

Trust and Antitrust

Author(s): Annette Baier

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Trust and Antitrust*

Annette Baier

TRUST AND ITS VARIETIES

"*Whatever* matters to human beings, trust is the atmosphere in which it thrives." [SISSELA BOK]¹

Whether or not everything which matters to us is the sort of thing that can thrive or languish (I may care most about my stamp collection) or even whether all the possibly thriving things we care about need trust in order to thrive (does my rubber tree?), there surely is something basically right about Bok's claim. Given that I cannot myself guard my stamp collection at all times, nor take my rubber tree with me on my travels, the custody of these things that matter to me must often be transferred to others, presumably to others I trust. Without trust, what matters to me would be unsafe, unless like the Stoic I attach myself only to what can thrive, or be safe from harm, *however* others act. The starry heavens above and the moral law within had better be about the only things that matter to me, if there is no one I can trust in any way. Even my own Stoic virtue will surely thrive better if it evokes some trust from others, inspires some trustworthiness in them, or is approved and imitated by them.

To Bok's statement, however, we should add another, that not all the things that thrive when there is trust between people, and which matter, are things that should be encouraged to thrive. Exploitation and

* I owe the second half of my title to the salutary reaction of Alexander Nehamas to an earlier and more sanguine version of this paper, read at Chapel Hill Colloquium in October 1984. I also owe many important points which I have tried to incorporate in this revised version to John Cooper, who commented helpfully on the paper on that occasion, to numerous constructive critics at later presentations of versions of it at CUNY Graduate Center, Brooklyn College, Columbia University, the University of Pennsylvania, and to readers for this journal. I received such a flood of helpful and enthusiastic advice that it became clear that, although few philosophers have written directly on this topic, very many have been thinking about it. It is only by ruthlessly putting finis to my potentially endless revisions and researches into hitherto unfamiliar legal, sociological, psychological, and economic literature that any paper emerged from my responses to these gratifying and generous responses.

1. Sissela Bok, *Lying* (New York: Pantheon Books, 1978), p. 31n. Bok is one of the few philosophers to have addressed the ethics of trust fairly directly. The title of the chapter from which this quotation comes is "Truthfulness, Deceit and Trust."

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conspiracy, as much as justice and fellowship, thrive better in an atmosphere of trust. There are immoral as well as moral trust relationships, and trust-busting can be a morally proper goal. If we are to tell when morality requires the preservation of trust, when it requires the destruction of trust, we obviously need to distinguish different forms of trust, and to look for some morally relevant features they may possess. In this paper I make a start on this large task.

It is a start, not a continuation, because there has been a strange silence on the topic in the tradition of moral philosophy with which I am familiar. Psychologists and sociologists have discussed it, lawyers have worked out the requirements of equity on legal trusts, political philosophers have discussed trust in governments, and there has been some discussion of trust when philosophers address the assurance problem in Prisoner's Dilemma contexts. But we, or at least I, search in vain for any general account of the morality of trust relationships. The question, Whom should I trust in what way, and why? has not been the central question in moral philosophy as we know it. Yet if I am right in claiming that morality, as anything more than a law within, itself requires trust in order to thrive, and that immorality too thrives on some forms of trust, it seems pretty obvious that we ought, as moral philosophers, to look into the question of what forms of trust are needed for the thriving of the version of morality we endorse, and into the morality of that and other forms of trust. A minimal condition of adequacy for any version of the true morality, if truth has anything to do with reality, is that it not have to condemn the conditions needed for its own thriving. Yet we will be in no position to apply that test to the trust in which morality thrives until we have worked out, at least in a provisional way, how to judge trust relationships from a moral point of view.

Moral philosophers have always been interested in cooperation between people, and so it is surprising that they have not said more than they have about trust. It seems fairly obvious that any form of cooperative activity, including the division of labor, requires the cooperators to trust one another to do their bit, or at the very least to trust the overseer with his whip to do his bit, where coercion is relied on. One would expect contractarians to investigate the forms of trust and distrust parties to a contract exhibit. Utilitarians too should be concerned with the contribution to the general happiness of various climates of trust, so be concerned to understand the nature, roots, and varieties of trust. One might also have expected those with a moral theory of the virtues to have looked at trustworthiness, or at willingness to give trust. But when we turn to the great moral philosophers, in our tradition, what we find can scarcely be said to be even a sketch of a moral theory of trust. At most we get a few hints of directions in which we might go.

Plato in the *Republic* presumably expects the majority of citizens to trust the philosopher kings to rule wisely and expects that elite to trust their underlings not to poison their wine, nor set fire to their libraries,

but neither proper trust nor proper trustworthiness are among the virtues he dwells on as necessary in the cooperating parties in his good society. His version of justice and of the “friendship” supposed to exist between ruler and ruled seems to *imply* such virtues of trust, but he does not himself draw out the implications. In the *Laws* he mentions distrust as an evil produced by association with seafaring traders, but it is only a mention.² The same sort of claim can also be made about Aristotle—his virtuous person, like Plato’s, must place his trust in that hypothetical wise person who will teach him just how much anger and pride and fear to feel with what reasons, when, and toward which objects. Such a wise man presumably also knows just how much trust in whom, on what matters, and how much trustworthiness, should be cultivated, as well as who should show trust toward whom, but such crucial wisdom and such central virtues are not discussed by Aristotle, as far as I am aware. (He does, in the *Politics*, condemn tyrants for sowing seeds of distrust, and his discussion of friendship might be cited as one place where he implicitly recognizes the importance of trust; could someone one distrusted be a second self to one? But that is implicit only, and in any case would cover only trust between friends.) Nor do later moral philosophers do much better on this count.³

There are some forms of trust to which the great philosophers *have* given explicit attention. Saint Thomas Aquinas, and other Christian moralists, have extolled the virtue of faith and, more relevantly, of hope, and so have said something about trust in God. And in the modern period some of the great moral and political philosophers, in particular John Locke, looked at trust in governments and officials, and some have shown what might be called an obsessive trust in contracts and contractors, even if not, after Hobbes’s good example here, an equal obsession with the grounds for such trust. It is selective attention then, rather than total inattention, which is the philosophical phenomenon on which I wish to remark, tentatively to explain, and try to terminate or at least to interrupt.

Trust, the phenomenon we are so familiar with that we scarcely notice its presence and its variety, is shown by us and responded to by

2. Plato, *Laws* 4.705a. I owe this reference to John Cooper, who found my charge that Plato and Aristotle had neglected the topic of trust ungenerous, given how much they fairly clearly took for granted about its value and importance. (But taking for granted is a form of neglect.)

3. Besides Bok and Locke, whom I refer to, those who have said something about it include N. Hartmann, *Ethik* (Berlin: W. de Gruyter, 1962), pp. 468 ff.; Virginia Held, *Rights and Goods* (New York and London: Free Press, 1984), esp. chap. 5, “The Grounds for Social Trust”; D. O. Thomas, “The Duty to Trust,” *Aristotelian Society Proceedings* (1970), pp. 89–101. It is invoked in passing by Aurel Kolnai in “Forgiveness,” in *Ethics, Value and Reality*, ed. Bernard Williams and David Wiggins (Indianapolis: Macmillan Co., 1978): “Trust in the world, unless it is vitiated by hairbrained optimism and dangerous irresponsibility, may be looked upon not to be sure as the very starting point and very basis but perhaps as the epitome and culmination of morality” (p. 223); and by John R. S. Wilson in “In One Another’s Power,” *Ethics* 88 (1978): 303.

us not only with intimates but with strangers, and even with declared enemies. We trust our enemies not to fire at us when we lay down our arms and put out a white flag. In Britain burglars and police used to trust each other not to carry deadly weapons. We often trust total strangers, such as those from whom we ask directions in foreign cities, to direct rather than misdirect us, or to tell us so if they do not know what we want to know; and we think we should do the same for those who ask the same help from us. Of course we are often disappointed, rebuffed, let down, or betrayed when we exhibit such trust in others, and we are often exploited when we show the wanted trustworthiness. We do in fact, wisely or stupidly, virtuously or viciously, show trust in a great variety of forms, and manifest a great variety of versions of trustworthiness, both with intimates and with strangers. We trust those we encounter in lonely library stacks to be searching for books, not victims. We sometimes let ourselves fall asleep on trains or planes, trusting neighboring strangers not to take advantage of our defenselessness. We put our bodily safety into the hands of pilots, drivers, doctors, with scarcely any sense of recklessness. We used not to suspect that the food we buy might be deliberately poisoned, and we used to trust our children to day-care centers.

We may still have no choice but to buy food and to leave our children in day-care centers, but now we do it with suspicion and anxiety. Trust is always an invitation not only to confidence tricksters but also to terrorists, who discern its most easily destroyed and socially vital forms. Criminals, not moral philosophers, have been the experts at discerning different forms of trust. Most of us notice a given form of trust most easily after its sudden demise or severe injury. We inhabit a climate of trust as we inhabit an atmosphere and notice it as we notice air, only when it becomes scarce or polluted.

