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public of reasonable persons might say about such lies. Most lies will clearly fail to satisfy these questions of justification. But what lies might actually satisfy them? The chapters which follow will take up some kinds of lies often regarded as justified by the liars themselves. I shall do no more than begin to explore them.

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VIII

LIES IN A CRISIS

May not a singular necessity supercede the common rule of veracity, too? Suppose a Genghis Khan, or any such Eastern monster, resolved on the massacre of a whole city if he finds they have given any protection to his enemy, and asking a citizen in whom he confides about this fact, whether his enemy had ever been sheltered by the citizens; and that by deceiving the monster, he can preserve the lives of hundreds of thousands, and of their innocent babes; whereas telling him the truth shall occasion the most horrible slaughter: could a wise man’s heart reproach him justly for breaking through the common law of veracity, and conquering the natural impulse toward it, upon such strong motives of humanity?

—Francis Hutcheson, A System of Moral Philosophy

Though it wasn’t true, Woodward told Deep Throat that he and Bernstein had a story for the following week saying that Haldeman was the fifth person in control of disbursements from the secret fund.

“You’ll have to do it on your own,” Deep Throat said. [. . .] Since he had not cautioned them on Haldeman, he was effectively confirming the story.

—Carl Bernstein and Bob Woodward, All the President’s Men
The Acute Crisis

How might the test of publicity discriminate among the many crisis situations where lies are told? Let us look back first at the case discussed by Kant and so many others—the murderer who asks where his victim has gone. This is a crisis in the most common sense of the word, a turning point at which a decisive change for better or worse may take place. It is a crisis, also, in the moral sense that word: the turning point presents an opportunity to choose whether to intervene, and by what means. Not all crises afford such choice. The familiar scene from the past, where parents sat helpless by the bedside of a sick child whose illness had reached a critical point, is one of agonizing powerlessness. But here, the choice is clear, the stakes are high, and the likely damage without the lie irreversible. There seems no way to prevent the misdeed without the lie, and time is running out.

For those confronted with such a crisis, there is little time to reflect. But could they do so beforehand, they would, I believe, be able to justify such lies. First of all, they could argue, the limited time in which to make the decision rules out the chance to work out alternatives, such as appeals for assistance or rescue. (If, on the other hand, one could know a day ahead of time, there would, of course, be many alternative ways of protecting the victim.)

Second, if the claim that an innocent life can be saved is justified, it will offset in most minds the negative value ordinarily placed on lies. Non-maleficence, or the avoidance of harm, would be the principle invoked, and most would hold that it overrides the principle of veracity in these cases. Just as force would be justifiable as a means to prevent the murder, so it would be right to achieve the same objective through deceit.

Third, the life threatened is itself an innocent one. If, on the other hand, the pursued were a kidnapper, the lie to cover up for him would be very differently judged. One can conceive of innumerable variations in the degree of innocence of the pursued; of violence or coercion should the pursuer find him; and of loyalty to the pursued on the part of the person asked to reveal his whereabouts. All these variations could affect our judgment of how excusable the protective lie would be.

Finally, a lie to protect a murderer’s intended victim is a very isolated instance. It would neither be likely to encourage others to lie nor make it much more likely that the person who lied to save a life might come to lie more easily or more often. In many lives, such emergencies arise rarely, if ever; should one arise, it is not likely to be repeated. And the situation is so extraordinary as to provide no reason to generalize the need for lying. There would be very little risk, therefore, of such a lie contributing in any way to a spreading deceptive practice.

For these reasons, the test of public justification could be satisfied. There would be no difficulty in defending openly the policy that persecutors searching for their innocent victims can be answered dishonestly. In fact, not only can it be defended; it could be advocated in advance as preferable to a policy of honesty at all times. Someone who advocated the opposite policy of total honesty to persecutors would be a dangerous individual in times where life-and-death crises arise more frequently; one
who could be trusted with no confidential information at all.

Does such a justification apply only to those lying to save other people from extreme threats, or does it apply equally to those who might lie to save themselves? That is, is there some greater justification for altruistic lies here than for self-serving ones? I cannot see that one is more justifiable than the other in such a crisis. Both can be equally advocated in advance and excused in retrospect. (Though if one person gives himself up to save another, the situation changes; such an act cannot be expected in advance,1 yet it must be admired in retrospect.)

