

# Filial duties towards non-custodial parents

## Abstract

There is a consensus within the family ethics literature that many adult children have special duties towards their custodial parents (i.e. duties that they not have towards most other individuals), including ones to pay these individuals regular visits, to attempt to stay in through phone calls and email exchanges, and sometimes to provide them with financial support and physical and emotional care as well. Yet there is another type of parent for which no account of filial duties has been developed to date, namely *non-custodial parents*. These are parents who were denied physical custody of their children and often also legal custody. This is the first article to consider what, if anything, adult children might owe this group specifically. After identifying three special reasons for adult children to help satisfy the interests and wishes of their non-custodial parents, I argue that some have extensive duties towards the latter, including ones to visit them and sometimes also to provide them with financial support and emotional and physical care. At the same time, I show that within various Western societies, a significant share of children with non-custodial parents (possibly about a fifth) is likely to owe the latter little, if anything.

## Introduction

There is a consensus within the family ethics literature that many adult children have special duties towards their custodial parents (i.e. duties that they do not have towards most other individuals), which might require them to visit the latter, stay in touch through phone calls and email exchanges, and sometimes provide their custodial parents with physical care and financial support as well.<sup>1</sup> (This is true in spite of their disagreements about the precise grounds of these duties; more on these in section 2.) At the same time, a growing chorus of scholars maintains that simply being biologically related to a parent has no or only very little normative significance,<sup>2</sup>

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<sup>1</sup> See e.g. Blustein, *Parents and Children: The Ethics of the Family*, 1 edition (New York: Oxford University Press, 1982); Christina Hoff Sommers, "Filial Morality," *The Journal of Philosophy* 83, no. 8 (1986): 439–56, <https://doi.org/10.2307/2026329>; Fred R. Berger, "Gratitude," *Ethics* 85, no. 4 (1975): 298–309; Simon Keller, "Four Theories of Filial Duty," *The Philosophical Quarterly* 56, no. 223 (April 1, 2006): 254–74, <https://doi.org/10.1111/j.1467-9213.2006.00441.x>; Brynn F. Welch, "A Theory of Filial Obligations," *Social Theory and Practice* 38, no. 4 (2012): 717–37; Diane Jeske, "Filial Duties," in *The Palgrave Handbook of the Philosophy of Aging*, ed. Geoffrey Scarre, 1st ed. 2016 edition (New York, NY: Palgrave Macmillan, 2017), 365–74; Jane English, "What Do Grown Children Owe Their Parents?," in *Aging And Ethics*, ed. Nancy S. Jecker, Contemporary Issues in Biomedicine, Ethics, and Society (Humana Press, 1992), 147–54, [https://doi.org/10.1007/978-1-4612-0423-7\\_6](https://doi.org/10.1007/978-1-4612-0423-7_6).

<sup>2</sup> See e.g. Rebecca Roache, "The Value of Being Biologically Related to One's Family," *Journal of Medical Ethics* 42, no. 12 (2016): 755–756; Ezio Di Nucci, "IVF, Same-Sex Couples and the Value of Biological Ties," *Journal of Medical Ethics* 42, no. 12 (2016): 784–787; Sally Haslanger, *Resisting Reality: Social Construction And Social Critique* (Oxford University Press, 2012), <http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780199892631.001.0001/acprof-9780199892631-chapter-5>. For criticism, see J. David Velleman, "Family History," *Philosophical Papers* 34, no. 3 (2005): 357–378.

with some authors going as far as claiming that showing special concern to family members solely in virtue of one's biological ties is relevantly similar to, and equally objectionable as, showing special concern to people simply because they belong to the same racial or racialized group.<sup>3</sup> On this view, adult children either lack special duties towards biological parents who played no significant role in their lives (think of parents who gave away their children for adoption shortly after their birth) or have very modest ones at most.

Yet there is another type of parent that typically falls in between these categories in terms of their involvement within their children's lives, one for which no account of filial duties has been developed hitherto, namely *non-custodial parents*. These are (biologically or non-biologically related) parents who were denied physical custody of their children when the latter were minors or sometimes even before the latter's birth, which means that a court refused them the right to live at least<sup>4</sup> close to half of the time with their children as happens under joint custody arrangements.<sup>5</sup> Though some non-custodial parents will have played no or hardly any role within their children's existence, many will have done so, whether as a result of having lived with them prior to being denied custody; of having exercised their visitation rights thereafter (whereas courts sometimes refuse non-custodial parents the right to see their children altogether, such cases are rare); of having paid alimony and other child-related expenses; and/or of having taken important decisions about the child's life or at least participated therein (to which a minority of non-custodial parents is legally entitled as a result of having been awarded legal custody).<sup>6</sup>

