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2008

Li, C. (2008). Does Confucian ethics integrate care ethics and justice ethics? the case of Mencius. *Asian Philosophy: An International Journal of the Philosophical Traditions of the East*. 18(1), 69-82.

<https://hdl.handle.net/10356/95046>

<https://doi.org/10.1080/09552360701880545>

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Does Confucian Ethics Integrate Care Ethics and Justice Ethics? The Case of Mencius

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In recent years, scholars of Confucian ethics have debated on important issues such as whether Confucian ethics embraces, or should embrace, universal values and impartiality. Some have argued that Confucian ethics integrates both care and justice, and that Confucian ethics is both particularistic and universalistic. In this essay, I will defend a view of the relation between care and justice and the relation between care ethics and justice ethics on the basis of the notion of 'configuration of values,' and show why care ethics and justice ethics cannot be integrated. I will support this view by a reading of some pertinent passages in the Mencius.

It has been over a decade since philosophers began to investigate intensely the intricate relations between Confucian ethics, care ethics and justice ethics. Two streams of this trend of study have drawn particular attention. One is on the relation between Confucian ethics and feminist care ethics; we can call it the Confucian-care ethics stream. The other is on the relation between Confucian ethics and justice ethics; we can call it the Confucian-justice ethics stream. In the Confucian-care ethics stream, discussions have been mainly on similarities and differences between Confucian ethics and feminist care ethics, and their affinity, difference, or opposition (Li, 1994; Star, 2002). In the Confucian-justice ethics stream, important issues have included whether Confucian ethics embraces, or should embrace, universal values and impartiality. In recent years, some scholars have argued that Confucian ethics integrates both care and justice (Tao, 2000; Wee, 2003). In this essay, I will defend a view of the relation between care and justice and the relation between care ethics and justice ethics on the basis of the notion of 'configuration of values,' and show why care ethics and justice ethics cannot be integrated. I will support this view by a reading of some pertinent passages in the book of *Mencius*.

I

Advocating Confucian ethics as embracing both care and justice, some scholars have attempted to show that we can find both these values in Confucian ethics. This has been understood as that Confucians embrace both care/responsibility with gradations, on the one hand, and impartiality and universal obligations on the other. For example, through a thought-provoking study of Mencius, Cecilia Wee has argued that 'Mencius inhabits the "feminine" perspective in so far as his morality is grounded in care and responsibility. However, he develops from this a philosophy of government which recognizes the need for impartial justice to apply among citizens' (Wee, 2003, p. 3). On the basis of this evidence, Wee concludes that 'the standard picture in feminist literature, wherein the "care" perspective is depicted as fundamentally incompatible with the impartial "rights" perspective, is mistaken.' While meticulously careful not to rush judgment, Wee suggests that my work may imply such an incompatibility thesis (Wee, 2003, p. 6). In this essay I would like to clarify my own position on this issue. I hold that these two perspectives, understood as care ethics and justice ethics, are indeed incompatible, if 'incompatible' here means it is impossible to be incorporated into a single value system. I will show in what sense and why these two perspectives are incompatible.

In discussing care ethics and justice ethics, people often use the term 'perspective,' as in 'care perspective' and 'justice perspective.' For the sake of clarity, let us first define this term. 'Perspective' can be understood in different ways. It can mean a single aspect from which something is considered or evaluated; it can also mean a view from a relationship between aspects of a subject. An example will illustrate this difference. Suppose a team of two persons needs to decide how to complete a project of making an airplane model. From an economic point of view, it is better to make the airplane frame from raw material because buying the frame costs more money; from an efficiency point of view, it is better to buy an airplane frame from a store because it saves the team's time. I call perspectives of this kind 'perspectives as an aspect of view' or 'single-aspect perspective.' Furthermore, suppose the two team members disagree on how to go about the frame. While they do not disagree on the fact that buying the frame is more efficient and making it is more economic, they disagree on which approach is more important for their project. These single-aspect perspectives, economy and efficiency, compete in this case. Suppose team member A thinks that efficiency is more important than economy whereas B holds that economy is more important than efficiency in completing their project. We can also say that they have different 'perspectives.' I call their perspectives on the relation between economy and efficiency 'perspectives as interrelated aspects' or 'configured perspectives,' because one person in her judgment configures economy to be more important than efficiency while the other person in his judgment configures efficiency to be more important than economy in carrying out their project. As I will show next, when we use 'care perspective' in the sense of care ethics and use 'justice perspective' in the sense of justice ethics, 'perspective' means 'configured perspective'; in this sense 'care perspective' and 'justice perspective,' I maintain, are incompatible.

