

## Zu W. D. Ross, *The Right and the Good*, II: What Makes Right Acts Right?<sup>1</sup>

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### 1 Widerlegung des Utilitarismus<sup>2</sup>

Ross beginnt mit der Frage, ob es *eine* (einzige) Eigenschaft gibt, die richtige Handlungen richtig macht. Gemäß G. E. Moores idealem Utilitarismus gibt es eine solche Eigenschaft: Die Richtigkeit einer Handlung hängt nur davon ab, wieviel Gutes durch sie hervorgebracht wird:

[...] that what makes actions right is that they are productive of more *good* than could have been produced by any other action open to the agent.

This theory is in fact the culmination of all the attempts to base rightness on productivity of some sort of result. (16)

Eine Handlung, durch die das meiste Gute hervorgebracht wird (d. h. die Handlung, die die besten Konsequenzen hat), nennt Ross *optimific* (*productive of the best possible consequences* (34)).

Gemäß dem Utilitarismus gilt also:

Eine Handlung ist richtig genau dann, wenn sie *optimific* ist.

D. h.: Jede richtige Handlung ist *optimific* und jede Handlung, die *optimific* ist, ist richtig.

Zur Widerlegung des Utilitarismus will Ross zeigen,

(i) daß es richtige Handlungen gibt, die nicht deshalb richtig sind, weil durch sie das meiste Gute hervorgebracht wird. ( $\Rightarrow$  *Optimific* ist nicht die einzige richtig-machende Eigenschaft)

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<sup>1</sup> W. D. Ross, *The Right and the Good*, Oxford 1930, Reprint: Indianapolis 1988. Auszüge des zweiten Kapitels aus *The Right and the Good* sind übersetzt in *Texte zur Ethik*, hrsg. von Dieter Birnbacher und Norbert Hoerster, München 1976, S. 253–68.

<sup>2</sup> Vgl. hierzu auch W. D. Ross, *Foundations of Ethics*, Oxford 1939, S. 67–79.

(ii) (a) daß es Handlungen gibt, die *optimific* sind, aber nicht richtig sowie (b), daß es richtige Handlungen gibt, die nicht *optimific* sind. ( $\Rightarrow$  Es ist falsch, daß eine Handlung genau dann richtig ist, wenn sie *optimific* ist.)<sup>3</sup>

Daß die Richtigkeit einer Handlung nicht nur davon abhängt, wieviel Gutes durch sie hervor- gebracht wird, bedeutet:

- Auch Handlungen, die nicht das meiste Gute hervorbringen, können richtig sein.
- Neben dem Hervorbringen (bzw. anstelle des Hervorbringens) guter Konsequenzen muß es (noch) andere Eigenschaften einer Handlung geben, die sie richtig macht.
- Die Frage, ob eine beabsichtigte Handlung das meiste Gute hervorbringt, stellt sich nicht oder ist nur eine Frage neben anderen, um zu entscheiden, was man tun soll.

Als Beispiel für eine Handlung, auf die diese drei Punkte zutreffen, nennt Ross das Einhalten eines Versprechens: Das Einhalten eines Versprechens ist richtig, auch wenn durch eine andere Handlung mehr Gutes hervorgebracht werden könnte; das Einhalten eines Versprechens ist richtig, weil es das Einhalten eines Versprechens ist (und nicht, weil es gute Konsequenzen hat); wenn man ein Versprechen einhält, stellt man sich nicht vorher die Frage, ob dadurch das meiste Gute hervorgebracht wird:

When a plain man fulfils a promise because he thinks he ought to do so, it seems clear that he does so with no thought of its total consequences, still less with any opinion that these are likely to be the best possible. He thinks in fact much more of the past than of the future. What makes him think it right to act in a certain way is the fact that he has promised to do so – that and, usually, nothing more. That his act will produce the best possible consequences is not his reason for calling it right. [...] the actions (which form probably a great majority of our actions) in which some such reflection as 'I have promised' is the only reason we give ourselves for thinking a certain action right [...]. (17f./d253f.)

One of the most evident facts of our moral consciousness is the sense which we have of the sanctity of promises, a sense which does not, on the face of it, involve the thought that one will be bringing more good into existence by fulfilling the promise than by breaking it. It is plain, I think, that in our normal thought we consider that the fact that we have made a promise is in itself sufficient to create a duty of

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<sup>3</sup> (i) und (ii) sind nur unterschiedliche Aspekte der Widerlegung des Utilitarismus. Wenn man (ii) gezeigt hat, hat man auch (i) gezeigt. Wenn man (i) gezeigt hat, wäre es prinzipiell noch möglich, daß zufällig bzw. aus empirischen Gründen jede richtige Handlung auch *optimific* ist und (ii) deshalb falsch ist. Vgl. S. 36f. zur Frage, ob auf induktivem Weg gezeigt, werden kann, ob jede richtige Handlung auch *optimific* ist:

There remains the question whether it [sc. the coextensiveness of the right and the *optimific*] can be established inductively. [...] It is clear that the most we could possibly say is that a large variety of typical acts that are judged right appear, so far as we can trace their consequences, to produce more good than any other acts possible to the agents in the circumstances. And such a result falls far short of proving the constant connexion of the two attributes. But it is surely clear that no inductive inquiry justifying even this result has ever been carried through. [...] If, as I have tried to show, for an act to be right and to be *optimific* are not the same thing, and an act's being *optimific* is not even the ground of its being right, then if we could ask ourselves (though the question is really unmeaning) which we ought to do, right acts because they are right or *optimific* acts because they are *optimific*, our answer must be 'the former'. If they are *optimific* as well as right, that is interesting but not morally important; if not, we still ought to do them (which is only another way of saying that they *are* the right acts), and the question whether they are *optimific* has no importance for moral theory. (36f.)

keeping it, the sense of duty resting on remembrance of the past promise and not on thoughts of the future consequences of its fulfilment. (37)

For if it were self-evident that the right coincides with the *optimific*, it should be self-evident that what is *prima facie* right is *prima facie* *optimific*. But whereas we are certain that keeping a promise is *prima facie* right, we are not certain that it is *prima facie* *optimific* [...]. Our certainty that it is *prima facie* right depends not on its consequences but on its being the fulfilment of a promise. [...]

