

PROMISES WHICH CANNOT BE KEPT

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Driver presented a paradox by arguing that the following propositions are separately plausible but jointly inconsistent:

- (1) Whenever a person makes a promise to do x , he thereby puts himself under an obligation to do x .
- (2) If someone is obligated to do x , then he can do x . ('ought' implies 'can')
- (3) Some people sometimes make promises they cannot keep.¹

Martinich tried to solve this paradox by denying (3),² and I criticized his solution then resolved the paradox by denying (2).³ Now Martinich has defended his solution and criticized mine.⁴ In this paper, I will argue that Martinich's defense of his solution is inadequate, and then I will defend my own solution against his criticisms.

I

Martinich admits that there are cases where people say 'I promise to do x ' and where they cannot do x , but all other conditions of promising are met. So he admits that people sometimes seem to make promises that they cannot keep and that it is sometimes natural to say that people make promises they cannot keep. However, Martinich tries to explain all of this without admitting that anyone ever really does make a promise which cannot be kept.

Martinich focusses on an example where Reagan says, 'I promise to lower taxes, increase defense spending, and balance the federal budget.' This example is unusual in several respects. There is reason to believe that Reagan knows that he cannot lower taxes, increase defense spending, and balance the budget. There is also reason to believe that his audience knows he cannot do this and that Reagan knows his audience knows this. Politician's statements are moves in a complex game that is very different from usual promises.⁵ These differences might make it seem less clear that Reagan really did make a promise in

this case. However, they also make this one example too unusual to support the generalization that nobody can ever promise to do anything that he or she cannot do. Similar remarks apply to the intentions of Bill and Anne in the feigned marriage which Martinich discusses. (p. 326)

Martinich seems to forget that there are many other kinds of cases. In cases of deception, the speaker knows that he cannot do what he says he promises to do, but he also knows that the audience believes that he can do what he says he promises to do. The hardest cases for Martinich are when someone says, 'I promise to do x ', both speaker and audience believe that the speaker can and intends to do x , their beliefs are justified, and they know what the other believes, but it still turns out that the speaker cannot do x . In such cases, people disagree about whether the speaker has an obligation to do x , but almost everyone has a strong tendency to say that the speaker did promise to do x , even after they learn that he cannot do x . This tendency is what Martinich needs to explain, since he denies that the speaker really does make a promise in any such case.

Martinich tries to explain this tendency in the Reagan case. His first explanation was that people say 'He promised' rather than 'He tried to promise' because the latter would violate a conversational maxim of politeness. He now admits this explanation was inadequate, because some speakers do not want to be polite to politicians. His new explanation is: "Since a promise imposes an obligation on the speaker to perform in the professed way — this is the content of (1) — it is to the rhetorical advantage of the critic to take Reagan's words, 'I promise,' at face value." (p. 325) Instead of being more polite, it is now supposed to be more critical to say 'He promised' rather than 'He tried to promise.'⁶

This opposite explanation is also inadequate. Even Reagan's friends and supporters might naturally say, 'He did promise, but it is Congress' fault that he can't keep his promise.' And impartial judges who just want to be fair would also say that he made a promise. The fact that these non-critics say he promised cannot be explained by any rhetorical advantage to a critic. Thus, this explanation fails for the same reason as Martinich's first attempt. Various speakers with various goals all say 'He promised', so their utterances cannot be explained by anything peculiar to the goals of only some of them.

The point is even clearer in more usual cases. Suppose I say 'I promise to cook you dinner tonight', and you and I have very good reasons to believe that I can cook you dinner tonight, but my stove breaks this afternoon, so I cannot cook you dinner tonight. If you are my friend and want to be polite, you might say, 'Don't worry about your promise.'

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Let's go out for pizza.' If you want to criticize me, you might say, 'You promised, and I've cancelled my other plans, so I demand that you take me out to a fine dinner.' If you are an impartial judge, you might say 'You did promise, so you owe some compensation (at least if requested), but you are not blameworthy, since you did not know you would not be able to cook dinner, and it is not your fault that you can't.' No explanation in terms of politeness or critical force can explain why it is natural to say that I promised in *all* of these contexts, since some are polite, but others are critical.

The general point is that, when a natural utterance seems true, but someone claims it is false and uses conversational principles to explain why it seems true, the explanation must apply to all of the contexts in which the utterance seems true. If it seems true in all conversational contexts, and if there is no completely general conversational explanation (which does not depend on the peculiarities of any particular context or purpose), then the best explanation of why it seems true is that it is true. Thus, the best explanation of why it is natural in so many contexts to say that some people promised to do what they could not do is that it is true that some people promised to do what they could not do. So (3) is true.

