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Author(s): David McNaughton

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AN UNCONNECTED HEAP OF DUTIES?

BY DAVID McNAUGHTON

Despite its name, the school of ethical intuitionism which flourished between the world wars, and whose greatest proponents were H.A. Prichard and W.D. Ross, was not distinguished from its competitors by a distinctive epistemology. The dispute between intuitionism and its main rival, the utilitarian tradition, revolved around the issue of whether there was more than one fundamental moral principle.¹ The utilitarian tradition in ethical thought can be represented as holding that there is just one fundamental duty or moral principle: the duty of beneficence. In the hands of G.E. Moore, whom Ross and Prichard saw as their main opponent, the theory had developed into a sophisticated consequentialism which subscribed to a pluralist account of the good. Even so, in determining which action is right, only one consideration is relevant: which action will produce the most good? Ethical intuitionism rejected this monism about what makes right actions right as over-simple, and insisted that there are a number of distinct and irreducible basic duties or moral principles, all of which can be relevant in determining whether some action is right. Both parties to this debate were taken to agree that an ethical theory rests on intuition, by which was meant no more than that the most basic ethical principles, since they could not be inferred from more basic ones, must be self-evident.

It has become commonplace to dismiss the deontic pluralism of an ethical intuitionist such as Ross fairly briskly, for a variety of reasons. In this paper I examine two main charges. First, intuitionism is held to be unsystematic,

¹ This point is made with clarity and force by Prichard's pupil J.O. Urmson in 'A Defence of Intuitionism', *Proceedings of the Aristotelian Society*, 75 (1975), pp. 111–19, at pp. 111–12.

offering us merely a 'heap of unconnected duties' with no unifying rationale. Thus D.D. Raphael complains that, while intuitionism 'gives a reasonably accurate picture of everyday moral judgement ... it does not meet the needs of a philosophical theory, which should try to show connections and tie things up in a coherent system'. H.W.B. Joseph also may well have had Ross in mind when he stated that 'our obligations are not a heap of unrelated obligations'.² Second, intuitionism can give nothing in the way of general guidance to the agent who is faced with a conflict of duties, because it refuses to rank duties in order of importance or stringency.³ In fact Ross, who offers the most fully worked out version of intuitionism, does offer a systematic justification for the list of fundamental duties he puts forward, and does claim that some duties are more stringent than others. To the best of my knowledge, Ross's remarks on these topics have not been much discussed in the standard literature. This is due, in part, to the failure of many critics to read Ross with either the care or the sympathy with which they would approach other major writers on the subject. I shall argue, first, that Ross has an entire answer to those who maintain that his theory is unsystematic; second, that Ross fails to sustain his claim that some duties are more stringent than others, but that this is not a defect in his theory.

I

We can expand the first complaint as follows. Common-sense morality appeals to a large variety of moral principles, which have no discernible structure. Intuitionism does not attempt to systematize ordinary morality, but simply mirrors it. An intuitionist, such as Ross, merely presents us with a more or less arbitrarily selected list of the more common (*prima facie*) duties, and announces them to be self-evident. Since there is no structure to this list, there seems to be no explanation of why some items are on the list and not others, and therefore no room for rational debate in the event of disagreement about what should be included. Given the unavailability of reasoned discussion we simply have one bare intuition pitted against another. Even a philosopher who admits that we may eventually have to appeal to intuition may rightly feel that this is too quick. Moral theory should facilitate reasoned debate, not forestall it. Indeed, in the absence of such a structure it is doubtful whether intuitionism, unlike utilitarianism, can lay claim to be a moral *theory* at all.

² D.D. Raphael, *Moral Philosophy* (Oxford UP, 1981), p. 55; H.W.B. Joseph, *Some Problems in Ethics* (Oxford: Clarendon Press, 1931), p. 92. A similar terse dismissal can be found in R. Attfield, *A Theory of Value and Obligation* (London: Croom Helm, 1987), pp. 105–6.

³ See, e.g., J. Rawls, *A Theory of Justice* (Harvard UP, 1971), p. 34.