The coextensiveness of the right and the *optimific* is, then, not self-evident. And I can see no way of proving it deductively; nor, so far as I know, has any one tried to do so. (36)

Wenn die Richtigkeit einer Handlung nur davon abhänge, wieviel Gutes durch sie hervorgebracht wird, wäre es, sofern beide Handlungen gleichviel Gutes hervorbringen, gleichgültig, ob man ein Versprechen einhält oder stattdessen einer anderen Person hilft. Tatsächlich urteilen wir aber anders:

If, so far as I can see, I could bring equal amounts of good into being by fulfilling my promise and by helping some one to whom I had made no promise, I should not hesitate to regard the former as my duty. Yet on the view that what is right is right because it is productive of the most good I should not so regard it. (18/d254)

Selbst wenn durch das Nichteinhalten eines Versprechens ein klein wenig mehr Gutes hervorgebracht werden kann, ist es falsch, das Versprechen zu brechen. Im folgenden Beispiel ist die Einhaltung des Versprechens richtig, aber nicht *optimific* (da die Nichteinhaltung des Versprechens mehr Gutes hervorbringen würde: 1001 statt 1000). D. h.: Nicht jede richtige Handlung ist *optimific*. Umgekehrt ist die Nichteinhaltung des Versprechens zwar *optimific*, aber nicht richtig. D. h. Nicht jede Handlung, die *optimific* ist, ist auch richtig. Akzeptiert man Ross' Beispiel, so ist gezeigt, daß die Behauptung des Utilitarismus, daß eine Handlung genau dann richtig ist, wenn sie *optimific* ist, falsch ist (und damit auch der Utilitarismus falsch ist):

Now at first sight it might seem as if the constant connexion of the two attributes [sc. 'right', 'optimific'] could be immediately apprehended. It might seem absurd to suggest that it could be right for any one to do an act which would produce consequences less good than those which would be produced by some other act in his power. Yet a little thought will convince us that this is not absurd. The type of case in which it is easiest to see that this is so is, perhaps, that in which one has made a promise. In such a case we all think that *prima facie* it is our duty to fulfil the promise irrespective of the precise goodness of the total consequences. And though we do not think it is necessarily our actual or absolute duty to do so, we are far from thinking that any, even the slightest, gain in the value of the total consequences will necessarily justify us in doing something else instead. Suppose, to simplify the case by abstraction, that the fulfilment of a promise to *A* would produce 1,000 units of good for him, but that by doing some other act I could produce 1,001 units of good for *B*, to whom I have made no promise, the other consequences of the two acts being of equal value; should we really think it self-evident that it was our duty to do the second act and not the first? I think not. We should, I fancy, hold that only a much greater disparity of value between the total consequences would justify us in failing to discharge our *prima facie* duty to *A*. After all, a promise is a promise, and is not to be treated so lightly as the theory we are examining would imply. What, exactly, a promise is, is not so easy to determine, but we are surely agreed that it constitutes a serious moral limitation to our freedom of action. To produce the 1,001 units of good for *B* rather than

fulfil our promise to A would be to take, not perhaps our duty as philanthropists too seriously, but certainly our duty as makers of promises too lightly. (34f.)<sup>4</sup>

Aufgrund dieser Argumente schließt Ross auf die Falschheit der utilitaristischen Behauptung, daß eine Handlung genau dann richtig ist, wenn sie *optimific* ist:

I conclude that the attributes 'right' and 'optimific' are not identical, and that we do not know either by intuition, by deduction, or by induction that they coincide in their application, still less that the latter is the foundation of the former. It must be added, however, that if we are ever under no special obligation such as that of fidelity to a promisee or of gratitude to a benefactor, we ought to do what will produce most good; and that even when we are under a special obligation the tendency of acts to promote general good is one of the main factors in determining whether they are right. (39)

Der Utilitarismus ist also (sofern man Ross' Argumente akzeptiert) falsch.

Der Anschein der Richtigkeit des Utilitarismus entsteht nur durch die Betrachtung außergewöhnlicher Fälle, in denen das Einhalten eines Versprechens derart katastrophale Konsequenzen hätte, daß auch Deontologinnen und Deontologen das Brechen des Versprechens zulassen bzw. gebieten würden:

What lends colour to the theory we are examining, then, is not the exceptional cases in which the consequences of fulfilling a promise (for instance) would be so disastrous to others that we judge it right not to do so. It must of course be admitted that such cases exist. If I have promised to meet a friend at a particular time for some trivial purpose, I should certainly think myself justified in breaking my engagement if by doing so I could prevent a serious accident or bring relief to the victims of one. And the supporters of the view we are examining [sc. utilitarianism] hold that my thinking so is due to my

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<sup>4</sup> Zu diesem Beispiel schreibt (der Utilitarist) Jan Narveson:

Ross' claim that there has to be a good bit of difference between the expectable utility of breaking the promise and that of keeping it before we are justified in breaking it, is perfectly correct. It is correct because, of course, the function of making the promise is to single out the promisee's interests, to elevate them above the surrounding background of interests which we conceivably might be able to satisfy. The mechanism of the elevation consists in causing the promisee to alter his behavior by making the promise, and by creating expectations which would otherwise not have existed and which will be disappointed if we default. Had Ross gone to the trouble of examining genuinely specific cases of promising, as opposed to his artificial schemes of "1000 units of goodness" and "1001 units of goodness," etc., he would have seen this. If Jones promises to meet Miss Smith at Maxim's at six, think of all the things she does which she wouldn't otherwise have done: she rushes home from work instead of enjoying a leisurely drink with the gang, spends an hour washing and making up, looks forward keenly to the appointment and the dinner, perhaps pays cab fare. After all this, if Jones doesn't show up, he had better provide a pretty good excuse.

