

## THE CONFUCIAN PUZZLE: JUSTICE AND CARE IN AQUINAS

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**ABSTRACT:** *Ethical theories of justice and care are often presented in opposition to each other. Eleonore Stump argues that Aquinas's moral theory has the resources to bring justice and care together. There is, however, a potential worry for her view raised by the 'Confucian Puzzle'. The puzzle poses a moral dilemma between care and justice that serves as a test case for Stump's picture. In this paper, I provide a brief overview of the justice and care debate along with the subsequent challenges that both positions face in order to situate Aquinas's position as Stump defends it. Next, I present the Confucian Puzzle and consider how Aquinas might respond to it. Finally, given his response, I make two claims. First, the unifying virtue of charity enables Aquinas to resolve the tension between justice and care as it appears in the Confucian Puzzle. Second, Stump's integration thesis only obtains given what Aquinas says about charity.*

**Keywords:** *Aquinas, care ethics, justice, Confucian ethics*

### 1. INTRODUCTION

Ethical theories of justice and care<sup>1</sup> are often presented in opposition to each other. Eleonore Stump (2003) argues that Aquinas's moral theory has the resources to bring justice and care together. Stump presents a plausible picture of how care and justice come together in Aquinas; however, one may wonder how this picture holds up when tested. There is a potential worry for her view raised by a story found in *Analects* 13.18 of Confucius. The 'Confucian Puzzle' poses an apparent moral dilemma between care and justice that serves as a test case for Stump's thesis. This paper explores how Aquinas might respond to this moral dilemma.

In what follows, I provide a brief overview of the justice and care debate along with the subsequent challenges that face both positions. This discussion situates

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<sup>1</sup> Henceforth I use 'care theories' and 'justice theories' interchangeably with 'ethic of care' and 'ethic of justice'.

Stump's defense of Aquinas's ethical theory. Next, I present the Confucian Puzzle and consider how Aquinas might respond to it. Finally, given his response, I reach two conclusions. First, the unifying virtue of charity enables Aquinas to resolve the apparent tension between justice and care in the Confucian Puzzle. Second, Stump's integration thesis only obtains given what Aquinas says about charity.

## 1.1 PRELIMINARY REMARKS

In what follows, I will understand theories of care and theories of justice in a general way rather than ascribing to one particular theory. Typically, theories that privilege justice include deontological, consequential, and virtue ethical theories, which also represent the main Western ethical traditions. Clearly, these theories espouse different core theses regarding moral principles, what constitutes a moral action, and who counts as a moral person. What is important to note for our purposes is not the differences but rather the similarities in these views: their focus on independent, impartial, and autonomous rational individuals and the various moral constraints necessary for just interaction with others. Because the principles of impartiality and autonomy are emphasized at the exclusion of close relationships, they are criticized for being overly impartial.

In contrast, theories that privilege care and care relations generally prioritize the other person more than the individual person. Relations of care between self and other are the focus of ethical deliberation such that moral actions take into account particular persons and emphasize the importance of sustaining care relations between persons. Care occurs within concrete situations and in the context of particular relationships. The feelings of care, tenderness, concern, and love are what informs moral decisions. Nevertheless, care can also be an instance of tough love, which might include a parent who refuses to give a child the chocolate he asks for because he is allergic to it. Because theories of care acknowledge the importance, even priority, of close relationships, they are often criticized for being overly partial. *Prima facie* they also risk sacrificing the individual's good for the good of others with whom she relates.

With this rough construal in mind, I will refer to theories of justice and care in ways that draw upon these basic distinctions in order to make headway on the particular question of this paper, namely, does Aquinas successfully integrate justice and care in his ethical system as Stump argues?

## 2. STUMP'S PROPOSAL: INTEGRATION THESIS

Many care theorists challenge the prominent individualism of traditional Western ethical theories of justice.<sup>2</sup> As Ornath O'Dowd explains, "Many philosophical interpretations of care have had as a significant component a critique of abstract, universal principles, which are usually identified with 'justice ethics'...[where]

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<sup>2</sup> See e.g., Virginia Held (2006); Nel Noddings (1982); Carol Gilligan (1982).

‘justice ethics’ denotes canonical Western ethical theories based on universal rules or principles” (2012, 407). Some frequent criticism of justice theories include the exclusive priority placed on equality, fairness, and the autonomy of each individual person often to the exclusion of maintaining relationships and meeting the needs of others, which arguably is a vital part of ethical life (Clement 1996, 14). The challenge for defenders of justice theories is “to show how one’s obligations to others arise without violating one’s individual autonomy” (Clement 1996, 13).

In contrast, the challenges for defenders of care theories are to show both how prioritizing relationships of care and concern for particular others does not exploit the care-giver and how there is a healthy balance of giving preference to loved ones without neglecting the needs of more distant others. For example, Nel Noddings’ early work *Caring* is often criticized for emphasizing the care for close loved ones at the exclusion of distant others. Her account also risks losing sight of the individual in the care relation by characterizing care as a kind of “engrossment” in the other (Sander-Staudt 2011).<sup>3</sup> Thus, there seems to be an impasse between justice and care. Either you prioritize fair, impartial treatment to all without prioritizing close relationships; or you privilege the importance of maintaining close relationships with loved ones at the sacrifice of justice and personal desires.