II

I also argued that Martinich cannot explain certain obligations without admitting that some promises cannot be kept. This new argument is not necessary, since the previous one is sufficient, but the new one does raise some interesting issues. My example was a case of deception where

I say 'I promise to drive you to the airport,' even though I know that my only car does not work, and I know that you think it does.... Now suppose (albeit unlikely) that my mechanic finishes my car early, so that when the time comes, I can drive you to the airport. It is obvious that I would then have an obligation to drive you to the airport, if you still want a ride.⁷

This passage refers to several times, including one (t_1) when I say 'I promise' and later time (t_2) by which you need to leave for the airport.

Martinich responds that 'Sinnott-Armstrong... confuses being unable at t_1 to do x at t_2 with being unable at t_1 to do x at t_1 ; and he confuses being obliged at t_1 to do x at t_2 with being obliged at t_1 to do x at t_1 .' (p. 328) There is no basis for this criticism. I never mention or assume any judgment about being unable or obliged at t_1 to do x at t_1 . I did not

mention such judgments because they are about driving you to the airport at a time when you do not want to go to the airport. My example concerns being unable and obliged to drive you to the airport at t_2 .

The crucial claim in my argument is that I was not able at t_1 to drive you to the airport at t_2 . This was supposed to be clear, because I had a justified belief at t_1 that my car would not be available by t_2 . If I had known at t_1 that the mechanic would finish the car by t_2 , I would have been able at t_1 to drive you at t_2 , but this was supposed to show how knowledge affects what I am able to do.

Martinich agrees that I would have an obligation at t_1 and at t_2 to drive you to the airport at t_2 , but he responds, 'by the maxim that 'ought' implies 'can', the speaker must be able at t_1 to drive the addressee to the airport by t_2 . And he was, thanks to the speedy mechanic!' (p. 327) The point seems to be that the speedy mechanic in fact makes my car available at t_2 , and this is supposed to show that I was able even at the earlier time (t_1) to drive you to the airport at t_2 , even though I did not know at t_1 that I was able.

The difference between us lies in whether lack of knowledge about what will in fact happen reduces what one is able to do. This suggests that we need to distinguish an epistemic use of 'able' where what one is able to do depends on what one knows from a factual use of 'able' where what one is able to do depends on what in fact does or will happen and not on what one knows. I used 'able' epistemically, but Martinich seems to use 'able' factually.

Martinich's factual use might not be improper linguistically, but it is odd in several ways. Its oddness is clearest in examples without temporal complications. Suppose I want to get into a safe, but I do not know the combination, and then I later learn the combination. It seems wrong to say that at the earlier time I was able to get into the safe at the later time. Since lack of relevant knowledge makes me unable in many such cases, it also seems that my original lack of knowledge at t_1 that my mechanic will finish by t_2 makes me unable at t_1 to drive you to the airport at t_2 .

Second, Martinich inferred that I was able at t_1 to drive you at t_2 from the fact that my mechanic made me able at t_2 to drive you at t_2 . Since he mentions nothing peculiar about this case, he seems to assume the general principle that, whenever I am in fact able at t_n to do x at t_n , it is true at any earlier time when I exist (e.g. t_{n-7}) that I will in fact be able at t_n to do x at t_n , so I am factually able even at t_{n-7} to do x at t_n , regardless of what I believe or know at t_{n-7} . Martinich would probably want to put some limits on this principle, but it is not clear which limits would make this principle both plausible and applicable in this case.

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The problem with this principle is that it makes it impossible for anyone to become able to do anything that he was not previously able to do. This conflicts with how we usually talk, since we often say that people become able to do new things. If I am now poor, but someone will pick me by chance and give me a million dollars tomorrow, then I will be able tomorrow to buy an airplane tomorrow. However, on Martinich's factual usage, I am able even now when I am poor to buy an airplane tomorrow, since it is true even now that I will in fact be given a million dollars tomorrow. This seems wrong, not only because I now have no reason at all to believe that anyone will give me million dollars tomorrow, but also because I have no control over whether anyone will give me a million dollars tomorrow. When such knowledge and control are lacking, I do not yet seem to be able to do what I will later become able to do.

The third problem with Martinich's factual usage of 'able' is that the original paradox and my example were both about the use of 'can' that is supposed to be implied by 'obligation', and this use seems to be an epistemic one. Suppose Sean sees his car stolen, and the thieves drive around the block then park it fifty feet from Sean, but he does not know where it is. Sean is factually but not epistemically able to drive home. Most defenders of 'obligation' implies 'can' would deny that Sean has an obligation to drive his car home, because Sean would not be blameworthy for not driving home, and it would be pointless to advise Sean to drive home, unless you also told him where his car was and thereby made him even epistemically able to drive home. This shows that the use of 'can' that is supposed to be implied by 'obligation' in (2) requires the knowledged need to fulfill the obligation. So Martinich equivocates if he uses 'able' and 'can' in more factual ways when he denies (3).