On the other hand, suppose that it's really no bother at all, she would have eaten at Maxim's anyhow (does it all the time) and doesn't much care whether he shows up or not. In that case, his excuse doesn't need to be nearly as strong. In the former case, just happening to run across an old friend won't do the trick, but in the latter, it might very well. It all depends, and quite transparently depends, on the amount of trouble the promisee goes to, and the degree of his expectation created by the promise. These are plain facts with which anybody is familiar from daily life, as well as from novels, movies, and history books, and they are facts which could hardly have been overlooked if theorists had taken the trouble to go into specifics on the matter. (Jan Narveson (1967): *Morality and Utility*, Baltimore, S. 194)

thinking that I shall bring more good into existence by the one action than by the other. A different account may, however, be given of the matter, an account which will, I believe, show itself to be the true one. It may be said that besides the duty of fulfilling promises I have and recognize a duty of relieving distress, and that when I think it right to do the latter at the cost of not doing the former, it is not because I think I shall produce more good thereby but because I think it the duty which is in the circumstances more of a duty. (17f./d254)

Bemerkenswert ist Ross' Zugeständnis, daß es in außergewöhnlichen Umständen sogar richtig sein kann, einen Unschuldigen zu bestrafen:

If [...] a man has respected the rights of others, there is a strong and distinctive objection to the state's inflicting any penalty on him with a view to the good of the community or even to his own good. The interests of the society may sometimes be so deeply involved as to make it right to punish an innocent man 'that the whole nation perish not'. But then the *prima facie* duty of consulting the general interest has proved more obligatory than the perfectly distinct *prima facie* duty of respecting the rights of those who have respected the rights of others. (61)

Das Bestrafen eines Unschuldigen ist eigentlich ein typisches Argument *gegen den Utilitarismus bzw. Konsequentialismus*. Häufig wird gegen den Utilitarismus eingewandt, daß dieser in bestimmten Fällen die Bestrafung Unschuldiger (nicht nur zuläßt, sondern sogar) gebietet. Dies sei jedoch völlig inakzeptabel und daher sei auch der Utilitarismus keine akzeptable ethische Theorie.<sup>5</sup>

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<sup>5</sup> Vgl. zur Bestrafung Unschuldiger die berühmte Stelle aus G. E. M. Anscombes ebenso berühmten Aufsatz „Moderne Moralphilosophie“:

Zurück zu meinem Beispiel einer an sich ungerechten Handlung: Die gerichtliche Bestrafung eines Menschen für etwas, wovon man als sicher annimmt, daß er es nicht getan hat, ist ungerecht; hierüber kann es absolut keine Meinungsverschiedenheit geben. [...]

Und hier zeigt sich die Überlegenheit des Ausdrucks »ungerecht« gegenüber den Ausdrücken »moralisch richtig« und »moralisch falsch«. Denn im Rahmen der englischen Moralphilosophie seit Sidgwick erscheint die Diskussion legitim, ob es unter gewissen Umständen »moralisch richtig« sein könnte, in dieser Weise zu handeln; dagegen lassen sich keine Gründe dafür angeben, daß die Handlungsweise in irgendwelchen Umständen gerecht wäre.

Nun bin ich nicht imstande, die hier notwendige philosophische Arbeit zu leisten – und ich glaube, daß in der gegenwärtigen Situation der englischen Philosophie niemand diese Arbeit leisten kann – aber es ist klar, daß ein guter Mensch ein gerechter Mensch ist; und ein gerechter Mensch ist einer, dem es zur zweiten Natur geworden ist, die Beteiligung an einer ungerechten Handlung, die ihm irgendwelche unerwünschten Konsequenzen ersparen oder ihm, bzw. irgendeinem anderen einen Vorteil verschaffen soll, von sich zu weisen. Dem wird vielleicht jeder zustimmen. Aber, so wird man sagen, was ungerecht ist, ist manchmal durch die vorhergesehenen Konsequenzen bestimmt; und das ist sicher richtig. Es gibt jedoch auch Fälle, wo dies nicht so ist. Sagt nun jemand, »Zugegeben, aber all dies erfordert noch eine weit gründlichere Klärung«, so hat er recht, ja noch mehr: Die Situation ist gegenwärtig die, daß wir die Klärung nicht leisten können; uns fehlt das philosophische Rüstzeug. Sollte aber wirklich jemand im *vorhinein*(\*) denken, es sei fraglich, ob man nicht doch so eine Handlungsweise wie die gerichtliche Aburteilung und Hinrichtung eines Unschuldigen in Erwägung ziehen könnte, so möchte ich nicht weiter mit ihm diskutieren; er zeigt eine schlechte Gesinnung. (G. E. M. Anscombe (1958): *Moderne Moralphilosophie*, in *Seminar: Sprache und Ethik. Zur Entwicklung der Metaethik*, hrsg. von Günther Grewendorf und Georg Meggle, Frankfurt a. M. 1974, S. 217–43: S. 237f. (Original: *Modern Moral Philosophy*, *Philosophy* 33 (1958), S. 1–19)).

## 2 Prima facie Pflichten

### 2.1 Persönlicher Charakter der prima facie Pflichten

Zwischen den Menschen bestehen verschiedene moralisch relevante Beziehungen, z. B.:  
die Beziehung des Wohltäters zum Nutznießer einer Handlung,  
die Beziehung desjenigen, dem ein Versprechen gegeben worden ist zu dem, der das Versprechen gegeben hat,  
die Beziehung des Gläubigers zum Schuldner,  
die Beziehung der Ehefrau zum Ehemann, des Kindes zu den Eltern, des Freundes zum Freund, usw.

Diese Beziehungen sind insofern moralisch relevant, als jede die Grundlage einer bestimmten prima facie Pflicht ist. Der Utilitarismus vereinfacht die Beziehungen zwischen den Menschen, indem er nur die Beziehung des Wohltäters zum Nutznießer einer Handlung für moralisch relevant hält und die anderen Beziehungen vernachlässigt:

In fact the theory of 'ideal utilitarianism', if I may for brevity refer so to the theory of Professor Moore, seems to simplify unduly our relations to our fellows. It says, in effect, that the only morally significant relation in which my neighbours stand to me is that of being possible beneficiaries by my action. They do stand in this relation to me, and this relation is morally significant. But they may also stand to me in the relation of promisee to promiser, of creditor to debtor, of wife to husband, of child to parent, of friend to friend, of fellow countryman to fellow countryman, and the like; and each of these relations is the foundation of a *prima facie* duty, which is more or less incumbent on me according to the circumstances of the case. (19/d255)

The essential defect of the 'ideal utilitarian' theory is that it ignores, or at least does not do full justice to, the highly personal character of duty. If the only duty is to produce the maximum of good, the question who is to have the good – whether it is myself, or my benefactor, or a person to whom I have made a promise to confer that good on him, or a mere fellow man to whom I stand in no such special relation – should make no difference to my having a duty to produce that good. But we are all in fact sure that it makes a vast difference. (22/d258)

[...] it is generally recognized that *ceteris paribus* we should pay our debts rather than give our money in charity, when we cannot do both. A benefactor is not only a man, calling for our effort on his behalf on that ground, but also our benefactor, calling for our *special* effort on *that* ground. (30/d264f.)