Annette Baier criticizes Aquinas’s ethics for proposing “a very legalistic moral theory” that objectionably privileges the individual good, proposes impartial laws at the expense of particular needs, and shows minimal concern for the common good (Baier 1995, 54; Stump 2003, 310). In response to critics like Baier, Stump argues that Thomistic ethics can integrate both justice and care into its system. It is structured on virtues, not laws or rules, and his account of justice reveals great concern for the poor and the common good of others (Stump 2003, 311).

Stump notes that Aquinas’s ethical system is founded on a personal and essentially relational notion of ‘the good,’ namely God, rather than an abstract conception of ‘the good.’<sup>4</sup> So, she says, “Aquinas supposes that caring of certain sorts is integral to justice itself...[it is] morally obligatory to relieve the needs of the poor and the poor have a right to the things necessary for life, such as food, clothing, and shelter” (Stump 2002, 311). By suggesting that caring of sorts is integral to justice, Stump aims to show how Aquinas’s ethics transcends the worries faced by both care and justice theories.<sup>5</sup> Before challenging Stump’s integration thesis, it is helpful to consider what Aquinas says about justice and care.

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<sup>3</sup> See also Nel Noddings (1982).

<sup>4</sup> The notion of Aquinas’s ethics being founded on the good, which is God, is fundamental to his ethics. Because Aquinas thinks that being and goodness are correlative, and that God is both Being and a being, it follows that God is goodness; thus, He is the foundation of all reality and morality. Stump argues that the metaphysics of goodness actually provides a meta-ethical foundation for Aquinas’s ethics (62). I will not attempt to explore or defend this important claim here, since it exceeds the scope of the present paper topic; but, for a detailed argument see Chapter 2: “Goodness” in Stump (2003). See also Stump (2016).

<sup>5</sup> Stump cites Thomas Nagel’s concern about the apparent irreconcilability of the personal (self-focused) and impersonal (other-focused) standpoint in ethics. Whichever theory one defends will face

## 2.1 JUSTICE

Aquinas holds a particular kind of virtue ethics that resembles, but essentially departs from, Aristotelian virtue ethics.<sup>6</sup> The virtues divide into three categories for Aquinas, namely moral, intellectual, and theological virtues. Justice is a moral virtue that relates persons to each other and divides into distributive and commutative justice (*ST II.II q. 61 a. 1*).<sup>7</sup> For Aquinas, justice is a matter of equality with respect to different kinds of transactions between persons (*ST II.II q. 57 a. 1*).<sup>8</sup> These transactions may involve economic exchanges of goods or they may involve relational interactions between persons. For example, if Sam gossips about Mary, he has taken something from her, e.g., reputation, and commutative justice requires that he make amends with her to restore equality, e.g., by apologizing. Since justice is a kind of equality, it follows that injustice is a sort of inequality.<sup>9</sup> Aquinas maintains that a sufficiently grave act of injustice, or moral wrongdoing, actually breaks a person's relation with God and can threaten an agent's salvation if it is not made right. Until the wrong is rectified, it remains an injustice (Stump 2003, 319).

Aquinas places significant moral demand on individuals for the sake of the common good, which he includes under justice. As he says,

Justice ... directs man in his relations with other men. Now this may happen in two ways: first as regards his relation with individuals, secondly as regards his relations with others in general...[the good of any virtue] is referable to the common good, to which justice directs: so that all acts of virtue can pertain to justice, in so far as it directs man to the common good. (*ST II-II q. 58 a. 5*)

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the challenge of accounting for the individual's good and the good of others. When care and justice conflict, it is not clear to Nagel how these two viewpoints can be reconciled in a satisfactory way. It seems, to him, that a theory will always end up defending either the personal or impersonal standpoint and this result follows from the lack of an acceptable ideal in current ethical systems. [See Stump (2003, 312-13) for a nice summary of this worry and also Nagel (1991).]

<sup>6</sup> In this paper, I assume the non-Aristotelian character of Aquinas's ethics since this is the view defended by Stump, whose argument is the focus of my criticism. For a more thorough argument for the non-Aristotelian character of Aquinas's ethics, see Stump (2011, 29-43). See also Pinsent (2013) for a detailed account of the second-person in Aquinas's virtue ethics and see Dahm (2015) for a critique of Stump's view.

<sup>7</sup> All translations of the *Summa Theologica* are taken from the Fathers of the English Dominican Province, [www.newadvent.org](http://www.newadvent.org) and are cited as part, question, article.

<sup>8</sup> Distributive justice involves relations between an individual and the state. Commutative justice involves relations between individuals within a state. In distributive justice, equality is determined by the geometrical mean and requires fair distribution between parties. In commutative justice, equality is determined by the arithmetical mean or equal quantity of goods.

