising? Or could it satisfy the “authority interest,” identified by David Owens, that we have in being granted practical authority over others and having the power to transfer to others this sort of authority over our own actions?⁴² Is there another practice so central to establishing the sort of relationships of trust that interest Daniel Friedrich and Nic Southwood?⁴³ Or that plays the role of promising in joint agency and deliberation?⁴⁴

I mention these proposed roles for promising simply as a way to cast doubt on the idea that that promising is merely a coordinating convention. True, it is difficult to show decisively that no possible alternative convention (or constellation of conventions) is fit to fully realize the same value realized by promising. But, as Marmor writes in his brief discussion of this point, “the problem is that it is very difficult to imagine what such alternatives could be.”⁴⁵ And the more embedded it looks like the particular power of promise is in the web of what matters to us, the less likely it seems that we could contrive an alternative practice that does the same thing.

(b) Although the value(s) under examination can be realized only through the power to morally bind oneself characteristic of promising, this value is not something we should expect to find in all morally acceptable worlds.

Having now established that there are certain values that can only be fully realized through the power of promise, where this power involves the ability to put oneself under a directed moral obligation, we can ask whether we regard these values as necessary to morally acceptable worlds. The question, we should note, is not whether we would merely be better or worse off without this power. Everyone agrees that we’re better off for the ability to make promises. The question is whether a world without this power could be counted among those that are morally acceptable to us.

Again, part of this question hangs on how exactly we cash out necessities furnished by the power of promise. Here it is worth reiterating that the fact that there are a multitude of values identified by different authors, all of which strike me as having considerable plausibility, renders it less plausible that a world without promising is one we could accept. As Hallie Liberto has argued, it may indeed be a fool’s errand to try to unify the value of promise under one axiological banner.⁴⁶ The roles played by promising in our social life are many and we would do well to recognize as much. This diversity in function speaks in favor of moral and social indispensability.

More importantly, however, I think the indispensability of promising can be recognized if we look at the circumstances it is well-suited to address and the types of problems it helps us solve. Whether one identifies the value of promise as inherent in Scanlon’s assurance, Owens’ authority

⁴² Owens (2006; 2012: 25)

⁴³ Friedrich and Southwood (2011)

⁴⁴ De Kenessey (2018), Roth (2016)

⁴⁵ Marmor (2009: 138). Marmor, in fact, is skeptical of that the practice of promising is arbitrary even in his preferred, weaker sense of the term.

⁴⁶ Liberto (2016)

interest, Friedrich and Southwood's bonds of trust or Shiffrin's decent, intimate relationships, the role in question goes directly to the heart of fundamental human needs and interests. Promising gets in on the ground floor because it is essential to how we address two fundamental features of our moral condition: interdependence and the separateness of persons.

Much of what matters most to us cannot in any meaningful sense be achieved alone. We must rely on other people to realize our ends, whether in a dyadic sense—as when we need someone to do something for us or we must do something together—or in the general sense that we depend on certain background social conditions as we pursue our own ends. Certainly we need others if we are to conduct the sort of meaningful relationships that interest Shiffrin—an interest that surely is one of the deepest and most widespread.

But though we are interdependent in this way and need one another to realize our ends, we do not, for better or for worse, all share the same ends. There is no human hive mind. Rather there is a collection of individuals with a plurality of ends and distinct mental lives trying to navigate the interplay of their own interests and their dependence on others, coupled with the recognition that others are trying to do the same. The power of promise lets us navigate this space. The mutually recognized ability to bind ourselves morally and transfer discretionary authority over our actions to others is essential if we are to be able to get along in light of interdependence and the separateness of persons. It helps us close the gap between these two aspects of our social lives. Generally speaking, it seems that morality and the reasons it contributes to our practical economy are a response to these facts about our nature and needs. Viewed this way, it is hard to see how the power of promise does not get in on the ground floor of morality, recognized as necessary for minimally decent social life alongside any number of rules we have to help us get along on agreeable terms. The lack of this power would be a fatal blow to our ability to pursue our ends against the backdrop of social interdependence; any theory denying the moral necessity of this power does not take our values, interests and circumstances seriously.