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(\*) Wenn er in der konkreten Situation so denkt, ist er natürlich nur ein den normalen Versuchungen unterworfenen Mensch. In Diskussionen über diesen Artikel wurde, wie vielleicht zu erwarten war, der folgende Fall konstruiert: Eine Regierung wird unter Androhung eines Atomkriegs aufgefordert, einen unschuldigen Menschen vor Gericht zu stellen, zu verurteilen und hinzurichten. Mir schiene die Hoffnung sehr zweifelhaft, auf diese Weise einen Atomkrieg abwenden zu können, wenn er von Menschen angedroht wird, die derartiges fordern. Das wichtigste aber an der Art und Weise, wie solche Fälle in die Diskussion eingeführt werden, ist die Annahme, es gebe nur zwei mögliche Wege: in diesem Beispiel Unterwürfigkeit und offene Herausforderung. Niemand kann im voraus von einer solchen Situation sagen, welche Möglichkeiten sich bieten werden – ob es nicht z. B. möglich ist, durch scheinbares Eingehen auf die Forderung, verbunden mit einer sorgfältig arrangierten »Flucht« des Verurteilten, die Drohung abzuwenden. (S. 243, Anm. 11)

## 2.2 Katalog der prima facie Pflichten

Ross schlägt folgenden Katalog von prima facie Pflichten vor:

- 1) Pflichten, die aus vorhergehenden Handlungen meinerseits resultieren:
  - a) Pflichten, die sich aus einem gegebenen (bzw. impliziten) Versprechen ergeben: **Pflichten der Treue** (*duties of fidelity*).
  - b) Pflichten, die sich aus einer moralisch falschen Handlung ergeben: **Pflichten der Wiedergutmachung** (*duties of reparation*).
- 2) Pflichten, die aus vorhergehenden Handlungen anderer Personen resultieren: **Pflichten der Dankbarkeit** (*duties of gratitude*).
- 3) Pflichten, die sich aus der Möglichkeit ergeben, daß die Verteilung von Freude (*pleasure*) oder Glück nicht gemäß dem Verdienst der betroffenen Personen ist. Es besteht die Pflicht, solche Verteilungen zu unterbinden: **Pflichten der Gerechtigkeit** (*duties of justice*).
- 4) Pflichten, die sich daraus ergeben, daß es andere Wesen gibt, deren Bedingungen hinsichtlich Tugend, Einsicht oder Freude wir verbessern können: **Pflichten der Wohltätigkeit** (*duties of beneficence*).
- 5) Pflichten, die sich daraus ergeben, daß wir unsere eigenen Bedingungen hinsichtlich Tugend oder Einsicht verbessern können: **Pflichten eigenen Vervollkommnung** (*duties of self-improvement*).
- 6) Die **Pflicht, anderen nicht zu schaden** (*duty of non-maleficence*).

There is nothing arbitrary about these *prima facie* duties. Each rests on a definite circumstance which cannot seriously be held to be without moral significance. Of *prima facie* duties I suggest, without claiming completeness or finality for it, the following division.

(1) Some duties rest on previous acts of my own. These duties seem to include two kinds, (a) those resting on a promise or what may fairly be called an implicit promise, such as the implicit undertaking not to tell lies which seems to be implied in the act of entering into conversation (at any rate by civilized men), or of writing books that purport to be history and not fiction. These may be called the duties of fidelity. (b) Those resting on a previous wrongful act. These may be called the duties of reparation. (2) Some rest on previous acts of other men, i. e. services done by them to me. These may be loosely described as the duties of gratitude. (3) Some rest on the fact or possibility of a distribution of pleasure or happiness (or of the means thereto) which is not in accordance with the merit of the persons concerned; in such cases there arises a duty to upset or prevent such a distribution. These are the duties of justice. (4) Some rest on the mere fact that there are other beings in the world whose condition we can make better in respect of virtue, or of intelligence, or of pleasure. These are the duties of beneficence. (5) Some rest on the fact that we can improve our own condition in respect of virtue or of intelligence. These are the duties of self-improvement. (6) I think that we should distinguish from (4) the duties that may be summed up under the title of 'not injuring others'. No doubt to injure others is incidentally to fail to do them good; but it seems to me clear that non-maleficence is apprehended as a duty distinct from that of beneficence, and as a duty of a more stringent character. It will be noticed that this alone among the types of duty has been stated in a negative way. An attempt might no doubt be made to state this duty, like the others, in a positive way. It might be said that it is really the duty to prevent ourselves from acting either from an inclination to harm others or from an inclination to seek our own pleasure, in doing which we should incidentally harm them. But on reflection it seems clear that the primary duty here is the duty not to harm

others, this being a duty whether or not we have an inclination that if followed would lead to our harming them; and that when we have such an inclination the primary duty not to harm others gives rise to a consequential duty to resist the inclination. The recognition of this duty of non-maleficence is the first step on the way to the recognition of the duty of beneficence; and that accounts for the prominence of the commands 'thou shalt not kill', 'thou shalt not commit adultery', 'thou shalt not steal', 'thou shalt not bear false witness', in so early a code as the Decalogue. But even when we have come to recognize the duty of beneficence, it appears to me that the duty of non-maleficence is recognized as a distinct one, and as *prima facie* more binding. We should not in general consider it justifiable to kill one person in order to keep another alive, or to steal from one in order to give alms to another. (20–22/d256–58)

Ross bestimmt den Katalog der prima facie Pflichten unabhängig von einer Theorie des Guten. Diese Eigenschaft, daß das Rechte unabhängig vom Guten ist, wird oft als Charakteristikum deontologischer Ethik angesehen.