It has been argued that although lying might be justifiable on such rare occasions, most of us will, in fact, never encounter a situation where a lie might be excusable. We should proceed in life, therefore, as if no lies should ever be told. This is a comforting thought and makes everyday choices simple, but it holds little consolation for those many whose lives are touched more often and more crushingly by crisis than one might think. More individuals than not lead their lives under a continuous threat to survival or to their political or religious freedom. And even in societies where there are no such threats, there are professional groups—doctors or military personnel, for example—whose members can expect frequent crises in their work. For them, there can be no such easy certainty that a crisis where a lie will be necessary will probably never come into their lives.

Prolonged Threats to Survival

A crisis may be acute, as in the life-saving cases; but a state of crisis can also become chronic. The same elements are present—great danger and no escape—but the time frame is entirely different, and there is no one critical turning point. The threat may be continuous, so that one lie after another barely staves off disaster, or it may recur over and over again, each time posing the issue of deception.

In extreme and prolonged threats to survival, as in plagues, invasions, and religious or political persecution, human choice is intolerably restricted. Survival alone counts; moral considerations are nearly obliterated. People may still give each other help and protection in extremes of physical and mental stress; they may still forego lies and still share alike; but such choice goes far beyond duty. And for many, the moral personality is itself crushed; the ability to choose is destroyed.

Hume, describing such conditions, wrote that justice itself can be expected only in an intermediate range of scarcity and benevolence—when there is neither such abundance that all have what they need nor such scarcity that not all can survive; and where people are neither so completely good that they act justly and lovingly spontaneously, nor so incurably evil that nothing can make them do so.*

And George Steiner evokes the “survival value” of lying under extreme circumstances:

*See David Hume, An Enquiry Concerning the Principles of Morals, Section III, Part I. While I agree with Hume about some floor beneath which justice cannot be expected, I do not share his optimism about its superfluity at the highest levels of abundance and human benevolence. In the first place, we are coming to realize how limitless human needs can become. And second, we have the experience of situations where grave problems of justice and moral choice arise among well-meaning persons even where scarcity is not a problem. In hospitals, for example, there are times when resources are plentiful, and where everyone wants to do what is best for a patient, yet where searing moral differences arise. Finally, benevolence can surely bring its own tyranny.

Fiction was disguise: from those seeking out the same waterhole, the same sparse quarry, or meagre sexual chance. To misinform, to utter less than the truth was to gain a vital edge of space or subsistence. Natural selection would favor the contriver. Folk tales and mythology retain a blurred memory of the evolutionary advantage of mask and misdirection. Loki, Odysseus are very late, literary concentrates of the widely diffused motif of the liar, of the dissembler elusive as flame and water, who survives.\textsuperscript{2}

Under such circumstances, the luxury of alternatives is out of the question. The overwhelming justification is, once again, survival. It appeals to the most powerful aspect of the principle of avoiding harm—the battle against personal extinction. At such times, the spread of deceptive practices cannot be a consideration insofar as it has already taken place. Society is in a state of collapse, and a lie won’t add to the chaos or the degradation. For all these reasons, public debate of how justifiable such lies are would then be largely beside the point.

These long-term threats to survival strain morality most of all. In shorter and more limited crises, as in mining disasters or shipwrecks, where some may survive and return to society, the ordinary expectations have more force. Such emergencies create exceptional circumstances, not qualifications of moral rules. Survivors may be brought to trial and held to existing standards, as in Conrad’s \textit{Lord Jim} or the famous lawsuit of \textit{U.S. v. Holmes}.\textsuperscript{3} In this case, the crew in a lifeboat threw overboard fourteen men to keep the vessel from sinking in a turbulent sea. One of the surviving crew members was convicted for unlawful homicide.

But to say that the long-term threats to survival strain morality is not to say that hindsight cannot make out differences in adherence to principles of justice or veracity at such times. Nor, obviously, is it to say that those who \textit{impose} or tolerate such burdens for their fellow human beings must not be judged. It is merely to say that there comes a point of human endurance and of long-term threat beyond which justice is inoperative for sufferers, and where their adherence to moral principles cannot be evaluated by outsiders.\textsuperscript{*}

\underline{Line-drawing}

Acute, life-threatening crises, then, can justify lies to save innocent lives; and prolonged threats to survival suspend the \textit{efforts} to evaluate lies told in self-defense. But there are a great many less crushing predicaments which are still perceived as a crises by liars. They may want to be freed from a chronic unpleasant burden, even though it is in no way life-threatening. Their moral excuses—their claims to innocence, for example, or the threat they perceive—may be much less powerful. Even if the threat is severe, it may not be immediate. It may not even be certain that a lie will remove the threat. There are innumerable variations on these themes, in all of which the liar may claim an urgent reason to lie. How can they be evaluated?