The fact that scholars have neglected to ask whether adult children<sup>7</sup> have special duties vis-à-vis their non-custodial parents and, if so, what kinds, is remarkable in light of the large share of children with non-custodial parents within Western societies. It is estimated that in the US alone, a quarter of children under 21 have a non-custodial parent, which amounts to 22,1 million children.<sup>8</sup> In Europe, sole physical custody is thought to make makes up at least 85 percent of all custody arrangements within countries such as Italy, Switzerland, Greece, Austria, Germany,

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<sup>3</sup> Roache, "The Value of Being Biologically Related to One's Family."

<sup>4</sup> I say 'at least close to half of the time', because there might be cases where the other parent is also denied physical custody (in which case a third party is appointed as the child's 'guardian'), such that the other parent would have received sole physical custody had she been awarded custody.

<sup>5</sup> Such arrangements can take one of two forms. One is where children spent roughly half of her time within the home of each parent. The other is where the child lives in one house and the parents take turns living there with him or her (a phenomenon known as 'bird-nesting').

<sup>6</sup> Think of decisions about which school the child will attend; in what kinds of extracurricular activities, if any, the child will participate; whether the child will have certain medical procedures or not; whether the child will engage in mental health counselling or other therapies; and in what kinds of religious or spiritual activities, if any, the child will partake. However, it is common in many jurisdictions for parents who are refused physical custody will be denied legal custody as well.

<sup>7</sup> I do not assume that minor children lack any duties; more on this in the conclusion.

<sup>8</sup> Timothy Grall, "Custodial Mothers and Fathers and Their Child Support" (United States Census Bureau, 2016), <https://www.census.gov/content/dam/Census/library/publications/2016/demo/P60-255.pdf>.

Czech Republic, Slovakia UK, Romania, and Portugal.<sup>9</sup> And whilst joint physical custody is becoming increasingly popular within many countries and is already chosen 30 percent of the time or more within Sweden, Spain, Belgium, and Denmark, there is good reason for thinking that even if were to become the norm, there will continue to be children with non-custodial parents as there are always likely to be *some parents* who are unwilling or simply not sufficiently capable of raising their children.

In what follows, I argue that some adult children have extensive duties towards their non-custodial parents, including ones to visit them and stay in touch, as well as to provide financial support and emotional and physical care in certain cases. At the same time, I show that within various Western societies, a significant share of children with non-custodial parents (possibly about a fifth) is likely to owe the latter little, if anything.

### **Some preliminary clarifications**

Before we start our investigation four clarifications are in order. First, it is important to note that for adult children to have special duties towards their non-custodial parents, it is not necessary that they are the *only* ones who have duties to provide the parents with whatever they owe the latter (which might include omissions, such as duties to refrain from wearing in their presence). Other individuals, such as the parents' siblings, parents, and partners might have duties to provide the same goods to the parents, and possibly on the same grounds (an example can be found in the good of sustaining an intimate relationship with them, as discussed within the next section). That being said, it is necessary that *most other people* do not owe the same things to the parents, or else the duties in question would not be special.

Second, it is not required on my account that *all* adult children owe their non-custodial parents some good X for the provision of X to qualify as a special duty of adult children towards their non-custodial parents. (Indeed, I will suggest in section 4, there do not appear any special duties that all adult children have towards their non-custodial parents.) Instead, it suffices that a significant proportion of adult children have duties to provide their non-custodial parents with X.

Third, for non-custodial parents to be owed X from their children does not mean *per se* that they have a claim-right to X (which would allow them to complain that they were wronged by their children if they failed to provide X). Whether the filial duties towards non-custodial parents defended in this article are ones to which the latter have claim-rights is something I leave open.

Fourth, this article omits one possible ground of filial duties towards non-custodial parents, namely that non-custodial parents *expect* to receive certain goods from their children. As

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<sup>9</sup> Vittorio Vezzetti, "European Children and the Divorce of Their Parents" (Colibri, 2014), [http://www.figlipersempre.com/res/site39917/res666721\\_europeanchildren2.pdf](http://www.figlipersempre.com/res/site39917/res666721_europeanchildren2.pdf).

frustrated expectations can, and frequently do, undermine people's well-being and autonomy, authors such as Christina Hoff Sommers and Anders Schinkel<sup>10</sup> have argued that they may help to ground filial duties, at least when expectations of filial support and care are based on wider cultural norms. Since I am interested in whether such expectations can *themselves* be justified, and, consequently, whether they might need to be changed, I will not discuss their potential normative significance here.