But the power of promise does not merely help us address problems that arise in the circumstances of justice (or, perhaps more accurately, the circumstances of fidelity). Perhaps the strongest argument for its moral necessity appeals to the fact that it makes possible certain forms of relationships.⁴⁷ Specifically, it is a necessary condition on the autonomy-constituting and -enhancing possibility of relationships where we have certain forms of control over the norms that govern these relationships. As Shiffrin points out, one facet of this form of control inheres in the power of consent.⁴⁸ The power of consent enables us to alienate some of our claims against others. It is difficult to imagine a morally acceptable world where we are incapable of alienating some of our claims—those constituted by property rights and bodily autonomy, for instance. Such a world would apparently preclude many valuable forms of relationships, which require the possibility of permissible intimacy and the permissible sharing of space and material goods. Notice that the value of the power of consent resides not merely in the value of its exercise but in the *possibility* of its exercise. The fact that I am *able* to control the contours of the norms that govern my interactions with others is, it seems, extremely valuable even if (however improbably) I never exercise this power. This control is a constitutive element of my autonomy insofar as it means my relationships with others—partly constituted as they are by the forms of treatment we can claim of

⁴⁷ The remarks that follow share the spirit of arguments offered by Shiffrin (2008: §II), although I develop the relevant points in a different way.

⁴⁸ Shiffrin (2008: 502)

one another—can be *my own* insofar as I am capable of defining their normative contours in the way I see fit.

Similar remarks apply to the power of promise, which enables us to alienate certain permissions or privileges.⁴⁹ This power, too, allows us to define the terms on which we are to relate to others. Insofar as our relationships with others are partially constituted by the norms that govern our interactions with them, the power of promise makes available species (or subspecies) of relationship that would not otherwise be possible or would be significantly more difficult to achieve. In making a promise, I assign you a claim against me that you did not previously have. This may allow you to claim some action I previously had full discretion to perform or not. Or it may make it so that rather than merely being required to do something, I *owe* it to you to do that thing. Insofar as we care about the precise contours of the normative aspects of our relations with others, these changes to the normative landscape will often have final value for us.⁵⁰

And as in the case of consent, the importance of the power of promise does not merely reside in the value of its exercise, but in part in the *option* of its exercise. The presence of options changes the character of our choices—including the choice to retain the status quo. It can also make possible a sense of ownership of our choices, even when we opt to leave the normative landscape intact.

In short, it is quite plausible that the power to exercise efficient control over the terms that govern our relations with others is a crucial facet of our autonomy. This power (i) presents us with a wider array of relational options, (ii) enables us to tailor the contours of our relationships in ways that reflect our values and free choices, and (iii) provides us with the sort of discretionary control that enables us to more fully regard our relationships and the terms that define them as *our own*. These observations support the claim that the absence of the powers of promise and consent would be unacceptably autonomy-undermining and thus that we must possess these powers in all morally acceptable worlds.

Now one may insist that while the ability to make binding promises uniquely realizes the autonomy-related values I've just sketched, for all I've said there are nonetheless alternative conventions that we could deploy for the same purposes—if perhaps less efficiently or in a way that does not offer us so robust a form of autonomy in our relations with others—and that it would not render a social world morally unacceptable were these alternatives to replace the power of promise. Admittedly, I have not ruled this out. And surely there are other conceivable practices that might be deployed for similar purposes.⁵¹ But the question is whether anything other than the power to

⁴⁹ Here I invoke the notion of *privileges* in the strict, Hohfeldian sense of actions that another does not have a claim against us performing. On this interpretation of a privilege, I have a privilege to φ , held against you, even when I'm *morally required* to φ , so long as I do not *owe* it to you to φ . See Sreenivasan (2010: 478-80) for a discussion of this point.

⁵⁰ For a brief discussion of such “state-given reasons” for promises, see Lichter (2021: 227-9). Similar ideas are the central theme of Owens (2012).

⁵¹ An anonymous reviewer proposes an oath-making system as an alternative. I am skeptical that such a system offers us the important relational control robust autonomy requires, since oaths, as Kyle Fruh (2019: 860-4) argues, do not invoke a “counterparty” or, relatedly, assign claims and control to any particular counterparty. But the power to assign someone a *claim* and *control* of one's obligations strikes me essential to the sort of morally acceptable relational control I've been discussing. Of course, we can imagine our oath-keeping system involves a well-known practice of indirectly generating claims and control by deliberately inciting expectations in specific counterparties. This may indeed be a morally acceptable arrangement, but strikes me as very difficult to distinguish in any principled way from a promising practice. The same reviewer also proposes a contract-like system, which only enforces breaches that involve harm to

make promises gives us the sort of immediate, content-independent control that seems required for the sort of robust autonomy we must have in morally acceptable worlds. This seems to me implausible. At minimum, the burden of proof appears to be on the moral necessity denier to show why we should seriously endorse this view—perhaps by articulating some morally acceptable alternative arrangement.