Mit der prima facie Pflicht zur Wohltätigkeit hat Ross ein utilitaristisches (bzw. besser: konsequentialistisches) Element in seine Theorie aufgenommen. Während jedoch bei Ross die Wohltätigkeit nur eine prima facie Pflicht neben den anderen ist, ist sie im Utilitarismus bzw. Konsequentialismus die einzige Pflicht.<sup>6</sup>

Die einzelnen prima facie Pflichten lassen sich nicht aus einem übergeordneten obersten Prinzip ableiten.

If the objection be made, that this catalogue of the main types of duty is an unsystematic one resting on no logical principle, it may be replied, first, that it makes no claim to being ultimate. It is a *prima facie* classification of the duties which reflection on our moral convictions seems actually to reveal. And if these convictions are, as I would claim that they are, of the nature of knowledge, and if I have not misstated them, the list will be a list of authentic conditional duties, correct as far as it goes though not necessarily complete. The list of *goods* put forward by the rival theory is reached by exactly the same method – the only sound one in the circumstances – viz, that of direct reflection on what we really think: Loyalty to the facts is worth more than a symmetrical architectonic or a hastily reached simplicity. If further reflection discovers a perfect logical basis for this or for a better classification, so much the better. (23)

Dennoch versucht Ross, die Liste der prima facie Pflichten zu systematisieren und subsumiert die einzelnen prima facie Pflichten unter drei Kategorien:<sup>7</sup> (24–28/d259–63)

1. Die Pflicht, so viel Gutes wie möglich hervorzubringen:  
Pflichten der Wohltätigkeit, Selbstvervollkommnung und Gerechtigkeit
2. Besondere Pflichten, die sich beiläufig aus früheren Handlungen ergeben, nämlich dem Zufügen von Schaden und dem Empfangen von Wohltaten:

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<sup>6</sup> Zur Frage, ob Ross sich durch die prima facie Pflicht zur Wohltätigkeit zu sehr dem Konsequentialismus angenähert hat vgl. David Wiggins (1998): *The Right and the Good* and W. D. Ross's Criticism of Consequentialism, *Utilitas* 10, S. 261–80 sowie Stephen Darwall (1998): Under Moore's Spell, *Utilitas* 10, S. 286–91.

<sup>7</sup> Genaueres hierzu in David McNaughton (1996): An Unconnected Heap of Duties?, *Philosophical Quarterly* 46, S. 433–47 (wiederabgedruckt in *Ethical Intuitionism. Re-evaluations*, hrsg. von Philip Stratton-Lake, Oxford 2002, S. 76–91).



### Wiedergutmachungspflichten, Dankbarkeitspflichten

3. Besondere Pflichten, die sich aus Handlungen ergeben, deren Sinn es geradezu ist, solche Verpflichtungen einzugehen:

Die Pflicht, Versprechen zu halten.

Es gibt keine feststehende Prioritätsordnung der einzelnen prima facie Pflichten. Welche prima facie Pflicht in einer Situation, in der mehrere prima facie Pflichten bestehen, Vorrang hat (d. h. die anderen überwiegt), muß von Situation zu Situation neu entschieden werden. Diese Entscheidung kann nur durch genaue Betrachtung der Situation und einer anschließenden Abwägung der verschiedenen prima facie Pflichten getroffen werden. Es gibt kein übergeordnetes Prinzip, das regelt, welche prima facie Pflicht Vorrang hat:

When I am in a situation, as perhaps I always am, in which more than one of these *prima facie* duties is incumbent on me, what I have to do is to study the situation as fully as I can until I form the considered opinion (it is never more) that in the circumstances one of them is more incumbent than any other; then I am bound to think that to do this *prima facie* duty is my duty *sans phrase* in the situation. (19/d255)

For the estimation of the comparative stringency of these *prima facie* obligations no general rules can, so far as I can see, be laid down. We can only say that a great deal of stringency belongs to the duties of 'perfect obligation' – the duties of keeping our promises, of repairing wrongs we have done, and of returning the equivalent of services we have received. For the rest, *ἐν τῇ αἰσθήσει ἢ κρίσει*.<sup>8</sup> This sense of our particular duty in particular circumstances, preceded and informed by the fullest reflection we can bestow on the act in all its bearings, is highly fallible, but it is the only guide we have to our duty. (41f./d268)

Obwohl Ross keine Rangordnung der prima facie Pflichten aufstellt, macht er doch einige Bemerkungen zum Vorrang bestimmter prima facie Pflichten vor anderen. So hat Versprechen einzuhalten normalerweise Vorrang gegenüber der Pflicht zur Wohltätigkeit. Auch die Pflicht, anderen nicht zu schaden hat Vorrang gegenüber der Pflicht zur Wohltätigkeit:

[...] normally promise-keeping, for example, should come before benevolence, but that when and only when the good to be produced by the benevolent act is very great and the promise comparatively trivial, the act of benevolence becomes our duty. (19/d255)

But even when we have come to recognize the duty of beneficence, it appears to me that the duty of non-maleficence is recognized as a distinct one, and as *prima facie* more binding. We should not in general consider it justifiable to kill one person in order to keep another alive, or to steal from one in order to give alms to another. (22/d258)

[...] it is generally recognized that *ceteris paribus* we should pay our debts rather than give our money in charity, when we cannot do both. A benefactor is not only a man, calling for our effort on his behalf on that ground, but also our benefactor, calling for our *special* effort on *that* ground. (30/d264f.)

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<sup>8</sup> 'The decision rests with perception'. Arist. *Nic. Eth.* 1109 b 23, 1126 b 4.

### 2.3 Was ist eine prima facie Pflicht?

Daß etwas eine prima facie Pflicht ist, bedeutet *nicht*, daß es auf den ersten Blick eine Pflicht ist, sich aber bei genauerer Betrachtung herausstellen kann, daß es doch keine Pflicht ist. Sondern:

Jede prima facie Pflicht bezieht sich auf eine Eigenschaft einer Handlung, die immer dafür spricht, daß die Handlung richtig ist. Das Einhalten eines Versprechens ist beispielsweise eine solche Eigenschaft: Insofern mit einer Handlung ein Versprechen eingehalten wird, spricht dies dafür, daß die Handlung richtig ist. Eine prima facie Pflicht kann daher interpretiert werden als Grund dafür, daß eine Handlung richtig ist.