### **The grounds of filial duties towards non-custodial parents**

With these clarifications in the back of our minds, let us consider what I take to be the most plausible grounds of filial duties towards noncustodial parents.

#### *Maintaining an intimate relationship*

One such ground is that adult children and their non-custodial parents share an intimate relationship. With Diane Jeske, I define an intimate relationship as one where

- (i) the parties to the relationships have mutual positive attitudes toward one another that are variants of liking or loving one another, (ii) the parties to the relationship care about one another more than they care about any person merely as a person and their interaction must have evidenced this concern in some way, (iii) the parties to the relationship must have level of knowledge about one another that goes beyond in some way what a stranger or more acquaintance would have, and (iv) the parties to the relationship must want to share time with one another and must have had some sort of direct causal contact.<sup>11</sup>

When these criteria are fulfilled, it seems that the parties are sharing something that each has strong pro tanto reasons for seeking to preserve, and oftentimes duties.<sup>12</sup> There are two reasons for this. One is that intimate relationships can have significant value for those who have them because of the rewarding interactions that they allow individuals to have and the ways in which they might imbue their lives with meaning. The other reason is that such relationships can help to protect people from serious evils. Research has shown that having at least one close and supportive relationship with another person is an important bulwark against chronic loneliness,<sup>13</sup>

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<sup>10</sup> Anders Schinkel, "Filial Obligations: A Contextual, Pluralist Model," *The Journal of Ethics* 16, no. 4 (December 1, 2012): 395–420, <https://doi.org/10.1007/s10892-012-9132-8>; Sommers, "Filial Morality."

<sup>11</sup> Jeske, "Filial Duties," 378.

<sup>12</sup> Indeed, according to Jeske, the sharing of an intimate relationship is the main ground of filial duties.

<sup>13</sup> Robert S. Weiss, *Loneliness: The Experience of Emotional and Social Isolation* (Cambridge, MA, US: The MIT Press, 1973); T. G. van Tilburg and Marjolein Broese van Groenou, "Andere persoonlijke relaties," in *Zicht op eenzaamheid: Achtergronden, oorzaken en aanpak*, ed. T.G. van Tilburg and Jenny de Jong Gierveld (Van Gorcum, 2007), 51–59, <https://research.vu.nl/en/publications/zicht-op-eenzaamheid-achtergronden-oorzaken-en-aanpak>.

which has been found to contribute to a range of adverse outcomes, including lower well-being;<sup>14</sup> depression;<sup>15</sup> poor physical health;<sup>16</sup> alcoholism;<sup>17</sup> suicidal thinking;<sup>18</sup> and dementia.<sup>19</sup> Even if there would be little reason for preserving one's existing intimate relationships when new ones could be easily forged with other individuals, this is rarely the case. Building intimate relationships tends to cost people considerable time and resources and success is by no means guaranteed, especially not for those with advanced dementia, severe physical disabilities, poor interpersonal skills, and/or proneness to maladaptive thinking.

Whilst this suggests that when adult children and their non-custodial parents share an intimate relationship, both parties are likely to have at least *some* duties to try to maintain this relationship (more on this below), it is by no means a given that such relationships will materialise within divorced and separated families. Using survey data from 803 Dutch divorced parents with adult children and 214 non-divorced parents with adult children from the late 1990s, De Graaf & Fokkema found that 19 percent of divorced parents reported having had no contact with a son last year and that 18 percent of this group said not to have been in contact with a daughter (as opposed to 0,0 and 0,8 percent of non-divorced fathers respectively).<sup>20</sup> In similar vein, using national survey data from the early 2010s, Kalmijn reports that among secondary-school children of approximately 14 years of age in Germany, England and The Netherlands, the percentage of children who never has contact with their non-resident father varies between 15- 21 percent.<sup>21</sup> When we further consider that, in addition to the group who has virtually no contact with their

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<sup>14</sup> Anna K. Ekwall, Bengt Sivberg, and Ingalill R. Hallberg, "Loneliness as a Predictor of Quality of Life among Older Caregivers," *Journal of Advanced Nursing* 49, no. 1 (January 2005): 23–32, <https://doi.org/10.1111/j.1365-2648.2004.03260.x>.

