

Title: Justice, Piety, and Mercy: A Thomist Inquiry

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Abstract

Of all the virtues, it is justice that philosophers discuss most passionately. In contrast, we largely neglect piety, even though the classical tradition identifies it as a part of just. I argue that we must attune justice, both in theory and practice, to familial obligation – that is, filial piety. We must also coordinate justice and piety with the virtue of *miser cordia* or mercy. In addition, I try to show that putting justice, piety, and mercy into a working harmony helps resolve current debates among Jane English, Christina Sommers, and Peter Singer bearing on justice and the family. In so far as I succeed in resolving these debates, I am able to support the larger and long contested thesis that the cardinal virtues, *pace* Isaiah Berlin, do indeed enjoy a unity.

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I. Introduction

Among his notable cast of characters, Charles Dickens introduces a certain Mrs. Jellyby, and so teaches us a lesson in moral psychology. We can learn something important from this “diminutive woman with handsome eyes” and their “curious habit of seeming to look a long way off [a]s if they could see nothing nearer than Africa.” (Cited in Sommers 271) Whether Dickens himself learned the right lesson is unclear, in that his own eyes came to focus more on England’s woes than on his ill-used wife, the mother of their ten children.

Yet if there's folly in seeing nothing nearer than Africa, there's folly in not seeing beyond our own comfort. Mrs. Jellyby's telescopic philanthropy, Dickens's target, has its idiot opposite in Faith Popcorn's cocooning counsels. How might we better inform our moral vision? Where are the lenses through which we can see things as they are? There is, straightway, an initial pair of questions to explore. First, what does distributive justice require? And, second, what does the distinct piety of the family ask of us? To this initial pair of questions, I will add another. First, might not mercy sometimes help to balance justice and piety? And, second, can we--in the end--harmonize justice, piety, and mercy?

Such questions invite theoretical answers. But theory should guide us beyond the notional and the general to the real and the particular. Is it not the real and the particular which spark such questions and put their solutions to the test? With an eye to particulars, let me suggest a pair of examples that can help give a context for our work.

Case #1: Professor Fortuna has a windfall, courtesy of the California Lottery, and she now has \$15,000 at her disposal. Reviewing several options, two command her attention. The first finds her taking a long delayed vacation in Tuscany, with her husband at hand. The second calls on Professor Fortuna to give the money to a trusted medical missionary. The missionary, she knows, will use it to provide antibiotics to hundreds of children whose lives are at great risk.

Case #2: Paul Farmer is a research physician and public health advocate. He has launched, and helped sustain, state-of-the-art medical projects in Haiti and Siberia. He's also convinced pharmaceutical firms to market affordable drugs for tens of thousands of at-risk patients. But he can only do so much. Suppose Farmer sees that continuing his work, at his usual pace, will jeopardize his marriage and harm his young daughter.

How, then, are we to advise Professor Fortuna and Dr. Farmer? Chastened by Jellyby and Dickens, yet smelling the popcorn at home, I would urge both Fortuna and Farmer to act justly and with familial piety--and to show how both virtues are harmony with mercy.

II. The Problem

But my advice leads to a tangled problem which, no doubt, you already have in mind. In such cases, how is one to specify what justice demands and what piety requires, while discerning how mercy might help us to honor both?

This tangled problem takes us back to Plato's *Euthyphro* and, beyond, to the tragedian Sophocles. But the problem is also a matter of current debate. Turning St. Paul on his head, some warn that charity, without justice, makes one a sounding cymbal. Thus Peter Singer says that what many see as charity is, in fact, due in justice. Justice, moreover, demands that we maximize utility. Christina Sommers, in contrast, finds that sometimes utility must wait its turn. She argues that what we owe to others often depends on how we are related to them. And what relation could be stronger than belonging to the same family?

But a specter lurks over any debate about justice and charity, the place of piety, and the plea of mercy. It is the possibility that on occasion we must simply choose among competing virtues. The choice might befall an individual (alas, Antigone) or an entire culture (compare Western universalism with Asian Confucianism). This spectral challenge might be either modest or immodest. Its first, and modest, form doubts whether there are reasonable public criteria for ordering and unifying the virtues. Its second, and

immodest, form insists that the virtues defy ordering, because they are in themselves incompatible.

III. A Thomist Contribution

St. Thomas Aquinas has much to offer us in sorting out the requirements of both justice and piety. With Aristotle, he affirms that the good cannot be at odds with itself; accordingly “no virtue is opposed to another virtue....” (Aquinas *ST II-II*, 101, 4). Aquinas is confident that there is a harmony among the virtues, and he seeks to find it.