This distinction between two senses of perspectives is important to us because while care and justice may be compatible as single-aspect perspectives *within* a configured perspective in the sense that a configured perspective can embrace both values, care ethics and justice ethics are not compatible *as* configured perspectives because that these two configurations are opposed to each other and cannot be incorporated into a single value system. I should note that Wee did not argue explicitly that care ethics and justice ethics are compatible; she may even not hold such position. She writes, 'there may well be no *inherent* incompatibility between the "feminine" ethics of care and concern and the "male" impartial perspective' (Wee, 2003, p. 3) 'Perspective' here is ambiguous and can be construed either as single-aspect perspective or as configured perspective. The use of 'feminine ethics of care' in Wee's statement seems to support the latter interpretation. Consequently, without further clarification her position is at least vulnerable to being interpreted as saying that care ethics and justice ethics are compatible.

In ethics, 'single-aspect perspectives' are moral values. Moral values provide directions and guidelines for human action. For example, when an ethics contains both values of truthfulness and human life, it promotes both telling the truth and protecting human lives. While these values are largely compatible, they are not always independent of one another and they may come to compete or even conflict. For example, in the case when one has to decide whether to lie to the Nazis of the whereabouts of a hidden Jew, it involves at least two single-aspect perspectives that compete or conflict with one another. From the single-aspect perspective of telling the truth (or 'no lying'), one should not lie at all, including lying about the whereabouts of the Jew; from the single-aspect perspective of protecting human lives, one should do what one could, including lying, in order to save the Jew. When a person cannot uphold both, her decision as to what to do depends on which value she places above the other in her configuration of these (and other related) ethical values.

If we examine values at a general level as in the case of telling the truth and protecting human lives, we can say that most values in most ethical traditions are similar. For example, we can find such values as hardworking, thrift, kindness, courteousness, trustworthiness, friendship, loyalty, fairness, pursuit of knowledge in virtually every ethical tradition. If we evaluate a person from single-aspect perspectives, we can ask whether she is hard-working, or whether she is thrifty, or whether she is trustworthy, and so forth. Different single-aspect perspectives may compete, as in our example of the Jew and Nazis scenario. An ethics, such as Confucian ethics and Mohist ethics, is a system of values; it embraces and configures different values, including competing values, together in a more or less systematic way. Different ethics may configure values differently. That is, in different ethical systems, the same set of values may be interrelated in different ways. For example, while both Confucians and Mohists embrace universal love as well as love for one's own parents, they configure these competing values differently. They disagree on which is more important. Confucians give love for one's parents a priority comparatively higher than Mohists do; Mohists give universal love a priority

comparatively higher than Confucians do. Because different ethics have different configurations of values, they present competing configured perspectives on the same moral issues such as whether one should love one's own parents more than one loves other people. Neither Confucians nor Mohists would object to universal love and love for one's parents per se. But because these two kinds of love compete in the same person, they disagree on what proportion of love a person should give to his or her parents and what proportion to others universally. That is to say, on issues like this one, Confucian ethics and Mohist ethics provide differently configured perspectives. The fact that both ethics embrace the values of universal love and love for parents does not entail that they as two ethics are compatible on the configuration of these values.