We may have no choice but to continue to rely on the local shop for food, even after some of the food on its shelves has been found to have been poisoned with intent. We can still rely where we no longer trust. What is the difference between trusting others and merely relying on them? It seems to be reliance on their good will toward one, as distinct from their dependable habits, or only on their dependably exhibited fear, anger, or other motives compatible with ill will toward one, or on motives not directed on one at all. We may rely on our fellows' fear of the newly appointed security guards in shops to deter them from injecting poison into the food on the shelves, once we have ceased to trust them. We may rely on the shopkeeper's concern for his profits to motivate him to take effective precautions against poisoners and also trust him to *want* his customers not to be harmed by his products, at least as long as this want can be satisfied without frustrating his wish to increase his profits. Trust is often mixed with other species of reliance on persons. Trust which is reliance on another's good will, perhaps minimal good will, contrasts with the forms of reliance on others' reactions and attitudes which are shown by the comedian, the advertiser, the blackmailer, the

kidnapper-extortioner, and the terrorist, who all depend on particular attitudes and reactions of others for the success of their actions. We all depend on one another's psychology in countless ways, but this is not yet to trust them. The trusting can be betrayed, or at least let down, and not just disappointed. Kant's neighbors who counted on his regular habits as a clock for their own less automatically regular ones might be disappointed with him if he slept in one day, but not let down by him, let alone had their trust betrayed. When I trust another, I depend on her good will toward me. I need not either acknowledge this reliance nor believe that she has either invited or acknowledged such trust since there is such a thing as unconscious trust, as unwanted trust, as forced receipt of trust, and as trust which the trusted is unaware of. (Plausible conditions for proper trust will be that it survives consciousness, by both parties, and that the trusted has had some opportunity to signify acceptance or rejection, to warn the trusting if their trust is unacceptable.)

Where one depends on another's good will, one is necessarily vulnerable to the limits of that good will. One leaves others an opportunity to harm one when one trusts, and also shows one's confidence that they will not take it. Reasonable trust will require good grounds for such confidence in another's good will, or at least the absence of good grounds for expecting their ill will or indifference. Trust then, on this first approximation, is accepted vulnerability to another's possible but not expected ill will (or lack of good will) toward one.

What we now need to do, to get any sense of the variety of forms of trust, is to look both at varieties of vulnerability and at varieties of grounds for not expecting others to take advantage of it. One way to do the former, which I shall take, is to look at the variety of sorts of goods or things one values or cares about, which can be left or put within the striking power of others, and the variety of ways we can let or leave others "close" enough to what we value to be able to harm it. Then we can look at various reasons we might have for wanting or accepting such closeness of those with power to harm us, and for confidence that they will not use this power. In this way we can hope to explicate the vague terms "good will" and "ill will." If it be asked why the initial emphasis is put on the trusting's vulnerability, on the risks rather than the benefits of trust, part of the answer has already been given—namely, that we come to realize what trust involves retrospectively and posthumously, once our vulnerability is brought home to us by actual wounds. The other part of the answer is that even when one does become aware of trust and intentionally continues a particular case of it, one need not intend to achieve any particular benefit from it—one need not trust a person in order to receive some gain, even when in fact one does gain. Trusting, as an intentional mental phenomenon, need not be purposive. But intentional trusting does require awareness of one's confidence that the trusted will not harm one, although they could harm one. It is not a Hobbesian obsession with strike force which dictates the form of analysis

I have sketched but, rather, the natural order of consciousness and self-consciousness of trust, which progresses from initially unself-conscious trust to awareness of risk along with confidence that it is a good risk, on to some realization of why we are taking this particular risk, and eventually to some evaluation of what we may generally gain and what we may lose from the willingness to take such risks. The ultimate point of what we are doing when we trust may be the last thing we come to realize.

The next thing to attend to is why we typically do leave things that we value close enough to others for them to harm them. The answer, simply, is that we need their help in creating, and then in not merely guarding but looking after the things we most value, so we have no choice but to allow some others to be in a position to harm them. The one in the best position to harm something is its creator or its nurse-cum-caretaker. Since the things we typically do value include such things as we cannot singlehandedly either create or sustain (our own life, health, reputation, our offspring and their well-being, as well as intrinsically shared goods such as conversation, its written equivalent, theater and other forms of play, chamber music, market exchange, political life, and so on) we must allow many other people to get into positions where they can, if they choose, injure what we care about, since those are the same positions that they must be in in order to help us take care of what we care about. The simple Socratic truth that no person is self-sufficient gets elaborated, once we add the equally Socratic truth that the human soul's activity is *caring* for things into the richer truth that no one is able by herself to look after everything she wants to have looked after, nor even alone to look after her own "private" goods, such as health and bodily safety. If we try to distinguish different forms of trust by the different valued goods we confidently allow another to have some control over, we are following Locke in analyzing trusting on the model of *entrusting*. Thus, there will be an answer not just to the question, Whom do you trust? but to the question, *What* do you trust to them?—what good is it that they are in a position to take from you, or to injure? Accepting such an analysis, taking trust to be a three-place predicate (A trusts B with valued thing C) will involve some distortion and regimentation of some cases, where we may have to strain to discern any definite candidate for C, but I think it will prove more of a help than a hindrance.

One way in which trusted persons can fail to act as they were trusted to is by taking on the care of more than they were entrusted with—the babysitter who decides that the nursery would be improved if painted purple and sets to work to transform it, will have acted, as a babysitter, in an untrustworthy way, however great his good will. When we are trusted, we are relied upon to realize *what* it is for whose care we have some discretionary responsibility, and normal people can pick up the cues that indicate the limits of what is entrusted. For example, if I confide my troubles to a friend, I trust her to listen, more or less sympathetically, and to preserve confidentiality, but usually not, or not without consulting

me, to take steps to remove the source of my worry. That could be interfering impertinence, not trustworthiness as a confidante. She will, nevertheless, within the restricted scope of what is trusted to her (knowledge of my affairs, not their management) have some discretion both as to how to receive the confidence and, unless I swear her to absolute secrecy, as to when to share it. The relativization of trust to particular things cared about by the truster goes along with the discretion the trusted usually has in judging just what should be done to “look after” the particular good entrusted to her care. This discretionary power will of course be limited by the limits of what is entrusted and usually by some other constraints.

It is plausible to construe all cases of being trusted not merely as cases of being trusted by someone with access to what matters to the truster, but as some control over that, expected to be used to take care of it, and involving some discretionary powers in so doing?⁴ Can we further elaborate the analysis of a relationship of trust as one where A has entrusted B with some of the care of C and where B has some discretionary powers in caring for C? Admittedly there are many cases of trust where “caring for C” seems much more than A expects of B even when there is no problem in finding a fairly restricted value for C. Suppose I look quickly around me before proceeding into the dark street or library stacks where my business takes me, judge the few people I discern there to be nondangerous, and so go ahead. We can say that my bodily safety, and perhaps my pocketbook, are the goods I am allowing these people to be in a position to threaten. I trust them, it seems, merely to leave me alone. But this is not quite right, for should a piece of falling masonry or toppling books threaten to fall on my head, and one of these persons leap into action and shove me out of this danger, I would regard that as rather more than less than I had trusted these strangers to do—a case for gratitude, not for an assault charge, despite the sudden, unceremonious, possibly painful or even injurious nature of my close encounter with my rescuer. So *what* do I trust strangers in such circumstances to do? Certainly not anything whatever as long as it is done with good will, nor even anything whatever for my bodily safety and security of property as long as it is done with good will. Suppose someone I have judged nondangerous as I proceed into the stacks should seize me from behind, frightening but not harming me, and claim with apparent sincerity that she did it for my own good, so that I would learn a lesson and be

4. A reader for this journal suggested that, when one trusts one's child to mail an important letter for one at the mailbox on the corner, no discretionary powers are given, although one is trusting him with the safe, speedy transfer of the letter to the box. But life is full of surprises—in Washington on Inauguration day mailboxes were sealed closed as a security precaution, and in some parts of Manhattan mailboxes are regularly sealed after dark. One trusts the child to do the sensible thing if such an unforeseen problem should arise—to bring the letter back, not leave it on the ledge of the sealed mailbox or go too far afield to find another.

more cautious in the future. I would not respond with gratitude but demand what business my long-term security of life was of hers, that she felt free to subject me to such unpleasant educational measures. In terms of my analysis, what I trusted her with was my peace and safety here and now, with "looking after" that, not with my long-term safety. We need some fairly positive and discretion-allowing term, such as "look after" or "show concern for," to let in the range of behavior which would not disappoint the library user's trust in fellow users. We also need some specification of what good was in question to see why the intrusive, presumptuous, and paternalistic moves disappoint rather than meet the trust one has in such circumstances. "Look after" and "take care of" will have to be given a very weak sense in some cases of trust; it will be better to do this than to try to construe cases where more positive care is expected of the trusted as cases of trusting them to leave alone, or merely safeguard, some valued thing. Trusting strangers to leave us alone should be construed as trusting them with the "care" of our valued autonomy. When one trusts one's child to one's separated spouse, it is all aspects of the child's good as a developing person which are entrusted to the other parent's care. Trusting him or her with our children can hardly be construed as trusting them not to "interfere" with the child's satisfactory development. The most important things we entrust to others are things which take more than noninterference in order to thrive.