<sup>15</sup> John T. Cacioppo, Louise C. Hawkley, and Ronald A. Thisted, "Perceived Social Isolation Makes Me Sad: Five Year Cross-Lagged Analyses of Loneliness and Depressive Symptomatology in the Chicago Health, Aging, and Social Relations Study," *Psychology and Aging* 25, no. 2 (June 2010): 453–63, <https://doi.org/10.1037/a0017216>.

<sup>16</sup> Mette M. Aanes, Maurice B. Mittelmark, and Jørn Hetland, "Interpersonal Stress and Poor Health: The Mediating Role of Loneliness," *European Psychologist* 15, no. 1 (2010): 3–11, <https://doi.org/10.1027/1016-9040/a000003>.

<sup>17</sup> Ingemar Åkerlind and Jan O. Hörnquist, "Loneliness and Alcohol Abuse: A Review of Evidences of an Interplay," *Social Science & Medicine* 34, no. 4 (1992): 405–14, [https://doi.org/10.1016/0277-9536\(92\)90300-F](https://doi.org/10.1016/0277-9536(92)90300-F).

<sup>18</sup> A. Stravynski and R. Boyer, "Loneliness in Relation to Suicide Ideation and Parasuicide: A Population-Wide Study," *Suicide & Life-Threatening Behavior* 31, no. 1 (2001): 32–40.

<sup>19</sup> Tjalling Jan Holwerda et al., "Feelings of Loneliness, but Not Social Isolation, Predict Dementia Onset: Results from the Amsterdam Study of the Elderly (AMSTEL)," *J Neurol Neurosurg Psychiatry*, November 1, 2012, jnnp-2012-302755, <https://doi.org/10.1136/jnnp-2012-302755>.

<sup>20</sup> Complementing these findings, Aquilino's analysis of longitudinal data from the National Survey of Families and Households suggests that non-custodial fathers within the United States who lose the connection to their children early in life are very unlikely to "be able to reestablish that connection as their children move through adolescence and into adulthood." See William S. Aquilino, "The Noncustodial Father–Child Relationship From Adolescence Into Young Adulthood," *Journal of Marriage and Family* 68, no. 4 (November 1, 2006): 943, <https://doi.org/10.1111/j.1741-3737.2006.00305.x>.

<sup>21</sup> Matthijs Kalmijn, "Father-Child Relations after Divorce in Four European Countries: Patterns and Determinants," *Comparative Population Studies* 40, no. 3 (September 30, 2015), <http://www.comparativepopulationstudies.de/index.php/CPoS/article/view/195>.

non-custodial father, some children who have at least some contact with their non-custodial father are likely to have a poor or simply not particularly close relationship with the latter, and that, although most non-custodial parents are fathers, there are likely to be some adult children with no or poor relationships with their non-custodial mothers, the share of children who lack intimate relationships with non-custodial parents is bound to be even higher. Indeed, not only do many adult children and their non-custodial parents currently lack a close relationship, there is reason for pessimism that this will change in many cases. Drawing on longitudinal data on non-custodial fathers within the US, Aquilino reports that relationships between adult children and custodial parents tend to weaken over time, as well as that when fathers “have lost the connection to their children early in life”, they are unlikely to “be able to re-establish that connection as their children move through adolescence and into adulthood.”<sup>22</sup>

Despite all this, there remains a proportion of non-custodial parents who seem to develop an intimate relationship with their children. Among the abovementioned Dutch parents, 34 percent of divorced fathers reported to retain weekly contact with their adult sons and 30 percent said to be in weekly contact with their adult daughters, whereas among the English, German, and Dutch secondary-school children, between 40 and 51 percent reported that they get along “very well” with their non-custodial father. Even if such figures are not direct evidence of the existence of intimate relationships, they provide good grounds for thinking that such relationships obtain between a substantial share of adult children and non-custodial parents. Given the significant goods of such relationships and the evils to which their breakdown might lead (see the penultimate paragraph), it seems reasonable to assume that many of these children will have at least some duties to preserve their intimate relationships with their non-custodial parents (the same is true, of course, of the parents).

What does this mean? At minimum, it is likely to require that they attempt to stay in touch with their non-custodial parents through regular phone calls, emails, et cetera. However, many will also have duties to visit their non-custodial parents more or less frequently when doing so is not unduly onerous or costly (e.g. because of the travel distance). It is worth noting here that such duties are likely to become *stronger* as the latter reach old age. One reason for this is that older individuals are at high risk of losing one or more confidants due to the death of similarly-aged friends, romantic partners, siblings, etc., as well as of experiencing a substantial reduction of their social network more generally (some studies suggest that on average, the social network of very old people, i.e. 85 and above is nearly half of that of 70-84 year olds).<sup>23</sup> Another reason is that many older individuals have limited capacities to compensate for such losses because of the onset

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<sup>22</sup>Aquilino, “The Noncustodial Father–Child Relationship From Adolescence Into Young Adulthood,” 943.

