

FAMINE, AFFLUENCE, AND AQUINAS

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THOMAS AQUINAS famously held that (1) theft is always wrong, and also that (2) it is permissible for a starving man to take the bread he needs from another. He reconciled these two positions by claiming that (3) in cases of great need, it is not theft to take someone else's property when she does not need it herself. As he puts it, "Properly speaking, in a case of extreme need, to take and make use of another's things does not have the character of theft. This is because what someone takes for the purpose of sustaining his own life is made his own in virtue of his need."¹

On its face, 3 looks like a theoretically costly concession that Aquinas is forced to make in order to reconcile 1 and 2. Surely, the objection goes, the more plausible explanation is that the need *justifies* the theft, rather than somehow transforms the act so that it is not theft at all.

Our principal aim in this paper is to show that claim 3 is not actually a costly concession—that, in fact, there are good independent reasons for adopting it. In sections 1–3, we argue that, given certain plausible intuitions about a range of cases we present, the only reasonable course is to adopt 3—to acknowledge that some of the cases in question are not merely cases of permissible theft, but rather not cases of theft at all. Then, in sections 4 and 5, we note that only some accounts of property are equipped to explain claim 3, and we consider why that might be. Finally, we observe that when we attend to the structure that accounts of this sort generally share, we tend to find that they have radical implications for the duties of the wealthy to give to those in need.

1. THREE CASES

Our argument begins with three cases:

Case 1: Your child is terribly sick and likely to die. There is a medicine that could save her life, but the only dose is currently sitting on a shelf

1 Aquinas, *Summa Theologiae* II-II 66.7 ad 2, henceforth "st." All translations are by Tucker Sigourney.

in Grushenka's house. Grushenka has no use for the medicine herself—she just likes looking at it. You cannot convince her to sell or give it to you, but you could take it rather easily while she is away.

We will assume that you, the reader, agree with us that it is permissible for you to take the medicine.

Case 2: You and your neighbor, Nikolay, each have a child who is terribly sick and likely to die. There is a medicine that could save their lives, and you were lucky enough to acquire it about a month ago. Unfortunately, there is only one dose, and no less will work.

We will assume that you agree with us that it is permissible for you to give the medicine to your child.

Case 3: You and your neighbor, Nikolay, each have a child who is terribly sick and likely to die. There is a medicine that could save their lives, but there is only one dose, and this time Nikolay is the one who owns it. You could not possibly convince him to give it to you, but you could take it from him rather easily while he is away.

Here, we will assume you agree that it is impermissible for you to take the medicine from Nikolay.

Together these cases raise a puzzle. Case 1 seems to suggest that it is permissible to violate another's property rights when your child's life is on the line. Case 2 seems to suggest that when only one of two children can be saved, it is permissible to prefer your own child. Then why should it not be permissible both to prefer your own child and to violate another's property rights when only one of two children can be saved? What makes Case 3 relevantly different?

2. TWO UNSUCCESSFUL SOLUTIONS

Let us consider two preliminary attempts to resolve this conflict. As a first thought, we might try accounting for the difference as a simple matter of the collected weight of reasons. We might call this the *Arithmetic Hypothesis*: my agent-relative reasons to save my child may outweigh either my agent-relative reasons not to steal or my agent-relative reasons to preserve another child's life, but they do not outweigh both at once.

But the Arithmetic Hypothesis is implausible. If the only relevant difference between Cases 2 and 3 were the fact that there is an act of theft involved, then it would not matter whom you are taking from. But it does matter. Consider another case:

Case 4: You and your neighbor, Nikolay, each have a child who is terribly sick and likely to die. You have a single dose of a medicine that could save their lives. Unfortunately, your child is severely allergic to the medicine, so you cannot administer it without a special antihistamine. The only person who has this antihistamine is Grushenka, who has no real use for it herself except that she enjoys collecting it. Unfortunately, you cannot convince her to give it to you—but you could easily take it from her while she is away.

The choice here is between giving Nikolay the medicine and taking the antihistamine so that you can give the medicine to your own child. Like Case 3, Case 4 pits one property claim and one child's life against your own child's life. If the Arithmetic Hypothesis were true, the sum would come out the same: taking the antihistamine and giving your child the medicine would be impermissible. But it is not.² It will be helpful to represent this result in a table (table 1).