The more extensive the discretionary powers of the trusted, the less clear-cut will be the answer to the question of when trust is disappointed. The truster, who always needs good judgment to know whom to trust and how much discretion to give, will also have some scope for discretion in judging what should count as failing to meet trust, either through incompetence, negligence, or ill will. In any case of a questionable exercise of discretion there will be room both for forgiveness of unfortunate outcomes and for tact in treatment of the question of whether there is anything to forgive. One thing that can destroy a trust relationship fairly quickly is the combination of a rigoristic unforgiving attitude on the part of the truster and a touchy sensitivity to any criticism on the part of the trusted. If a trust relationship is to continue, some tact and willingness to forgive on the part of the truster and some willingness on the part of the trusted both to be forgiven and to forgive unfair criticisms, seem essential.⁵ The need for this will be greater the more discretion the trusted has.

5. This point I take from the fascinating sociological analysis of trust given by Niklas Luhmann (*Trust and Power* [Chichester, N.Y., 1979]) which I discovered while revising this paper. In many ways my analysis agrees with his, insofar as I understand the implications of his account of it as "reduction of complexity," in particular of complex future contingencies. He makes much of the difference between absence of trust and distrust, and distinguishes trust from what it presupposes, a mere "familiarity," or taking for granted. I have blurred these distinctions. He treats personal trust as a risky investment and looks at mechanisms for initiating and maintaining trust. Tact is said to play an important role in both. It enables

If part of what the truster entrusts to the trusted are discretionary powers, then the truster risks abuse of those and the successful disguise of such abuse. The special vulnerability which trust involves is vulnerability to not yet noticed harm, or to disguised ill will. What one forgives or tactfully averts one's eyes from may be not well-meant but ill-judged or incompetent attempts to care for what is entrusted but, rather, ill-meant and cleverly disguised abuses of discretionary power. To understand the moral risks of trust, it is important to see the special sort of vulnerability it introduces. Yet the discretionary element which introduces this special danger is essential to that which trust at its best makes possible. To elaborate Hume: "'Tis impossible to separate the chance of good from the risk of ill."⁶

It is fairly easy, once we look, to see how this special vulnerability is involved in many ordinary forms of trust. We trust the mailman to deliver and not tamper with the mail, and to some extent we trust his discretion in interpreting what "tampering" covers. Normally we do not expect him to read our mail but to deliver it unread, even when the message is open, on a postcard. But on occasion it may be proper, or at least not wrong, for him to read it. I have had friendly mailmen (in Greek villages and in small Austrian towns) who tell me what my mail announces as they hand it over: "Your relatives have recovered and can travel now, and are soon arriving!" Such interest in one's affairs is not part of the normal idea of the role of mailman and could provide opportunity for blackmail, but in virtue of that very interest they could give much more knowledgeable and intelligent service—in the above case by knowing our plans they knew when and where we had moved and delivered to the new address without instructions. What do we trust our mailmen to do or not to do? To use their discretion in getting our mail to us, to take enough interest in us and in the nature of our mail, (compatibly with their total responsibility) to make intelligent decisions about what to do with it when such decisions have to be made. Similarly with our surgeons and plumbers—*just* what they should do to put right what is wrong is something we must leave to them. Should they act incompetently, negligently, or deliberately against our interests, they may conceal these features of their activities from us by pretense that whatever happened occurred as a result of an honest and well-meaning exercise of the discretion

trust-offering overtures to be rejected without hostility ensuing, and it enables those who make false moves in their attempts to maintain trust to recover their position without too much loss of face. "A social climate . . . institutionalizes tact and knows enough escape routes for self presentation in difficult situations" (p. 84). It is important, I think, to see that tact is a virtue which needs to be added to delicacy of discrimination in recognizing *what* one is trusted with, good judgment as to whom to trust with what, and a willingness to admit and forgive fault, as all functional virtues needed in those who would sustain trust.

6. See David Hume, *Treatise*, ed. L. A. Selby-Bigge and P. H. Nidditch (Oxford: Clarendon Press, 1978), p. 497.

given to them. This way they may retain our trust and so have opportunity to harm us yet further. In trusting them, we trust them to use their discretionary powers competently and nonmaliciously, and the latter includes not misleading us about how they have used them.

Trust, on the analysis I have proposed, is letting other persons (natural or artificial, such as firms, nations, etc.) take care of something the truster cares about, where such "caring for" involves some exercise of discretionary powers. But not all the variables involved in trust are yet in view. One which the entrusting model obscures rather than highlights is the degree of explicitness. To entrust is intentionally and usually formally to hand over the care of something to someone, but trusting is rarely begun by making up one's mind to trust, and often it has no definite initiation of any sort but grows up slowly and imperceptibly. What I have tried to take from the notion of entrusting is not its voluntarist and formalist character but rather the possible specificity and restrictedness of *what* is entrusted, along with the discretion the trustee has in looking after that thing. Trust can come with no beginnings, with gradual as well as sudden beginnings, and with various degrees of self-consciousness, voluntariness, and expressness. My earlier discussion of the delicacy and tact needed by the truster in judging the performance of the trusted applied only to cases where the truster not merely realizes that she trusts but has some conscious control over the continuation of the trust relationship. The discussion of abuses of discretionary power applied only to cases where the trusted realizes that she is trusted and trusted with discretionary powers. But trust relationships need not be so express, and some important forms of them cannot be verbally acknowledged by the persons involved. Trust between infant and parent is such a case, and it is one which also reminds us of another crucial variable in trust relations to which so far I have only indirectly alluded. This is the relative power of the truster and the trusted, and the relative costs to each of a breakdown of their trust relationship. In emphasizing the toleration of vulnerability by the truster I have made attitudes to relative power and powerlessness the essence of trust and distrust; I have not yet looked at the varieties of trust we discern when we vary the power of the truster in relation to the power of the trusted, both while the trust endures and in its absence. Trust alters power positions, and both the position one is in without a given form of trust and the position one has within a relation of trust need to be considered before one can judge whether that form of trust is sensible and morally decent. Infant trust reminds us not just of inarticulate and uncritical or blind trust, but of trust by those who are maximally vulnerable, whether or not they give trust.

TRUST AND RELATIVE POWER

I have been apparently preoccupied up till now with dimensions of trust which show up most clearly in trust between articulate adults, in a position to judge one another's performance, and having some control over their

degree of vulnerability to others. This approach typifies a myopia which, once noticed, explains the “regrettably sparse” attempts to understand trust as a phenomenon of moral importance.⁷ For the more we ignore dependency relations between those grossly unequal in power and ignore what cannot be spelled out in an explicit acknowledgment, the more readily will we assume that everything that needs to be understood about trust and trustworthiness can be grasped by looking at the morality of contract. For it takes an adult to be able to make a contract, and it takes something like Hegel’s civil society of near equals to find a use for contracts. But one has to strain the contractarian model very considerably to see infant-parent relations as essentially contractual, both because of the nonexpressness of the infant’s attitude and because of the infant’s utter powerlessness. It takes inattention to cooperation between unequals, and between those without a common language, to keep one a contented contractarian. To do more, I must both show how infant trust, and other variations along the relative power dimension, can be covered and also indicate just where trust in contracts fits into the picture we then get.

Infant trust is like one form of non-contract-based trust to which some attention has been given in our philosophical tradition, namely, trust in God. Trust in God is total, in that whatever one cares about, it will not thrive if God wills that it not thrive. A young child too is totally dependent on the good will of the parent, totally incapable of looking after anything he cares about without parental help or against parental will. Such total dependence does not, in itself, necessarily elicit trust—some theists curse God, display futile distrust or despair rather than trust. Infants too can make suspicious, futile, self-protective moves against the powerful adults in their world or retreat into autism. But surviving infants will usually have shown some trust, enough to accept offered nourishment, enough not to attempt to prevent such close approach. The ultra-Hobbesian child who fears or rejects the mother’s breast, as if fearing poison from that source, can be taken as displaying innate distrust, and such newborns must be the exception in a surviving species. Hobbes tells us that, in the state of nature, “seeing the infant is in the power of the Mother, and is therefore obliged to obey her, so she may either nourish or expose it; if she nourish it, it oweth its life to the Mother and is therefore obliged to obey her rather than any other” (*Leviathan*, chap. 20). Even he, born a twin to fear, is apparently willing to take mother’s

7. Luhmann, p. 8, n. 1. It is interesting to note that, unlike Luhmann and myself, Bernard Barber begins his sociological treatment of trust in *The Logic and Limits of Trust* (New Brunswick, N.J.: Rutgers University Press, 1983) not by remarking on the neglect of the topic but rather, by saying, “Today nearly everyone seems to be talking about ‘trust’” (p. 1). He lists “moral philosophers” along with “presidential candidates, political columnists, pollsters, social critics and the man in the street” as among those talking so much about it but cites only two moral philosophers, Bok and Rawls (who by his own account is *not* always talking about it). Between Luhmann’s work on trust, first published in Germany in 1973, and Barber’s, sociologists had ten years to get the talk about trust going, but it has scarcely spread yet to most of the moral philosophers I have encountered.

milk on trust. Some degree of innate, if selective, trust seems a necessary element in any surviving creature whose first nourishment (if it is not exposed) comes from another, and this innate but fragile trust could serve as the explanation both of the possibility of other forms of trust and of their fragility.