Some definitions are in order. Thomas defines justice as “a habit whereby a man renders to each one his due by a constant and perpetual will.” (Aquinas *ST II-II*, 58, 1) His definition follows Aristotle’s: “justice is a habit whereby a man is said to be capable of doing just actions in accordance with his choice.” (Aristotle *Nicomachean Ethics V. 5*) Again following Aristotle, Thomas distinguishes between commutative and distributive justice. The former addresses dealings between two individuals, as such. But our focus is the latter, distributive justice. Thomas explains distributive justice in terms of “the order of the whole towards the parts, to which corresponds the order of that which belongs to the community in relation to each single person.” (Aquinas *ST II-II*, 61)

And what of piety? With Cicero, Thomas sees piety as a potential part of justice. As such, it shares in the character of justice and yet falls short of its fullness. Like justice, piety is directed to others. Unlike justice, piety cannot fully render another his due. How could we repay God for the act of Creation? How could we even repay our parents for conceiving us? Thus Thomas, identifying our parents as our “connatural principle of

being,” annexes filial piety to justice as a special virtue. It is this filial piety, rather than a religious or patriotic piety, which is of chief interest now. (Aquinas *ST*: II-II, 101, 3)

In the order of grace, Thomas adds, piety is a gift of the Holy Spirit. There is an analogy at work: “The piety that pays duty and worship to a father in the flesh is a virtue, but the piety that is a gift pays this to God as Father.” (Aquinas *ST*: II-II, 121, 1) While justice is not a gift of the Spirit, the Decalogue itself pertains to justice. Thomas, indeed, links piety, as a potential part of justice, with the Decalogue. “[T]he first three precepts are about acts of religion, which is the chief part of justice; the fourth precept is about acts of piety, which is the second part of justice; and the six remaining are about justice commonly so called, which is observed among equals.” (Aquinas *ST*: II-II, 122, 1)

Though some set justice and piety at odds with each other, there is a third virtue to define and to put to work in the service of their harmony. It is *miser cordia*, that is, mercy. For Thomas mercy is “grief for another’s distress,” not simply the feeling of grief, but a tempered grief “ruled by reason” and directed by “elective habit.” (Aquinas *ST* II-II, 30, 3). And how stands *miser cordia* in relation to the other virtues? Thomas is emphatic: “[O]f all the virtues which relate to our neighbor, mercy is the greatest.” (Aquinas *ST* II-II, 30, 4) Shakespeare’s Portia would add that “earthly power doth then show likest God’s / When Mercy seasons justice.” (*The Merchant of Venice*, Act 4, Scene 1) Yet charity still reigns supreme over all in that it unites us to God.

Definitions in hand, we can return to Professor Fortuna and Dr. Farmer. If we make headway with their pair of cases, we can turn to another that current debate suggests. It would be mistaken, of course, to suppose that Thomas’s definitions apply themselves to

particular cases. Rather, it is the prudent person who brings them into play, and I will (imprudently) strive to be such.

What, then, of Fortuna? Distributive justice does not demand that she nix her Tuscan tour. None us, here and now, must make up for the cumulative failings of others. Many have visited Tuscany and many will do so, largely free of worry about children at risk. What justice does demand is that Fortuna and her fellow Tuscan tourists, together with those who buy yachts, vacation homes, and BMW's (how the list grows), give their "fair share" for the children. Nor is any familial piety at issue. Fortuna has a spouse, but matrimonial obligations do not extend to a Tuscan tour.

If, then, the Professor denies neither justice nor piety, might she follow her fancy? Not if she has a heart. She has seen pictures of the children she can help save. Mercy calls on her to do so. Perhaps, though, Fortuna is deaf to mercy's voice. Or she might lack the elective habit that could move her beyond easy sympathy to disciplined action. It is a sobering thought, but perhaps many of us, much of the time, are deaf to mercy or feckless in acting on it.

And what of Paul Farmer? He does the work of justice; he hears the voice of mercy. But in doing so he must honor the obligations he has to his family. It is not filial piety, as such, that demands that he do so. Rather, it is a familial piety, a virtue also anchored to connaturality, which demands it. Together Farmer and his wife have given life to their daughter. Together they have care of one another in a way that commits them to her nurture. This mutuality must shape their justice and mercy.

Doubtless, some will fault my casuistry in the cases of Fortuna and Farmer, and I will return to their keenest objections. But now I want to look to a new pair of cases that

current debate suggests. In doing so, I pursue a new exercise in casuistry. Jane English's discussion of what adult children owe their parents suggests the first new case. Peter Singer's view of filial piety introduces the second.