Such a criticism fails to recognize that philosophical intuitionism does seek to systematize common-sense morality, and in much the same way as many utilitarians have tried to do. For it seeks to show that the plethora of precepts which constitutes common-sense morality can be derived from a very small number of self-evident basic duties. According to Ross, 'The general principles which [intuitionism] regards as intuitively seen to be true are very few in number and very general in character'. Sidgwick also saw this as the aim of philosophical intuitionism.⁴ Both utilitarianism and intuitionism can therefore be seen as sharing the theoretical goal of explaining and justifying our everyday moral judgements by appeal to the smallest number of most general principles. In this sense, intuitionism is as much engaged as is utilitarianism in constructing a moral theory; they only differ over how many basic principles they need to accomplish the task.

In fairness to his critics it must be admitted that Ross does not explicitly state in his famous exposition of his theory in ch. 2 of *The Right and the Good* that his theory has this explanatory structure, but it is implicit throughout his long and detailed discussion.⁵ He begins (p. 20) by offering a categorization or division of *prima facie* duties, for which he does not claim 'completeness or finality', but which he maintains is not 'arbitrary' because 'Each rests on a definite circumstance which cannot seriously be held to be without moral significance'. Subsequent discussion makes it clear that this list of *prima facie* duties is a first shot at a complete list of basic and underivative duties.⁶ As he points out, it is misleading to think of these as distinct or fundamental duties, since on his account *prima facie* duties are not strictly duties at all, 'but something related in a special kind of way to duty' (p. 20). One's duty proper is what one ought actually to do, all things considered, in some particular situation. The list might more accurately be thought of as a list of fundamental morally relevant characteristics of actions – of features of actions which are right- or wrong-making characteristics and which always carry weight when we are considering whether a particular action is right or wrong.⁷ With that proviso, here is my summary of Ross's original list.

- I. Duties resting on a previous act of my own. These in turn divide into two main categories:
 - (a) duties of *fidelity*; these result from my having made a promise or something like a promise;

⁴ W.D. Ross, *The Foundations of Ethics* (Oxford: Clarendon Press, 1939), p. 190; H. Sidgwick, *The Methods of Ethics*, 7th edn (London: Macmillan, 1967), p. 102.

⁵ W.D. Ross, *The Right and the Good* (Oxford: Clarendon Press, 1930).

⁶ That Ross admits any *basic* principles is denied by Jonathan Dancy, in 'An Ethic of *Prima Facie* Duties', in P. Singer (ed.), *A Companion to Ethics* (Oxford: Basil Blackwell, 1991), p. 219.

⁷ Philip Stratton-Lake drew my attention to this point.

- (b) duties of *reparation*; these stem from my having done something wrong so that I am now required to make amends.
2. Duties resting on previous acts of others; these are duties of *gratitude*, which I owe to those who have helped me.
 3. Duties to prevent (or overturn) a distribution of benefits and burdens which is not in accordance with the merit of the persons concerned; these are duties of *justice*.
 4. Duties which rest on the fact that there are other people in the world whose condition we could make better; these are duties of *beneficence*.
 5. Duties which rest on the fact that I could better myself; these are duties of *self-improvement*.
 6. Duties of not injuring others; these are duties of *non-maleficence*.

This list is only provisional: Ross goes on to discuss whether it can be further reduced by showing that some of these duties are not really basic. Since the dialectic of the argument dictates that a duty cannot remain on the list if it can be shown to be derivative, we need to know what it is for one duty to be derived from another.

Unfortunately, Ross gives no systematic account of the relation of derivation, but one can be gleaned from scattered remarks throughout the text. After reviewing and revising his list of basic duties, he writes (p. 27):

These seem to be, in principle, all the ways in which *prima facie* duties arise. In actual experience they are compounded together in highly complex ways.