Martinich might still insist on his factual use of 'able', and then he can respond to any argument that depends on the speaker later becoming able to do what he said he promised to do. But there are other arguments. The point of my example was that Martinich needs to admit that some promises cannot be kept in order to explain certain obligations that are created by those promises. The point can still be made by arguing that someone who says 'I promise to do *x*' creates more obligations than if he says 'I do not promise to do *x*, but I probably will do *x*', even if he cannot do *x* in either case, as long as the case is normal in other ways. The extra obligations created by saying 'I promise' cannot be explained by the audience's expectations, as Martinich suggests (p. 325), since both utterances might create the same

degree of expectation, and the speaker might intend to deceive the audience in both cases. This makes it hard to explain the extra obligations created by saying 'I promise' without admitting that the speaker really does make a promise in such cases.

III

Having criticized Martinich's solution to the paradox, I can now defend my own. I avoid the paradox by denying (2). It is worth reemphasizing that (2) does not claim that 'ought' implies 'can', as Driver and Martinich say. The principle that creates the paradox is that 'obligation' implies 'can'. This principle does not have as much plausibility or as widespread support as the principle that 'ought' implies 'can'.

Martinich gives two arguments for (2). First, he says, 'To be obliged to do something is to be tied to it. But the notion of being tied to an action would make no sense if the reputed action were not a possible action.' (p. 328) The problem with this argument is that the metaphor of being tied is not at all clear, and, even if it does make sense, it is still not clear why one can be tied to a possible action that is not actual but not to an action that is not (physically) possible.

Martinich's second argument is that 'If a person ought to do something, he needs to deliberate about the means to do it. And the only means relevant to his deliberation are those that can be done.' (p. 328) The problem with this argument is that, if someone does not know that he cannot do something, he can deliberate about the means to do it, but the result of his deliberation is that he has no means to do it. And, even after he discovers his inability, he can still deliberate about what he ought to do when he violates his obligation. So obligations affect deliberation even if they cannot be fulfilled. If Martinich claims some more special kind of deliberation is necessary for an obligation, he needs to say why.

Not only is there no argument for (2), but I also gave two independent counterexamples to (2). Martinich responds to my examples by introducing a distinction between primary and secondary obligations. I accept that some such distinction makes sense, but it does not refute my arguments.

My first example was that 'a lifeguard cannot cancel his obligation to save drowning people by walking so far from his post that he cannot save them.'⁸ Martinich and I agree that such a lifeguard violates 'a secondary obligation to stay at his post so that he will be able to rescue a drowning person should the occasion arise', and this explains why 'the

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lifeguard would be disciplined if he wandered from his post, even if no one drowned in his absence.’ (p. 329) However, this is beside the main point. Martinich reaches the main issue only when he claims that ‘we can say that in straying from his post the lifeguard terminated his primary obligation’ (p. 324) to save drowning people. Martinich gives no argument for this claim, and I deny it. My argument is that the lifeguard would and should be disciplined or punished even more if someone does drown when he leaves his post than if nobody drowns. The extra punishment is best explained and justified by the fact that his primary obligation to save drowning people is not completely ‘terminated’ when he leaves his post.

Similar arguments apply to my second example: ‘if a mother knows that she will not be able to take care of her child, but she chooses to have the child anyway, she has an obligation to take care of the child in the [normal] ways.’⁹ Martinich and I agree that ‘a secondary obligation of a pregnant mother is not to become pregnant if she cannot assume the obligations that normally come with motherhood’ (p. 329), but this is again beside the main point. Martinich approaches the main point only when he claims, ‘The mother who cannot care for her child is not culpable for the neglect of her child.’ (p. 329) It is not clear what Martinich means by ‘culpable’, but he seems to be denying that the mother is blameworthy for not helping her child. However, as with the lifeguard, it would be natural to blame the mother more, and she would be worthy of more blame, if her child is born than if she had an early miscarriage, so no child suffered from her getting pregnant. This extra blame cannot be explained adequately if she violated only an obligation not to get pregnant and did not also violate an obligation to take care of her child, since she violates the obligation not to get pregnant whether or not the child is born. Thus, the best way to explain why she is worthy of extra blame is that she both had and violated an obligation to care for her child, even though she could not do so. This obligation is also needed to explain why she has a special obligation — more than a mere bystander — to find someone else to care for the child if she cannot care for it herself.

There are many more counterexamples to ‘obligation’ implies ‘can’. If I am invited to dinner in a foreign country, I have an obligation not to insult my host, but I might not be able to stop myself from laughing at his peculiar mode of dress or from coughing when I eat his food, even though this will insult him. And I might not know how to avoid insulting him, if I do not know (and possibly had no way of learning) the local customs. When all such examples are considered together, the best overall view is to deny that ‘obligation’ implies ‘can’.