Table 1

Action	Intuitive Evaluation	Arithmetic Hypothesis			
		Pro: Your Child Lives	Con: Another Child Dies	Con: Violates Someone's Property	Evaluation
1. Take the medicine from Grushenka	Permissible	✓		✓	Permissible
2. Give your child the medicine	Permissible	✓	✓		Permissible
3. Take the medicine from Nikolay	Wrong	✓	✓	✓	Wrong
4. Take the antihistamine and save your child	Permissible	✓	✓	✓	Wrong*

Note: Asterisks denote instances in which the evaluation generated by the hypothesis does not match the intuitive evaluation.

The Arithmetic Hypothesis does not handle Case 4 correctly, and this suggests that it does not capture the relevant difference between Case 3 and Cases 1 and 2.

What is it, then, that distinguishes Case 3 from Cases 1 and 2? We have tried a solution on which the same *kinds* of acts are implicated in all three cases,

- 2 We could also establish this conclusion by another route. Suppose we change Case 2 so that Nikolay is the father of *two* sick children, but *both* children could be cured with only half a dose of medicine. Even here, it seems permissible for you to use your dose of medicine to save your own child rather than give it to Nikolay. If the difference between this case and Case 3 were merely a matter of weighing up bad actions, then the act of theft in Case 3 would have to be a weightier consideration than the life of Nikolay's second child. But clearly it is not. If you disagree with our intuition about this case, you can simply ignore this footnote. It is not essential to our argument.

and all that distinguishes them is the *number* of these acts. Perhaps we should jettison that assumption, and instead distinguish the cases by the kinds of acts they involve. The obvious move is to distinguish what you do to Nikolay's child in the two cases. Let us call this the *Causal Hypothesis*: the difference between Cases 2 and 3 is that, if you took the medicine from Nikolay's child in Case 3, in an important sense you would be killing the child—and that is impermissible.

What exactly distinguishes killing from letting die is a matter of controversy, but for our purposes, we can leave the controversy aside. However we are to understand it, some such distinction is plausibly at work here. In Case 2, if you do not act at all, Nikolay's child will still die. In Case 3, that is not so.

But the Causal Hypothesis will not work either—at least, not if this difference between killing and letting die is independent of considerations about property rights. Consider two more cases:

Case 5: You and your neighbor, Nikolay, each have a child who is terribly sick and likely to die. Your neighbor, Katerina, has the only dose of a medicine that could cure the sickness, and she intends to give it to Nikolay. You cannot convince her to give it to you instead, but you could take it rather easily while she is away.

Case 6: You and your neighbor, Nikolay, each have a child who is terribly sick and likely to die. Katerina has the only dose of a medicine that could cure the sickness, and she intends to give it to Nikolay. But Katerina is a good friend of yours. You know that if she learned that your child was sick as well, she would give the medicine to you instead. You meet her in the street on your way home, and she asks you how you have been lately.

In both of these cases, you can do something such that your child will receive the medication and Nikolay's child will not. Both actions would result in a child's death. Yet it seems that your action would be wrong in Case 5, but not in Case 6.

Case 5 is like Case 3. The only difference is that the one who owns the medicine is no longer the sick child's father. But it was not Nikolay's status as the child's father that made the difference in Case 3. (Nikolay could just as well have been trying to save a sick orphan—taking the medicine would still have been wrong.) Case 6, on the other hand, is like Case 2 (where the medicine is yours).³ Here, although you know speaking up will have dire consequences for Nikolay's child, you are not obligated to hold back or to lie.

3 What makes the difference is not that Katerina is your friend, nor that you are only talking to her. She could just as easily have been selling the medication, with the intention to give it to Nikolay only if nobody bought it first. You would not have been obliged not to buy it.

The Causal Hypothesis fails to distinguish correctly between Cases 5 and 6, which suggests that it, too, fails to capture the relevant difference between Case 3 and Cases 1 and 2. We can add this point to our chart (table 2).