In order to further illustrate my point, let us take a look at another example, namely the moral values of filial piety and loyalty to the state (the emperor). Although both filial piety and loyalty are highly valued in Confucianism, pre-Qin Confucians have mostly given filial piety a higher priority than loyalty to the state (the emperor). The *Analects* places filial piety at the foundation of exercising humanity or *ren* (1.2). The *Mencius* gives us a good case in point. In the *Mencius*, Mencius's student Xian Qiumeng raises a question regarding people who in serving the state were 'too busy with state affairs to care for their own parents.' Mencius had to defend them, not by saying that serving the state was more important than caring for one's parents, but by saying that service to the country was the greatest act of filial piety (*Mencius* 5A:4). Mencius said, 'the son's utmost act of filial piety is to honor his parents; the utmost act of honoring parents lies in supporting his parents with the entire country. Being the emperor's father is the highest honor; being supported with the entire country is the utmost form of support' (*Mencius*, 5A:4). In saying so, Mencius was able to defend these people without giving up the priority of filial piety to parents over loyalty to the state. It is of course conceivable that a Confucian could disagree with Mencius's defense and argue that these people may have misplaced some priorities and failed their duty of filial piety. Nevertheless, the fact that Mencius uses the value of filial piety, not loyalty, to justify these people's behavior, indicates that he places filial piety above loyalty to the state. Otherwise, he would have simply said that loyalty to the state was more important. The 'Six Virtues (*Liu De*)' text of the Guodian Bamboo Strips maintains that one should 'forgo the emperor's funeral in order to attend the funeral of one's father, but not forgo one father's funeral in order to attend the emperor's (*wei fu jue jun, bu wei jun jue fu*)' (Liu, 2003, p. 109). The funeral ritual was one of the most important rituals of the ancients in China. This principle makes a clear case of how classic Confucians put filial piety above loyalty to the emperor. This belief was the reason why ancient Confucians could escape punishment, when they declined the emperor's summons to serve a state post with the excuse of the need to stay home in order to serve their aged parents. (This has not always been the case throughout history. See Li, 2007.) In Japan, however, under the influence of a configuration of values that blends Confucianism with Shinto, loyalty to the emperor takes a front seat before filial piety, even though both are high values (see Li, 2004, ch. 8).

Now let us come back to the issue of care ethics and justice ethics. These are two configurations of values and present two differently configured perspectives. It is not that there is no sense of justice in care ethics, as people have sometimes presumed. Amy, the 11-year-old girl in Gilligan's 'rights and responsibilities study,' wondered whether 'to keep friendship or keep justice' when confronted with a moral dilemma; justice is not out of the picture (Gilligan, 1982, p. 59). Gilligan's study suggests that development for both men and women entail an integration of rights and responsibilities through the discovery of the complementarity of these disparate views:

For women, the *integration of rights and responsibilities* take place through an understanding of the psychological logic of relationships. This understanding tempers the self-destructive potential of a self-critical morality by asserting the need of all persons for care. For men, recognition through experience of the need for more active responsibility in taking care corrects the potential indifference of a morality of noninterference and turns attention from the logic to the consequences of choice. (Gilligan, 1982, p. 100, italics added)

Gilligan's study shows that, through the development of a post-conventional ethical understanding, women come to see the violence inherent in inequality and men come to see the limitations of a conception of justice blinded to the differences in human life. It is not that women are blind to justice; it is rather that 'women bring to the life cycle a different point of view and order human experience in terms of *different priorities*' (Gilligan, 1982, p. 22, italics added). I understate this as suggesting that women configure their values in ways different from men. When rights and care conflict, women tend to give more weight to care than men do. Of course, we should note that for Gilligan the 'different voice' is characterized not by gender but theme; its association with women is not absolute (Gilligan, 1982, p. 2).

Justice ethics is not entirely void of care. Kant is a classic representative of justice ethics. His rationalist approach to ethics has been widely taken as a typical case of opposing feelings with reason. Precisely speaking, however, this is not true. For example, Kant writes,

While it is not in itself a duty to share the sufferings (as well as the joys) of others, it is a duty to sympathize actively in their fate; and to this end it is therefore an indirect duty to cultivate the compassionate natural (aesthetic) feelings in us, and to make use of them as so many means to sympathy based on moral principles and the feelings appropriate to them—it is therefore a duty not to avoid the places where the poor who lack the most basic necessities are to be found but rather to seek them out, and not to shun sickrooms or debtors' prisons and so forth in order to avoid sharing painful feelings one may not be able to resist. This is still one of the impulses that nature has implanted in us to do what the representation of duty alone might not accomplish (Kant, 1996, p. 205).

For Kant, sympathetic feelings such as joy and sadness are 'aesthetic' (*ästhetische*) because they are sensible feelings of pleasure or displeasure at other people's joy or suffering. He holds that we have a duty to foster two kinds of natural feelings, namely our feelings toward the beauty of nature and our feelings of sympathy toward

fellow human beings. Kant distinguishes two kinds of reactions to others' joy and suffering. He calls the first kind mere 'receptivity' to the feelings in common with others. It is the feelings that nature has implanted in us. The other kind is 'the capacity and the will to share in others' feelings.' The former is natural and therefore 'unfree.' The latter is 'free' and is based on practical reason (Kant, 1996, pp. 204–205). Natural feelings themselves are not morally praiseworthy for Kant because they are not motivated by reason; they nevertheless can be cultivated and acquire moral worth because they can serve as a means to promote active and rational benevolence, which is found in the second kind of feeling. Kant calls our need to foster these feelings for the sake of rational benevolence 'the duty of humanity.'