<sup>9</sup> Aquinas says, "even as the object of justice is something equal in external things, so too the object of injustice is something unequal" (*ST II.II q. 59 a. 2 ad. 1*).

‘The common good’ is the good of the whole society in which individuals are related as part to whole. Aquinas explains that the end of the law is common good and that laws such as “do not steal” are framed not only for the individual person’s benefit but also for the benefit of the whole society. The common good can also be understood as an aspect of the good and a kind of formal moral norm under which individual members of a society fall (DeCrane 2010, 58).<sup>10</sup>

Accordingly, Aquinas thinks human persons are intrinsically social and are “obligated to do ‘whatever is necessary for the preservation of human society,’” which includes preserving human flourishing, not mere human existence (DeCrane 2010, 59-60). Justice, then, concerns not only the individual *per se* but also the individual in relation to others for the sake of the common good. Thus, individuals have a responsibility to care for people in the community as a requirement of justice.

## 2.2 ALMSGIVING AND CARE

Consider now the notion of care. According to one definition of care, “‘Care’...is a felt concern for the good of others and for community with them” (Baier 1995, 48). It is useful, however, to consider the Latin root of care, namely *cura*, which refers to the notion of care for someone in need. Care for someone in need may be considered as a kind of active care for the other. It is not surprising, then, that for Aquinas care manifests as almsgiving, which divides into corporeal and spiritual almsdeeds.<sup>11</sup> Corporeal almsdeeds include meeting basic physical needs like hunger and thirst, clothing, shelter, and companionship. Spiritual almsdeeds include prayer, education, and fraternal correction (*ST* II-II q. 32, a. 2). Aquinas considers care, manifested through almsgiving, to be morally obligatory.<sup>12</sup>

Suppose an individual commits a crime, such as stealing. In most cases, individuals can independently identify and amend their own wrongdoings. If, however, an individual does not amend their wrongdoing or appears untroubled by it,

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<sup>10</sup> See also *ST* I-II q. 96 a. 4 where he explains, “Now laws are said to be just, both from the end, when, to wit, they ordained to the common good--and from their author, that is to say, when the law that is made does not exceed the power of the lawgiver--and from their form, when, to wit, burdens are laid on the subjects, according to an equality of proportion and with a view to the common good. For, since one man is a part of the community, each man in all that he is and has, belongs to the community; just as a part, in all that it is, belongs to the whole; wherefore nature inflicts a loss on the part, in order to save the whole: so that on this account, such laws as these, which impose proportionate burdens, are just and binding in conscience, and are legal laws.”

<sup>11</sup> One thing to notice according to the Latin definition of care (*cura*) and Thomistic manifestation of care is that care implies action of some kind. It is not enough to simply *feel* concern for the other. If a nurse simply feels concern for the patient and yet does nothing, then it is not obvious that her concern is truly one of care. Care then connects to the active meeting of needs, whether spiritual or corporeal. It is in this sense that lack of care manifested through almsgiving constitutes a moral sin. I am grateful to an audience member at the Northern Texas Philosophical Society, April 2017, for bringing this to my attention.

<sup>12</sup> As Stump (2003) explains, “it is morally obligatory not only to relieve the material needs of the poor but also to care for the spiritual and moral well-being of others” (333).

Aquinas says that it is someone else's responsibility to correct that person. He calls this 'fraternal correction' and says it is morally obligatory.<sup>13</sup>

The primary aim of fraternal correction is to amend the wrongdoer; the secondary aim is to remedy the wrongdoing itself.<sup>14</sup> Although there are occasions when the obligation to correct another does not obtain, e.g., the correction would make the wrongdoer worse,<sup>15</sup> on all other occasions it is a sin *not* to engage in fraternal correction. In fact, Aquinas warns that a "failure to correct a sinner makes one worse than the sinner himself" (Stump 2003, 328; *ST* II-II q. 33 a. 2 sed contra). He also offers an illuminating response to an objection that reproving wrongdoers should not be included in the list of spiritual almsdeeds. He says, "The reproof of the sinner, as to the exercise of the act of reproving, seems to imply the severity of justice, but, as to the intention of the reprover, who wishes to free a man from the evil of sin, it is an act of mercy and lovingkindness" (*ST* II-II q. 32 a. 2 ad 3). This reply suggests that the reproof involved in fraternal correction encompasses both justice and "an act of mercy and lovingkindness."

Based on Aquinas's theory of justice, as ordered to the common and individual good, and his theory of spiritual and corporeal almsgiving, Stump argues for the integration of justice and care within Aquinas's ethical theory. In the next section, I consider the Confucian Puzzle, which challenges Stump's integration thesis.

### 3. THE CONFUCIAN PUZZLE

There is a famous story found in *Analects* of Confucius that illustrates a conflict between care and justice. It reads as follows:

The Governor of She in conversation with Confucius said, "In our village there is someone called 'True Person' (*zhi-gong*). When his father took a sheep on the sly, he reported him to the authorities." Confucius replied, "Those who are true in my village conduct themselves differently. A father covers for his son, and a son covers for his father. And being true lies in this." (*Analects* 13.18)<sup>16</sup>

In the covering version of the story supported by Confucius, the son puts filial piety (i.e., care) for his father, along with the desire to keep the theft a secret, above the justice that is owed to the sheep owner. Moreover, he does this even though the

<sup>13</sup> He says, "Fraternal correction is a matter of precept" (*ST* II-II q. 33 a. 2ff.).