<sup>23</sup>Frieder R. Lang and Laura L. Carstensen, “Close Emotional Relationships in Late Life: Further Support for Proactive Aging in the Social Domain,” *Psychology and Aging* 9, no. 2 (1994): 315, <https://doi.org/10.1037/0882-7974.9.2.315>.

of disability and illness,<sup>24</sup> alongside the influence of negative stereotypes about the ability of older adults – especially those with dementia – to make valuable contributions to relationships.

### *Showing gratitude*

A second ground of filial duties towards non-custodial parents is that adult children owe *gratitude* to their non-custodial parents for any special sacrifices that the latter have made in order to promote their well-being (among other possible motives that they might have had), provided that the parents have not done anything or any number of things that might off-set children's reasons for being grateful. Before considering what such gratitude-based duties might consist of, let me clarify these terms.

The term 'special sacrifices' here is not meant to refer exclusively to morally supererogatory acts (i.e. ones that serve morality but that go beyond what people are morally required to do so), though these can certainly warrant displays of gratitude. It also refers to cases where people do what they are morally required to but where complying with the relevant duties is simply very costly and, correspondingly, something which many might fail to do. (To see the need for such a high-costs requirement, note how the view that we owe people things for doing what they are morally required to do *and can do at low cost* has implausible implications; it would mean, for instance, that we would owe gratitude to car drivers for not driving us over, and that we would owe gratitude to dog-owners for putting their dog's poo within the designated bins when they walk their dog in the park.) For a case where a person discharges a costly moral duty, or at least a plausible candidate, consider a non-custodial parent who works multiple jobs so that her child can go to college and, on the long-term, escape poverty. Even when this is something that the parent is morally required to do given the high stakes for the child, there would seem something morally amiss if the child did not try to show that the latter's sacrifices were appreciated, at least if – as I assume *arguendo* – there are no special circumstances that render such displays of gratitude inappropriate or simply morally discretionary, such as that the parent has abused the child in the past (more on such defeating reasons below).<sup>25</sup>

It is true that on moral theories with relatively strong agent-relative prerogatives (i.e. moral rights to favour one's own interests over those of others), working multiple jobs to send one's child to college might count as a supererogatory act. Accordingly, some might argue that

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<sup>24</sup> See e.g. Pearl A. Dykstra, Theo G. van Tilburg, and Jenny de Jong Gierveld, "Changes in Older Adult Loneliness: Results From a Seven-Year Longitudinal Study," *Research on Aging* 27, no. 6 (November 1, 2005): 725–47, <https://doi.org/10.1177/0164027505279712>.

<sup>25</sup> Which, it should be noted, does not necessarily mean that it would be appropriate for the parent to complain that her child had wronged her by failing to show gratitude, given that the child might have a duty to show gratitude without the parent having a claim right to this. In such cases, it will only be appropriate to rebuke the child for having violated a moral duty period.

even if I am right that this sacrifice potentially imposes a duty of gratitude on the beneficiary, this does not rule out that *only* supererogatory can impose such duties.

I will not try to assess the plausibility of this view here; the point I was trying to make is simply that insofar as one accepts a more demanding moral theory, it does not seem necessary for people's sacrifices to be supererogatory in order to trigger duties of gratitude. However, I accept that in order to determine *how much* gratitude is owed for a specific sacrifice, it is necessary to know whether it is morally supererogatory or not, assuming that – all other things equal – greater gratitude is due for supererogatory sacrifices than for non-supererogatory ones. Furthermore, when people do things for others that are not particularly costly, we will need to know whether their acts are supererogatory in order to determine whether any gratitude is due for them at all. Rather than trying to decide here for all the things that non-custodial parents may do for their children whether they are supererogatory or not, I will simply indicate what kinds of sacrifices I suspect can potentially impose duties of gratitude on these children.

One candidate was mentioned already, namely working multiple jobs in order to send one's child to college. Another candidate is when non-custodial parents leave a very well-paid and interesting job for a job that is very poorly-paid and boring, but which allows them to work fewer hours just so that they can spend more time with their children. Still other examples may be found among the non-custodial parent who decides to move into a very small and unpleasant apartment just so that he can live close to his child, or among the non-custodial parent who takes an extraordinarily strong interest in her child's life and spends much of her time figuring out how she can best support him.