Infant trust that normally does not need to be won but is there unless and until it is destroyed is important for an understanding of the possibility of trust. Trust is much easier to maintain than it is to get started and is never hard to destroy. Unless some form of it were innate, and unless that form could pave the way for new forms, it would appear a miracle that trust ever occurs. The postponement of the onset of distrust is a lot more explicable than hypothetical Hobbesian conversions from total distrust to limited trust. The persistent human adult tendency to profess trust in a creator-God can also be seen as an infantile residue of this crucial innate readiness of infants to initially impute goodwill to the powerful persons on whom they depend. So we should perhaps welcome, or at least tolerate, religious trust, if we value any form of trust. Nevertheless the theological literature on trust in God is of very limited help to us if we want to understand trust in human persons, even that trust in parents of which it can be seen as a nostalgic fantasy-memory. For the child soon learns that the parent is not, like God, invulnerable, nor even, like some versions of God, subject to offense or insult but not injury. Infant trust, although extreme in the discrepancy of power between the truster and the trusted, is to some extent a matter of mutual trust and mutual if unequal vulnerability. The parents' enormous power to harm the child and disappoint the child's trust is the power of ones also vulnerable to the child's at first insignificant but ever-increasing power, including power as one trusted by the parent. So not very much can be milked from the theological literature on the virtues of trust, faith, and hope in God and returned to the human context, even to the case of infant and parent. Indeed we might cite the theological contamination of the concept of trust as part of the explanation for the general avoidance of the topic in modern moral philosophy. If trust is seen as a variant of the suspect virtue of faith in the competence of the powers that be, then readiness to trust will be seen not just as a virtue of the weak but itself as a moral weakness, better replaced by vigilance and self-assertion, by self-reliance or by cautious, minimal, and carefully monitored trust. The psychology of adolescents, not infants, then gets glorified as the moral ideal. Such a reaction against a religious version of the ethics of trust is as healthy, understandable, and, it is hoped, as passing a phenomenon as is adolescent self-assertive individualism in the life of a normal person.

The goods which a trustworthy parent takes care of for as long as the child is unable to take care of them alone, or continues to welcome the parent's help in caring for them, are such things as nutrition, shelter, clothing, health, education, privacy, and loving attachment to others. Why, once the child becomes at all self-conscious about trusting parents

to look after such goods for her, should she have confidence that parents are dependable custodians of such goods? Presumably because many of them are also goods to the parent, through their being goods to the child, especially if the parent loves the child. They will be common goods, so that for the trusted to harm them would be self-harm as well as harm to the child. The best reason for confidence in another's good care of what one cares about is that it is a common good, and the best reason for thinking that one's own good is also a common good is being loved. This may not, usually will not, ensure agreement on what best should be done to take care of that good, but it rules out suspicion of ill will. However, even when a child does not feel as loved by a parent as she would like, or as she thinks her siblings or friends are, she may still have complete confidence that at least many of the goods she cares about can be entrusted to her parents' care. She can have plenty of evidence that, for reasons such as pride, desire to perpetuate their name, or whatever, they do care as she herself does about her health, her success, and her ties with them. She can have good reason to be confident of the continued trustworthiness of her parents in many regards, from what she knows of their own concerns.

As the child approaches adulthood, and as the parents draw nearer to the likely dependency of old age, the trust may approximate much more closely to mutual trust and mutual vulnerability between equals, and they may then make explicit or even formal agreements about what is to be done in return for what. But no such contractual or quasi-contractual agreement can convert the young child's trust and the parent's trustworthiness retrospectively into part of a contractual mutual exchange. At most it can transform what was a continuing relation of mutual trust into a contractual obligation to render some sort of service to one's parents. The previous parental care could become a moral *reason* for making a contract with parents, but not what one received as 'consideration' in such a contract. At best that could be a virtual 'consideration,' perhaps symbolized by the parents' formal cancelling of any until then outstanding 'debt' of gratitude, in return for the rights the contract gives them. But normally whatever grateful return one makes to another is not made in exchange for a 'receipt' which is proof against any outstanding 'debt.' Only those determined to see every proper moral transaction as an exchange will construe every gift as made in exchange for an IOU, and every return gift as made in exchange for a receipt. Only such trade fetishists will have any reason to try to construe the appropriate adult response to earlier parental care as part of a virtual contract, or as proper content for an actual contract. As Hume says, contract should not replace "the more generous and noble intercourse of friendship and good offices," which he construes as a matter of spontaneous service responded to by "return in the same manner."⁸ We can resist this reduction of the more

8. Hume, p. 521.

noble responses of gratitude to the fulfilling of contractual obligations if we focus our moral attention on other sorts of trust than trust in contracts. Looking at infant trust helps one do that. Not only has the child no concept of virtual contract when she trusts, but the parent's duty to the child seems in no way dependent on the expectation that the child will make a later return. The child or the parent may die before the reversal of dependency arrives. Furthermore, parent's knowledge either that the child, or that he himself, or both, will die within say ten years, in itself (and disability apart) makes no difference to the parent's responsibility while he lives, as that is usually understood. Parental and filial responsibility does not rest on deals, actual or virtual, between parent and child.

TRUST AND VOLUNTARY ABILITIES

The child trusts as long as she is encouraged to trust and until the trust is unmistakably betrayed. It takes childhood innocence to be able to trust simply because of encouragement to trust. "Trust me!" is for most of us an invitation which we cannot accept at will—either we do already trust the one who says it, in which case it serves at best as reassurance,⁹ or it is properly responded to with, "Why should and how can I, until I have cause to?"¹⁰ The child, of course, cannot trust at will any more than experienced adults can—encouragement is a condition of not lapsing into distrust, rather than of a move from distrust to trust. One constraint on an account of trust which postulates infant trust as its essential seed is that it not make essential to trusting the use of concepts or abilities which a child cannot be reasonably believed to possess. Acts of will of any sort are not plausibly attributed to infants; it would be unreasonable to suppose that they can do at will what adults cannot, namely, obey the instruction to trust, whether it comes from others or is a self-instruction.

To suppose that infants emerge from the womb already equipped with some *ur*-confidence in what supports them, so that no choice is needed to continue with that attitude, until something happens to shake or destroy such confidence, is plausible enough. My account of trust has been designed to allow for unconscious trust, for conscious but unchosen trust, as well as for conscious trust the truster has chosen to endorse and cultivate. Whereas it strains the concept of agreement to speak of unconscious agreements and unchosen agreements, and overstrains the

9. My thoughts about the role of the words "Trust me!" are influenced by an unpublished paper on promising by T. M. Scanlon. Indeed Scanlon's talk on this topic to the University of Pittsburgh philosophy department in April 1984 was what, along with Hume's few remarks about it, started me thinking about trust in and out of voluntary exchanges.

10. Luhmann says, "It is not possible to demand the trust of others; trust can only be offered and accepted" (p. 43). I am here claiming something stronger, namely, that one cannot offer it or accept it by an act of will; that one cannot demand it of oneself or others until some trust-securing social artifice invents something like promise that *can* be offered and accepted at will.

concept of contract to speak of unconscious or unchosen contracts, there is no strain whatever in the concept of automatic and unconscious trust, and of unchosen but mutual trust. Trust between infant and parent, at its best, exhibits such primitive and basic trust. Once it is present, the story of how trust becomes self-conscious, controlled, monitored, critical, pretended, and eventually either cautious and distrustful of itself, or discriminatory and reflexive, so that we come to trust ourselves as trusters, is relatively easy to tell. What will need explanation will be the ceasings to trust, the transfers of trust, the restriction or enlargements in the fields of what is trusted, when, and to whom, rather than any abrupt switches from distrust to trust. Even if such occurrences do ever occur (when one suddenly falls in love or lust with a stranger or former enemy, or has a religious conversion), they take more than the mere invitation "Trust me."