The following story from Plutarch is a good example of such a complex situation where a lie was told and ultimately highly praised:

\[\ldots\] anarchy and confusion long prevailed in Sparta, causing the death of the father of Lycurgus. For as he was trying to quell a riot, he was stabbed with a butcher’s knife, and left the title of king to his eldest son, Polydectes. He too

\textsuperscript{*}See Hannah Arendt, \textit{The Origins of Totalitarianism} (New York: Harcourt Brace, 1966) p. 452:

Totalitarian terror achieved its most terrible triumph when it succeeded in cutting the moral person off from the individualist escape and in making the decisions of conscience absolutely questionable and equivocal. The alternative is no longer between good and evil, but between murder and murder. Who could solve the dilemma of the Greek mother who was asked by the Nazis to choose which of her children should be killed?
dying soon after, the right of succession (as everyone thought) rested in Lycurgus; and reign he did, until it was found that the queen, his sister-in-law, was with child; upon which he immediately declared that the kingdom belonged to her issue, provided it were male, and that he himself only exercised the legal jurisdiction as his guardian. [. . .]

Soon after, an overture was made to him by the queen, that she would herself in some way destroy the infant, upon condition that he would marry her when he came to the crown. Abhorring the woman's wickedness, he nevertheless did not reject her proposal, but making show of closing with her, despatched the messenger with thanks and expressions of joy, but dissuaded her earnestly from procuring herself to miscarry, which would impair her health, if not endanger her life; he himself would see to it, he said, that the child, as soon as born, should be taken out of the way.

By such artifices having drawn on the woman to the time of her lying-in, when the baby was born, and a boy presented to him, he said to those about him: “Men of Sparta, here is a king born unto us.” [. . .] All were transported with his just and noble spirit.¹

It is possible that Lycurgus could have talked the queen out of her evil designs upon her unborn baby and future king. But had he failed, she might well have carried them out. It is possible, alternatively, that, instead of lying to her, Lycurgus could have revealed her plans publicly and tried to guard her from hurting the baby. But this would have been at the cost of her reputation, perhaps life, and if he failed, his own life, as well as that of the baby, might have been endangered. His lie was not certain to remove the entire threat to the baby’s life nor to his own. And having once begun to lie in the matter, he found that more and more deception became necessary to uphold the original lie.

Sometimes the danger comes, not just from one individual, but from an entire institution which is felt to be unjust. How do we respond to a law, a procedure, a whole network of corruption, perhaps oppression? Consider someone having to deal with a dishonest City Hall, an oppressive mental hospital, or a criminal syndicate. Should he adopt its standards merely to subsist and get his job done? Or should he resist? Openly or secretly? And at what risk?

In some such situations, lies are clearly justified, once again on the basis of self-defense. A person unjustly detained in a mental hospital, for instance, may have very few, if any, means of attaining freedom. If a lie brings him into contact with a lawyer who can take up his cause or make the authorities believe that someone on the outside is going to publicize his plight, it might well stand up to the test of publicity. The victim is powerless; his alternatives few and unsatisfactory. The danger is great and could be lifelong.¹ The risk that deception will spread is slight. While it is true that life itself is not threatened, the unjust deprivation of liberty would, I believe, be as powerful an excuse.

A more acute crisis, though less threatening to life or liberty, occurs when someone is forced to undergo sterilization, or is threatened with some unwarranted inroad on bodily integrity. In these circumstances, once again, I believe that self-defense through deception should be allowed where alternative forms of resistance are not available.

In a lighter vein, a crisis of sorts arose for a young woman I know who was making a university-sponsored visit to a village of former head-hunters. She was well received and presented with the special delicacy of the tribe: baby mice, taken by the tail, dipped in melted butter, and swallowed alive. After a moment's thought, she announced regretfully that she wished she could taste the mice, but that to do so would be against her religion.

But there are a number of common situations where the degree of danger, and the obligation to submit to it, are in dispute. Consider the young men who feel justified
in falsely claiming physical or mental disabilities to avoid military service. And compare such lies when used, say, in peacetime, in World War II, and in the war in Vietnam. Or consider the following:

A pediatrician was approached by the mother of a child whom he had known for a long time. The child was a seven-year-old white boy living in Hyde Park, Massachusetts. Recently, the physician had been treating this child for bed-wetting and occasionally counseling the parents and the child because of mild emotional problems that had included aggressive behavior, trouble sleeping, and emotional lability. During the summer of 1975, the parents received a letter saying that he was to be bused to a school in Roxbury in September 1975. The parents, who were against forced busing, were very upset by this. Allegedly, the boy became particularly distraught. He began to wet his bed more often; he was quite anxious; and his parents reported that he was having frequent nightmares.