I will not, however, litigate this point any further. Instead I will simply highlight an observation that I've already made: even if we remain uncertain about the moral necessity of the power of promise, we have still learned something quite significant about how the conventionalist should develop her position if she is to respect the great moral importance of the power of promise. If it's *false* that the power of promise is morally necessary, then it will of course be no knock on the conventionalist that she denies its moral necessity. As these arguments have shown, however, she'd better not say that the power of promise is anything other than uniquely and particularly morally valuable, otherwise a cousin of the objection from contingency will rear its head. Thus even if she's not on the hook for respecting the objection from contingency, she nonetheless has reason to develop her view in a way that accommodates the special value of the power of promise.

(c) It is only a matter of contingent features of human nature and the circumstances in which we find ourselves that promising has any value.

The final claim I will consider as a way to cast the power of promise as morally contingent is attributable to Hume.⁵² As he argues, it is, in a sense, only a matter of circumstance that we think things like promising and property have any use for us. We could have been different sorts of beings or found ourselves in different circumstances such that we would not have thought the power of promising was much good. If, for example, nature furnished us with both necessities and luxuries in great abundance without our ever having to lift a finger, we would not place such a premium on cooperation, assurance and the capacity for joint agency. And if men were so constituted as to be moved by radical selflessness, reliably subsuming any of their own ends to those of their neighbors or the population at large, we would similarly be less preoccupied with assurance and the capacity to recast personal relationships on equal terms. Instead, we find ourselves in what Rawls calls the “circumstances of justice,” creatures of limited altruism in the condition of moderate scarcity.⁵³ But according to Hume, “when we abstract from this circumstance...it must be confessed, that all regards to right and property, seem entirely without foundation, as much as the grossest and most vulgar superstition.”⁵⁴ In this sense, while these rules—including those governing promising—are necessary for human beings as we are, they are not strictly necessary so as to be “natural.”

counterparties, and treats compensated breaches as no breaches at all. But this system seems to seriously circumscribe the changes we are able to make to our relationships: the choice to bind myself to *performance* rather than merely *performance-or-compensation* has considerable importance in our relationships. That the world in which we possess only the latter option is morally unacceptable is perhaps clearest when we consider the point of view of the would-be counterparties, who are denied the possibility of the more valuable claim. But it's also clear when we consider the fact that our relational option set is objectionably constrained without the inability to bind ourselves in a way that expresses deeper respect and concern for the will of the other party.

⁵² Hume (1983: 20-34) [*Enquiry* §III]

⁵³ Rawls (1999: 109-12)

⁵⁴ Hume (1983: 31)

If we cast this argument in the terms of the discussion at hand, Hume's claim suggests a slightly different way of unmooring the moral necessity of promising than the approaches canvassed so far. It suggests that which social worlds are acceptable to us depends greatly on the material conditions of those worlds and the dispositions of their occupants. There seems to me little use in denying this. And once we note this, the modal space under examination seems to open up considerably. What terms would we accept in a world with unlimited resources or in which our neighbors were moved by limitless altruism? It seems likely that under these circumstances, a world without the power of promise would remain perfectly acceptable. And this, of course, undermines the claim that the power of promise is a necessary feature of morally acceptable worlds.

We can also frame Hume's argument in terms of the point I've just made about the needs and interests met by promising. He can concede that the power of promise is necessary for a morally acceptable life for humans as we know them. But the needs and interests of humans as we know them are merely a matter of circumstance. It is the circumstances of justice that yield social interdependence and lend significance to the separateness of persons. And these circumstances are contingent.

For this objection to go through, it seems to me that we need an argument for the idea that morality is not on a fundamental level a matter of addressing the problems and questions that arise in light of social interdependence and the separateness of persons. While it may not be right to say that these considerations are *all* of what morality's about, it seems that moral principles are in the main rules of conduct that must be in place if we are to navigate these circumstances. We are mutually accountable to one another because not everyone wants the same thing and we are all in a position to affect how things go for other people. These facts are in a sense matters of circumstance. But these circumstances seem to be built into the subject matter of morality.

