ABSTRACT

Kongzi, Rawls, and the Sense of Justice in the Analects

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This dissertation is a comparative study of the philosophy of John Rawls and the Confucian Analects regarding the idea of a sense of justice. The first aim of this work is to correct a view that has been advanced by several scholars of Chinese and comparative philosophy, namely, that the absence of terms such as “justice” in classical Chinese indicates that classical Chinese texts are not concerned with questions of justice, and that classical Confucian philosophers were not interested in the ideas that are the focus of modern Western political philosophy. Against these claims, I argue that there are deep and important areas of agreement between the understanding of a sense of justice in the Analects and John Rawls’s account of a sense of justice. I show that on both views, a sense of justice is cultivated first within the context of parent-child relationships and then within communities, finally emerging as a fully developed moral sense that informs the capacity to feel and act in certain ways toward other members of society. The second aim of this study is to show how comparative work can help us to understand more fully and accurately the features of two or more views. I argue that studying the idea of a sense of justice in the Analects alongside a Rawlsian sense of justice highlights some
important dimensions of Rawls’s work that have been neglected, including the role he assigns to the family and the community in his account of how citizens cultivate a sense of justice. I also argue that Rawls’s discussions of moral psychology and the development of a sense of justice provide readers with a model for understanding the role that moral capacities can play in political philosophy. Rawls’s account helps readers to see how an appreciation for justice can be expressed in a text like the *Analects*, even though there is not a fully developed theory of justice or a single term that consistently designates “justice.”
Kongzi, Rawls, and the Sense of Justice in the *Analects*

by

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A Dissertation

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TABLE OF CONTENTS

LIST OF ABBREVIATIONS v

ACKNOWLEDGMENTS vi

DEDICATION x

CHAPTER ONE: Introduction 1
   I. Why Comparative Philosophy?
   II. Three Challenges for the Comparative Philosopher
   III. Outline of Chapters and Textual Matters

CHAPTER TWO: Human Rights, “Justice,” and Confucianism 58
   I. The Concept of Rights in Confucianism
   II. Roles, Rights, and Two Misrepresentations of Rawls
   III. The Distinction Between Terms and Concepts
   IV. Justice in Confucianism

CHAPTER THREE: The Sense of Justice in Rawls 123
   I. Political Liberalism and the Concept of Justice
   II. Rawls and the Sense of Justice
   III. The Cultivation of Justice in Rawls
   IV. Stability for the Right Reasons

CHAPTER FOUR: The Sense of Justice in the Analects 188
   I. The Cultivation of the Virtues in the Analects
   II. Kongzi and the Sense of Justice
III. Justice without “Justice” in the Analects

CHAPTER FIVE: Two Senses of Justice

I. Comparing Senses of Justice

II. Justice and Self-Cultivation in Rawls

III. Political Philosophy in the Analects

CHAPTER SIX: Conclusion

GLOSSARY OF CHINESE TERMS AND CONCEPTS

BIBLIOGRAPHY
<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Work Title</th>
<th>Author(s)</th>
<th>Publisher</th>
<th>Year(s)</th>
</tr>
</thead>
</table>
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This work is dedicated to my parents, Dorothy Roberts Cline and Michael Slater Cline, with love.

In the Analects, Kongzi tells us, “Both keeping the past teachings alive and understanding the present—someone who is able to do this is worthy of being a teacher.” The people I have acknowledged here have shown me the significance of these words, and I am deeply indebted to them for my abilities as a teacher and scholar. I hope to honor them throughout the course of my career by continually reviewing what they have taught me.
DEDICATION

For my parents,
Dorothy Roberts Cline, who showed me the importance of buttering toast to the edges, 
and 
Michael Slater Cline, who showed me how to see a mountain goat against a snowy 
hillside.
CHAPTER ONE

Introduction

More people have lived in China than anywhere else. . . . A thousand generations
have left their indelible impress on soil and topography, so that scarcely a square foot
of earth remains unmodified by man. With so many people to be fed, only the most
painstaking care can provide an adequate harvest. Few landscapes are more human. ¹

The place where the indelible impress of Chinese philosophy meets the work of
American political philosopher John Rawls also reveals a landscape that is profoundly
human. As far as philosophers are concerned, this point is uncharted territory. Rawls
mentions China only in passing in his work, and his writings contain no mention of the
work of Kongzi 孔子, Xunzi 荀子, or later Chinese thinkers.² As some scholars of
Confucianism have noted, there seems to be a sizable gap between the structure and
content of the work of modern liberal philosophers like Rawls, who concern themselves
with discussions of justice, equality, and freedom, and the work of classical Confucian
philosophers, who focus on self-cultivation and virtues that are nurtured in the context of
family. What could philosophers who devote enormous time to discussions

¹George B. Cressey, The Land of the Five Hundred Million: A Geography of China (New York:

²Kongzi 孔子 is known to many Westerners as “Confucius,” which is the latinization of a man
whose surname was Kong 孔. It was common practice in early China to refer to philosophers by appending
the honorific suffix zi 子 (“master”) to their surnames, and so he became known as “Kongzi” (“Master
Kong”). As a result of his exceptional influence, in time Kongzi was given the more elaborate honorific
fuzi 夫子 and from “Kongfuzi 孔夫子 we get the latinized name “Confucius.” I will refer to him as
“Kongzi,” because that is how he is known in China and throughout East Asia today (the Japanese is
“Kosi” and the Korean is “Kongja”).
of filial piety possibly have in common with a philosopher concerned primarily with “the fact of reasonable pluralism” in a modern liberal democracy?