Table 2

Action	Int. Eval.	Arithmetic Hypothesis			Causal Hypothesis		
		Your Child Lives	Another Child Dies	Violates Property	Eval.	Causes a Child's Death	Eval.
1. Take the medicine from Grushenka	Perm.	✓		✓	Perm.		Perm.
2. Give your child the medicine	Perm.	✓	✓		Perm.		Perm.
3. Take the medicine from Nikolay	Wrong	✓	✓	✓	Wrong	✓	Wrong
4. Take the antihistamine and save your child	Perm.	✓	✓	✓	Wrong*		Perm.
5. Take the medicine from Katerina	Wrong	✓	✓	✓	Wrong	✓	Wrong
6. Get Katerian to give you the medicine	Perm.	✓	✓		Perm.	✓	Wrong*

Note: Asterisks denote instances in which the evaluation generated by the hypothesis does not match the intuitive evaluation.

One could try to salvage the causal account by building normative content into *killing* and *letting die*. Thus, in “Killing, Letting Die, and the Trolley Problem,” Judith Jarvis Thomson suggests that (in cases of this sort) intervening counts as killing only if the person who dies has a certain *claim* which is violated.⁴ And this is compatible with our own solution, as outlined below. In Cases 3 and 5, you are responsible not only for theft, but also for the death of Nikolay’s child. So we are happy to agree with Thomson that you are killing Nikolay’s child in Cases 3 and 5 and not in the other cases, where “killing” implies responsibility in the way she describes.

At this point, however, we require an explanation for *why* these claims exist in Cases 3 and 5 but not in the other cases. The distinction between killing and letting die does not give us that explanation. (The “wrong” cases involve killing because they also involve a wrongful taking—it is not as though there is a wrongful taking because there is a killing.) So, although our modified causal account can *accommodate* the difference between the cases, it cannot *explain* it.

If we cannot account for the difference between Cases 5 and 6 solely in terms of how you will affect Nikolay’s child, then it seems the difference must be in your actions themselves. And that is just what the cases suggest *prima*

4 Thomson, “Killing, Letting Die, and the Trolley Problem,” 209–11.

facie. In Case 5, you violate Katerina's right to use her medicine to save Nikolay's child; in Case 6, you do not. A successful solution to our problem, then, must make some appeal to property rights.

3. ONE SUCCESSFUL SOLUTION

Aquinas's view gives us just this sort of solution. Aquinas accepts claim 3; in his view, it is not stealing to take something from someone when you need it desperately and she does not need it at all. And in all of our cases, you have just this sort of desperate need to save your child's life. In Cases 1 and 4, you need something that Grushenka (who currently owns it) does not need. So, in these cases, it is permissible for you to take it from her. But in Aquinas's view, there are constraints on what you can do even in such great need. One such constraint is against theft—and it *is* stealing to take something from someone when she needs it as well.⁵ In Cases 3 and 5, Nikolay and Katerina need the medicine for the same reason you do, so it would be wrong for you to take it. (We say Nikolay and Katerina need the medicine because, as we use it here, the term “need” has application to a person who has an important use for something, though that use may be for someone else's sake. Nikolay and Katerina need the medicine to save someone's life. Grushenka, who is using the medicine merely for decoration, has no such need.)⁶ In Case 2, there is no question of taking

- 5 Perhaps you would rather not restrict the word “theft” in this way—that is, to the taking of things you do not need or that someone else needs. But whatever you think about that English word itself, we ought to acknowledge a distinctive act (the one Aquinas picks out with his word “*furtum*”) that differs from other ways of taking what is not yours in that it gives rise to a moral constraint.
- 6 We are leaving “need” here unanalyzed. For logical purposes, its place in our argument is as a primitive. Partly, this move is just pragmatic: we cannot follow every trail of explanation as far as it would take us. But we also want to note that need does seem to play a similarly ineliminable and foundational role in other norms of justice. You may break a promise when you need to, for example, but not when breaking it would merely have better results. And we seem to have duties to rescue those in great need that are not just stronger cases of general duties to benefit people.

To be sure, this leaves unresolved many questions about when a person really needs something. As one anonymous reviewer asks, what if the disease in our cases had been far less serious, but chronic and incurable except with the medicine? Or what if the disease had been harmless except in rare but fatal cases?