The fact is that the apparently indispensable value of a great number of apparently morally basic dispositions, principles and powers become suspect if we sufficiently manipulate the circumstances. For Hume, sympathy is the arbiter of moral value. The question of whether a principle, power, disposition or practice is morally justified awaits our sympathetic approval of the object. But unless we accept Hume's theory of justification wholesale, it seems clear enough that the value of sympathy might also be regarded as dependent on circumstance. We can assess our sentimental dispositions as good or bad relative to circumstances just as well as we can assess those practices that seem to be necessary rational responses to the conditions in which we find ourselves. Of course, there is no reason to have qualms about a moral theory that regards our sympathetic dispositions favorably and requires that we often are moved by them. Clearly, such a theory gets things right in light of circumstances as we know them. But note that these requirements would have no grip if we were constituted differently. Requirements of benevolence would hold no sway in a world where we were bereft of sympathy. Nonetheless, these requirements are presumably universally regarded as morally necessary and among the most elemental features of our moral world.

My reply to the Humean point, then, is simply to shift the burden of proof. Giving us the tools to navigate the interplay of interdependence and the separateness of persons seems to be among the most basic demands we make of our moral system. That there are conceivable circumstances in which we would not care so much about these things does not mean that the

moral powers and principles they necessitate are not morally basic, because the same is true of almost any apparently morally basic moral idea.

5 *Moral necessity and moral optimism*

I have argued that the power of promise is morally necessary. There may be other ways of undermining this claim, but I cannot think of them. The upshot is that a viable form of conventionalism must make room for the claim that this power is morally necessary—or at least that it uniquely realizes some great moral value(s). The good news for the conventionalist is that she can take these points on board without losing her status as a card-carrying conventionalist. She can insist that the power of promise is conventional in the sense that it depends on the existence of a nonarbitrary social practice. Or she can claim that the practice is indeed arbitrary, but that its alternatives are meaningfully worse—perhaps bad enough to render a social world morally unacceptable.

By way of conclusion, I would like to survey the dialectical fruit of our discussion. I have not taken a stand on the truth of conventionalism. I have simply argued that the conventionalist can, if she is careful, avoid one of the major objections to her view. The objection from contingency accuses the conventionalist of denying the moral necessity of the power of promise. The conventionalist can—and should, I have argued—develop her view in a way that allows her to affirm the great moral importance of this power. I would now like to suggest that this possibility does not so much end the debate as reveal its connection to more foundational matters in moral theory.

To see why, consider two ways to understand the significance of the charge contained in the objection from contingency, assuming it sticks. The first is simply that conventionalism commits one to a false moral claim. The claim that the power of promise is not morally necessary is a claim with moral content: it says that there is a morally acceptable world where we lack this power. If, as I have argued, this claim is false, then we should reject any theory that says otherwise.

On the second way of understanding the significance of this charge, however, the conventionalist risks giving away the game by conceding the moral necessity or great moral value of the power of promise. Let me explain. As I mentioned at the top, Shiffrin is a normative powers theorist, who holds that the power of promise is simply supplied by the moral firmament. One way to argue for a normative powers view is to attach special significance to claims of moral necessity. Morality, one might think, will not leave us hanging when it comes to moral necessities. If some normative state of affairs (e.g., that we are permitted or obligated to perform some action, that we possess some moral standing, that we possess some moral power, etc.) is morally necessary, we should assume that *morality itself* furnishes this state of affairs. Morally necessary powers, permissions and the like are, we might say, natural or original features of the moral landscape.⁵⁵ Perhaps this is because the moral landscape is the handiwork of a benevolent god. Or perhaps, as Shiffrin suggests, the assumption that morality conspires to give us the normative tools we need for morally acceptable lives rests on “a rather modest version of ought-implies-can or perhaps another

⁵⁵ I use the term “natural” here to indicate the affinity of normative powers views with natural law views. Thus the relevant contrast with “natural” here is “conventional” or “artificial.” I do not mean to suggest anything about whether the views in question are metaethically naturalistic.

source of moral optimism.”⁵⁶ This dose of moral optimism—whatever its source—supplies us with what I’ll call the *Weak Rationalist Premise*:

Weak Rationalist Premise. If some normative state of affairs (e.g., a power, a permission, a right, an obligation, etc.), N, is morally necessary, then we have reason to presume that N actually obtains as a natural or original feature of the moral landscape (i.e., independently of any human practices)

Some philosophers have gone beyond the *Weak Rationalist Premise*, suggesting that morality conspires not only to furnish moral necessities, but to furnish any and all normative states of affairs that add significant moral value to our world.⁵⁷ Nagel advances such an argument for the claim that we possess inviolable rights. A world in which we possess some such rights, he suggests, is other things equal much better than one in which we do not because in it we possess a certain valuable moral status.⁵⁸ On this basis, we can conclude—or at least we have reason to presume—that we do *in fact* have such rights. This form of argument, which Ryan Preston-Roedder has called a *better world argument*,⁵⁹ suggests some stronger rationalist premises:

Strong Rationalist Premise. If some normative state of affairs, N, would add *significant* value to our social world, then we have reason to presume that N actually obtains as a natural or original feature of the moral landscape

Very Strong Rationalist Premise. If some normative state of affairs, N, would add *any* moral value, then we have reason to presume that N actually obtains as a natural or original feature of the moral landscape

Now notice that these three rationalist premises spell trouble for the noncontingent conventionalist. If she affirms that the power of promise is morally necessary, then the fan of the rationalist premises will say that the game is all but over. For in conceding the moral necessity of this power, one in the same breath concedes that it must be furnished by morality prior to any human activity. At minimum, one accrues the argumentative burden of showing why, in this case, we should think that morality fails to furnish what’s required for a morally acceptable social world. Similarly, if we pair the claim that this power is quite morally valuable with either of the *Strong Rationalist Premises*, we are pushed to the conclusion that our ability to make promises is a feature of the natural or original moral landscape.

This, I believe, is the dialectical fruit of our discussion of the objection from contingency. We are left, in effect, pondering an inconsistent (or at least uneasy) triad:

(i) Conventionalism about promissory powers

⁵⁶ Shiffrin (2008: 499)

⁵⁷ See Nagel (1995: 92), Kamm (1992: 381-9; 1996: 266-7), Enoch (2009), Preston-Roedder (2014), Bruno (2022)

⁵⁸ The possession of this status is meant to be valuable *in itself*, not merely for any downstream effects it might produce. As Nagel puts it, in a memorable phrase: “To be tortured would be terrible; but to be tortured and also to be someone it was not wrong to torture would be even worse” (1995: 93)

⁵⁹ Preston-Roedder (2014)

- (ii) Moral necessity of promissory powers
- (iii) Any *Rationalist Premise*⁶⁰

Should we endorse some version of the *Rationalist Premise*? If so, which one? Plainly enough, this is a deep question in moral theory—one that I will not attempt to answer here.⁶¹

I hope it is now clear, however, that it is a question that lies at the very heart of the debate about conventionalism about promissory powers. The conventionalist, I have argued, can and should affirm the moral necessity or great moral importance of the power to make binding promises. Once she does this, though, the theatre of battle shifts. In light of these affirmations, she is capable of maintaining conventionalism only if she also rejects the rationalist premises that threaten to vitiate her view.

Perhaps there are grounds for the sort of “moral optimism” that furnishes the rationalist premises. Or perhaps it will turn out that there are no such grounds, and that there are moral necessities that the moral order simply fails to supply for us. In the latter case, it would in a sense be up to *us* to create the normative conditions required to make our social world a morally acceptable one. Whether the conventionalist is an inveterate pessimist or simply has a realistic sense of our moral responsibilities seems to be the all-important question—though it is a question for another day.⁶²

⁶⁰ We can construct a similar triad to structure a debate over *fully appreciative conventionalism*: (i) conventionalism; (ii) special moral value of promissory powers; (iii) *Strong* or *Very Strong Rationalist Premise*.

⁶¹ Enoch (2009) and Preston-Roedder (2014) take up this question explicitly. Bruno (2022) does so as well, with a specific eye to debates over the power of promise.

⁶² I'm grateful to Anna Bella Sicilia for several conversations that helped me get clear on some of the issues here, and to Tom Christiano, for feedback on an early draft. Many thanks as well to two anonymous reviewers at *Philosophical Studies*, whose insightful comments helped make the paper much better than it otherwise would have been.

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