He then gives as an example one's duty as a citizen to obey the laws of one's country. That duty 'arises from' (at least in the ideal case) three basic duties: gratitude, fidelity and beneficence. We should be grateful for the benefits we have received from the state; we have made an implicit promise to obey by retaining permanent residence in a country whose laws we know we are expected to obey; beneficence also requires us to obey the laws because they are 'a potent instrument for the general good'. Ross later (pp. 54–5) gives a similar account of the duty not to lie. He claims that this duty, which he does not sharply distinguish from the duty of veracity, stems from two of the basic duties on his list: those of non-maleficence and fidelity. To lie to someone is (normally) to do an injury to that person (and perhaps to others). In addition, Ross holds that communication standardly presupposes an implicit mutual undertaking by all parties that they will use language to convey their real opinions. In such cases, to lie is to breach this implicit promise. We show what is wrong with law-breaking and lying by showing that to act in these ways is, normally, to be in breach of more than one of our fundamental duties.

In his discussion of both these cases, Ross makes it clear that there can be special circumstances in which some of the considerations which count against acting in these ways do not apply. In such cases, the force or bindingness of the duty in question may be weakened. For example, a very bad government will not be promoting the general good, and then there will be no duty arising from considerations of beneficence to support it. In the case of lying, the presupposition that there is a mutual agreement to make true assertions can lapse. People who are habitual liars have announced by their actions their refusal to be bound by this implicit contract, thus releasing others from their own obligation to honour it. Similarly, if I am in a strange society and know nothing of its social practices, not even whether they are friendly or hostile, then there is no such implicit understanding. In Ross's opinion (pp. 54–5), a large part of the stringency of the duty not to lie stems from the supposed implicit promise; where it is not present then the obligation not to lie is much weakened.

Although Ross does not discuss this point, it seems perfectly possible that there might be cases where none of the considerations which normally make law-breaking or lying wrong applies. For example, if I play a game of Cheat with my children, I must lie, because that is part of the game. On Ross's account of what makes lying wrong, it may be that there is absolutely nothing wrong with lying in such cases. The tacit agreement to tell the truth is explicitly cancelled in such games and it is at least arguable that I am, in this context, doing no harm whatever to my children in lying to them.⁸ Similarly, there can surely be governments so bad that there is nothing to be said in favour of obeying them, and everything to be said against. If there are circumstances, such as playing Cheat, where the fact that saying something would be a lie does not furnish any reason whatever for not saying it, then in what sense can it be said, as Ross says, that there is a duty not to lie? On Ross's official account of *prima facie* duty, refraining from lying cannot be such a duty because, as we saw, that would imply that lying was universally a wrong-making characteristic – that it always counted against an action that it involved lying. But this claim is arguably false; it does not count at all against my playing Cheat with my children that we shall all lie as hard as we can. In the case of derivative duties, such as the duty not to lie or to obey the law, we must say rather that it is only normally or standardly that we have a *prima facie* duty to act in this way.

If the duty not to lie is understood in this way, can we still maintain *of a particular act* that it is *prima facie* wrong in virtue of being a lie? We might be

⁸ For a different account of why there is nothing wrong with lying in these cases, see J. Dancy, *Moral Reasons* (Oxford: Basil Blackwell, 1993), pp. 60–1.

tempted to interpret Ross's account of lying as holding that in a normal case, where it does count against an action that it would involve lying, the act is *prima facie* wrong, *not* in virtue of being a lie, but in virtue of its being a case of promise-breaking and causing harm. But this, I think, is a false contrast. Acts can get to be instances of promise-breaking or maleficence in a number of ways. It may be true of some particular act that it is in virtue of its being a lie (rather than, for example, the non-payment of a debt) that it is an instance of promise-breaking and maleficence. If this is right, then the fact that *this* act is a lie may make it *prima facie* wrong, even though there can be acts which, though they involve lying, are not made *prima facie* wrong by that fact. On this interpretation, lying is not a fundamental moral consideration (which is why it does not occur on the list of basic duties), but not all morally relevant considerations need be fundamental. The fact that some act is a lie can still be a reason why that act is *prima facie* wrong.