<sup>14</sup> It is important to understand what primary and secondary mean. Fraternal correction requires both correcting the wrongdoer and the wrongdoing, such that it is incomplete without both parts addressed, so it is a mistake to think that you can choose one and not the other.

<sup>15</sup> It is important to clarify what Aquinas means by 'worse off.' I take him to mean worse off with respect to a state of injustice. The idea is that if correction creates more disintegration around the bad, perhaps because the corrective system is in a corrupted form, then the punishment it delivers is not serving its proper function, to *re-integrate* the wrongdoer around the good. The person who considers exercising fraternal correction must also exercise prudence. See section 4.1 below.

<sup>16</sup> Quoted in Li (2012a). Also known as 'the father-covering-son' story, it challenges Confucian ethics because of their view that family relationships are the most important kind of relationship for a person (Li 2012a, 39).

owner has “better moral ground to request that the son return the sheep and at least ask for an apology from the father” (Li 2012a, 41). The puzzle is why Confucius says that the true (or upright) person would show partiality toward the father rather than take a more impartial stance and turn the father in as justice requires. Confucian scholars debate over how best to justify Confucius’s response that uprightness requires that the son cover for the father. I consider three such arguments.<sup>17</sup>

First, the Tree Argument proposes that family love is like the root of a tree and love for others is like the leaves and branches of the tree. Love for others or justice is the end goal, but this end is only possible if the means are properly cultivated. Thus, if the son covers for his father, then this act is justified because the son’s love must not be fully mature and ready to be given to others (Li 2012a, 41-42; Wang 1996)<sup>18, 18</sup>

Second, the Argument of the Whole suggests that familial love is foundational and ultimate. Love for others comes second to the family. Thus, the son is justified when he covers for his father because familial love is a basic moral principle that cannot be sacrificed for justice, which is secondary (Li 2012a, 43-4; Fan 2008).

It is reasonable to think that both arguments fail to justify the son’s decision to cover for the father. The Tree Argument fails because it cannot explain cases like a corrupt root, the decision to sacrifice the means (i.e., family) for the greater good of the end (i.e., others), or potential conflicts between the two foundational principles of familial love and general love. The Argument of the Whole fails because it is not clear that the priority of familial love entails its superiority.<sup>19</sup>

Third, the Remonstrance Argument indicates that Confucius admonishes the son to cover for his father because the ultimate goal is to remonstrate the father (Huang 2017, 20, 24-27). The best way to remonstrate father and the correct the wrongdoing is to cover for him and help him see the wrong he has done, repent, and make amends with the sheep owner. When Confucius says that true or upright persons cover for each other, he is suggesting that the duty of the true, upright person is to help others become upright as well. So, the son has a duty to make the father upright again, which may be done through covering for him rather than turning him into the authorities. The reason is that it is likely that turning the father in will not succeed in remonstrating him nor will it be an act of filial piety. As Huang argues, “Since parents normally stand to gain externally but lose internally from their wrongdoings, we ought to remonstrate with them against such action, more for the sake of the

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<sup>17</sup> For some helpful literature discussing the *Analects* passage as well as additional passages in Confucian ethics, see Huang (2007), (2015), (2017); Guo (2005); Li (2012a).

<sup>18</sup> I find this argument very strange. What does it mean to say someone’s love is “immature”? Is the idea that the love is inward looking rather than outward looking? Is there a point at which the son’s love becomes mature enough so that he would choose not to cover for his father for the sake of justice? I raise these questions only to set them aside both because the Confucian arguments are not my immediate concern and also because Li finds them unconvincing.

<sup>19</sup> Yong Li defends a moral partiality thesis that purports that the particular office of love between father and son morally requires the son to cover for his father because the son desires both the good of the father and for union with the father. See Li (2012b). I explore this idea later when I introduce the virtue of charity.

(internal) interest of our parents than for the sake of the (external) interest of the potential victims of our parents' wrongdoing" (Huang 2017, 29).

In other words, he means that the best context for helping the father become upright is in the context of the family home, not in the context of the justice system because the father's internal well-being is corrected more effectively in the home. This idea also suggests that the internal well-being of the father outweighs the external preservation of justice by righting the wrongdoing. Finally, Huang says it is the job of the authorities, not the son, to remedy the external wrong done by the father by seeking out the injustice and punishing the perpetrator.