We confess some discomfort with the vagueness of *need* here. For what it's worth, Aquinas acknowledges this vagueness himself in *ST II-II* 32.6, where he distinguishes necessity of two sorts, and he explains that a person may gain or lose much without falling into either excess or deficiency in necessities of the second sort. There is more to be said on that point, and much more work to be done in general on the sorts of difficult questions we just mentioned. Unfortunately, we will have to leave them aside here. In the meantime,

another's property to begin with. It seems, then, that the Thomistic solution gives us the right result in each of our cases.

Table 3

Action	Intital Evaluation	Arithmetic	Causal	Thomistic Hypothesis	
		Hypothesis Evaluation	Hypothesis Evaluation	It Is Theft	Evaluation
1. Take the medicine from Grushenka	Permissible	Permissible	Permissible		Permissible
2. Give your child the medicine	Permissible	Permissible	Permissible		Permissible
3. Take the medicine from Nikolay	Wrong	Wrong	Wrong	✓	Wrong
4. Take the antihistamine and save your child	Permissible	Wrong*	Permissible		Permissible
5. Take the medicine from Katerina	Wrong	Wrong	Wrong	✓	Wrong
6. Get Katerian to give you the medicine	Permissible	Permissible	Wrong*		Permissible

Note: Asterisks denote instances in which the evaluation generated by the hypothesis does not match the intuitive evaluation.

Aquinas also accepts claim 1: he thinks the constraint against theft is absolute. But our argument is neutral on that question. Perhaps you think it would be permissible to commit genuine theft if the stakes were higher—if, for example, you could have saved a hundred children by taking Nikolay's medicine in Case 3.⁷ Perhaps you would be right. All our argument requires is that theft is subject to a constraint, absolute or not.

Note also that we are not arguing at this point for Aquinas's general view of property rights. All we have tried to show is that any adequate theory of property must agree with Aquinas that, in cases of need, you do not violate any property rights if you take from others' overabundance, but you *do* violate property rights if you take from those who are also in need. Need thus plays an indispensable role, not just in determining when a property right can be permissibly violated, but in defining the scope of property rights themselves.

we believe that the concept of need remains useful for purposes such as ours even before it has been fully elucidated.

7 In fact, our argument is even neutral on whether there are other conditions under which taking what you need from someone else is not an act of theft. For example, you might think it is not theft to take from one person what she needs in order to save a greater number of people. We do not see any reason to adopt such a view, but nothing in our argument rules it out.

4. AN IMPLICATION FOR ACCOUNTS OF PROPERTY

If this is all correct, then we have accomplished our primary goal for this paper. We have shown that there is good reason to accept claim 3: it is not theft for those in need to take from those with plenty. We have provided an argument for a general right of necessity.⁸

Claim 3 has important implications for a range of questions in political philosophy. For example, it defuses one intuitive objection to the idea that the constraint against theft is absolute.⁹ But in the remainder of this paper, we want to transition from our argument's implications regarding theft to its further and more general implications for accounts of property. In this section, we show that our argument constrains which accounts of property we should accept because only accounts of property of a certain sort are equipped to explain 3. Then, in the next and final section, we argue that many of the accounts of property that are equipped to explain 3 also have rather radical implications regarding the duties of the wealthy to give to the poor.

Consider, then, what our argument implies for accounts of property. It shows that there is an intimate connection between what you need and what you have rights to make use of. Whatever account of property one adopts, it should have the resources to explain this connection—this right of necessity. An account of property that cannot explain the right of necessity has at least our argument to be counted against it.

Take, for example, the Lockean view articulated by Robert Nozick. Nozick seems to allow for something like the right of necessity in his explanation of the “Lockean Proviso,” which he articulates first in the case of initial acquisition, and then by extension to ownership. The principle is this: ownership is unjust (and so illegitimate) if someone else's situation is worsened on balance because of it.¹⁰ Note that, in place of need, this principle appeals to a comparison between

8 We mean the sort of right of necessity discussed in Mancilla, “What the Old Right of Necessity Can Do for the Contemporary Global Poor,” 607–20.

9 For another example, it implies that ownership must essentially be a relation to persons rather than merely to property. After all, it is not theft for a starving man to “steal” bread, nor for someone else to “steal” bread on a starving man's behalf, but it *is* theft for a well-fed man to steal bread for himself. If ownership were only a relation to property, it would not switch on and off like this between one person and another. So, then, our argument also lends support for Kant's claim that “speaking strictly and literally, there is also no (direct) right to a thing. What is called a right to a thing is only that right someone has against a person” (Kant, *The Metaphysics of Morals*, 6:261).