Case #3: Suppose, *per impossibile*, that Hulga had a normal childhood. Things only soured when she began to take "a larger view of life." By the time Hulga began graduate studies, she had little affection for her parents. Her parents, in turn, had less affection for her, especially in light of her rare visits. She did, of course, return for her father's funeral. Now that her mother is confined to home, Hulga wonders if she ought to visit her more. But unless Hulga writes every day, her work suffers. And she's not unfeeling. She often visits a friend with a neurological disorder. So Hulga focuses on the fact that her mother has good care and that her friend is just what her mother is not: a friend. Thanksgiving will be soon enough to visit, not that she *owes* it to her mother.

Case #4: Hugo is looking forward to his twentieth class reunion, a weekend affair that starts tomorrow. So are his old friends, and they've been exchanging e-mails about the event. Hugo thinks that he might come away from the reunion with a better sense of who he is. Perspective gets more important as one gets older. Poor Dad; he never stops to smell the roses. Well, he'd better learn. A couple hours ago, he'd called to say he needed Hugo's help. Maybe it was the medication change, he said, but he was strangely depressed. Sure, his father would miss him. But so would his friends. Hugo calculates the hurt feelings, the dashed hopes, and the number of people involved. Result: he tells Dad to call the doctor.

In both Case #3 and Case #4, it's filial piety, strictly understood, that is the chief concern. This was not so in Case #1 or Case #2. Our new cases differ, though, with

regard to how and why their respective protagonists deny the duties of filial piety. Hulga largely supplants justice with affection, or lack thereof, to excuse herself from the demands of filial piety. (Piety, we recall, is a potential part of justice.) Hugo appeals to utility to excuse himself from the demands of filial piety. Utility, we recall, on J.S. Mill's view, shapes the justice of which piety is a potential part. If now I might, imprudently, return to my role as a prudent person, I urge both Hulga and Hugo to form a Thomist's conscience.

Is it true that Hulga doesn't owe her mother thanks, much less, say, a monthly visit? By no means. She owes her mother her very life, and for this she can never repay her. To be sure, there is no duty to spend one's life repaying a debt that one cannot repay. And the loss of affection between mother and daughter is disturbing. But even if one's mother isn't a friend, she is always one's mother. For this reason alone, one should do one's best to meet her basic needs, perhaps beginning with a good faith effort to rekindle the affection that will make it easier to do so.

And what of Hugo? Is it true that maximizing preference-satisfaction dispenses him from filial duty? By no means. There is, for a start, no objective way to rank the preferences at issue. Even if one appeals to the number of those involved and the strength of their preferences, one cannot coherently abstract the preferences from their objects. Renewing a friendship, the object of one set of preferences, *ought not* to be preferred to a son's caring for a father in medical jeopardy, the object of another preference. One ought, rather, to prefer to help that very man to whom one owes one's life. Beyond this, there is the vexed question of the heterogeneous quality of competing preferences. Indeed, some preferences, like some pleasures, might be altogether without moral weight.

But enough of this second round of casuistry. It is time to turn to a pair of pressing objections and offer what reply I can.

IV. Objections & Replies

Of the many likely objections to my casuistry, two are decidedly sharp and most fundamental. The first is “the biologism objection.” It recognizes that my case for filial piety appeals to a principle of connaturality: we owe honor and respect to our parents as the very sources of our lives. But this, the critic claims, privileges a merely biological relation. Why, the critic asks, should biology give rise to a primary moral obligation?

The second objection, a specter already noted, specifies “the disunity of the virtues objection.” If we accept justice, piety, and mercy as virtues, the critic insists that we also embrace the individual autonomy of the moderns and the impartial beneficence of the utilitarians. Having registered this demand, the critic then points out that it is not even clear that in practice one can unite justice, piety, and mercy. But even if one can, continues the critic, my casuistry suggests that one *cannot* so unite the former virtues with the modern and utilitarian virtues now at issue.

Let’s look first at “the biologism objection.” It sees parenthood as a brute physical fact and no more. Even Claudia Mills, who argues for a special familial ethic, worries about ceding too much to biology. She says that the familial ethic rests, more specifically, on the human good of an unconditional and unchosen relation of love. Yet she also asks, as well she might, “Where, after all, do truly unchosen relationships come from, if not from our biological links to one another?” (Mills 334)

In forming a fuller answer to the charge of biologism, one should begin by pointing out that human biology, rightly understood, conjoins procreative intimacy with a parental

orientation to the nurturing of children. In this regard, “the Jewish mother” is the characteristically human mother; “the watchful father” is the characteristically human father. To relegate these phenomena to *mere* biology invites us to “shift down,” as it were, from the rich complexity of what we daily experience to supposedly parallel patterns of cellular activity. Why accept so reductive an invitation?