In his *Critique of Practical Reason*, Kant discusses moral feeling. 'Moral feeling' is different from natural feeling because moral feeling is produced by reason. A moral feeling implies respect for the moral law. It has a positive effect on morality because moral feeling, 'by rejecting all the rival claims of self-love, gives authority and absolute sovereignty to the law' (Kant, 1949, pp. 183–184). However, Kant maintains that moral feeling 'does not serve for an estimation of actions or as a basis of the objective moral law itself' (Kant, 1949, p. 184). This is so because, according to Kant, all feelings are sensuous, while the incentives of the moral disposition must be free from every sensuous condition. Kant concludes that 'no kind of feeling, [even] under the name of a practical or moral feeling may be assumed as prior to the moral law and as its basis' (Kant, 1949, p. 183).

These feelings, both natural and moral as described by Kant, may not be equivalent to care in care ethics. They are, however, unmistakably of the same kind of predisposition in us on which the concept of care is based. What is relevant to my thesis here is that, regardless of the role that Kant has assigned to these feelings, they are clearly of positive value in Kant's ethics. That is to say, even though these caring feelings are by no means configured in Kant's ethics as highly as they are in care ethics, they are nevertheless incorporated in Kant's ethics as a good thing to possess.

Unlike Gilligan, whose study is based on empirical observation, theories of justice ethics are mostly theoretical constructions, with little or no direct empirical support. While some of these philosophers (Rawls, presumably) did not incorporate care in their ethical systems, our everyday experience tells us that, in real life, people who routinely practice justice ethics also care, even though they may not care as much as care ethicists do. If my above argument holds, we can say that it is not that care ethics entirely rejects justice, nor is that justice ethics completely rejects care; it is rather that, when care and justice compete, these two single-aspect perspectives (i.e. values) are configured differently in these two ethics. While care ethics gives a higher priority to care, justice ethics gives a higher priority to justice. In other words, care and justice as single-aspect perspectives are present in both care ethics and justice ethics, but care *ethics* and justice *ethics* are two configured perspectives. Care and justice as single-aspect perspectives are indeed compatible in the sense they can be incorporated into the same ethical system, as both care ethics and justice ethics incorporate care and justice. Care ethics and justice ethics, as two configured perspectives, however, are incompatible. They are incompatible because they give opposite answers to the

question of which single-aspect perspective is more important, similar to the two configured perspectives held by the two team members in the above-mentioned airplane model example. When care and justice compete or conflict, whereas care ethics *generally* places care ahead of justice, justice ethics *generally* places justice ahead of care. This, however, is not to say that care ethicists would always follow the requirement of care and would never follow the requirement of justice when the two conflict, or vice versa for justice ethicists. Sometimes the requirement of one is simply too overwhelming not to follow, as in a 'life and death' situation, the person just has to follow that of care or justice in ways that he or she would not in cases where the two requirements are largely comparable (for more discussion of 'configuration of values', see Li, 2006a,b).

Drawing the conclusion of the compatibility of care perspective and justice perspective as ethics from the fact that the same ethics (e.g. Mencius's) contains both care and justice has to rely on an equivocation of the two senses of 'perspective.' It has to take the evidence that both care and justice (as values, i.e. single-aspect perspectives) are present in Mencius's moral philosophy as evidence that both care ethics and justice ethics (as configured perspectives, or value configurations) are present in Mencius's moral philosophy. To be sure, there is nothing wrong in saying that Mencius embraces both care and justice as two (competing) values, but saying that Mencius embraces both care perspective and justice perspective in the sense of configured perspectives implies that Mencius is either incoherent—that he contradicts himself on which of the two values is more important—or inconsistent—that he says opposite things at different times about which of the two values is more important. My view is that Mencius indeed embraces both care and justice as two single-aspect perspectives, but he does not embrace both care ethics and justice ethics as two configured perspectives. Using this understanding we can explain some puzzling issues in interpreting Mencius's ethics. For example, Mencius promotes universal love (e.g. *Mencius*, 1A) on the one hand and severely criticizes Mohism of its doctrine of universal love (e.g. *Mencius*, 3B) on the other hand. For Mencius, universal love is a good thing, but it should not be placed above one's responsibility of love for one's parents. For Mencius, as for Confucians in general, one's duty toward one's family is a primary duty that receives the utmost priority; it is not to be compromised by other duties except in extreme circumstances.