The examples of derivative duties we have so far considered are cases where our *prima facie* duties are, in Ross's words, 'compounded together in highly complex ways'. But derivative duties need not be complex in this manner. For some kind of action may be a derivative duty in virtue of its falling, in standard cases, under just one basic duty. The duty a child has to honour its parents, for instance: it might plausibly be claimed that this duty rests on the single basic duty of gratitude. As in the previous examples, there could be exceptional cases where there was not even a *prima facie* duty to honour one's parents. Where the child had received nothing from its parents there would be, on this view, no duty to honour them. Ross gives another example himself in his discussion of punishment. He dissents from the common intuitionist view that there is 'a fundamental and underivative duty' to reward the virtuous and punish the guilty. Rather, he claims, the state of affairs in which the good are happy and the bad unhappy is better than the reverse. Since we have a general duty of beneficence, we have a duty to bring about the better state of affairs: 'The duty of reward and punishment seems to me to be ... derivative. It can be subsumed under the duty of producing as much good as we can' (p. 58). There may be cases where no good would come of punishing (perhaps because the wrongdoer has suffered enough) and here punishing would not be even *prima facie* right.

In sum, derivative duties are not on the list of basic duties because the characteristic by which they are picked out is not itself morally fundamental, nor does it entail the presence of a morally fundamental characteristic. They still count as duties, however, because acts having that character normally or standardly have one or more of the morally fundamental characteristics that figure on Ross's basic list.

Being underivative is not, however, sufficient for inclusion in Ross's list of basic duties, for he is also striving for as high a level of generality as possible. Thus there may be duties which are not derivative in the sense just defined, but are not on the list because insufficiently general. Thus it is plausible to hold that the fact that an act would be the paying of a debt always counts in its favour. The reason why we are unable to imagine a particular case where debt-paying is not *prima facie* right may be supposed to lie in the fact that one could not be in debt unless one had made an (implicit) promise to repay. That an act is a paying of a debt thus entails that it is the keeping of a promise. The duty to pay debts will then not appear on the list of basic duties because it is only a specific instance of the more general duty of fidelity.

I am not here concerned to defend Ross's analysis of any of these duties; I cite them merely to illustrate his general approach. With the two distinctions between derivative and underivative duties and between more and less general underivative duties in place, we can now see how one might make a case for amending Ross's list. Challenges can come from one of two directions. It may be claimed either that the list needs shortening because it contains some duty that is not really basic, or that the list needs lengthening because it leaves out a basic duty.

The list needs shortening if it can be shown to contain duties that are either derivable from other duties on the list, or are insufficiently general in form. The latter challenge will have been made out if it can be shown either that one duty on the list is just a specific instance of a more general basic duty, or that two of the putative basic duties are just specific instances of one wider inclusive basic duty. Immediately after drawing up his initial list Ross embarks on a discussion to see if it can be made more 'systematic'. His conclusion is that the list does need shortening, and his discussion provides two examples of the latter kind of challenge at work.

First he considers whether beneficence and self-improvement are distinct duties (pp. 24–6). The main reason for thinking that they are lies in the fact that, while we have a duty to give others pleasure, as well as to make them knowledgeable and virtuous, we normally think we have no corresponding obligation to give ourselves pleasure. Ross discusses whether the belief that we have no duty to give ourselves pleasure arises merely from the fact that it is redundant to require us to do something which we are already (too) strongly motivated to do. If we think, as he is inclined to, that there is in fact a duty to give ourselves pleasure, a duty which it is rarely if ever necessary to invoke, then categories (4) and (5) can be merged under the wider head of universal beneficence.

Second, Ross argues that the duty of justice is simply a specific instance of the general duty to bring about the good, since as we saw when discussing punishment his view is that the distribution of goods in accord with merit is a specific kind of good. So his final list is whittled down to five: the duty to bring about as much good as possible, under which now fall justice, beneficence and self-improvement, and the distinct duties of non-maleficence, fidelity, gratitude and reparation (p. 27).

The other way to criticize the list would be to claim that it is too short, because there are underivative moral considerations which have not been included. We should note that in order to exclude some putative basic duty from the list we would have to show that it is *wholly* derivative. Thus lying should only be excluded if our moral objection to lying rests solely on the fact that lying would normally involve us in breaching other duties, such as fidelity and non-maleficence; the claim must be that the mere fact that an act is a lie carries no independent moral weight, however slight.