Eine Handlung hat jedoch viele Eigenschaften. Neben der Eigenschaft, die für die Richtigkeit der Handlung spricht (das Einhalten eines Versprechens), könnte sie auch eine Eigenschaft haben, die immer dafür spricht, daß sie falsch ist. Wenn ich z. B. durch das Einhalten eines Versprechens einer dritten Person Schaden zufüge, hat die Handlung auch eine Eigenschaft, die immer dafür spricht, daß sie falsch ist, nämlich das Zufügen eines Schadens. Ob eine Handlung, die aufgrund einer bestimmten Eigenschaft prima facie richtig ist, *tatsächlich* richtig ist, hängt daher von den übrigen Eigenschaften der Handlung ab.

Es kann also sein, daß eine Handlung, die prima facie richtig ist, weil mit ihr ein Versprechen eingehalten wird, tatsächlich nicht richtig ist, weil (in dieser konkreten Situation) die Pflicht, anderen keinen Schaden zuzufügen, die Pflicht, Versprechen einzuhalten, überwiegt. Obwohl die Handlung tatsächlich nicht richtig ist, bleibt sie dennoch prima facie richtig. Das heißt, prima facie Pflichten können zwar durch andere prima facie Pflichten überwogen werden; der Status als prima facie Pflicht wird ihnen aber dadurch nicht genommen: die überwogene prima facie Pflicht bleibt weiterhin eine prima facie Pflicht; sie wird nicht als prima facie Pflicht annulliert, sondern nur überwogen. (Aus diesem Grund ist es falsch zu sagen, daß eine prima facie Pflicht etwas ist, das nur auf den ersten Blick eine Pflicht ist.)

I suggest '*prima facie* duty' or 'conditional duty' as a brief way of referring to the characteristic (quite distinct from that of being a duty proper) which an act has, in virtue of being of a certain kind (e. g. the keeping of a promise), of being an act which would be a duty proper if it were not at the same time of another kind which is morally significant. Whether an act is a duty proper or actual duty depends on *all* the morally significant kinds it is an instance of. (19f./d256)

'*Prima facie*' suggests that one is speaking only of an appearance which a moral situation presents at first sight, and which may turn out to be illusory; whereas what I am speaking of is an objective fact involved in the nature of the situation, or more strictly in an element of its nature, though not, as duty proper does, arising from its *whole* nature. (20/d256)

It is necessary to say something by way of clearing up the relation between *prima facie* duties and the actual or absolute duty to do one particular act in particular circumstances. If, as almost all moralists except Kant are agreed, and as most plain men think, it is sometimes right to tell a lie or to break a promise, it must be maintained that there is a difference between *prima facie* duty and actual or absolute duty. When we think ourselves justified in breaking, and indeed morally obliged to break, a promise in order to relieve some one's distress, we do not for a moment cease to recognize *a prima facie* duty to keep our promise, and this leads us to feel, not indeed shame or repentance, but certainly compunction,

for behaving as we do; we recognize, further, that it is our duty to make up somehow to the promisee for the breaking of the promise. We have to distinguish from the characteristic of being our duty that of tending to be our duty. Any act that we do contains various elements in virtue of which it falls under various categories. In virtue of being the breaking of a promise, for instance, it tends to be wrong; in virtue of being an instance of relieving distress it tends to be right. Tendency to be one's duty may be called a parti-resultant attribute, i. e. one which belongs to an act in virtue of some one component in its nature. *Being* one's duty is a toti-resultant attribute, one which belongs to an act in virtue of its whole nature and of nothing less than this. (28/d263)

In this respect there is an important difference between rightness and mathematical properties. A triangle which is isosceles necessarily has two of its angles equal, whatever other characteristics the triangle may have – whatever, for instance, be its area, or the size of its third angle. The equality of the two angles is a parti-resultant attribute. And the same is true of all mathematical attributes. It is true, I may add, of *prima facie* rightness. But no act is ever, in virtue of falling under some general description, necessarily actually right; its rightness depends on its whole nature<sup>9</sup> and not on any element in it. The reason is that no mathematical object (no figure, for instance, or angle) ever has two characteristics that tend to give it opposite resultant characteristics, while moral acts often (as every one knows) and indeed always (as on reflection we must admit) have different characteristics that tend to make them at the same time *prima facie* right and *prima facie* wrong; there is probably no act, for instance, which does good to any one without doing harm to some one else, and *vice versa*. (33f.)

It is obvious that any of the acts that we do has countless effects, directly or indirectly, on countless people, and the probability is that any act, however right it be, will have adverse effects (though these may be very trivial) on some innocent people. Similarly, any wrong act will probably have beneficial effects on some deserving people. Every act therefore, viewed in some aspects, will be *prima facie* right, and viewed in others, *prima facie* wrong, and right acts can be distinguished from wrong acts only as being those which, of all those possible for the agent in the circumstances, have the greatest balance of *prima facie* rightness, in those respects in which they are *prima facie* right, over their *prima facie* wrongness, in those respects in which they are *prima facie* wrong [...]. (41/d268)

An act that is right is right in virtue of its whole intrinsic nature and not of any part of it. In respect of certain elements in its nature it may be *prima facie* right, and in respect of others *prima facie* wrong; whether it is actually right or wrong, and if it is wrong the degree of its wrongness, are determined only by its whole nature. (123)

## 2.4 Wie können wir begründen, was unsere prima facie Pflichten sind?

Sobald wir hinreichend darüber nachgedacht haben, ist es evident ohne eines Beweises oder irgendwelcher anderen Beweisgründe zu bedürfen, daß z. B. eine Handlung qua Halten eines Versprechens prima facie richtig ist:

Something should be said of the relation between our apprehension of the *prima facie* rightness of certain types of act and our mental attitude towards particular acts. It is proper to use the word 'apprehension' in the former case and not in the latter. That an act, *qua* fulfilling a promise, or *qua* effecting a just