While each of these arguments for the Confucian dictum that covering is what the 'true person' does offer plausible responses, it is not clear that they truly resolve the tension between filial care for the father and the relationship and the duty to uphold justice for the common good of society. Moreover, even if Confucius offers a solution to the puzzle, it is still instructive to consider how Aquinas might respond to the puzzle. If it turns out that he favors one duty over the other, then we have a counterexample to the integration thesis and his ethical system cannot overcome the care and justice debate after all.<sup>20</sup>

### 3.1 THE FIRST HORN: FILIAL DUTY

The first horn of the dilemma is the care-oriented filial relation. For Aquinas, honoring parents is a precept. He says, "Now to our parents, of all our neighbors, we are under the greatest obligation" (*ST II-II q. 122 a. 5*). Duty to parents is something owed to them in two ways. We owe our parents essentially, or directly, by giving reverence and service to them as such (*ST II-II q. 101 a. 1*). For example, we owe them reverence as inferiors to superiors. We also owe our parents accidentally or with respect to something else. For example, we owe them support if they are poor and company if they are sick. By visiting them and providing for them, we thereby honor and respect them. Aquinas also states that duty and homage are not given equally to all but chiefly to our parents and to others according to our means and their own claims (*ST II-II q. 101 a. 1*). Aquinas allows the duty to parents to be forsaken only if it keeps a person from giving God His due (*ST II-II q. 101 a. 4*).

Aquinas also suggests that the 'debt of being' owed to parents mirrors the 'debt of being owed to God', who is both Father and Creator of all things (*ST II-II q. 101 a. 1*). Aquinas states that we regard those who are connected to us more than those who are

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<sup>20</sup> Although it is beyond the scope of this paper to consider in greater depth the Confucian ethical system, it would be an interesting project to compare the two ethical systems of Confucius and Aquinas. Additionally, looking at the puzzle from the lens of moral particularity would also be instructive. One question to consider is whether the Thomistic and Confucian ethical systems endorse a particularist view of morality. One reason to think this is because they seem to give significant weight to the contextual and relational aspects of moral dilemmas in order to decide what to do. Morality requires that a person be sensitive and attuned to the contextual and relational aspects of the situation in order to make the best decision. The particularist position contrasts with moral generalist position, which maintains that there are general principles that guide all ethical decisions in any context.

not and that natural union is prior to and more stable than other unions (*ST II-II* q. 26 a. 6). These passages illustrate the high value Aquinas places on family relations over other relations. The relation between father and son resembles our relation to God and in this respect is critical to maintain. So perhaps, given these requirements of duty, obligation, and respect to parents, Aquinas will take the first horn of the dilemma and say that the son ought to put care for his father over showing justice toward the person wronged by the father. On the other hand, given what Aquinas says about justice and the common good, this conclusion is suspect.

### 3.2 THE SECOND HORN: DUTY OF JUSTICE

The second horn of the dilemma is the justice relation. It supports the restoration of justice to the wronged individual and the assurance that the father receives proper punishment. Recall that justice implies a certain kind of equality. Theft is an action that creates an inequality between parties and thus it is an injustice. As Aquinas says, “because of its opposition to justice, which gives to each one what is his, so that for this reason theft is contrary to justice, wrongdoing of theft itself.” Aquinas maintains the commandment in Exodus which says, “Thou shall not steal” and says that every theft is a sin (*ST II-II* q. 66 a. 6).

Moreover, Aquinas insists not only that the inequality toward the wronged individual must be righted but also that the sin of injustice must be corrected in the father. Notice two interrelated consequences that result from the injustice: (i) there is the break in relation between two people in the community, and (ii) there is a stain on the soul of the father. So, when the son considers whether he should turn his father into the authorities, justice obligates him to right the wrong done by his father toward the individual and to enable the due punishment for his father. One way to think about punishment is in terms of a part-whole relation. In his discussion on murder, Aquinas says the following:

Now every part is directed to the whole, as imperfect to perfect, wherefore every part is naturally for the sake of the whole. For this reason, we observe that if the health of the whole body demands the excision of a member, through its being decayed or infectious to the other members, it will be both praiseworthy and advantageous to have it cut away. Now every individual person is compared to the whole community, as part to whole. Therefore, if a man be dangerous and infectious to the community, on account of some sin, it is praiseworthy and advantageous that he be killed in order to safeguard the common good. (*ST II-II* q. 64 a. 2)

This passage indicates that it is permissible for the son to turn in his father for the sake of the whole community where the wronged individual is a representative part.<sup>21</sup>

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<sup>21</sup> Suppose the son decides to be a martyr and bear the father’s guilt for him by turning himself into the authorities rather than the father. Against this objection, Aquinas states in his discussion on punishment for sin that a son may not bear the iniquity of the father (*ST II-II* q. 87ff).

It is possible, then, that in accordance with justice and impartiality, Aquinas will embrace the second horn of the dilemma and require the son to turn in his father to be justly punished.