In his famous account of what a promise (and a contract) involves, Hume strongly implies that it is an artificially contrived and secured case of mutual trust. The penalty to which a promisor subjects himself in promising, he says, is that of "never being trusted again in case of failure."¹¹ The problem which the artifice of promise solves is a generally disadvantageous "want of mutual confidence and security."¹² It is plausible to construe the offer whose acceptance counts as acceptance of a contract or a promise as at least implicitly including an invitation to trust. Part of what makes promises the special thing they are, and the philosophically intriguing thing they are, is that we *can* at will accept *this* sort of invitation to trust, whereas in general we cannot trust at will. Promises are puzzling because they seem to have the power, by verbal magic, to initiate real voluntary short-term trusting. They not merely create obligations apparently at the will of the obligated, but they create trust at the will of the truster. They present a very fascinating case of trust and trustworthiness, but one which, because of those very intriguing features, is ill suited to the role of paradigm. Yet in as far as modern moral philosophers have attended at all to the morality of trust, it is trust in parties to an agreement that they have concentrated on, and it is into this very special and artificial mold that they have tried to force other cases of trust, when they notice them at all.

Trust of any particular form is made more likely, in adults, if there is a climate of trust of that sort. Awareness of what is customary, as well as past experience of one's own, affects one's ability to trust. We take it for granted that people will perform their role-related duties and trust any individual worker to look after whatever her job requires her to. The very existence of that job, as a standard occupation, creates a climate of some trust in those with that job. Social artifices such as property, which allocate rights and duties as a standard job does, more generally also

11. Hume, p. 522.

12. *Ibid.*, p. 521.

create a climate of trust, a presumption of a sort of trustworthiness. On the Humean account of promises and contracts which I find more or less correct,¹³ their establishment as a customary procedure also reverses a presumption concerning trustworthiness, but only in limited conditions. Among these is a special voluntary act by the promisor, giving it to be understood that what he offers is a promise, and another voluntary act by the promisee, acceptance of that promise. Promises are “a bond or security,”¹⁴ and “the sanction of the interested commerce of mankind.”¹⁵ To understand them is to see what sort of sanction is involved, what sort of security they provide, and the social preconditions of each. Then one understands how the presumption about the trustworthiness of self-interested strangers can be reversed, and how the ability to trust them (for a limited time, on a limited matter) can become a voluntary ability. To adapt Hume’s words, “Hence I learn to count on a service from another, although he bears me no real kindness.”¹⁶ Promises are a most ingenious social invention, and trust in those who have given us promises is a complex and sophisticated moral achievement. Once the social conditions are right for it, once the requisite climate of trust in promisors is there, it is easy to take it for a simpler matter than it is and to ignore its background conditions. They include not merely the variable social conventions and punitive customs Hume emphasizes, but the prior existence of less artificial and less voluntary forms of trust, such as trust in friends and family, and enough trust in fellows to engage with them in agreed exchanges of a more or less simultaneous nature, exchanges such as barter or handshakes, which do not require one to rely on strangers over a period of time, as exchange of promises typically does.

Those who take advantage of this sophisticated social device will be, mainly, adults who are not intimate with one another, and who see one another more or less as equal in power to secure the enforcement of the rules of the contracting game (to extract damages for broken contracts, to set in motion the accepted penalty for fraudulent promises, and so on). As Nietzsche emphasized, the right to make promises and the power to have one’s promises accepted are not possessed by everyone in relation to everyone else. Not only can the right be forfeited, but it is all along an elite right, possessed only by those with a certain social status. Slaves, young children, the ill, and the mentally incompetent do not fully possess it. For those who do possess it, whose offer or acceptance of a promise has moral force, the extent to which use of it regulates their relations with others varies with their other social powers. Women whose property, work, and sexual services became their husbands’ on marriage did not

13. I have discussed and defended Hume’s account in “Promises, Promises, Promises,” in my *Postures of the Mind: Essays on Mind and Morals* (Minneapolis: University of Minnesota Press, 1985).

14. Hume, p. 541.

15. *Ibid.*, p. 522.

16. *Ibid.*, p. 521.

have much left to promise, and what was left could usually be taken from them without their consent and without the formality of exchange of promises. Their right to promise anything of significance was contracted into the right to make one vow of fixed and non-negotiable content, the marriage vow, and even that was often made under duress. The important relationships and trust relationships which structured women's lives for most of the known history of our species, relations to spouse, children, fellow workers, were not entered into by free choice, or by freely giving or receiving promises. They were, typically, relationships of which the more important were ones of intimacy, relationships to superiors or inferiors in power, relationships not in any strong sense freely chosen nor to chosen others. Like the infant, they found themselves faced with others to trust or distrust, found themselves trusted or not trusted by these given others. Their freely given and seriously taken promises were restricted in their content to trivialities. Contract is a device for traders, entrepreneurs, and capitalists, not for children, servants, indentured wives, and slaves. They were the traded, not the traders, and any participation they had in the promising game was mere play. It is appropriate, then, that Nietzsche, the moral philosopher who glorifies promise more even than contemporary contractarians, was also the one who advised his fellow male exchangers or givers of promises thus, "He must conceive of woman as a possession, as a property that can be locked, as something predestined for service and achieving her perfection in that."¹⁷ Nietzsche faces squarely what Hume half faced, and what most moral philosophers have avoided facing, that the liberal morality which takes voluntary agreement as the paradigm source of moral obligation must either exclude the women they expect to continue in their traditional role from the class of moral subjects, or admit internal contradiction in their moral beliefs. Nor does the contradiction vanish once women have equal legal rights with men, as long as they are still expected to take responsibility for any child they conceive voluntarily or nonvoluntarily, either to abort or to bear and either care for or arrange for others to care for. Since a liberal morality both *must* let this responsibility rest with women, and yet cannot conceive of it as self-assumed, then the centrality of voluntary agreement to the liberal and contractarian morality must be challenged once women are treated as full moral fellows. Voluntary agreement, and trust in others to keep their agreements, must be moved from the center to the moral periphery, once servants, ex-slaves, and women are taken seriously as moral subjects and agents.

THE MALE FIXATION ON CONTRACT

The great moral theorists in our tradition not only are all men, they are mostly men who had minimal adult dealings with (and so were then

17. Nietzsche, *Beyond Good and Evil*, pt. 7, §238, trans. Walter Kaufmann, *Basic Writings of Nietzsche* (New York, 1968), p. 357.

minimally influenced by) women. With a few significant exceptions (Hume, Hegel, J. S. Mill, Sidgwick, maybe Bradley) they are a collection of gays, clerics, misogynists, and puritan bachelors. It should not surprise us, then, that particularly in the modern period they managed to relegate to the mental background the web of trust tying most moral agents to one another, and to focus their philosophical attention so single-mindedly on cool, distanced relations between more or less free and equal adult strangers, say, the members of an all male club, with membership rules and rules for dealing with rule breakers and where the form of cooperation was restricted to ensuring that each member could read his *Times* in peace and have no one step on his gouty toes. Explicitly assumed or recognized obligations toward others with the same obligations and the same power to see justice done to rule breakers then are seen as the moral norm.

Relations between equals and nonintimates will *be* the moral norm for adult males whose dealings with others are mainly business or restrained social dealings with similarly placed males. But for lovers, husbands, fathers, the ill, the very young, and the elderly, other relationships with their moral potential and perils will loom larger. For Hume, who had several strong-willed and manipulative women to cooperate or contend with in his adult life, for Mill, who had Harriet Taylor on his hands, for Hegel, whose domestic life was of normal complication, the rights and duties of equals to equals in a civil society which recognized only a male electorate could only be *part* of the moral story. They could not ignore the virtues and vices of family relationships, male-female relationships, master-slave, and employer-employee relationships as easily as could Hobbes, Butler, Bentham, or Kant. Nor could they as easily adopt the usual compensatory strategies of the moral philosophers who confine their attention to the rights and duties of free and equal adults to one another—the strategy of claiming, if pressed, that these rights are the *core* of all moral relationships and maybe also claiming that any other relationships, engendering additional or different rights and duties, come about only by an exercise of one of the core rights, the right to promise. Philosophers who remember what it was like to be a dependent child, or know what it is like to be a parent, or to have a dependent parent, an old or handicapped relative, friend, or neighbor will find it implausible to treat such relations as simply cases of comembership in a kingdom of ends, in the given temporary conditions of one-sided dependence.

To the extent that these claims are correct (and I am aware that they need more defense than I have given them here)¹⁸ it becomes fairly easy to see one likely explanation of the neglect in Western moral philosophy of the full range of sorts of trust. Both before the rise of a society which needed contract as a commercial device, and after it, women were counted

18. I defend them a little more in "What Do Women Want in a Moral Theory?" *Nous* 19 (March 1985): 53–64.

on to serve their men, to raise their children to fill the roles they were expected to fill and not deceive their men about the paternity of these children. What men counted on one another for, in work and war, presupposed this background domestic trust, trust in women not merely not to poison their men (Nietzsche derides them for learning less than they might have in the kitchen), but to turn out sons who could trust and be trusted in traditional men's roles and daughters who would reduplicate their own capacities for trust and trustworthiness. Since the women's role did not include the writing of moral treatises, any thoughts they had about trust, based on their experience of it, did not get into our tradition (or did Diotima teach Socrates something about trust as well as love?). And the more powerful men, including those who did write the moral treatises, were in the morally awkward position of being, collectively, oppressors of women, exploiters of women's capacity for trustworthiness in unequal, nonvoluntary, and non-contract-based relationships. Understandably, they did not focus their attention on forms of trust and demands for trustworthiness which it takes a Nietzsche to recognize without shame. Humankind can bear only so much reality.