Critics of intuitionism are wont to point out that different intuitionist philosophers cannot agree about which are the basic duties, as if this were itself a sufficient refutation of the theory. But this would only be an objection to intuitionism if the theory held that the contents of the list should be immediately obvious, which it does not. What is important is that there should be some rational and principled way to settle such disputes, and this is what I have tried to show. There is no need to resort to a blank appeal to intuition. Nor, as Ross points out on p. 30, should we imagine that intuitionism of this stripe need be conservative. Nothing in Ross's procedure prevents moral criticism of the prevailing *mores* of a society.

It may, of course, be that there is no one way of structuring these duties which will be uncontroversially the right one. That is not, however, a matter that can be determined in advance. Moreover, the discovery that there were several possible ways of carving up the territory between which it was hard to decide would itself constitute important philosophical progress.

A critic of Rossian intuitionism might now complain, rather more cautiously, that while Ross's list is by no means an arbitrary heap, the basic duties are still unconnected, and that this is a weakness in his theory. But why might one think it a weakness? One suggestion might be that the simpler a theory is, the better; and, all else being equal, the fewer independent axioms, postulates or underived principles to which it appeals, the better. Intuitionists need not deny this, but will point out that there are other desiderata for a theory, among which fitting the facts and explanatory adequacy rank highly. Ross's main complaint about consequentialist theories is that they oversimplify and thus fail to account convincingly for the nature of our moral thought. By this he means not only that they deliver counter-intuitive

verdicts in particular cases, but that they give a distorted account of the reasons we would offer for the verdicts (pp. 19, 37–9). Nor is it always the case that the theory with the fewest underived principles is the simplest; for simplicity at the level of principle may lead to complexity at a higher level.

The second suggestion might be that a theory which admits the existence of distinct and irreducible moral principles gains in systematic unity if those principles are generated by some unitary justificatory procedure, as is the case perhaps with Kantianism, or with rule-consequentialism. To this Ross might reply that he also offers a single test. The difference between his test and the Kantian one is that the latter is atomistic, generating each principle independently of the others, whereas his is holistic, testing each principle by seeing whether it can be derived from the others. But why should a holistic test be less systematic than an atomistic one?⁹ The real worry here, I suspect, may not be about the lack of systematic unity in Ross's theory, but about the perceived need for a justificatory grounding for each duty. But that is, of course, just to beg the question against the intuitionist who maintains that these basic duties stand in no need of grounding.

A third worry might be that duties which are distinct and irreducible may also be disparate, having nothing significant in common except that they are all duties. But of course they may have a great deal in common, and if they do then the theory would have a further unity. Ross in fact seems to suggest at various points (e.g., pp. 19, 22) that at least some of and perhaps all of our duties, both basic and derivative, do have something in common: they rest on relationships between persons, each different relationship generating a different duty. Positional duties, contractual duties and duties of special relationship are the model here. Of the seven basic duties which Ross has on his original list, three – fidelity, gratitude and reparation – seem to fit this description neatly. The others, however, raise problems. In order for me to have a duty of beneficence, non-maleficence or justice towards some particular person or group, it does not have to be the case that I previously stood in any particular relationship to them; it is enough that they are in need, or that they could be harmed, or that goods are unjustly distributed among them. Nor, in the case of duties of self-improvement, is it clear what it means to talk about my relationship with myself. These difficulties may or may not be soluble; my only purpose here was to illustrate how it might be that distinct duties may yet have some common structural element which gives them a unity.

My conclusion is that intuitionism, at least in Ross's version, is not systematically less unified than its major rivals. If there are objections to it, they lie elsewhere.

⁹ I owe this point to Jonathan Dancy.