Another consideration is relevant with respect to the circumstances in which a person might give preference to either care or justice. In his discussion of piety and the virtue of charity, Aquinas makes a distinction between different forms of love relevant to circumstance. The forms of love relate to kin, comrades in war, and civil society. So, even though we have natural ties to love our kin, there are other considerations that also take effect. Aquinas replies thus to the question asked about loving those connected to us by blood:

As stated above (Article 7), we ought out of charity to love those who are more closely united to us more, both because our love for them is more intense, and because there are more reasons for loving them...in comparing love to love we should compare one union with another...Wherefore in matters pertaining to nature we should love our kindred most, in matters concerning relations between citizens, we should prefer our fellow-citizens, and on the battlefield our fellow-soldiers. (*ST II-II q. 26 a.8*)

Perhaps then, the circumstances relevant for the son's decision are those of the community insofar as the injustice was done outside of the family. If this is correct, then it is possible that justice toward the wronged individual takes priority over the son's duty to his father and therefore Aquinas would require the son to turn in the father to the authorities and prioritize the impartial, justice perspective over the partial, familial perspective.<sup>22</sup>

Because Aquinas indicates that an individual wrongdoer can and should be punished for the sake of the communal good together with the fact that an unrepented, un-righted wrongdoing is both unjust and a mortal sin, it looks like he prioritizes justice over care.<sup>23</sup> Thus, we have a counterexample to Stump's integration proposal.

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<sup>22</sup> There is another interpretation one may give to this passage. Perhaps the notion of loving more intensely those who are more closely united to us makes it obviously the case that the son has a duty to cover for his father, in virtue of their close family relation. It likely is the case that the son is more closely united to the father than he is to the sheep owner. So, the son ought to love his father more intensely, which implies that he should cover for his father out of intense love. In response, I would argue that even if it is the case that the son is closer to his father and has more intense love for his father, it doesn't follow that he would cover for the father. To see why this is the case, think about the nature of love. Imagine two young children are misbehaving by hitting each other. One child is yours and the other is the neighbor's child. You love your child more intensely than the neighbor's child because the child your own. Now, the love for your child should motivate you to discipline her for her naughty behavior in a more severe way than you should discipline your neighbor's child. One reason for this is that you love your child so much that you do not want her to be integrated around the bad, i.e., unjustly hitting the other child. You desire that your child be made right with respect to the injustice precisely because you love your child and desire her good. Thus, intense love does not detract from intense justice.

<sup>23</sup> Someone might object that there is good evidence for prioritizing care over justice and so my suggestion that justice trumps care in Aquinas's ethics is mistaken. One example is to consider what Aquinas says about equality and justice and what he says about the inequality between son and father

In the next section, I argue that the priority of justice over care does not actually provide a counterexample to Stump's integration thesis. To show why this is the case requires a discussion of charity. By considering the unifying virtue of charity, it is possible to show that love actually unifies justice and care in an inseparable way such that the son, by turning the father in, actually demonstrates *both* care and justice simultaneously.

#### 4. UNIFYING LOVE

One of the crucial differences between Thomistic and Aristotelian virtue ethics is Aquinas's three-fold division of the virtues into moral, intellectual, and theological. In particular, the virtue of charity is included in the definition of all the other virtues and is that on which all the virtues depend (*ST II-II q. 23 a. 4 ad. 1*).<sup>24</sup> Aquinas thinks there is no true virtue without charity. He distinguishes between true virtue and counterfeit virtue as well as perfect and imperfect virtue. For example, he thinks that a virtue aimed at a particular good that only appears good but is not actually good is not a genuine virtue. Moreover, a virtue aimed at a true good that lacks charity is a true virtue but not a perfect virtue. So he says, "no strictly [perfect] true virtue is possible without charity" (*ST II-II q. 23 a. 7*).

Moral virtue is a habit of the will that disposes the will to choose according to reason (Stump 2003, 76); but, for Aquinas, no moral virtue, even one chosen according to prudence or right reason, can be perfect or complete without charity. Even the habit of justice cannot be perfect or complete without charity. Thus, justice without charity is not true justice even if it is aimed at the true good. Suppose the son turns in his father to the authorities to be punished. If his sole aim is to ensure punishment, then it is not true justice.<sup>25</sup> If, however, the son turns his father into the authorities because he loves his father and desires the good for his father, then it is true justice that integrates doing the right action with the right intention.

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(*ST II-II q. 57 a. 4*). Given his view on the inequality between son and father, it is possible that this unequal relation prevents the son from turning in his father as justice requires for equals. Notice though that even if this is correct and there is more evidence in favor of care than in favor of justice, it remains a counterexample to Stump's proposal. Insofar as she says he *integrates* care and justice, favoring one or the other still remains problematic. I am grateful to Kevin Cutright (personal communication, April 2016) for pressing me on this point.

<sup>24</sup> Charity is a kind of love that is specifically love of God and love of goodness. Aquinas says, "Now the proper object of love is the good, as stated above (*ST I-II q. 27 a.1 corpus*), so that wherever there is a special aspect of good, there is a special kind of love. But the Divine good, inasmuch as it is the object of happiness, has a special aspect of good, wherefore the love of charity, which is the love of that good, is a special kind of love. Therefore, charity is a special virtue" (*ST II-II q. 23 a. 4*). Unless specified, I use love in its more general sense, which Aquinas explains is a twofold tendency "towards the good which a man wishes to someone (to himself or to another) and towards that to which he wishes some good" (*ST I-II q. 26 a. 4*).