II

There are at least two ways in which people can misread Confucian philosophy in relation with care and justice. One is to interpret Confucian thinkers as embracing both care ethics and justice ethics. The other is to interpret these thinkers as embracing care as one single-aspect perspective and entirely rejecting justice as the other single-aspect perspective. In this section I will examine two passages in the *Mencius* to show why both are mistaken.

The first passage is *Mencius* 7A:35:

Tao Ying asked, 'When Shun was emperor and Gao Yao was the judge, if the Blind Man killed a man, what was to be done?'

'The only thing to do was to apprehend him.'

'In that case, would Shun stop it?'

'How could Shun stop it? Gao Yao had authority for what he did.'

'Then what should Shun do?'

'Shun looked upon casting aside the Empire as no more than discarding a worn shoe. He would have secretly carried the old man on his back and fled to the edge of the Sea and lived there happily, never giving a thought to the Empire.' (Lau, 190, with modifications)

Shun was a sage-emperor. The Blind Man was his father. Gao Yao was Shun's minister of justice. Here Tao Ying's hypothetical scenario presents what may well be the ultimate moral dilemma for Confucians. On the one hand, Confucians give filial piety the utmost value and take serving one's parents to be the most sacred duty. On the other hand, a person, in particular an emperor as in the case of Shun, has a moral as well as a political obligation to uphold the law and to maintain justice in society. In this case, Shun's duty to serve his father and his duty to the state come to a direct clash. Mencius suggested a two-fold solution. On the one hand, Shun should not interfere with the state's prosecution of his father for murdering a man. On the other hand, Shun should give up his throne and take his father to flee into the edge of the Sea so he and his father could live there happily together.

This passage can be disturbing, to say the least. Later Confucians may not always agree with Mencius on this point. For example, in his *Interpreting the Mencius* (*Mengzi Jie*), the Song scholar Su Zhe questions the legitimacy of Shun's hypothetical act. Recently, some authors have argued that this passage shows that Mencius supported interference with justice in order to protect one's own father, and therefore it is a case of Confucian corruption (Liu, 2004). While this reading may not be entirely baseless, it may have read too much into Mencius's suggestion and thereby missed the moral of his story. The book of *Mencius* is more appropriately read as moral teachings rather than a manual for specific actions. We should in this passage read Mencius as suggesting primarily two things. First, Shun should not use his power of the throne to interfere with the state's prosecution of his father. (Even when he was to carry his father away, he was to do it 'secretly' according to the text.) Second, he should take whatever actions reasonable to him as the son in order to help his father. If we read the passage this way, Mencius's solution is applicable even today. First, if a mayor's or a president's father has been accused of committing a serious crime and is being prosecuted within his own jurisdiction, he should not use his power to interfere with the prosecution; he should remove himself from the post rather than letting his father be prosecuted under his watch. Second, he should take whatever actions reasonable to him to help his father, perhaps hiring the best lawyer in town for his father (which was obviously unavailable in

Shun's time). If we read the passage this way, I believe we grasp better the moral of Mencius's teaching.

What does this passage bear on our discussion of the relation between care ethics and justice ethics? We can look at this dilemma as an example of dealing with a conflict between the value of filial piety and the value of justice (in the sense of upholding the law). We can imagine five possible scenarios. First, if Mencius had only advocated filial piety but not justice, he would have said that Shun should use his power as the emperor to interfere with the state's prosecution. For example, Shun should order Gao Yao not to press charges against his father. Second, if Mencius had only advocated justice but not filial piety, he would have said that Shun should fully support the state's prosecution of his father just as anyone else, and perhaps use his power to ensure the prosecution to move forward without distractions. Third, if Mencius had advocated both filial piety and justice *equally*, he would either have to toss a coin to decide on which way to go or be caught right in the middle as 'Buridan's ass,' and would not be able to recommend anything on what Shun should do. Fourth, if Mencius had advocated both filial piety and justice, but he had advocated more justice than filial piety, he would have said that Shun, perhaps after some hesitation, should support the state's prosecution of his father while either looking away from his post as the emperor or stepping down. Fifth and finally, if Mencius advocated both filial piety and justice, but he advocated filial piety more than justice, he would have said that Shun on the one hand should not order Gao Yao to stop the prosecution, and on the other, through an ultimate sacrifice for his father he should give up the throne and carry the old man away on exile. That was exactly what Mencius recommended.