For filial duties of gratitude to arise, the special sacrifices that non-custodial parents have made must have also been made by them *in order to* promote their children's well-being, among other possible motives that they might have had. It bears highlighting that such additional motives might include self-interested ones. Consider again the example of the non-custodial parent who works tirelessly so that her child can attend college. Even when part of the parent's motivation is that she hopes that her child will support her in old age, it is hard to see why such self-interested motives would relieve the child of a duty to show the parent gratitude when the parent is *also* driven by a strong wish to improve the child's life for the child's own sake. (Some might say that gratitude is due in such cases only where the benevolent desires are *sufficient* to motivate the relevant sacrifices; though my sense is that this requirement is too strong, discussing this issue would take us too far afield.) By contrast, when the parent's sacrifices are (almost) exclusively made for personal gain, expecting her child to display gratitude to her would seem inappropriate given that it just a happy coincidence that the parent's actions bestowed benefits on the child. (In this respect, it would be much like expecting lottery-winners to be grateful to the person who drew their winning lottery-tickets in spite of the fact that this person was in no way trying to bring it about that they specifically would win).



A final requirement is that children's reasons for showing gratitude towards their non-custodial parents are not *off-set* by anything or any number of things that the parents might have done. An example of such a defeating reason was mentioned already, namely the fact that some parents have abused their children. In cases where there was extreme maltreatment (e.g. where the parents have raped, tortured, or starved their children), I take it that nothing the parent might do subsequently can place the child under an obligation to show gratitude to her. In less extreme and more common cases, however, it seems that there will be fluctuations in terms of whether a non-custodial parent is owed gratitude by her child (and, if so, how much) depending on how the special sacrifices that she has made for the child stack up against any failures on her part to show due concern for the child's interests. For example, even if a child has reason for showing gratitude for the fact that his non-custodial parent lived for years in a small unpleasant apartment in order to remain physically close to him, this reason might be off-set by the fact that the parent was often rude to him; that she regularly bailed on her alimony payments; and/or that she was responsible for the break-up of the family in a morally culpable way (e.g. she might have committed adultery.)

This brings us to the question of what filial duties of gratitude towards non-custodial parents might consist of. Whilst gratitude-based considerations are largely indeterminate in terms of what it is that adult children should do for their non-custodial parents (this in contrast to reasons for maintaining intimate relationships with such parents, which, although partially open-ended, tell us that children should act in ways that are likely to preserve or strengthen their relationships with their non-custodial parents), it is clear that they require them to do things that are likely to be appreciated by the parents. This might involve explicitly thanking the parents for their special sacrifices but need not. One can express one's gratitude for someone's sacrifices simply by doing things that promote the interests or wishes of the benefactor. Indeed, when a parent has made truly extraordinary sacrifices for her child's sake, it is likely that the child will (also) have a duty to do good for the parent rather than merely say 'thank you for everything'. For example, they might have to visit the parent regularly, help with chores around the house, and, when the parent becomes frail, provide physical care as well.

To avoid confusion, I do not suppose that adult children need to *feel grateful* for the benevolent sacrifices that their non-custodial parents have made in order to discharge their duties of gratitude towards them. Even when they have a duty to *try* to feel grateful towards these individuals (e.g. by actively imagining how burdensome it must be for the non-custodial parent to work multiple jobs), people might have too little control over their feelings to be required to *experience* gratefulness (I remain non-committal on this).<sup>26</sup> What is pertinent here is to note that

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<sup>26</sup>Whereas some might argue that duties that merely require people to act *as if* they are grateful – and perhaps to try to feel grateful as well – are not properly called 'duties of gratitude', I will continue to use this term here, partly for the sake of felicity of expression and partly because this term is already widely used within the literature on filial duties.

when people lack feelings of gratefulness where gratitude is due, this does not obviate the need for them to act as if they were grateful, for this would have the implausible, and indeed, perverse implication that people could be freed from their duties to do good for their benefactors *simply* by failing to have the kinds of feelings that a morally decent person would have.<sup>27</sup>

How likely is it that adult children owe their non-custodial parents gratitude thus understood? Though I am unaware of data on the different forms of support (besides alimony payments) that non-custodial parents provide to their children, one might expect that within most societies, there will be a share of especially committed non-custodial parents who make various special sacrifices for their children's well-being. Even if some of these sacrifices fail to translate into filial duties of gratitude due to the parents having acted in ways that did not show due concern for their children's interests, this will not be invariably so.