10 Nozick, *Anarchy, State, and Utopia*, 174–82. Nozick's principle also allows for acquiring something even if others suffer because of it so long as one makes fair restitution. Our argument here works irrespective of that qualification.

the state a person finds herself in *prior to* someone else's ownership of some piece of (otherwise common) property and her state *posterior*.

Now, how we apply this Lockean principle depends somewhat on Nozick's notions of better and worse, and what advantages are legitimately attributed to a thing's being held in common. But no matter what Nozick's view has to say on those questions, it will yield one of the following two results. Either Nikolay's claim to the medicine will be *illegitimate* in Case 3, since by owning it himself he makes you (or your child) worse off; or else, if we are *not* to understand Nikolay's claim in Case 3 as making you worse off (and therefore illegitimate), then the same will be true of Grushenka's claim to the antihistamine in Case 4. But that is the wrong result. In Case 3, Nikolay has a legitimate right to the medicine which Grushenka does not have in Case 4. Without appealing to need, Nozick's account will not be able to distinguish in the right way between Nikolay's claim to the medicine (or Katerina's, or yours) and Grushenka's claim.

The right of necessity, correctly understood, is a right of those in need against those with plenty (as suggested by Cases 1 and 4). But importantly (as suggested by Cases 3 and 5), it is not equally a right against others who are also in need. So an account of property must explain not only why those in need can take from those with plenty, but also why those in need *cannot* take from others who are also in need. This would rule out, for example, accounts like that of Thomas Hobbes. Hobbes defends the right of necessity by arguing that those in great need no longer stand to benefit from the laws of justice, and so, for them, the authority of justice is dissolved.¹¹ This does indeed explain why those in need would be permitted to take from those with plenty, but it would equally justify those in need taking from others also in need. So Hobbes's account also fails to provide an adequate explanation of the right of necessity.

What, then, does it take for an account of property to appropriately explain the right of necessity? Let us consider two examples, beginning with Aquinas's account.

11 Hobbes argues thus:

If a man by the terrour of present death, be compelled to doe a fact against the Law, he is totally Excused; because no Law can oblige a man to abandon his own preservation. And supposing such a Law were obligatory; yet a man would reason thus, "If I doe it not, I die presently; if I doe it, I die afterwards; therefore by doing it, there is time of life gained;" Nature therefore compells him to the fact.

When a man is destitute of food, or other thing necessary for his life, and cannot preserve himselfe any other way, but by some fact against the Law; as if in a great famine he take the food by force, or stealth, which he cannot obtaine for mony nor charity; or in defence of his life, snatch away another mans Sword, he is totally Excused, for the reason next before alledged. (Hobbes, *Leviathan*, ch. 27)

According to Aquinas, under natural law, everything a person needs in order to live is hers, given to her by God. All necessities belong collectively to those for whom they are necessities. Any further claims to possession are grounded in conventional human law. This law is perfectly legitimate, but only so long as it does not conflict with natural law.¹² If, for example, I possess a loaf of bread that I need, I have rights to the bread that are grounded in natural law (and perhaps also in human law). If I possess a loaf of bread that I do not need, I may have a right to the bread grounded in human law, but only so long as someone else does not have a right to it grounded in natural law—for a human law in conflict with the natural law is unjust, and thus forfeits its authority. Now, if there are several people who need the loaf of bread (which is mine under human law), then I may choose whom to give it to, since, as Aquinas says, “to each of us is committed the stewardship of his own things.”¹³ That is, my bread is due to those who hunger, but since it cannot feed them all, and since in the meantime it is mine to distribute as I think best, no one may take it from me any more than I may keep it for myself (unless, of course, I refuse to distribute it as I am obligated to). Here, I am in the position of Katerina in Case 5.