<sup>25</sup> It is not true justice because it lacks charity, but also because the intentions are not right. Justice does not seek punishment for its end, but the good for the other, which requires restoring equality. Aquinas says, "justice is praiseworthy in respect of the virtuous person being well disposed towards another, so that justice is somewhat the good of another person" (*ST II-II q. 58 a.12*).

What kind of good might the son desire for his father? Recall that for Aquinas injustice is a sin and a break in a relationship between an individual and the community and between an individual and God. Since injustice remains in the sinner until he repents of it and is made right in some way, the son who does not turn his father in is in a sense preventing the father from restoring the broken relationship.

Ideally, the father would turn himself in, perhaps with the encouragement of his son. Suppose that the son encourages this and his father refuses, then when the son turns him in, he is acting with a kind of loving severity that seeks the restoration of his father's relationship with the community and with God. In this respect, he is exercising his obligation of fraternal correction. Even though he has a duty *qua* son to care for and respect his father,<sup>26</sup> he also has a duty *qua* person to correct the wrongdoing in the person who is also his father. This act of correction manifests a kind of care and respect for his father that upholds justice.

#### 4.1 A WORRY AND A RESPONSE

Yong Li worries about this conclusion. In fact, he argues for the opposite conclusion, namely, that love requires that the son cover for his father. He argues:

In the covering case, if what the father did is wrong, but turning the father into the authorities is *not the right way to reform* him, then the son should not turn his father into the authorities. If the son loves his father, then the son should desire the good of his father and desire union with the father. If turning his father into the authorities is not good for him, and if the son does something that is not good for his father, then it would damage the mutual closeness between the son and the father. Therefore, turning the father into the authorities violates the son's love of the father. (Li, 2012b, 139; my emphasis)

While I am sympathetic to this argument, I offer two responses that challenge its conclusion.

First, notice that Yong Li makes a conditional claim about turning in the father. He says that that the son should not turn in his father *if* "it is not the right way to reform him." Notice the connection this claim has with Aquinas's condition for fraternal correction, namely, if correcting the wrongdoer makes the wrongdoer *worse off*, then there is not an obligation to correct them. The challenge for the son is to decide whether or not turning in the father really is the best way to correct him. So, if the justice system is corrupt and would have no intention of justly correcting the wrongdoer, then the son should not turn in the father. If, however, the justice system is functioning as it should, then the son should turn in his father. Here, the virtue of prudence is necessary for the son to exercise.<sup>27</sup>

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<sup>26</sup> Another duty to consider is that of obedience. Perhaps the son has a duty *qua* son to obey his father in virtue of filial piety. It is not clear to me how obedience would fit into this case. The story as told does not indicate that the son would disobey the father by turning him into the authorities. Unless the father orders the son not to turn him in, then why think there is a duty of obedience at issue here?

<sup>27</sup> I am grateful to a reviewer for bringing the importance of prudence to my attention.

Prudence is the virtue that “aims to apply right reason to action” (*ST II-II* q.47 a.5, reply). Prudence is also the virtue concerned with contingent things, so it involves deliberation about which means to take for attaining a particular end. Moreover, it is important to understand that prudence is not the virtue that appoints the end to the moral virtues, but rather, it regulates the means. There are several implications for the case that follow from these points. First, the son needs the virtue of prudence to determine what the best means are for fraternal correction. The goal is the same – namely, to right the wrongdoer and amend the wrongdoing, but the means can vary depending on the situation. Second, insofar as we accept the unity of the virtues thesis in Aquinas, if the son has the virtues of charity and justice, then he also has the virtue of prudence. So, acting out of love for his father and with the desire for justice, the son will also act according to prudence.

Second, I propose that it is possible to both desire the good of the father and union with the father and turn in the father due to the nature of wrongdoing and the internal division that occurs within a person who sins. On my reading, turning in the father to the authorities is one way to reform him because it serves as an act of fraternal correction, which is one way to demonstrate care for the father.<sup>28</sup> It sacrifices an immediate good – maintaining proximate closeness and relationship, for a future good – the reconciliation of the father that facilitates union and closeness with God, the sheep owner, and the son (at least potentially). This outcome is something that is lost if the son covers for him. Even if it is possible for the son and father to discuss the wrongdoing in order to reconcile the father to an upright state, there still needs to be justice made to the sheep-owner. And this may include the father making amends to the wronged party by being punished or fined, etc.<sup>29</sup>

One way to see this act of justice as a manifestation of care and respect is to consider the twofold nature of justice. Insofar as justice is a virtue, it is a habit or disposition toward the good, and it is something that an individual cultivates within herself; however, the nature of justice is also such that it takes the individual beyond her own pursuit of excellence and relates her in certain ways toward others. As Stephen Chanderbahn says, “Establishing and cementing the habit of justice within an individual entail [sic] one coming to habitually render unto each what is right for each for the sake of a person’s coming to attain his or her true good” (Chanderbahn 2013, 283). Since the true good for the father includes being made right with respect to the injustice committed, the son is helping the father attain this good by turning him in to the authorities.