From the above analysis we can see that Mencius's solution is the logical conclusion of the fifth possibility of the Confucian configuration of the two values of filial piety and justice. This passage shows that Mencius advocated both care and justice as single-aspect perspectives, not that Mencius advocated both care ethics and justice ethics.

Cases like the above present tragic scenarios. We should look at them with the unavoidably tragic outcomes in mind. In the wake of the 4 June incident in China, some protesters in the Tiananmen Square tried to hide with their families, relatives, and friends. While some of them were protected, others were turned in to the government. Should we blame one group of families, relatives, and friends, and praise the other? Is there a universal answer to which course is the right one to take? In his *Two Cheers for Democracy*, E.M. Forster famously said, 'if I had to choose between betraying my country and betraying my friend, I hope I should have the guts to betray my country.' He explained, 'Such a choice may scandalize the modern reader, and he may stretch out his patriotic hand to the telephone at once and ring up the police. It would not have shocked Dante, though. Dante places Brutus and Cassius in the lowest circle of Hell because they had chosen to betray their friend Julius Caesar rather than their country Rome' (Forster, 1951, p. 78). Loyalty to one's country is highly desirable; so is loyalty to one's friend. If both cannot be obtained at the

same time, what should one do? Mencius clearly had this kind of ultimate moral dilemma in mind when he said,

Fish is what I want; bear's palm is also what I want. If I cannot have both, I would rather take bear's palm than fish. Life is what I want; rightness is also what I want. If I cannot have both, I would rather take rightness than life (Lau, 1970, p. 166, with modifications).

It is not that Mencius did not prefer both life and moral dutifulness. The question is rather which to have when only one of these is possible. In cases like these, a person has to sacrifice one in order to acquire the other, and the sacrifice, no matter which one, results in tragedy.

Tragedy occurs when two good things of great magnitude on their rightful paths clash with one another and one cannot be obtained without sacrificing the other. In the above story, Shun made the ultimate choice in sacrificing his duty to his country in order to fulfill his obligation toward his father. Perhaps it will shed light on the issue if we compare Shun's situation with that of Antigone's. In Sophocles' tragedy *Antigone*, the heroine Antigone was faced with the ultimate dilemma. Her brother Polyneices was killed in an unsuccessful attack against his own city-state Thebes. Creon, the king, decreed that Polyneices' corpse was not to be buried as punishment to Polyneices' crime against the state. In Antigone's eyes, obeying the law of the state and not giving Polyneices a proper burial was to betray her brother (Sophocles, 1973, p. 164). Out of duty to her blood brother, Antigone decided to defy the state and to give Polyneices a suitable burial. She was fully aware that her action was unlawful and was prepared to face the consequences, but she justified her action on the grounds that she was following the laws of the gods, for she maintained that when one has to choose between obeying the laws of the state and obeying the laws of the gods, one should choose the latter. In this case, it meant to bury her brother's corpse in violation of the law of the state. In Antigone's view, the laws of the state were never as strong as those of the gods, and the mortal should never override the eternal laws of the gods (Sophocles, 1973, p. 178). Ismene, Antigone's sister, was confronted with the same dilemma. While she did not want to disrespect the laws of the gods, she also did not want to act against the state (Sophocles, 1973, p. 166). She decided to obey the law of the state and not to join Antigone in the burying of their brother. Although Ismene eventually stood with Antigone for punishment, her stand on the two clashing duties was not dissimilar to that of Creon's. For Creon, a man should never put his friend before his country and one should never make friends with those who act against the state (Sophocles, 1973, p. 169). Creon did not deny duties to one's friends and family, but took duties to the state as more important (Sophocles, 1973, p. 184). Haemon, Creon's son, recognized the rightfulness of the words of the king (the state), but he considered other words, namely those of the gods on the importance of family relationships and our duty to preserve these relationships, good as well (Sophocles, 1973, p. 186). The Chorus Leader found that reasons for both sides were well presented (Sophocles, 1973, p. 188). So, ultimately we are comparing two values opposed to each other in this situation, the value of upholding the laws