Another account which would reconcile our six cases is given by Hugo Grotius. Grotius distinguishes two schemata of property, one of which is tied closely to need, the other of which is not. Of the first, the “primitive schema,” Grotius says “God conferred on humankind in general a right to the things of this inferior natural order” such that “whatever someone had taken to himself, another could not take from him except in wronging him.”¹⁴ And because this world is given in common to all for satisfying human need, the scope of the primitive schema is limited by need. So, on the primitive schema, we have a certain right to “use the things in the common, and to use them up inasmuch as nature demands it.”¹⁵ That is, our property rights are absolute, but only so long as our property is necessary to us. The second, the “private schema,” is created by our collective agreement to further divide up natural holdings (to allow for industry, innovation, and so on). But this secondary system of property rights might not refer at all to necessity in determining who owns what. Indeed, that it allows us to possess luxuries is part of the point. So, in this schema, need plays no essential role.

For Grotius, the right of necessity is explained by the fact that the private schema is instituted with the implicit intention that it not deviate from the primitive schema. It therefore has built into it an implicit exception “in a case

12 Aquinas, *ST II-II* 66.7.

13 Aquinas, *ST II-II* 66.7.

14 Grotius, *De jure belli ac pacis*, II.II.I.1. All translations are by Tucker Sigourney.

15 Grotius, *De jure belli ac pacis*, I.II.I.5

of dire need.”¹⁶ And this is why he concludes that it is not theft for a starving man to take bread from those with plenty, but it is theft to take from those who are themselves in need.

There is an important similarity between Aquinas’s and Grotius’s accounts. Both explain the right of necessity—how it arises, and also the fact that it does not apply against others who are also in need—by distinguishing two systems. Within the first, or fundamental, system (natural law for Aquinas, the primitive schema for Grotius), need plays a central role in the establishment of property rights. Within the second, or posterior, system (human law or the private schema), there is no such central role for need, but since the second system is truly *second*, in cases of need, it is constrained or superseded by the first system. In this way, we get an explanation for our judgments about the permissibility of taking what you need from those who do not need it. But—and here is the point—the explanation depends on the thought that this act of taking is permissible because it is *not stealing*: it is a taking of something to which you have a certain right, and this right is prior to the right of the one from whom you are taking. In this way, necessities *belong* to those who need them.¹⁷

5. A FURTHER IMPLICATION FOR THE DUTIES OF THE WEALTHY

So far, we have said that an adequate account of property must explain the right of necessity, and that accounts that explain it successfully will invoke a distinction between property rights: one set of rights does not depend on need (of the sort Grushenka has to her medicine in Case 1), while a deeper or more fundamental set of rights does depend on need (of the sort you have to Grushenka’s medicine). Thus, these accounts admit a sense in which necessities belong to those who need them, and they explain why this should be so. (And, of course, they also acknowledge a sense in which necessities belong to those now in possession of them, needing them or not. Otherwise, there could be no duty to give them.)

These theories have a certain elegance to them, insofar as they make what you are permitted to take and use simply a matter of what belongs to you, in

16 Grotius, *De jure belli ac pacis*, II.II.VI.2.

17 Our argument here is an argument to the best explanation. Of course, Aquinas’s and Grotius’s are not the only accounts of this sort, much less are theirs the only possible theories of property that can answer to our argument. Our claim is only that this general structure that they share, on which the right of necessity is explained by a foundational principle by which rights to own and use things are given first to those who need them, is the most natural and elegant way to accommodate our six cases. In fact, it is the only plausible way to accommodate them that either of us knows of.

cases of great need just as in ordinary cases. And while it is too strong to say this *proves* anything about the duties of the wealthy—for matters of this sort always give rise to complications—it does strongly suggest that, just as those in great need are entitled to take from the superabundance of the wealthy, equally the wealthy are obligated to give from their superabundance to those in need.