Martinich might respond that any such example is 'tendentious, because I [Martinich] deny that anyone who cannot do something has an obligation to do it.' (p. 328) But this is unjustified. Of course, he denies this, but my point is that what he denies seems true in my examples. My examples appeal to intuitions about which judgments are correct in these situations, and many people share these intuitions. I also argued that we need obligations that cannot be fulfilled in order to explain other aspects of these examples, such as excuses, liability to punishment and blame, secondary obligations, etc. In the face of these arguments, it begs the question for a defender of 'ought' implies 'can' merely to say that he denies the judgment that refutes 'ought' implies 'can'. This is not much better than if a utilitarian responds to the standard counterexample simply by saying that he denies that it is wrong to punish an innocent person.

IV

In closing, let me mention an issue that does not directly affect whether some promises cannot be kept. Martinich writes, "If 'ought' does imply 'can', then there cannot be moral dilemmas." (p. 324–330) However, this implication is not so direct. I assume that Martinich sees moral dilemmas in the standard way as situations where an agent ought to adopt each of two alternatives separately but cannot adopt both of the alternatives together. If so, moral dilemmas might be possible even if 'ought' did imply 'can', since the agglomeration principle fails. The agglomeration principle says that, if an agent ought to adopt each of two alternatives separately, then the agent ought to adopt both of the alternatives together. I have given independent arguments against this principle elsewhere.¹⁰ Without agglomeration, there is no way to derive in a moral dilemma that the agent ought to adopt both alternatives together. Consequently, even if 'ought' did imply 'can', moral dilemmas would still be possible, since the agent in a moral dilemma can adopt each alternative separately even if he cannot adopt both together.¹¹

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NOTES

- ¹ Julia Driver, 'Promises, Obligations, and Abilities', *Philosophical Studies* 44 (1983), pp. 221–223.
- ² A.P. Martinich, 'A Solution to a Paradox of Promising', *Philosophia* 15 (1985), pp. 117–122.
- ³ Sinnott-Armstrong, 'A Resolution of a Paradox of Promising', *Philosophia* 17 (1987), pp. 77–82. I also raised doubts about (I), and I have even more doubts now, but I will assume (I) for the sake of this paper. Martinich says (I) is analytic. However, if (I) were analytic, it would be linguistic nonsense for utilitarians to claim that some promises do not create obligations and for deontologists to claim that a promise to murder does not create an obligation to murder. Such views should not be ruled out by verbal stipulation.
- ⁴ A.P. Martinich, 'Obligation, Ability, and *Prima Facie* Promising', *Philosophia* 17 (1987), pp. 323–330. All references in the text are to this article. Martinich also discusses whether Searle agrees with his position, but this is a side issue, so I will only say that Searle (and I) can admit the relevant ability is some kind of preparatory condition without agreeing that no promise is made when the relevant ability is lacking, since preparatory conditions are not always but only 'sometimes' (p. 324) necessary conditions for successful speech acts.
- ⁵ Martinich mentions another peculiarity when he writes that, unlike many contexts, 'in political contexts the actual behavior of people and the consequences of that behavior are more important than the intentions with which that behavior is performed.' (p. 325) However, this is not always true, since intentions suggest future behavior.
- ⁶ Martinich actually discusses why critics do not say, 'Although he failed in his attempt to promise, I criticize Reagan for conversationally implying that he was able to do what he said he would do, because he deliberately raised false expectations among the voters.' Martinich says that this violates the maxim of relevance (p. 325), and I agree, but this is a red herring. What he has to explain is why critics do not say 'He tried to promise' or just 'He misled the voters.' These utterances are not irrelevant, because they specify what Reagan did wrong. To call this irrelevant would be like calling it irrelevant to tell an arrested man whether he is accused of murder or attempted murder.
- ⁷ Sinnott-Armstrong, 'A Resolution of a Paradox of Promising', p. 79.
- ⁸ *Ibid.*, p. 81.
- ⁹ *Ibid.*, p. 81. The printer left the word 'normal' out of my article. Another printer's error occurs on p. 81 ln. 17, where '...but he did do it.' should have been '...but he did not do it, so he cannot change the past and bring it about that he did do it.'
- ¹⁰ Sinnott-Armstrong, "Moral Dilemmas and 'Ought and Ought Not'", *Canadian Journal of Philosophy*, vol. 17, no. 1 (March 1987), pp. 137–138; and *Moral Dilemmas* (Oxford; Basil Blackwell, 1988), pp. 124–135. Of course, many philosophers denied agglomeration before me.
- ¹¹ Many thanks to Tim Duggan for helpful comments on earlier drafts.