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<sup>9</sup> "To avoid complicating unduly the statement of the general view I am putting forward, I have here rather overstated it. Any act is the origination of a great variety of things many of which make no difference to its rightness or wrongness. But there are always many elements in its nature (i. e. in what it is the origination of) that make a difference to its rightness or wrongness, and no element in its nature can be dismissed without consideration as indifferent." (33, Fn. 2)

distribution of good, or *qua* returning services rendered, or *qua* promoting the good of others, or *qua* promoting the virtue or insight of the agent, is *prima facie* right, is self-evident; not in the sense that it is evident from the beginning of our lives, or as soon as we attend to the proposition for the first time, but in the sense that when we have reached sufficient mental maturity and have given sufficient attention to the proposition it is evident without any need of proof, or of evidence beyond itself. It is self-evident just as a mathematical axiom, or the validity of a form of inference, is evident. The moral order expressed in these propositions is just as much part of the fundamental nature of the universe (and, we may add, of any possible universe in which there were moral agents at all) as is the spatial or numerical structure expressed in the axioms of geometry or arithmetic. In our confidence that these propositions are true there is involved the same trust in our reason that is involved in our confidence in mathematics; and we should have no justification for trusting it in the latter sphere and distrusting it in the former. In both cases we are dealing with propositions that cannot be proved, but that just as certainly need no proof. (29f./d263f.)

I should make it plain at this stage that I am *assuming* the correctness of some of our main convictions as to *prima facie* duties, or, more strictly, am claiming that we *know* them to be true. To me it seems as self-evident as anything could be, that to make a promise, for instance, is to create a moral claim on us in someone else. Many readers will perhaps say that they do *not* know this to be true. If so, I certainly cannot prove it to them; I can only ask them to reflect again, in the hope that they will ultimately agree that they also know it to be true. The main moral convictions of the plain man seem to me to be, not opinions which it is for philosophy to prove or disprove, but knowledge from the start; and in my own case I seem to find little difficulty in distinguishing these essential convictions from other moral convictions which I also have, which are merely fallible opinions based on an imperfect study of the working for good or evil of certain institutions or types of action. (20f., Fn 1/d256f.)

In what has preceded, a good deal of use has been made of 'what we really think' about moral questions; a certain theory has been rejected because it does not agree with what we really think. It might be said that this is in principle wrong; that we should not be content to expound what our present moral consciousness tells us but should aim at a criticism of our existing moral consciousness in the light of theory. Now I do not doubt that the moral consciousness of men has in detail undergone a good deal of modification as regards the things we think right, at the hands of moral theory. But if we are told, for instance, that we should give up our view that there is a special obligatoriness attaching to the keeping of promises because it is self-evident that the only duty is to produce as much good as possible, we have to ask ourselves whether we really, when we reflect, *are* convinced that this is self-evident, and whether we really *can* get rid of our view that promise-keeping has a bindingness independent of productiveness of maximum good. In my own experience I find that I cannot, in spite of a very genuine attempt to do so; and I venture to think that most people will find the same, and that just because they cannot lose the sense of special obligation, they cannot accept as self-evident, or even as true, the theory which would require them to do so. In fact it seems, on reflection, self-evident that a promise, simply as such, is something that *prima facie* ought to be kept, and it does *not*, on reflection, seem self-evident that production of maximum good is the only thing that makes an act obligatory. And to ask us to give up at the bidding of a theory our actual apprehension of what is right and what is wrong seems like asking people to repudiate their actual experience of beauty, at the bidding of a theory which says 'only that which satisfies such and such conditions can be beautiful'. If what I have called our actual apprehension is (as I would maintain that it is) truly an apprehension, i. e. an instance of knowledge, the request is nothing less than absurd.

I would maintain, in fact, that what we are apt to describe as 'what we think' about moral questions contains a considerable amount that we do not think but know, and that this forms the standard by reference to which the truth of any moral theory has to be tested, instead of having itself to be tested by reference to any theory. [...]

[...] We have no more direct way of access to the facts about rightness and goodness and about what things are right or good, than by thinking about them; the moral convictions of thoughtful and well-

educated people are the data of ethics just as sense-perceptions are the data of a natural science. Just as some of the latter have to be rejected as illusory, so have some of the former; but as the latter are rejected only when they are in conflict with other more accurate sense-perceptions, the former are rejected only when they are in conflict with other convictions which stand better the test of reflection. The existing body of moral convictions of the best people is the cumulative product of the moral reflection of many generations, which has developed an extremely delicate power of appreciation of moral distinctions; and thus the theorist cannot afford to treat with anything other than the greatest respect. The verdicts of the moral consciousness of the best people are the foundation on which he must build; though he must first compare them with one another and eliminate any contradictions they may contain. (39–41/d266–68)

## 2.5 Wie erwerben wir unser Wissen über unsere *prima facie* Pflichten?

Wie gelangen wir zu den allgemeinen Prinzipien über unsere *prima facie* Pflichten? Wir erkennen zunächst, daß eine bestimmte Handlung, mit der ein Versprechen eingehalten wird *prima facie* richtig ist. Ebenso erkennen wir bei weiteren Handlungen, mit denen Versprechen eingehalten werden, daß sie *prima facie* richtig sind. Schließlich erkennen wir, daß die *prima facie* Richtigkeit zum Wesen des Einhaltens von Versprechen gehört und erkennen somit das allgemeine Prinzip.

Wir erkennen also zuerst die *prima facie* Richtigkeit einer Handlung einer bestimmten Art. Durch Nachdenken erkennen wir dann das entsprechende evidente allgemeine Prinzip. Der Einsicht in die allgemeinen Prinzipien geht somit die Einsicht in die *prima facie* Richtigkeit einzelner Handlungen voraus.

The general principles of duty are obviously not self-evident from the beginning of our lives. How do they come to be so? The answer is, that they come to be self-evident to us just as mathematical axioms do. We find by experience that this couple of matches and that couple make four matches, that this couple of balls on a wire and that couple make four balls: and by reflection on these and similar discoveries we come to see that it is of the nature of two and two to make four. In a precisely similar way, we see the *prima facie* rightness of an act which would be the fulfilment of a particular promise, and of another which would be the fulfilment of another promise, and when we have reached sufficient maturity to think in general terms, we apprehend *prima facie* rightness to belong to the nature of any fulfilment of promise. What comes first in time is the apprehension of the self-evident *prima facie* rightness of an individual act of a particular type. From this we come by reflection to apprehend the self-evident general principle of *prima facie* duty. From this, too, perhaps along with the apprehension of the self-evident *prima facie* rightness of the same act in virtue of its having another characteristic as well, and perhaps in spite of the apprehension of its *prima facie* wrongness in virtue of its having some third characteristic, we come to believe something not self-evident at all, but an object of probable opinion, viz. that this particular act is (not *prima facie* but) actually right. (32f.)