The recent research of Carol Gilligan has shown us how intelligent and reflective twentieth-century women see morality, and how different their picture of it is from that of men, particularly the men who eagerly assent to the claims of currently orthodox contractarian-Kantian moral theories.¹⁹ Women cannot now, any more than they could when oppressed, ignore that part of morality and those forms of trust which cannot easily be forced into the liberal and particularly the contractarian mold. Men may but women cannot see morality as essentially a matter of keeping to the minimal moral traffic rules, designed to restrict close encounters between autonomous persons to self-chosen ones. Such a conception presupposes both an equality of power and a natural separateness from others, which is alien to women's experience of life and morality. For those most of whose daily dealings are with the less powerful or the more powerful, a moral code designed for those equal in power will be at best nonfunctional, at worst an offensive pretense of equality as a substitute for its actuality. But equality is not even a desirable ideal in all relationships—children not only are not but should not be equal in power to adults, and we need a morality to guide us in our dealings with those who either cannot or should not achieve equality of power (animals, the ill, the dying, children while still young) with those with whom they have unavoidable and often intimate relationships.

Modern moral philosophy has concentrated on the morality of fairly cool relationships between those who are deemed to be roughly equal in power to determine the rules and to instigate sanctions against rule breakers. It is not surprising, then, that the main form of trust that any

19. Carol Gilligan, *In a Different Voice* (Cambridge, Mass.: Harvard University Press, 1982).

attention has been given to is trust in governments, and in parties to voluntary agreements to do what they have agreed to do. As much as possible is absorbed into the latter category, so that we suppose that paying for what one takes from a shop, doing what one is employed to do, returning what one has borrowed, supporting one's spouse, are all cases of being faithful to binding voluntary agreements, to contracts of some sort. (For Hume, none of these would count as duties arising from contract or promise.) Yet if I think of the trust I show, say, in the plumber who comes from the municipal drainage authority when I report that my drains are clogged, it is not plausibly seen as trust that he will fulfill his contractual obligations to me or to his employer. When I trust him to do whatever is necessary and safe to clear my drains, I take his expertise and his lack of ill will for granted. Should he plant explosives to satisfy some unsuspected private or social grudge against me, what I might try to sue him for (if I escaped alive) would not be damages for breach of contract. His wrong, if wrong it were, is not breach of contract, and the trust he would have disappointed would not have been that particular form of trust.

Contract enables us to make explicit just what we count on another person to do, in return for what, and should they not do just that, what damages can be extracted from them. The beauty of promise and contract is its explicitness.²⁰ But we can only make explicit provisions for such contingencies as we imagine arising. Until I become a victim of a terrorist plumber I am unlikely, even if I should insist on a contract before giving plumbers access to my drains, to extract a solemn agreement that they not blow me up. Nor am I likely to specify the alternative means they *may* use to clear my drains, since if I knew enough to compile such a list I would myself have to be a competent plumber. Any such detailed instructions must come from their plumbing superiors; I know nothing or little about it when I confidently welcome the plumber into the bowels of my basement. I trust him to do a nonsubversive plumbing job, as he counts on me to do a nonsubversive teaching job, should he send his son to my course in the history of ethics. Neither of us relies on a contract with the other, and neither of us need know of any contract (or much about its contents) the other may have with a third coordinating party.

It does not, then, seem at all plausible, once we think about actual moral relations in all their sad or splendid variety, to model all of them

20. Norbert Hornstein has drawn my attention to an unpublished paper by economist Peter Murrell, "Commitment and Cooperation: A Theory of Contract Applied to Franchising." Murrell emphasizes the nonstandard nature of franchise contracts, in that they typically are vague about what is expected of the franchisee. The consequent infrequency of contract termination by the franchisor is linked by him to the long duration of the contracts and to the advantage, to the more powerful proprietor of the trademark, of keeping the trust of the less powerful scattered franchisees and maintaining quality control by means other than punitive contract terminations. This, I persuade myself, is a case where the exception proves the rule, where the nonstandardness of such inexplicit and trusting contracts points up to the explicitness and minimal trustingness of standard contracts.

on one rather special one, the relation between promisor to promisee. We count on all sorts of people for all sorts of vital things, without any contracts, explicit or implicit, with them or with any third coordinating party. For these cases of trust in people to do their job conscientiously and not to take the opportunity to do us harm once we put things we value into their hands are different from trust in people to keep their promises in part because of the very indefiniteness of what we are counting on them to do or not to do. The subtlety and point of promising is to declare precisely *what* we count on another to do, and as the case of Shylock and Bassanio shows, that very definiteness is a limitation as well as a functional excellence of an explicit agreement.

Another functional excellence of contracts, which is closely connected with the expressness that makes breach easily established and damages or penalty decidable with a show of reasonable justice, is the *security* they offer the trusting party. They make it possible not merely for us to trust at will but to trust with minimal vulnerability. They are a device for trusting others enough for mutually profitable future-involving exchanges, without taking the risks trusters usually do take. They are designed for cooperation between mutually suspicious risk-averse strangers, and the vulnerability they involve is at the other extreme from that incurred by trusting infants. Contracts distribute and redistribute risk so as to minimize it for both parties, but trusting those more powerful persons who purport to love one increases one's risks while increasing the good one can hope to secure. Trust in fellow contractors is a limit case of trust, in which fewer risks are taken, for the sake of lesser goods.

Promises do, nevertheless, involve some real trust in the other party's good will and proper use of discretionary powers. Hume said that "to perform promises is requisite to beget trust and confidence in the common offices of life."²¹ But performing promises is not the only performance requisite for that. Shylock did not welsh on an agreement, but he was nevertheless not a trustworthy party to an agreement. For to insist on the letter of an agreement, ignoring the vague but generally understood unwritten background conditions and exceptions, is to fail to show that discretion and goodwill which a trustworthy person has. To be someone to be trusted with a promise, as well as to be trusted as a promisor, one must be able to use discretion not as to when the promise has been kept but, rather, as to when to insist that the promise be kept, or to instigate penalty for breach of promise, when to keep and when not to keep one's promise. I would feel morally let down if someone who had promised to help me move house arrived announcing, "I had to leave my mother, suddenly taken ill, to look after herself in order to be here, but I couldn't break my promise to you." From such persons I would accept no further promises, since they would have shown themselves untrustworthy in the always crucial respect of judgment and willingness to use their discretionary

21. Hume, p. 544.

powers. Promises *are* morally interesting, and one's performance as party to a promise is a good indicator of one's moral character, but not for the reasons contractarians suppose.

The domination of contemporary moral philosophy by the so-called Prisoner's Dilemma problem displays most clearly this obsession with moral relations between minimally trusting, minimally trustworthy adults who are equally powerful. Just as the only trust Hobbist man shows is trust in promises, provided there is assurance of punishment for promise breakers, so is this the only sort of trust nontheological modern moral philosophers have given much attention at all to, as if once we have weaned ourselves from the degenerate form of absolute and unreciprocated trust in God, all our capacity for trust is to be channelled into the equally degenerate form of formal voluntary and reciprocated trust restricted to equals. But we collectively cannot bring off such a limitation of trust to minimal and secured trust, and we can deceive ourselves that we do only if we avert our philosophical gaze from the ordinary forms of trust I have been pointing to. It was not really that, after Hobbes, people *did* barricade their bodies as well as their possessions against all others before daring to sleep. Some continued to doze off on stagecoaches, to go abroad unarmed, to give credit in business deals, to count on others turning up on time for appointments, to trust parents, children, friends, and lovers not to rob or assault them when welcomed into intimacy with them. And the usual array of vicious forms of such trust, trustworthiness, and demands for them, continued to flourish. Slaves continued to be trusted to cook for slaveowners; women, with or without marriage vows, continued to be trusted with the property of their men, trusted not to deceive them about the paternity of their children, and trusted to bring up their sons as patriarchs, their daughters as suitable wives or mistresses for patriarchs. Life went on, but the moral philosophers, or at least those we regard as the great ones, chose to attend only to a few of the moral relations normal life exhibited. Once Filmer was disposed of, they concentrated primarily *not* on any of the relations between those of unequal power—parent to child, husband to wife, adult to aged parent, slaveowner to slave, official to citizen, employer to employee—but on relations between roughly equal parties or between people in those respects in which they could be seen as equals.

Such relationships of mutual respect are, of course, of great moral importance. Hobbes, Locke, Rousseau, Hume, Kant, Sidgwick, Rawls, all have helped us to see more clearly how we stand in relation to anonymous others, like ourselves in need, in power, and in capacity. One need not minimize the importance of such work in moral philosophy in order to question its completeness. But a complete moral philosophy would tell us how and why we should act and feel toward others in relationships of shifting and varying power asymmetry and shifting and varying intimacy. It seems to me that we philosophers have left that task largely to priests and revolutionaries, the self-proclaimed experts on the proper attitude

of the powerless to the powerful. But these relationships of inequality—some of them, such as parent-child, of unavoidable inequality—make up much of our lives, and they, as much as our relations to our equals, determine the state of moral health or corruption in which we are content to live. I think it is high time we look at the morality and immorality of relations between the powerful and the less powerful, especially at those in which there is trust between them.