What is important for our purposes is that there is evidence that the group of non-custodial parents who is owed gratitude is likely to overlap largely with the group who has intimate relationships with their adult children. As Aquilino's analysis of longitudinal data on non-custodial fathers within the US reveals,

When noncustodial fathers invested in their relationships with their sons and daughters during childhood and adolescence, the investment paid off in closer relationships with their biological offspring in early adulthood. Fathers who did not maintain a high level of involvement with their younger children were unlikely to have close relationships with their adult sons and daughters.<sup>28</sup>

If correct, it follows that adult children who share intimate relationships with their non-custodial parents are not only likely to have duties to try to sustain those relationships, but also duties of gratitude towards their non-custodial parents for the benevolent special sacrifices that the latter have made. By contrast, of the at least 20 percent of adolescents and adult children who are found to have non-existent or poor relationships with their non-custodial parents within countries such as the Netherlands, Germany and England (see the previous subsection), many are likely to lack *both* types of duties.

#### *Providing special goods*

A third ground of filial duties towards non-custodial parents is that adult children are able to provide their parents with goods that few others, if any, can provide them. Simon Keller,<sup>29</sup> the

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<sup>27</sup> Of course, for them to lack such feelings might mean that they will not be motivated to act as if they had them. This, however, cannot count against the possibility of duties of gratitude as such, given that for almost every duty, there are likely to be individuals who lack the motivation to comply with it, including duties to respect other people's bodily integrity and property.

<sup>28</sup> Aquilino, "The Noncustodial Father-Child Relationship From Adolescence Into Young Adulthood," 942.

<sup>29</sup> Keller, "Four Theories of Filial Duty," 266-67.

most prominent advocate of such a ‘special goods theory’ of filial duties, has suggested that these might include the following (I am paraphrasing):

- The good of having someone whom you raised and love stay in touch and be present during birthdays, holidays (e.g. Christmas), and other important occasions.
- The joy and wisdom that might emanate from being closely involved in a person’s development throughout the course of her life.
- The feelings of intergenerational continuity and transcendence that interacting with one’s children might provide. (Note that even if such feelings are sometimes enhanced by genetic similarity, they do not depend on the existence of biological ties.)<sup>30</sup>

Unlike the provision of e.g. money and physical care, which Keller labels ‘generic goods’, these are goods that few other individuals can provide people with besides their children and, in some cases, none, such as the good of having someone whom you raised be present at birthdays, holidays, and other special occasions. (It might be argued that sharing an intimate relationship with a parent is *also* a special good, given that, as was noted, it is frequently costly and difficult for people to forge intimate relationships with others when their existing ones are lost for good; whilst the existence of intimate relationships with parents is usually discussed as a separate source of filial duties within the literature – presumably because such relationships are somewhat less exclusive as the goods listed above – it should be noted that nothing of normative significance turns on how it gets classified). Given that such goods can, and often will, enrich parents’ lives and, arguably more pertinently, that missing out on them is a source of agony and distress for many (more on this below), it seems plausible that for a significant group of adult children, their ability to provide these goods will help to ground certain duties. These are most likely to include ones visit their parents more or less frequently, as well as to stay in touch with their parents through phone calls, email exchanges, et cetera.

To be sure, the value of the abovementioned special goods might be quite small, if not zero, when adult children and their non-custodial parents lack satisfying relationships. This is clearest with respect to the joy and wisdom that may result from being closely involved within a person’s development throughout her life; since a sizeable share of non-custodial parents does not have close contact with their children (at least a fifth of non-custodial fathers within various

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<sup>30</sup> Notice that there are other special goods of the child-parent relationship that parents will ordinarily enjoy *only* during the child’s childhood, such as the value embedded in raising someone to become an autonomous individual. For more on these goods, see Harry Brighouse and Adam Swift, *Family Values: The Ethics of Parent-Child Relationships* (Princeton: Princeton University Press, 2014), 86–93.

European countries; see my earlier remarks), they seem less likely to attain such wisdom and joy than most custodial parents, or simply to attain as much of it as the latter. Furthermore, because they are less involved within their children's lives, the chances that interacting with their children will instil in them feelings of intergenerational continuity and transcendence are diminished as well, given that less involvement means that they are less likely to leave an imprint on their children's interests, values, and overall character. Lastly, one might expect that for a proportion of these parents – though I suggest below presumably not all – the fact that they have difficult or non-extant relationships with their children diminishes the value of the latter being present at birthdays, holidays, and other special occasions, especially when they feel alienated from their children or worse.