Consider Aquinas's view. For Aquinas, the natural world is given to us all by God for the purpose of meeting our needs. This is a first principle of the natural law. Aquinas then distinguishes two ways in which you might possess something. You possess something *simply* so long as you have any kind of standing to use or dispose of it; you possess something *for yourself* when you have standing to use it for your own ends. The manager of a blind trust, for example, possesses the trust funds *simply* but not *for herself*. She has a certain standing to use them, but not for her own private ends. Similarly (for Aquinas), a wealthy glutton possesses his extra bread *simply* but not *for himself* because, under natural law, the bread is his to use only for the purpose of succoring the poor.¹⁸ And this obligation of the glutton's arises straightforwardly from the natural law, by which the bread—a part of this natural world just like anything else—is given first to those who need it. (This, of course, is the very same principle that would ground a starving man's right to take the bread.) For these reasons, Aquinas holds that if something of ours is a luxury for us but a necessity for someone else, and if we knowingly keep it from her, we are thereby committing theft. He writes:

For this reason, those things which someone has in superabundance are due by the natural law to the sustenance of the poor. Hence Ambrose says (and it is found in the Decretals, dist. 47), "it is the bread of the hungry which you hold back; it is the clothing of the naked which you store away; the ransom and absolution of those in distress is the very same money which you bury in the earth."¹⁹

So, for Aquinas, the very principle that explains the right of necessity also grounds a duty for the wealthy to give from their abundance to the poor.

The same is true of Grotius. In cases of need, property rights are given by the primitive schema—and within that schema, I have rights to objects only "as far as nature requires," i.e., as far as I have need. So Grotius explains a starving

18 This is only the mouth of a much deeper cave, of course, and it is more than we can do here to explicate a full account of property. But it is worth noting that these same distinctions are drawn by others. Kant, for example, distinguishes between "possession"—merely dispositive control—and "use"—standing to use something for one's own purposes—in his account of parental right (6:281–82). He argues that parents *possess* their children: they have the right to manage and direct them, but only for the children's own good, not for the parents' (6:281–82).

19 Aquinas, *ST II-II* 66.7.

man's right to take bread by appealing to a special normative context within which (in some sense) he, and not the wealthy man, has a right to the bread. Here, too, the same principle that justifies the starving man in taking the bread equally undermines the wealthy man's right to keep it for himself.

On Thomas Hobbes's account, by contrast, the right of necessity arises only because *all* duties of justice are dissolved for those in great need. In this sense, necessity returns the desperate to a state of war. Hobbes's account does not entail any duty on the part of the wealthy to give to those in need, but as we saw, for the very same reasons, it also fails to imply that those in need cannot take from others in need.

In summary, then, it seems that accounts which successfully explain a right of necessity, such as those of Aquinas and Grotius, are successful precisely because they invoke some principle on which things belong first to those for whom they are necessities—and this principle grounds a right of the needy to take from the wealthy as well as an obligation of the wealthy to give to the needy. Accounts that invoke no such principle need not imply any such obligation for the wealthy, but neither do they successfully explain the right of necessity. At a minimum, then, we should acknowledge a sense in which, in Case 1, the medicine sitting on Grushenka's shelf is *yours to use* (in a deeper sense than that in which it is Grushenka's), whereas in Case 3, the medicine on Nikolay's shelf is not.

Of course, one might still resist this implication. It may be that the correct account of property captures the contours of the right of necessity without also entailing duties of giving for the wealthy. Still, we have suggested that accounts of property that adequately explain claim 3 seem to have a symmetry to them—arising from a principle on which necessities belong first to the needy—that equally grounds a right for the needy to take what they need and an obligation for the wealthy to give it. We have not ruled out the possibility of another account that could adequately explain 3 without invoking the Thomistic (or Grotian) symmetry.²⁰ But we have, at least, restricted the range of adequate theories of property such that the symmetric accounts represent a larger share of the remaining options. And, dialectically speaking, if Aquinas's somewhat radical conclusion is to be rejected, we have also shown the need for an account of this sort, which explains 3 without the Thomistic symmetry. Without any such account at the ready, resistance to the Thomistic conclusion

20 This, of course, raises the question as to what would be required to establish (rather than merely suggest) this duty for the wealthy to give to those in need. What this would require (so it seems to us) is just to establish the correct account of the normativity of property. If we could establish the correct explanation of the fact that property is governed by the right of necessity, we could then simply look and see whether that explanation implies a strong duty of charitable aid.

seems unmotivated. (Or perhaps all too motivated.) We are left with a picture that, beside the Thomistic one, appears *ad hoc* and incomplete.²¹

As our title suggests, these considerations leave us with a position reminiscent of Peter Singer's in "Famine, Affluence, and Morality."²² In fact, Singer himself cites Aquinas as a philosopher who shares his "radical" conclusion, referring to the same passage we quoted above.²³