## 2.6 Was unsere *Prima facie* Pflichten sind, ist evident; was unsere tatsächlichen Pflichten sind, ist nicht evident, sondern höchst ungewiß

Urteile über *prima facie* Pflichten unterscheiden sich von Urteilen über unsere tatsächlichen Pflichten in konkreten Situationen darin, daß letztere nichts von der Gewißheit der ersteren haben. Ein Satz ist gewiß, wenn er (i) evident ist oder (ii) aus evidenten Sätzen folgt. Urteile über tatsächliche Pflichten erfüllen keine dieser beiden Bedingungen:

Our judgements about our actual duty in concrete situations have none of the certainty that attaches to our recognition of the general principles of duty. A statement is certain, i. e. is an expression of knowledge, only in one or other of two cases when it is either self-evident, or a valid conclusion from self-evident premisses. And our judgements about our particular duties have neither of these characters. (30/d265)

(i) Urteile über unsere tatsächlichen Pflichten sind nicht evident: In Fällen, in denen eine mögliche Handlung zwei Eigenschaften aufweist, von denen die eine die Handlung prima facie richtig, die andere die Handlung prima facie falsch macht, sind wir nicht sicher, ob es unsere tatsächliche Pflicht ist, die Handlung auszuführen. Zwar kann es Fälle geben, in denen eine mögliche Handlung nur eine Eigenschaft aufweist, die sie prima facie richtig macht und keine, die sie prima facie falsch macht, aber wir können uns dessen niemals sicher sein:

(1) They are not selfevident. Where a possible act is seen to have two characteristics, in virtue of one of which it is *prima facie* right, and in virtue of the other *prima facie* wrong, we are (I think) well aware that we are not certain whether we ought or ought not to do it; that whether we do it or not, we are taking a moral risk. We come in the long run, after consideration, to think one duty more pressing than the other, but we do not feel certain that it is so. And though we do not always recognize that a possible act has two such characteristics, and though there *may* be cases in which it has not, we are never certain that any particular possible act has not, and therefore never certain that it is right, nor certain that it is wrong. For, to go no further in the analysis, it is enough to point out that any particular act will in all probability in the course of time contribute to the bringing about of good or of evil for many human beings, and thus have a *prima facie* rightness or wrongness of which we know nothing. (30f./d265)

(ii) Urteile über unsere tatsächlichen Pflichten folgen nicht aus evidenten Prämissen: Die einzig möglichen Prämissen wären die allgemeinen Prinzipien der Prima-facie-Richtigkeit oder -Falschheit. Diese Prinzipien beziehen sich jedoch nur auf einzelne Eigenschaften von Handlungen, die sie prima facie richtig oder falsch machen. Den meisten Handlungen kommen jedoch sowohl Eigenschaften zu, die sie prima facie richtig machen als auch solche, die sie prima facie falsch machen. Für diese Fälle gibt es kein allgemeines Prinzip, aus dem wir ableiten könnten, was unsere tatsächliche Pflicht ist:

(2) Again, our judgements about our particular duties are not logical conclusions from self-evident premisses. The only possible premisses would be the general principles stating their *prima facie* rightness or wrongness *qua* having the different characteristics they do have; and even if we could (as we cannot) apprehend the extent to which an act will tend on the one hand, for example, to bring about advantages for our benefactors, and on the other hand to bring about disadvantages for fellow men who are not our benefactors, there is no principle by which we can draw the conclusion that it is on the whole right or on the whole wrong. [...] we have more or less probable opinions which are not logically justified conclusions from the general principles that are recognized as self-evident. (31/d265f.)

Wir können daher niemals sicher sein (d. h. niemals wissen), was unsere tatsächliche Pflicht ist. Sicher können wir uns nur über unsere prima facie Pflichten sein.

### 3 Ross' Theorie des Guten

Our next step is to inquire what kinds of thing are intrinsically good. (1) The first thing for which I would claim that it is intrinsically good is virtuous disposition and action, i. e. action, or disposition to act, from any one of certain motives, of which at all events the most notable are the desire to do one's duty, the desire to bring into being something that is good, and the desire to give pleasure or save pain to others. It

seems clear that we regard all such actions and dispositions as having value in themselves apart from any consequence. [...]

(2) It seems at first sight equally clear that pleasure is good in itself. [...]

[...]

Pleasure seems, indeed, to have a property analogous to that which we have previously recognized under the name of conditional or *prima facie* rightness. An act of promise-keeping has the property, not necessarily of being right but of being something that is right if the act has no other morally significant characteristic (such as that of causing much pain to another person). And similarly a state of pleasure has the property, not necessarily of being good, but of being something that is good if the state has no other characteristic that prevents it from being good. The two characteristics that may interfere with its being good are (a) that of being contrary to desert, and (b) that of being a state which is the realization of a bad disposition. Thus the pleasures of which we can say without doubt that they are good are (i) the pleasures of non-moral beings (animals), (ii) the pleasures of moral beings that are deserved and are either realizations of good moral dispositions or realizations of neutral capacities (such as the pleasures of the senses). [...]

[...] It would seem then that, besides virtue and pleasure, we must recognize (3), as a third independent good, the apportionment of pleasure and pain to the virtuous and the vicious respectively. And it is on the recognition of this as a separate good that the recognition of the duty of justice, in distinction from fidelity to promises on the one hand and from beneficence on the other, rests.

(4) It seems clear that knowledge, and in a less degree what we may for the present call 'right opinion', are states of mind good in themselves. [...]

[...]

Four things, then, seem to be intrinsically good – virtue, pleasure, the allocation of pleasure to the virtuous, and knowledge (and in a less degree right opinion). And I am unable to discover anything that is intrinsically good, which is not either one of these or a combination of two or more of them. (134–40)

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