A MORAL TEST FOR TRUST

The few discussions of trust that I have found in the literature of moral philosophy assume that trust is a good and that disappointing known trust is always *prima facie* wrong, meeting it always *prima facie* right. But what is a trust-tied community without justice but a group of mutual blackmailers and exploiters? When the trust relationship itself is corrupt and perpetuates brutality, tyranny, or injustice, trusting may be silly self-exposure, and disappointing and betraying trust, including encouraged trust, may be not merely morally permissible but morally praiseworthy. Women, proletarians, and ex-slaves cannot ignore the virtues of watchful distrust, and of judicious untrustworthiness. Only if we had reason to believe that most familiar types of trust relationship were morally sound would breaking trust be any more *prima facie* wrong than breaking silence. I now turn to the question of when a given form of trust is morally decent, so properly preserved by trustfulness and trustworthiness, and when it fails in moral decency. What I say about this will be sketchy and oversimplified. I shall take as the form of trust to test for moral decency the trust which one spouse has in the other, in particular as concerns their children's care.

Earlier in discussing infant trust I said that the child has reason to trust the parents when both child and parents care about the same good—the child's happiness, although the child may not see eye to eye with those trusted parents about how that is best taken care of. When one parent, say the old-style father, entrusts the main care of his young child's needs to the old-style mother, there, too, there can be agreement on the good they both want cared for but disagreement about how best it is cared for. The lord and master who entrusts such care to his good wife, the mother, and so gives her discretionary power in making moment-by-moment decisions about what is to be done, will have done so sensibly if these disagreements are not major ones, or if he has reason to think that she knows better than he does about such matters. He should defer to her judgment, as the child is encouraged to do to the parents', and as I do to my plumber's. He sensibly trusts if he has reason to think that the discretionary powers given, even when used in ways he does not fully understand or approve of, are still used to care for the goods he wants cared for. He would be foolish to trust if he had evidence that she had other ends in view in her treatment of the child, or had a radically different version of what, say, the child's healthy development and proper

relation to his father consisted in. Once he suspects that she, the trusted nurse of his sons and daughters, is deliberately rearing the daughters to be patriarch-toppling Amazons, the sons to be subverters of the father's values, he will sensibly withdraw his trust and dispatch his children to suitably chosen female relatives or boarding schools. What would properly undermine his trust would be beliefs he came to hold about the formerly trusted person's motives and purposes in her care of what was entrusted to her. The disturbing and trust-undermining suspicion is not necessarily that she doesn't care about the children's good, or cares only about her own—it is the suspicion that what she cares about conflicts with rather than harmonizes with what he cares about and that she is willing to sacrifice his concerns to what she sees as the children's and her own. Trusting is rational, then, in the absence of any reason to suspect in the trusted strong and operative motives which conflict with the demands of trustworthiness as the truster sees them.

But trusting can continue to be rational, even when there are such unwelcome suspicions, as long as the truster is confident that in the conflict of motives within the trusted the subversive motives will lose to the conformist motives. Should the wife face economic hardship and loss of her children if she fails to meet the husband's trust, or incurs too much of his suspicion, then she will sensibly continue as the dutiful wife, until her power position alters—sensibly, that is, given what she cares about. The husband in a position to be sure that the costs to the wife of discovered untrustworthiness are a sufficient deterrent will sensibly continue in trusting her while increasing his vigilance. Nor is he relying only on her fear, since, by hypothesis, her motives are conflicting and so she is not without some good will and some sympathy for his goals. Should he conclude that *only* fear of sanctions keeps her at her wifely duties, then the situation will have deteriorated from trust to mere reliance on his threat advantage. In such a case he will, if he has any sense, shrink the scope of her discretionary powers to virtually zero, since it is under cover of those that she could not merely thwart his purposes for his children but work to change the power relations in her own favor. As long as he gives her any discretion in looking after what is entrusted to her, he must trust her, and not rely solely on her fear of threatened penalties for disappointing his expectations.

The trusted wife (who usually, of course, also trusts her husband with many things that matter to her) is sensible to try to keep his trust, as long as she judges that the goods which would be endangered should she fail to meet his trust matter more to her than those she could best look after only by breaking or abusing trust. The goods for the sake of whose thriving she sensibly remains trustworthy might include the loving relation between them, their mutual trust for its own sake, as well as their agreed version of their children's good; or it might be some vestiges of these plus her own economic support or even physical safety, which are vulnerable to his punitive rage should she be found guilty of breach

of trust. She will sensibly continue to meet trust, even when the goods with whose case she is trusted are no longer clearly common goods, as long as she cares a lot about anything his punitive wrath can and is likely to harm.

Sensible trust could persist, then, in conditions where truster and trusted suspect each other of willingness to harm the other if they could get away with it, the one by breach of trust, the other by vengeful response to that. The stability of the relationship will depend on the trusted's skill in cover-up activities, or on the truster's evident threat advantage, or a combination of these. Should the untrustworthy trusted person not merely have skill in concealment of her breaches of trust but skill in directing them toward increasing her own power and increasing her ability to evade or protect herself against the truster's attempted vengeance, then that will destabilize the relation, as also would frequent recourse by the truster to punitive measures against the trusted.

Where the truster relies on his threat advantage to keep the trust relation going, or where the trusted relies on concealment, something is morally rotten in the trust relationship. The truster who in part relies on his whip or his control of the purse is sensible but not necessarily within his moral rights in continuing to expect trustworthiness; and the trusted who sensibly relies on concealment to escape the penalty for untrustworthiness, may or may not be within her moral rights. I tentatively propose a test for the moral decency of a trust relationship, namely, that its continuation need not rely on successful threats held over the trusted, or on her successful cover-up of breaches of trust. We could develop and generalize this test into a version of an expressibility test, if we note that knowledge of what the other party is relying on for the continuance of the trust relationship would, in the above cases of concealment and of threat advantage, itself destabilize the relation. Knowledge of the other's reliance on concealment does so fairly automatically, and knowledge of the other's partial reliance on one's fear of his revenge would tend, in a person of normal pride and self-assertiveness, to prompt her to look for ways of exploiting her discretionary powers so as to minimize her vulnerability to that threat. More generally, to the extent that what the truster relies on for the continuance of the trust relation is something which, once realized by the truster, is likely to lead to (increased) abuse of trust, and eventually to destabilization and destruction of that relation, the trust is morally corrupt. Should the wife come to realize that the husband relies on her fear of his revenge, or on her stupidity in not realizing her exploitation, or on her servile devotion to him, to keep her more or less trustworthy, that knowledge should be enough to begin to cure these weaknesses and to motivate untrustworthiness. Similarly, should the truster come to realize that the trusted relies on her skill at covering up or on her ability to charm him into forgiveness for breaches of trust, that is, relies on *his* blindness or gullibility, that realization will help cure that blindness and gullibility. A trust relationship is morally bad to the

extent that either party relies on qualities in the other which would be weakened by the knowledge that the other relies on them. Where each relies on the other's love, or concern for some common good, or professional pride in competent discharge of responsibility, knowledge of what the other is relying on in one need not undermine but will more likely strengthen those relied-on features. They survive exposure as what others rely on in one, in a way that some forms of stupidity, fear, blindness, ignorance, and gullibility normally do not. There are other mental states whose sensitivity to exposure as relied on by others seems more variable: good nature, detachment, inattention, generosity, forgivingness, sexual bondage to the other party to the trust may not be weakened by knowledge that others count on their presence in one to sustain some wanted relationship, especially if they are found equally in both parties. But the knowledge that others are counting on one's nonreciprocated generosity or good nature or forgiveness can have the power of the negative, can destroy trust.

I assume that in some forms of trust the healthy and desired state will be mere self-maintenance, while in others it will be change and growth. Alteration of the trust relationship need not take the form of destruction of the old form and its replacement by a new form, but of continuous growth, of slight shifts in scope of discretionary powers, additions or alterations in scope of goods entrusted, and so on. Of course some excitement-addicted persons may cultivate a form of trust in part for the opportunity it provides for dramatic disruption. Trust is the atmosphere necessary for exhilarating disruptions of trust, and satisfyingly spectacular transfers of trust, as well as for other goods we value. For persons with such tastes, immoral forms of trust may be preferable to what, according to my test, are moral forms of trust.