II

I turn now to my second topic, the issue of what Ross has to say about the respective ranking of the basic moral duties in cases of moral conflict. He rejects what he calls (*Foundations of Ethics*, p. 79) 'out-and-out intuitionism', which says that there are absolute duties which should be fulfilled irrespective of the consequences. Duties are *prima facie* for Ross: where they conflict we have to decide, in each particular case, which is here the weightiest. Now his view commits him to the wholly plausible claim that the stringency of a duty can vary from one occasion to another. Some promises, for example, are solemn and binding, and ought only to be broken, if at all, in the most serious circumstances; others are less weighty and can more easily be overridden by other considerations. Ross is standardly interpreted as claiming that a conflict between duties in a particular case can only be resolved by determining what weight those duties carry in that case; nothing *in general* can be said about the relative weight of different kinds of duty. Even as careful a commentator as Audi makes this claim. '[Ross] seems committed to the view that ethical generalizations do not *independently* carry evidential weight in such conflicts. One should not, e.g., appeal to a second-order generalization that duties of justice are stronger than duties of fidelity.'¹⁰

This interpretation runs counter to the text. On several occasions Ross explicitly claims that one duty is more binding or more stringent than another, although no very clear overall picture emerges of their precise relations. Both fidelity (p. 19) and non-maleficence (p. 22) are held to be more stringent than beneficence. Later on, he adds to the list of more stringent duties, albeit in a cagey remark:

For the estimation of the comparative stringency of these *prima facie* obligations no general rules can, so far as I can see, be laid down. We can only say that a great deal of stringency belongs to the duties of 'perfect obligation' – the duties of keeping our promises, of repairing wrongs we have done, and of returning the equivalent of services we have received. For the rest, 'the decision rests with perception'.¹¹

Ross appears, therefore, to be trying to find room for a position midway between the complete generalism of absolutism (or indeed of a lexical

¹⁰ R. Audi, 'Ethical Reflectionism', *The Monist*, 76 (1993), p. 297. I have been equally at fault in this regard: see D. McNaughton, *Moral Vision* (Oxford: Basil Blackwell, 1988), p. 198. Berys Gaut, in 'Moral Pluralism', *Philosophical Papers*, 22 (1993), pp. 17–40, is an honourable exception to the general rule.

¹¹ *The Right and the Good*, pp. 41–2. The quotation (Ross gives it in the original Greek) is from Aristotle, *Nicomachean Ethics* 1109b 23.

ordering of duties) which gives no consideration to the circumstances of the particular case, and a doctrine of *prima facie* duties which makes the outcome of any conflict depend solely upon the wholly individual circumstances of the particular case. That midway position is intended to allow us to say something about the ranking of duties in general which falls short of absolutism: namely, that some kinds of basic duty might be thought to be intrinsically more weighty than others. This does not mean that the less weighty duty will never win, only that it starts with a handicap it will have to work hard to overcome. In deliberating, it seems, we must take into account not only how weighty an instance of each particular duty we have in the case before us, but also the *general* weight to be given to each of these duties.¹²

This doctrine of 'double weighing' is hard to grasp in the abstract; it is not clear what it means, still less whether we hold such a view. Ross supplies examples which are supposed to do the double duty of illustrating the claim and showing that the particular moral judgements we make commit us to it. His first claim is that the duty of non-maleficence is recognized as both distinct from and more binding than the duty of beneficence. 'We should not in general consider it justifiable to kill one person in order to keep another alive, or to steal from one in order to give alms to another.'¹³ But this example does not show that non-maleficence is the more stringent duty, because, as I shall now go on to show, we only need the claim that non-maleficence is *distinct* from beneficence to explain our judgement in this case.

In any choice I make, considerations of beneficence are always relevant, because what I choose will have some influence on the well-being of others. Where beneficence is the only relevant duty, then the right action is completely determined by the amount of good I can produce: the right action is the one which brings about the best state of affairs. If two courses of action produce the same amount of value then, from the point of view of beneficence, there is nothing to choose between them.

Ross holds, of course, that there are other duties, such as fidelity and non-maleficence, distinct from beneficence, which have to be taken into account where relevant. Since they are distinct duties, they must carry independent weight in determining which action is my duty proper, though what weight they will have in the particular case will depend on the circumstances. Two consequences follow. First, where the balance of good between the two courses of action is (roughly) equal, the other duty will be decisive, because beneficence will not favour one course over the other. Second, where the

¹² For a more recent attempt to argue, like Ross, that different kinds of duty have different weights, see K. Baier, *The Rational and the Moral Order* (La Salle: Open Court, 1995), pp. 71–6.