Late in August, the parents approached their pediatrician with a form requesting that the child be allowed to remain at his neighborhood school for “medical reasons.” The pediatrician thought about this request. He felt that the boy might be having a stress reaction to the prospect of changing schools. In itself, this did not seem so abnormal. The physician was not convinced that the stress reaction was a “medical reason” to excuse the boy from forced busing. On the other hand, he had very good rapport with his family, and they desperately wanted him to fill out the form. He felt that the maintenance of this relationship was very important, and that they were really depending upon him at this time for help with what they perceived as a major crisis in their lives. This pediatrician himself was against forced busing in general.

The pediatrician decided to fill out the form, stating that he thought it was important, for this child’s continuing emotional stability, that he not be bused. In the form, he described the alleged deterioration of the boy’s behavior during the summer.

Both for the parents of this boy and for potential draftees, there are honest alternatives to going along with the request they regard as unjust: they can refuse to submit, and accept the consequences. Many have had to weigh the choice between acceding to a demand they regard as threatening and unjust, or lying to evade it, or else resisting it overtly. In evaluating such choices one has to take into account the degree to which the request is indeed unjust, the available alternatives, the severity of the consequences of overt resistance, and the effects of lying, not least on the liars themselves.

Consider a couple driven to seek divorce in a society where it can be granted only for adultery. They may see two alternative ways to be allowed to divorce: committing adultery or lying to say that there has been adultery. A variant of the second way is to enact a charade wherein one spouse is caught in an incriminating situation. How should such a couple proceed, if both adultery and lies are distasteful to them and the marriage itself one they feel unable to continue? Some have chosen legal separation, in societies where divorce has been thus restricted; but for many, this alternative has represented such a sacrifice that a lie has seemed a small price to pay in order to achieve release from their marriage and the freedom to marry again.

Were such a case put to public debate, lying would seem excusable to some, who would argue that it is the system which, in presenting the choice in the first place, is degrading and in need of change. For the legislators or those who design the system are not caught in a crisis as are the divorcing spouses. There are many more alternatives open to those devising divorce legislation than to those caught in a system which punishes the honest. And the system obviously encourages the spread of dishonesty in a way that the individual crisis response does not. The system is, therefore, much less excusable than the individual deceit which forms a part of it. Others would argue,
on the contrary, that the way to deal with laws one finds unjust is through lawful change, not through breaking the law surreptitiously.

These are but a few of a great many instances of human predicaments where what is perceived as a crisis makes lying one of the only ways out, but where unanimous resolutions may not be found. The factors that influence choice differ greatly. In some of these predicaments, only one lie or a few may be necessary. In others, and especially where survival within the institution is the only alternative, continuous lying may be at stake. People then have to choose between "living a lie" and breaking away in some way—through taking the risks of overt disregard for the prevailing norms, or of actual escape.

These situations also differ with respect to the proportion of persons who actually participate in the deceptive practices. They differ with respect to the degree of voluntariness of participation, depending upon the consequences of noncompliance. They differ, finally, in that some of the lies can be more openly acknowledged than others after the crisis is over.

In all these cases, the claims to justification vary. In all of them, liars will tend to overestimate the forces pushing them to lie. And in all, there comes a turning point where participants either comply, manage to leave, or are crushed.

Where is that turning point? What is the limit of expectable heroism? Where do powerlessness, external threat, and prevailing practice so work together that corruption is the norm, honesty the exception?

The absolutist rejection of all lies cannot suffice in such predicaments. Nor can the simple belief that, since most of us won't encounter dire emergencies that only a lie can dispel, we can follow the absolutists in practice, even though in principle we might admit an exception or two to their prohibition of all lies. This belief may be a sound basis for behavior in normal times; but it seems less applicable to many who live in the shadow of crises where lying seems the only alternative.

Line-drawing is a hard task once one leaves the domain of the clear-cut life-threatening crisis. It becomes difficult, then, to answer the questions relevant to moral justification. The first question, asking whether there are truthful alternatives, is hard to answer wherever there is uncertainty about the various alternatives and the hardships they may impose or avert. The second, asking what moral arguments can be made for and against the lie, will encounter problems connected with the excuses claiming non-maleficence: There will be disagreement as to how intense, how immediate, how irreversible, and how enduring the risks really involved are. And this disagreement will at times stem from widely varying estimates of the need to continue the practice calling forth the lies—the divorce laws, the busing regulations, the draft laws, and so on.