It should be noted that my proposed test of the moral decency of trust is quite noncommittal as to what cases of reliance on another's psychology will be acceptable to the other. I have assumed that most people in most trust situations will not be content to have others rely on their fear, their ignorance, and their spinelessness. In some cases, however, such as trusting police to play their role effectively, and trusting one's fellows to refrain from open crime, some element of fear must play a role, and it is its absence not its presence which would destabilize trust in such contexts. In others, such as trust in national intelligence and security officers to look after national security, some ignorance in the trusting is proper, and awareness that such persons may be relying on one's not knowing what they know will not destabilize any trust one has in them to do what they are entrusted to do. What will be offensive forms of reliance on one's psychological state will vary from context to context, depending on the nature of the goods entrusted and on other relationships between the trusting and the trusted. Variations in individual psychology will also make a difference. Some are much more tolerant than others of having their good nature or preoccupation taken advantage of—not

merely in that they take longer to recognize that they are victims of this, but they are less stirred to anger or resentment by the awareness that they are being deceived, blackmailed, or exploited in a given trust relation. I have used the phrase “tend to destroy” in the test for moral decency in the assumption that there is a normal psychology to be discerned and that it does include a strong enough element of Platonic *thumos*. Should that be false, then all sorts of horrendous forms of trust may pass my test. I do not, in any case, claim that it is the only test, merely an appropriate one. It is a test which amounts to a check on the will and good will of the truster and trusted, a look to see how good their will to one another is, knowing what they do about each other’s psychology.

It may be objected that the expressibility test I have proposed amounts to a reversion, on my part, to the contractarian attitude which I have deplored.²² Have I not finally admitted that we must treat trust relationships as hypothetical contracts, with all the terms fully spelled out in order to determine their moral status? The short answer is that contractualists do not have a monopoly on expressibility tests. In any case, I have applied it at a place no contractualist would, and *not* applied it where he does. Where he assumes self-interest as a motive and makes explicit what goods or services each self-interested party is to receive from the other, I have left it open what motives the trusting and trusted have for maintaining the relation, requiring only that these motives, insofar as they rely on responses from the other, survive the other’s knowledge of that reliance, and I have not required that relied-on services be made explicit. What the contractualist makes explicit is a voluntary mutual commitment, and what services each is committed to provide. I have claimed that such explicitness is not only rare in trust relationships, but that many of them must begin inexplicitly and nonvoluntarily and would not do the moral and social work they do if they covered only what contract does—services that could be pretty exactly spelled out. My moral test does not require that these nonexplicit elements in trust should be made explicit but, rather, that something else survive being made explicit, one’s reliance on facts about others’ psychological states relevant to their willingness to continue serving or being served, states such as love, fear, ignorance, sense of powerlessness, good nature, inattention, which one can use for one’s secret purposes. It is not part of contracts or social contracts to specify what assumptions each party needs to make about the other in respect of such psychological factors. Perhaps constraints regarding duress and fraud can be linked with the general offensiveness of having others rely on one’s ignorance, fear, or sense of powerlessness, especially when these are contrived by the one who relies on them; but contracts themselves do not make express what it is in the state of mind of the other that each party relies on to get what he wants from the deal. What I have proposed as a general moral test of trust is indeed a generalization of one aspect

22. Objections of this sort were raised by a reader for this journal.

of the contractarian morality, namely, of the assumptions implicit in the restrictions of valid contracts to those not involving fraud or duress. Whereas contracts make explicit the services (or service equivalent) exchanged, trust, when made express, amounts to a sort of exchange of responses to the motives and state of mind of the other, responses, in the form of confident reliance. Contractualists and other exchange fetishists can see this as a spiritual exchange, if it pleases them to do so, but it is not voluntary in the way contracts are, nor does it presuppose any equality of need or of power in the parties to this "exchange." The relation of my account of the morality of trust to standard contractarian morality seems to me as close as it should be, and at roughly the right places, if, as I have claimed, trust in fellow contractors is a limit case of trust.

Nevertheless, there are two aspects of my test which worry me, which may indicate it is not sufficiently liberated from contractarian prejudices. One difficulty is that it ignores the *network* of trust, and treats only two-party trust relationships. This is unrealistic, since any person's attitude to another in a given trust relationship is constrained by all the other trust and distrust relationships in which she is involved. Although I have alluded to such society-wide phenomena as climates of trust affecting the possibilities for individual trust relationships, my test is not well designed for application to the whole network but has to be applied piecemeal. That is a defect, showing the same individualist limitations which I find in contractarianism. The second thing that worries me is that the test seems barely applicable to brief trusting encounters, such as those with fellow library frequenters. As the contractarian takes as his moral paradigm a relationship which has some but not a very complex temporal depth, assimilating simultaneous exchange to the delayed delivery which makes a contract useful, and treats lifelong mutual trust as iterated mutual delayed deliveries, so I have shown a bias toward the medium-length trust relationship, thereby failing to say or imply anything very helpful either about brief encounters or about cross-generational trust. Probably these two faults are connected. If one got a test for the whole network of trust, with all the dependencies between the intimate and the more impersonal forms properly noted, and had the right temporal dimensions in that, then both the morality of brief trusting encounters and the morality of trust between generations who do not encounter each other would fall into place.

Since I have thus oversimplified the problem of morally evaluating trust relationships by confining my attention to relationships one by one, my account of trusting as acceptance of having as it were entrusted and my consequent expansion of trusting from a two-place into a three-place predicate will seem forced and wrong. For there are some people whom one would not trust with anything, and that is not because one has considered each good one might entrust to that one and rejected that possibility. We want then to say that unless we first trust them we will

not trust them *with anything*. I think that there is some truth in this, which my account has not captured. For some kinds of enemy (perhaps class enemies?) one will not trust even with one's bodily safety as one raises a white flag, but one will find it 'safer' to fight to the death. With some sorts of enemies, a contract may be too intimate a relation. If the network of relationships is systematically unjust or systematically coercive, then it may be that one's status within that network will make it unwise of one to entrust anything to those persons whose interests, given their status, are systematically opposed to one's own. In most such corrupt systems there will be limited opportunity for such beleaguered persons to "rescue" their goods from the power of their enemies—they usually will have no choice but to leave them exposed and so to act as if they trusted, although they feel proper distrust. In such conditions it may take fortitude to display distrust and heroism to disappoint the trust of the powerful. Courageous (if unwise) untrustworthiness and stoic withdrawal of trust may then be morally laudable. But since it usually will take such heroic disruptions of inherited trust relationships for persons to distance themselves from those the system makes their enemies, my test will at least be usable to justify such disruptions. In an earlier version of this paper I said that the ghost of plain trust and plain distrust haunted my account of goods-relativized or 'fancy' trust. I think that I now see that ghost for what it is and see why it ought to continue to haunt. Still, such total oppositions of interest are rare, and one satisfactory thing about my account is that it enables us to see how we can salvage some respects in which we may trust even those whose interests are to some extent opposed to our own.

Meanwhile, my account of what it is to trust, and my partial account of when it is immoral to expect or meet trust, will have to be treated as merely a beginning (or, for some, a resumption, since there doubtless are other attempts at this topic which have escaped my notice). Trust, I have claimed, is reliance on others' competence and willingness to look after, rather than harm, things one cares about which are entrusted to their care. The moral test of such trust relationships which I have proposed is that they be able to survive awareness by each party to the relationship of *what* the other relies on in the first to ensure their continued trustworthiness or trustiness. This test elevates to a special place one form of trust, namely, trusting others with knowledge of what it is about them which enables one to trust them as one does, or expect them to be trustworthy. The test could be restated this way: trust is morally decent only if, in addition to whatever else is entrusted, knowledge of each party's reasons for confident reliance on the other to continue the relationship could in principle also be entrusted—since such mutual knowledge would be itself a good, not a threat to other goods. To the extent that mutual reliance can be accompanied by mutual knowledge of the conditions for that reliance, trust is above suspicion, and trustworthiness

a nonsuspect virtue. "Rara temporum felicitas . . . quae sentias dicere licet."²³

This paper has an antiphonal title and a final counterpoint may not be out of order. Although I think this test is an appropriate moral test, it is another matter to decide whether and when it should be applied to actual cases of trust. Clearly in some cases, such as infant trust and parental trustworthiness, which could in principle pass it, it cannot actually be applied by both parties to the relationship. That need not unduly worry us. But in other cases it may well be that the attempt to apply it will ensure its failing the test. Trust is a fragile plant, which may not endure inspection of its roots, even when they were, before the inspection, quite healthy. So, although some forms of trust would survive a suddenly achieved mutual awareness of them, they may not survive the gradual and possibly painful process by which such awareness actually comes about. It may then be the better part of wisdom, even when we have an acceptable test for trust, not to use it except where some distrust already exists, better to take nonsuspect trust on trust. Luhmann says that "it is a characteristic mark of civilizing trust that it incorporates an element of reflexivity."²⁴ But to trust one's trust and one's distrust enough to refrain from applying moral tests until prompted by some distrust is to take a very risky bet on the justice, if not the "civilization," of the system of trust one inhabits. We may have to trade off civilization for justice, unless we can trust not only our trust but, even more vitally, our distrust.

23. Hume placed on the title page of his *A Treatise of Human Nature* these words of Tacitus: "Rara Temporum felicitas, ubi sentire, quae velis, and quae sentias, dicere licet."

24. Luhmann, p. 69.