of the state and the value of preserving and protecting the integrity of family relationships (portrayed as upholding the laws of the gods by Antigone). To be sure, one can find much dissimilarity between the case of Shun and that of Antigone. What is relevant to our discussion is that both cases are about moral dilemmas resulting in two compelling obligations. The heroes had to make an ‘either-or’ decision and, no matter which way they were to go, the outcome was to be fulfillment on the one hand and violation on the other. The decision, however, hinged on the individual’s configuration of values. Both Shun (as portrayed by Mencius) and Antigone placed their obligation to the family before their obligation to the state when these two come into a mutually exclusive, ultimate clash.

There are of course situations where different values prescribe opposed actions, but they do not necessitate a tragic clash and do not force people to make an ‘either-or’ choice with grave sacrifice as in the case above. Let us look at another passage of *Mencius* 5A:3.

Wan Zhang said, ‘Xiang devoted himself everyday to plotting against Shun’s life. Why did Shun only banish him when he became Emperor?’
‘He enfeoffed him,’ said Mencius. ‘Some called this banishment.’
‘Shun banished Gong Gong to You Zhou,’ said Wan Zhang, ‘and Huan Dou to Mount Cong; he banished San Miao to San Wei and killed Gong on Mount Yü. On these four culprits being punished, the people in the Empire bowed to his will with admiration in their hearts. That was because he punished the wicked. Xiang was the most wicked of them all, yet he was enfeoffed in You Bi. What wrong had the people of You Bi done? Is that the way a benevolent man behaves? Others he punishes, but when it comes to his own brother he enfeoffs him instead.’
‘A benevolent man never harbours anger or nurses a grudge against a brother. All he does is to love him. Because he loves him, he wishes him to enjoy rank; because he loves him, he wishes him to enjoy wealth. To enfeoff him in You Bi was to let him enjoy wealth and rank. If as Emperor he were to allow his brother to be a nobody, could that be described as loving him?’ (Lau, 1970, pp. 140–141, with modifications)

The passage raises an extremely thorny yet important issue for Confucians. It is the question of what to do with family members who are morally corrupt. Xiang was Shun’s notoriously wicked brother who plotted to murder Shun. Yet after becoming the emperor, instead of revenge, Shun enfeoffed Xiang to a place called You Bi. Some would read this passage as another outright example of Confucian corruption. Indeed, if someone did such thing today, we would be outraged by his extreme nepotism. However, if we read this passage with its historic context in mind, it may not be what it first appears to be. In Shun’s time there was no distinction between the emperor’s family and his state, between his estate and his country. This is indicated in the saying that ‘no soil under Heaven is beyond the emperor’s land; no one under Heaven is not the emperor’s subject’ (*Mencius*, 5A). As the ‘son of Heaven (*tian zi*),’ emperor’s state was his country and his country was his family estate. Therefore, the question of what to do with his brother Xiang in Shun’s country was a question of what to do with Xiang in his family. That was of course a very different scenario from today. If we bear in mind this historic context, the question raised in the above

passage becomes, what to do with a wicked family member in distributing family estate? Imagine you have a family estate in a village and, unfortunately, your brother is wicked. What would you do? Some would banish him, namely dispel him from the family and kick him off the family estate. This can be perfectly understandable to some people today. Confucians, however, place a very high value on the family and on family relationships, and they are willing to go extra miles on this. Instead of dispelling a wicked brother from the family, a Confucian (the most generous one, perhaps) would designate a piece of land on the family estate to this brother and offer him a way to live. That was precisely what Shun did with Xiang by enfeoffing him. Furthermore, a caring and responsible Confucian would not leave his brother alone; he would take concrete measures to help his brother to get on to, and to stay on, the right track. That, again, was precisely what Shun did with Xiang by appointing responsible officials to help and monitor Xiang. The passage continues,

‘May I ask what you meant by saying that some called this banishment?’