The test of publicity with respect to such lies would therefore have to address the debate, not only to the lies in isolation, but to the social practices of which they form a part. It would have to press the search for alternatives, both social and individual. And it would focus attention on the debilitating nature of participating in the deceptive practices, as well as the likelihood that these might spread and thus further injure the community.

Danger of Expanding Deceptive Practices

When should such a spread be thought most harmful? Surely when the opportunities to deceive flourish, and when the knowledge of these practices gives rise to a loss of trust, to imitation, to deceptive countermeasures. It is the fear of such spread which underlies the reluctance to condone professional deception, no matter how indicated it may seem in the individual case. There are a number of
professions where crisis situations are not isolated incidents but frequent occurrences. Doctors, lawyers, journalists, secret-service agents, and military personnel, for example, may find themselves repeatedly in straits where serious consequences seem avoidable only through deception. Their chosen work exposes them frequently to such crises; their professions, moreover, reward competition and unusual achievement. Cutting corners may be one way to such achievements; and if deception is pervasive and rarely punished, then it will be all the more likely to spread. The accepted practices may then grow increasingly insensitive, and abuses and mistakes more common, resulting in harm to self, profession, clients, and society.

There is always an interweaving of self-serving and altruistic motives in such practices. One benefits personally by cutting corners, no one person seems to be too much harmed thereby, and the benefits one can bring about often seem important. But the self-serving motives are not clearly addressed; there is, in fact, rarely a clear professional standard or open discussion of the unspoken standards in professional organizations.

The excerpt from *All the President's Men* at the beginning of this chapter is a good case in point. Certainly, the situation was one of mounting crisis for the nation and of potential danger for investigating journalists who came too close to revealing the facts about Watergate. It is certain, too, that there was great pressure to be first with the revelations; the desire to advance professionally and to gain fame formed no small part of the undertaking. In pursuing their investigation, the two journalists came to tell more than one lie; a whole fabric of deception arose. Persons being interviewed were falsely told that others had already given certain bits of information or had said something about them. One of the reporters tried to impersonate Donald Segretti on the telephone. The other lied to Deep Throat in order to extract corroboration of a fact which this witness would have feared to reveal in other ways. And the newspaper was used to print information for which there was not always adequate evidence.

It is not clear that, beyond the secrecy which had to surround the investigation, deception was actually needed. Yet it is certain that the reporters deserve great credit for exposing the misdeeds of the Watergate scandal. It can be argued that, in order for this exposure to be possible, deception was needed; but what is more troubling in the book than the lies themselves is the absence of any acknowledgment of a moral dilemma. No one seems to have stopped to think that there was a problem in using deceptive means. No one weighed the reasons for and against doing so. There was no reported effort to search for honest alternatives, or to distinguish among different forms and degrees of deception, or to consider whether some circumstances warranted it more than others.

The absence of such reflection may well result in countless young reporters unthinkingly adopting some of these methods. And those who used them successfully at a time of national crisis may do so again with lesser provocation. The impression gained by the reading public is that such standards are taken for granted among journalists. The results, therefore, are severe, both in terms of risks to the personal professional standards of those directly involved, the public view of the profession, and to many within it or about to enter it.

The same risks confront other professions. In the care of the sick and the dying, in courtroom practice, in every kind of selling and advocacy—wherever the opportunities for deception abound, rewards are high, and time for considering alternatives often short—the danger of the formation of deceptive habits is much greater than in other lines of work. The word "crisis" then becomes a sufficiently elastic term to suit every occasion for lies. We need
to look more closely, therefore, at particular cases in these occupations.

Out of the vast number of possible cases, I shall take up only a few in the chapters to come. Others could serve as well; it is my hope that as soon as a few practices are questioned, many more will be the more easily examined.

IX

LYING TO LIARS

A man ought to be a friend to his friend, and repay gift with gift. People should meet smiles with smiles and lies with treachery.

—The Poetic Edda

When my love swears that she is made of truth,
I do believe her, though I know she lies,
That she might think me some untutored youth,
Unlearned in the world's false subtleties.
Thus vainly thinking that she thinks me young,
Although she knows my days are past the best,
Simply I credit her false-speaking tongue;
On both sides thus is simple truth suppress'd.
But wherefore says she not she is unjust?
And wherefore say not I that I am old?
O, love's best habit is in seeming trust,
And age in love loves not t'have years told.
Therefore I lie with her, and she with me,
And in our faults by lies we flattered be.

—Shakespeare, Sonnet 138

Lying to Unmask Liars

In 385 A.D., Christian authorities executed the first of many “heretics”: Priscillian, Bishop of Avila, was put to death