¹³ *The Right and the Good*, p. 22. Nor did he change his view in his later work: see *Foundations of Ethics*, p. 75.

balance of good, and therefore beneficence, counts morally in favour of one course of action, but some other duty, say the duty to keep promises, counts against doing it, then beneficence will only win if it has sufficient weight to outweigh the other duty in this case. But the weight that we should give to the duty of beneficence in any particular case depends solely on the surplus of good produced by following one course of action rather than another. So beneficence will only defeat the other duty if the course of action favoured by beneficence will produce a considerably better state of affairs than that which will result if we act in accordance with the other duty. In fact, it will have to produce a surplus of good sufficiently large for us to judge that, in this case, the good to be achieved outweighs all the weight against that course which stems from the fact that it would involve a breach of the other duty.

These consequences follow simply from the fact that, on Ross's view, the other duties are *distinct* from beneficence. In weighing up what to do, one must take account not only of how much good will be produced, as the duty of beneficence requires, but also of the independent weight of the other duties. There is thus no need to bring in any doctrine about one duty being weightier than another at the general level in order to explain, for example, why it is wrong 'to kill one person in order to keep another alive, or to steal from one in order to give alms to another'. We do think it wrong to kill one person to save another, but that may simply be because, given that the benefit to one is roughly counterbalanced by the loss to the other, the duty not to harm tells against killing the one, but not against failing to save the other. (If we think that the benefit and loss are not equal, this will be because we think being killed is a greater evil than not having one's life saved, and that will not help Ross's case.) Similar remarks will be true, not just of conflicts between fidelity or non-maleficence and beneficence, but of a conflict between beneficence and any other duty.

This diagnosis is confirmed when we see that Ross claims (p. 18) that the distinctness of fidelity and beneficence *alone* is sufficient to account for our judgement in a structurally similar case:

if ... I could bring equal amounts of good into being by fulfilling my promise and by helping someone to whom I had made no promise, I should not hesitate to regard the former as my duty.

His other example (p. 19) seems to get us closer to what we need:

We ... think ... that normally promise-keeping, for example, should come before benevolence, but that when and only when the good to be produced by the benevolent act is very great and the promise comparatively trivial, the act of benevolence becomes our duty.

One way of understanding this remark is as follows. We are to imagine separate rankings of instances of both duties in order, from the least to the most weighty instances. We then claim that a beneficent action can only make a breach of fidelity right when it is located significantly higher on its scale than the breach of fidelity is on its scale. But it is not clear that we can make any sense of these cross-scale comparisons. To mention just one obvious difficulty: in order to know roughly how high up the scale one is, one must have a sense of where its top is as well as its base. Since, however, there seems to be no limit to the amount of benefit that might flow from a single action, there is no top to the scale of beneficence. If there is no measure of how high one is on that scale, then an act cannot be significantly higher on it than it is on the scale of fidelity. So we are still no nearer making sense of the idea that one duty is in itself more binding than another.

Ross's remarks could be taken to suggest a different interpretation which would, finally, give us a sense in which one duty might be more stringent than another. The claim that the promise must be 'comparatively trivial' might naturally be read as meaning, not that it is trivial as compared with the substantial amount of good which might be achieved, but trivial *compared with other promises*. So understood, this would impose an additional condition that must be met before it could be our duty to break a promise. Not only must the balance of good greatly favour the breaking of the promise, but the promise itself must not be of a particularly serious, solemn or binding kind. On that interpretation, where a promise is particularly solemn and binding, no amount of good to be achieved, however great, could make it our duty to break it.

Since, on Ross's view, the weight to be accorded to a duty is not just a function of the good produced, there does not seem to be anything in his system which prevents his claiming that serious cases of promise-breaking could have a moral weight which could not be outweighed by any amount of good to be achieved on the other side. Nevertheless, it seems to me unlikely that Ross actually held this view; there is no other textual evidence for it. Moreover, it is a position which does not seem to me very attractive with regard to promise-keeping. Most of us feel that there are situations in which it would be right to break a promise, however solemn. In the case of non-maleficence, however, there does seem a case for claiming that it is intrinsically weightier than beneficence in the sense just defined. For while it can be right to inflict some comparatively slight harm in order to secure a great good or avert a disaster, it may be that it can never be right to inflict a very serious harm, such as killing an innocent child, to achieve a good end. Here the end really cannot justify the means in any circumstances.