‘Xiang was not allowed to take any action in his fief. The Emperor appointed officials to administer the fief and to collect tributes and taxes. For this reason it was described as banishment. Xiang was certainly not permitted to ill-use the people. Shun frequently wanted to see him and so there was an endless flow of tributes streaming in. “Before tribute was due, You Bi was received on account of affairs of state.” This describes what happened.’ (Lau, 1970, p. 141, with modifications)

Shun’s handling of the matter is what Mencius regarded as an ideal solution under far from ideal circumstances. Shun did not abandon his own brother. He designated his brother to a piece of land so Xiang could live. He assigned responsible officials to the land to make sure that the place was managed well. Furthermore, Shun used state occasions to see Xiang even before the tribute time, as ancient records indicate. This whole arrangement was more like a moral rehabilitation program than a nepotistic practice. In doing so, Shun successfully preserved the family relationship while giving Xiang a chance to return to his moral sense.

Against my above reading, it may be argued that Mencius himself did not agree to the notion that the emperor owns the entire country. It may be argued that Mencius could not accept that premise of the above argument and, therefore, the above defense does not work. I maintain that we should distinguish two issues here. The first issue is whether the notion of emperor’s ownership of the country is justified. The second is whether Shun acted appropriately *given* his own understanding of his situation. Mencius did not agree that the emperor owns the country; to the contrary, for him the people are more important than the emperor. This revolutionary Mencian philosophy, of course, came much later and cannot be expected to have had any effect prior to its time. Given that the emperor’s ownership of the country was a widely accepted reality, it can still be said that Shun acted appropriately within the context of his perception of reality. Let me use an example to illustrate this point. We can agree that, if someone is the sole owner of a property, she can decide what to do with it by herself. If she co-owns the property, she should make decisions about it jointly with her co-owner(s). Furthermore, if she does not

own the property, she should not meddle with it without appropriate authorization. Let us imagine that she and all people around her believe that she is the sole owner, even though for some unknown reason she in fact is only a co-owner (or even a non-owner). Furthermore imagine that she does something with the property, which is appropriate (e.g. a good business move) if she were the sole owner. In this circumstance, we can still in an important sense say that she has acted appropriately with the property as its sole owner, even though we may say the contrary if taken into consideration of the fact that she is actually only a co-owner (or non-owner). This is completely different from the case in which she acts as the sole owner even though she knows that she is not. In the same way, given the Confucian belief of how one should treat one's family and *given* the belief that the emperor owns the country, it can be said that Shun acted appropriately with his brother Xiang, even though in today's understanding as well as in Mencius's own view of state ownership the answer is to the contrary.

It should be noted that Confucians do not deny that there is a cost in pursuing their prioritized values. There is cost involved in pursuing values because different single-aspect perspectives compete and often work against one another. Embracing a configured perspective implies holding that the pursuit of certain values are worth the cost and implies willingness to accept incurred cost. In the case of Xiang, it is not that Mencius did not love the people of You Bi, or that he did not think that a moral brother would be preferable to the wicked Xiang, or that, other things being equal, enfeoffing a moral brother would be more just. It is rather because he highly values family relationships that he praises Shun's solution as an appropriate one under the circumstances, even though it was by no means without cost.

Care and justice do not always have to conflict, and care ethics and justice ethics may endorse the same course of action, but when the two values conflict, upholding one involves a cost on the other. It is on which course of action is more worthwhile that the two ethics part their way. Confucian ethicists are willing to pay more in impartiality than justice ethicists are in order to preserve family relationships. When we compare Confucian ethics and justice ethics, we should remember this crucial difference between the two ethical approaches. A careful reading of relevant passages in the *Mencius* shows that while Mencius embraces both care and justice as single-aspect perspective, he does not embrace care ethics and justice ethics as configured perspectives. Mencius's ethics is best characterized as a care ethics, not a justice ethics or a mixed bag of these two ethics.¹

Note

- [1] This paper was presented at the conference of the Society for Asian and Comparative Philosophy at Asilomar, California, 10–13 June 2007. I thank the audience, in particular Roger Ames, Henry Rosemont, Jr and Sor-hoon Tan, for their comments. This paper was written during my sabbatical leave from Central Washington University and my Senior Visiting Research Fellowship at the Centre for Research in Governance in Asia of the

City University of Hong Kong, 2005–2006. I hereby gratefully acknowledge my deep indebtedness to both institutions.

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