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<sup>28</sup> Notice I suggest this decision in as *one* possibility, not the *only* possibility. As I expand more below, prudence will be present in the son’s decision. Because charity unites the virtues, then if the son truly is acting according to charity, he will be acting with prudence and with justice as well. The point, however, of my reading is to see how Aquinas can bring justice and care together, and turning the father in is one way they do come together through fraternal correction.

<sup>29</sup> I think the same argument applies to Huang’s proposal that the son remonstrate the father by covering for him rather than by turning him into the authorities. The problem I see with this suggestion is that it is not clear how justice and care is also shown to the sheep owner. The challenge for any response to the justice and care tension is to account for as much as possible in the proposed solution. The Thomistic solution I offer accounts for justice and care owed to the father and to the sheep-owner.

If we reflect on the nature of love, the true good becomes clear. As Stump explains, love consists in two mutually governing desires, namely the desire for the good of the beloved and the desire for union with the Beloved (Stump 2012, 2). Both of these desires are manifest in the son's choice to uphold justice. The son loves his father with the first desire because he wants his father to be without sin and to be made right with respect to justice. He also desires that his father be reunited in love to God and to his community.<sup>30</sup>

Notice also that the son's desire for union with his father is also satisfied. It is satisfied because only when the father himself is made right with respect to the injustice will he be able to be united in love with his son. Insofar as sin creates distance between persons, when the father receives correction for his wrongdoing, the distance-creating sin of injustice is removed making union possible with the son. Thus, by turning his father in, the son both cares for his father by facilitating all of these goods (i.e., the father is made right from sin and thus can be united with God, others, and his son again) and also upholds the requirements of justice (i.e., turns his father in for proper punishment and enables amends to be made to the sheep owner).

Finally, recall the challenge raised against theories of care that the individual care-giver risks sacrificing herself for the sake of the care relation. The difficulty is how to account for the individual's personal preferences, desires, and interests as well as her relations of care and concern for others. Notice that justice applies both to an individual and to her relations with others. Even though Aquinas says that an individual is obligated to care for others through various forms of almsgiving, Aquinas also thinks that an individual is never required to give up what is necessary for life. Thus, since love is essential for living a good, even just life, and only someone who has a true sense of self can give herself in love to another, then part of

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<sup>30</sup> It is interesting to consider a situation in which justice is done in the name of love, but the recipient of justice has sincerely repented and mended his ways. For example, in *The Brothers Karamazov*, Ivan is talking with Aloysha about a pamphlet translated from French that tells the story of a murderer, Richard, who was only 23 years old when he was executed at the guillotine for his crime. It happens that he repented and converted to Christianity. He not only admitted his wrongdoing, but repented and told the court that although he was a monster, God had shown him grace. The villagers embraced him as brother while insisting that he "die in the Lord" for he had "shed blood and must die.... Die, brother, die in the Lord, for even thou hast found grace!" (Dostoyevsky, Part II, Book 5, Chapter 4, 262-3). They covered him in kisses and dragged him to the scaffold to be decapitated. The irony here is that justice is done 'in the name of brotherly love'; yet, this kind of love seems almost repulsive.

This case is interesting because it highlights a further tension that arises when the wrongdoer sincerely repents and yet there is still injustice. How does repentance, forgiveness, reconciliation, and punishment fit into the justice, care, and love framework? It highlights the attention that must be given to the intention of justice when done in love and the desire of love itself. The nature of the crime requires severe punishment, but the nature of the repentance also ameliorates the internal state of the wrongdoer. So, does the internal state of the wrongdoer made right to justice eliminate the need for external justice for the crime? How is this done in love? I raise these questions only to set them aside for later discussion. In the case at hand in the Confucian Puzzle, we do not know if the father has repented, and part of the solution is to help right the internal disintegration in the father, which is already present in Richard. (I am grateful to an audience member at the Pacific APA, April 2017, for this example.)

living a good life is to have a sense of identity and self-worth that is not enveloped by others. As I have argued, the unifying virtue of charity shows how Stump's integration thesis withstands the challenge raised against it by the Confucian Puzzle. Ultimately, Aquinas's moral theory offers a solution to the Confucian Puzzle because it presupposes the inclusion of care in truly virtuous acts of justice ordered to their proper end through the virtue of charity.

## 5. CONCLUSION

In conclusion, Aquinas has the resources to resolve the tension present between justice and care manifested in the Confucian Puzzle. Because of the overarching virtue of charity, true justice is such that it must show care through charity. For Aquinas, there is no true conflict between justice and care because by acting justly, the son acts with care in virtue of acting from love for his father. Moreover, the son also acts with care and concern for the wronged individual by showing him justice, which adds another layer of depth to Aquinas's account. As I have argued, the unifying virtue of charity shows how it is possible for the integration of justice and care to obtain. Thus, although it appears that Aquinas faces an uncomfortable dilemma when confronted with the Confucian Puzzle, it turns out that his account deals better with the puzzle than critics previously grasped because his account presupposes the inclusion of care in truly virtuous acts of justice ordered to their proper end through the virtue of charity.

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