Such a position might make room, within a system of *prima facie* duties, for something like an absolute constraint against killing the innocent. (The fact that Ross is opposed to 'out-and-out intuitionism' is further reason to think that he cannot be advocating this view.) For, while the duty not to harm in general is only *prima facie*, the duty not to inflict certain serious kinds of harm, such as killing the innocent, would be one that cannot be over-ridden. Moral considerations on the other side would not be *silenced*, however. On this view, the fact that killing an innocent person would do good will always be a reason in its favour; it will just be that it will never be strong enough to over-ride the duty of non-maleficence in this case.

We have had great difficulty in finding an interpretation of Ross's claim that some duties are more stringent than others which made sense and for which there was good reason to think that he understood the claim thus. It seems best, therefore, to suppose that Ross was just confused when he thought that he needed, in order to explain our moral judgements, to claim not only that there were duties distinct from beneficence, but also that the former were more stringent than the latter. We are left, then, with the claim that all we can do, when faced with a moral conflict, is to look carefully at the particular case in all its complexity and form a reasonable judgement as to which duty (or duties) carry the most weight.

Does his failure to come up with any general guidance as to how to resolve moral conflicts constitute a complaint, as his critics seem to suppose, against his system, as distinct from a complaint against his account of his own system? I think not. It is only a complaint against intuitionism that it does not offer any general guidance about what to do in a situation of moral conflict, if one thinks that this is a reasonable job to expect a moral theory to do. Ross has a much less ambitious picture of the role of moral theory than that. The job of moral theory is simply to see which general account of the nature of our duties (and of goodness) gives the best overall picture of our moral thinking. There is no question of theory revealing answers to moral questions that cannot otherwise be answered, or justifying what would not otherwise be justified. In particular, where there are puzzling moral conflicts, moral theory will not help to resolve them. This does not mean that we must blankly 'intuit' what to do in such cases, or else make an arbitrary decision. Deciding what to do in complex cases involves discernment, sensitivity and judgement, but those skills have to be exercised at the level of the particular case. To look to abstract theory to help out is to look in the wrong place. If Ross is right in this, as I believe he is,¹⁴ then it is not a defect in his

¹⁴ I try to defend this claim in *Moral Vision*, esp. ch. 13. For Ross's defence of a 'bottom-up' moral epistemology, see *Foundations of Ethics*, pp. 168–73. For an even more radical insistence on the primacy of the particular, see Dancy, *Moral Reasons*, chs 4–6.

theory that it turns out after all to have nothing general to say about the relative stringency of our basic duties.

III

The heart of most objections to intuitionism lies in the belief that it is a profoundly anti-theoretical ethical view. This claim is partly true and partly false: intuitionism seeks to perform some but by no means all of the tasks which are often demanded of moral theory. One such task is to reveal the structure of our moral thought, to impose order and systematic unity on what otherwise seems rather unstructured and even inchoate. Here, as I have tried to show, Ross's theory does as well as its rivals. A second task is that of justification. Different theories construe this task differently. On Ross's theory, it is not a matter of finding or constructing a justification for our moral beliefs, which might otherwise remain unsupported. It consists, Ross claims, in showing both that the general principles of duty (the items on the basic list) are self-evident and that we bring our knowledge of those general principles to bear on each particular case. Since almost all morally significant acts will fall under more than one of these principles, we cannot have more than probable opinion about what is the right thing to do in any particular case (pp. 32, 42). The third task some have hoped that a moral theory might perform is to supply guidance in making difficult moral choices. I hope I have shown that, on Ross's account of moral judgement, this is a task which moral *theory* cannot perform. To complain, therefore, that Ross's system fails to perform it is to miss the point of his theory.¹⁵

Keele University

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