If these conjectures are correct, then there are likely to be adult children within many societies who are not particularly well-placed to provide their non-custodial parents with special goods. At the same time, the fact that these goods can add substantial value to people's lives suggests that their (broad) absence is likely to be missed by some non-custodial parents with poor or non-extant relationships with their children. For these parents, their children will be able to provide them with at least one special good that is likely to be of great value to them: The opportunity to (re)establish a satisfactory relationship with one's child.

But, of course, this is not the only group of non-custodial parents with interests in receiving special goods from their children. The same is true of non-custodial parents who do have intimate or at least amicable relationships with their children. Even if the value of some of the abovementioned special goods is smaller for these parents compared to the value that these goods have for custodial parents (which, the penultimate paragraph explained, will be due to their having been less involved within their children's lives), the goods in question are likely to retain significant worth for many of them.

Not only that, children with non-custodial parents might be able to offer these parents a special good that children of intact families will not be able to offer their parents. By trying to establish or maintain amicable, if not close, relationships with their non-custodial parents, they may be able to help these individuals to process or overcome some of the pain and trauma that the loss of custody might have inflicted upon them. For as the following testimonies attest (among numerous others that could have been provided), this is a painful and often traumatic event for many parents:

‘Painful, painful is the operative word, and mind-blowingly awful, disgusting, disheartening, grief’ (Non-custodial father).<sup>31</sup>

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<sup>31</sup> Edward Kruk, “The Lived Experiences of Non-Custodial Parents in Canada: A Comparison of Mothers and Fathers,” *International Journal for Family Research and Policy* 1, no. 1 (2015): 85, <https://ijfrp.journals.yorku.ca/index.php/ijfrp/article/view/39583>.

‘You’re broken as a mother and I’m speaking as a mother. I was broken. I don’t know that all mothers are broken but for me I was in the deepest depths of despair I’ve ever experienced, ever’ (Non-custodial mother).<sup>32</sup>

‘He could steal the children, had all the money and the power, the system congratulated him and gave out, you know, all the kudos to do all the maximum damage legally as he could’ (Non-custodial mother).<sup>33</sup>

### **What do adult children owe their non-custodial parents?**

The foregoing analysis suggests that there is great variability in terms of what adult children owe their non-custodial parents. As we have seen, there is a group of non-custodial parents with close relationships with their children, who will have strong interests in maintaining these relationships, not just to be able to enjoy the good of intimacy (though this might be very important for both instrumental and non-instrumental reasons), but also because it provides them with various goods that few, if any, individuals besides their children can provide them with (e.g. the joy and wisdom that stems from being closely involved in a person’s development throughout her life, the feeling of intergenerational continuity and transcendence that interacting with one’s children may instil in parents). Since there is evidence that, by and large, these parents are also the ones who have made the greatest investments in their children’s lives, one might expect that their adult children will owe them extensive duties, provided that the parents have not also acted in harmful or neglectful ways that weaken, if not annul, such duties. Whilst it is difficult to say exactly what is required of these children, which will vary depending on their abilities and the parents’ needs, common duties will include ones to stay in touch with the parents; visit them when this is not unduly onerous or costly (e.g. because of travel distance); and provide emotional support in times of adversity. As their parents grow old, moreover, these children might be reasonably expected to provide them with certain forms of physical care when formal care is unavailable or simply unaffordable (as it is for many older adults within ageing societies), provided that they can do so at reasonable cost.

At the same time, it was noted that 20 percent of custodial parents has no contact, and that a further share is likely to have contact but a poor relationship. According to the research discussed within this article, these parents are likely to have made relatively few investments within their children’s lives, and might in some cases have blatantly shirked their responsibilities towards their children (e.g. by having refused to pay alimony). Whereas this may suggest that

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<sup>32</sup> Kruk, 86.

<sup>33</sup> Kruk, 86–87.

their adult children do not have any special duties towards them, I do not believe that this is invariably so. Given that having a (better) relationship with their children might improve the lives of these parents considerably due to the special goods that such relationships make available, there are good grounds for thinking that when they make efforts to establish a (better) relationship with their children, their children should at least be open to his (assuming that the parents in question have not seriously maltreated their children). However, when they do not make such efforts, it appears that their adult children do not have any special duties towards them.

Most adult children are likely to fall in between these extremes in terms of what they owe their non-custodial parents. A discussion of exactly what these individuals might be morally required to do for their non-custodial parents will have to await another occasion, however.