Although Singer and Aquinas do argue for similar obligations to dispense wealth, there are two important differences between their positions. First, Aquinas distinguishes two ways in which we can give to the poor. On the one hand, we can give from what we have in surplus to alleviate need. We might donate unneeded income to an effective aid organization, for example. For Aquinas, this is a matter of justice, subject to what he calls a "precept." On the other hand, we could give from what we do need—or we could go further by seeking out new ways to help the poor. We might forsake philosophy to pursue data science, for example, in order to double the amount of income we can donate. And while there is good reason in Aquinas's view to do this sort of thing, it is reason of a different kind. It is a matter of charity and is subject not to a precept but to a counsel. So, for Aquinas, a failure to give in the first way is theft, and therefore an injustice, whereas a failure to give in the second way might be a failure of charity. Singer does not acknowledge this distinction in ways of giving. For him, spending too much on a watch is the same kind of failure as taking up a more enjoyable but less lucrative career. Both are failures to sacrifice something of lesser moral value in order to prevent great suffering.²⁴

Second, Aquinas acknowledges a principled difference between need and other kinds of lack, whereas Singer does not. Suppose all serious poverty were suddenly eliminated from the world, but significant income disparity remained.

21 Of course, it is true of any argument that the reader may find it less plausible to accept the conclusion than to deny a premise. Perhaps, for example, a reader will be inclined to deny that Grushenka acts wrongly if she keeps her medicine on her shelf instead of using it to save someone's life. But, in the opinion of the authors, this sort of thing should be done only with great caution, given the general human tendency to rationalize immoral behavior. We, like most of our readers, recognize that we are wealthy by the standard of need. We therefore have more reason to doubt our intuitions that we are permitted to keep our luxuries than to doubt our intuitions that the poor are permitted to take what they need from us.

22 Singer, "Famine, Affluence, and Morality," 229–43.

23 Singer, "Famine, Affluence, and Morality," 239.

24 What grounds this difference is the fact that the Thomistic view is exclusively a view about *property*. This has other intuitive implications that separate it from Singer's view. For example, just as the Thomistic view would not require Katerina to give her labor, neither does it require her to give her kidneys, since neither her actions nor her organs are *property* in the relevant sense. (Aquinas makes this point in *ST II-II 66.3*.)

In Aquinas's view, a wealthy person—call him “Bill”—would still have reasons to give to the less fortunate, but again these would be reasons of a different kind: charity or liberality, perhaps, rather than justice. Maybe Bill should use some of his wealth to supply nicer homes for families crammed into apartments, for example, but he would not be stealing from those families if he refused. For Singer, on the other hand, although death and destitution are especially bad things, they are of the same stock as any other bad thing. As long as it does not require sacrificing something nearly as important, Bill has the same kind of obligation to supply better houses for the citizens of his wealthier world (supposing that is an effective use of his money) as we have now to supply basic medical care to the citizens of rural Madagascar.

So Aquinas endorses a difference in kind between, on the one hand, giving to the poor from our surplus, and, on the other, devoting our lives to the poor or giving to those not in extreme need. Though Aquinas's articulation of that difference is tied up with the specifics of his view—distinctions between precept and counsel, justice and charity, and so on—we can also put the difference in general terms. If it is wrong, say, for me to study philosophy instead of data science, it is wrong because I am using my own life poorly. And if it is wrong for Bill to upgrade his mansion rather than upgrade a family's crowded apartment, it is wrong because he is using his own money poorly. But if I keep my surplus income when others are in desperate need, then I am not just using *my own* resources poorly. Rather, I am misusing resources that properly belong to *someone else*. This is a further wrong—an injustice—beyond selfishness or thoughtlessness.

We take it to be an advantage of Aquinas's account that it accommodates this distinction. For one thing, it takes seriously our intuitions that, although we might sometimes have obligations to give up a career in philosophy to better serve the poor, that obligation would be different (and generally weaker) than an obligation of justice. But, on the other side of that same coin, it also takes seriously just how deep a failure it is to withhold from the poor what they need. If Aquinas is right, then a great deal of what we keep and spend is not just ill-used, but the very ransom and absolution of those who are in distress.²⁵

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