But something else drives the charge of biologism. It is a barely submerged judgment that life itself is only an instrumental good, of value only because of what we make of it. In becoming adults, the young make of their lives what they will. They fashion, or fail to fashion, lives of authenticity; in this they find the meaning of their lives. We are, of course, all (adult) children of our parents. We neither chose to be conceived nor, at first, even nurtured. The ethical duties which we now have to our parents, and they to us, come about through our free commitments. Biology sets the stage; we alone are the actors--or so some proclaim.

How is one to counter this instrumentalism? Proofs that such-and-such is an intrinsic good, much less incommensurable and non-fungible, are in short supply. (The Terri Schiavo tragedy underscores this.) One might call attention to the almost universal appeal of life, to its central place in all we do, and to the outrage of putting a price on it. But then one must say “Come and see.” Or better yet: “Come and see with the eyes of a practically reasonable person.” At this point, the burden of proof lies with those who refuse to look, whether at the good or at what puts it in peril. Here we might recall, respectively, Kierkegaard’s theme of “the weight of glory” (Cited in Crosby 93, 95) and the mythic power of the fall of Icarus.

Let's next consider "the disunity of the virtues objection," and in the immodest form in which Isaiah Berlin, its celebrated proponent, presents it. Berlin rejects what he calls the "ancient faith [which] rests on the conviction that all the positive values in which men have believed must, in the end, be compatible, and perhaps even entail one another." (Berlin 167) Indeed, this ancient faith is largely "responsible for the slaughter of individuals on the altars of the great historical ideals..." (Berlin 167) Though a liberal, Berlin consistently rejected even liberty as an absolute around which all virtues might be structured. Any monism, he charged, is simplistic and thus suspect, if only for the false comfort it offers. (Were Sir Isaiah more consistent, he might have noted the comfort that a "pick and choose" view of the virtues offers, perhaps even excusing his affair with H.L.A. Hart's wife, though Hart thought him his best friend.) (Lacy 177-78)

How might one counter this "disunity objection?" At the highest of metaphysical elevations, Thomists affirm the intelligibility of being; hence they search out its consequent harmony, whether in science or ethics. Berlin, for his part, rightly warns against any artificial unity. Still, at a lesser elevation, as a volunteer casuist, I have given some reason to think there is a harmony among the virtues of justice, filial and familial piety, and mercy. The immediate priority of any one of them serves to order rather than to deny the others. Of course, no casuist, no matter how industrious, could address every case.

Is there, however, any basis to suppose that such a unity extends to the autonomy of the moderns and the beneficence of the utilitarians? It seems not. But this discovery, rather than advancing the disunity objection, suggests that such autonomy and such beneficence are counterfeit virtues. Neither autonomy nor beneficence, so understood,

strikes me as in accord with right reason. Such autonomy denies that, as Alasdair MacIntyre reminds us, we are *dependent* rational animals. (MacIntyre) Such beneficence equally supposes a flawed philosophical anthropology. It calls upon us to measure what we cannot measure and to give equal moral weight to what requires special moral consideration, in light of our very way of being. We cannot consistently live our lives with such autonomy or such beneficence, nor can we imagine how a society embracing them could endure.

V. *Envoi*

Perhaps there is time for one last test for those who would harmonize justice, piety, and mercy, especially while reflecting on the family. What are we to say about adoptive parents and their adopted children?

Adoptive parents do not give life to their children, nor do their children have a duty to honor and respect them on this account. All children, however, have such a duty to their biological parents, absent gravely distorting reproductive technology. Thus the reunion of biological parents with their children is ordinarily a good thing. Adoptive parents, one hastens to add, do give their children the distinctive nurturing that enables them to flourish. So intensively do they nurture their children that we might well see it as akin to a biological imprinting. More critical still is the nurturing of spirit that a loving parent can offer. For these reasons, then, children have a duty to honor and respect their adoptive parents.

From the honor and respect that children owe their parents, biological or adoptive, there can flow a duty to nurture in turn one's parents, even in the basic ways that parents

nurture children. And yet St. Thomas teaches that the duty of a parent, in light of connaturality, is stronger than the duty of a son or daughter. “Since a father stands in the relation of principle, and his son in the relation of that which is from a principle, it is essentially fitting for a father to support his son: and [so] he is bound to support him not only for a time, but for all of his life, and this is to lay by [for him].” (Aquinas *ST II-II*, 101, 2)

For Thomas, Scripture was always in mind. In these matters, his last word might well be that the saving power of Jesus Christ brings it to pass that we all can become *adopted* children of the Father. (*Galatians* 4: 4-5) Thus grace heals nature in order to build upon it.

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I thank Eric Hall, Catherine Snider, and Bret Spears for their helpful comments.

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*Presented at the 2007 Conference on the Cardinal Virtues, Viterbo University,
La Crosse, Wisconsin, April 13, 2007*