This dissertation argues that there is an intersection between the central philosophical concerns of the *Analects* and the work of John Rawls. Further, it argues that this intersection is a source of deep philosophical agreement on questions of a sense of justice and moral development. But one must wonder first about the relevance of such a project. Why should philosophers working on Chinese philosophy, political philosophy, and ethics be interested in a comparison of Rawls and early Confucianism? I take this question as my starting point.

1. Why Comparative Philosophy?

In recent years the exploration of similarities and differences between Western philosophy and the philosophical traditions of Asia has become the focus of an increasing volume of philosophical work. Comparative philosophy is beginning to be accepted as a philosophical field of its own, defined by the study of philosophers and texts from non-Western philosophical traditions in comparison to and in contrast with American, European, Greek and Roman philosophy. But although comparative philosophers have made significant progress in terms of their status within the discipline of philosophy, they have yet to adequately address the question of why studying non-Western philosophy is important. Although this topic deserves a more sustained treatment, for the purposes of this study I will make a few remarks about the importance of studying Chinese philosophy before narrowing my focus to the reasons why a comparative study of Rawls
and the *Analects* deserves our attention.\(^3\) My motive in this discussion is to respond to philosophers who might not initially see the importance of my project. Indeed, many philosophers question why philosophers should study non-Western philosophies. The fact that the discipline of philosophy has failed to make the study of non-Western traditions a part of how philosophers are educated and evaluated shows how many philosophers are guided by the view that non-Western philosophies are not worth studying. My remarks in this section, then, are a response to the dominant view in the discipline of philosophy, and they go straight to the heart of why my study is important.

In a 2002 essay in *The Aristotelian Society*, Graham Priest predicts that philosophy in the twenty-first century will begin to focus more on Asian traditions of thought, because China and India account for nearly half of the world’s population and China’s economic development is becoming increasingly difficult to ignore. Priest writes, “. . . the group that has economic dominance also has cultural dominance,” and he claims that as cultural dominance shifts, so goes “the centre of gravity of the Western philosophical world.”\(^4\) Priest concludes that Asian philosophy will become the central focus of the Western philosophical world.\(^5\) Western philosophers, he writes, are already discovering Asia’s “rich philosophical traditions, with problems similar enough to those

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\(^3\)Although I refer to Chinese philosophy because it is the focus of this study, my remarks in this section apply to non-Western philosophical traditions more generally.


\(^5\)Priest writes that the U.S. is currently both the world’s dominant economy and the center of gravity of the Western philosophical world. He bases this on the claim that although the dominant philosophical views of the past century came from elsewhere (he cites the examples of logical positivism and deconstructionism) “the US has appropriated them. One reason for this is that it can afford to buy good philosophers from elsewhere, either temporarily or permanently. And of course, good philosophers will want to go where other good philosophers are” (98-99).
in the West to be recognizable, but with approaches to them that are different enough to be illuminating, often in a very striking fashion” (99).

Although many philosophers might reject Priest’s assessment of the relationships between economic, cultural, and philosophical dominance, comparative philosophers affirm the claim that Asian approaches to philosophical problems are often illuminating. Indeed, some specialists in Chinese philosophy claim that China’s economic growth and large population constitute reasons why philosophers should study Chinese philosophical traditions. Priest’s descriptive claim that economic dominance results in philosophical dominance tempts us to make the normative claim that we should study Chinese philosophy, because as Priest puts it, once China and India are fully capitalized, “they will swamp the rest of the world, in the way the US has in the second half of the twentieth century” (99). Whether or not one agrees that China will soon become fully capitalized and “swamp” the rest of the world, an interesting question remains: does China’s recent progress constitute a good reason for philosophers to study Chinese philosophy?

I think it is fair to say that a country’s economic or political dominance is not the reason why most philosophers study its philosophical traditions. Evidence for this view includes the fact that philosophers still study Greek and Roman philosophy, even though these civilizations no longer hold a dominant economic, political, or military position in the world, nor do they contain a significant percentage of the world’s population. It can also be seen from the fact that Eurasian philosophers did not begin studying Mongolian philosophy when Ghengis Khan conquered most of those continents. One might, however, try to defend the claim that a country’s economic or political dominance
constitutes one of the reasons why philosophers study its philosophical traditions. One would then have to explain why philosophical interest in Greek philosophy has not waned since Greek civilization declined in dominance even though philosophers, according to this view, have fewer reasons to study it now. In fact, philosophical interest in Greek philosophy seems to have been relatively unaffected by the economic and political position of Greece. If one rejects the claim that philosophers’ interest in Greek philosophy would decline with the dominance of Greek civilization if Greek dominance constituted a reason for studying it, then one must acknowledge that the status of Greek civilization was not the primary reason why philosophers studied Greek philosophy.

Here I make a distinction between primary reasons for philosophers to study philosophical traditions, figures, or ideas, which play a decisive role in motivation, and supporting reasons, which provide additional or supplemental reasons for doing something one is already motivated to do.\(^6\) I am interested in identifying the kinds of primary reasons why philosophers study philosophical traditions. Clearly, the specifics of these reasons vary according to each tradition, philosopher, or idea. But we can still identify the kinds of primary reasons philosophers typically accept. Now if the dominance of Greek civilization had been the primary reason why philosophers had studied Greek philosophy, then its decline would have had some impact on the amount of attention given to Greek philosophy or the number of philosophers who study it. So it seems clear from the fact that philosophers have continued to study Greek philosophy

\(^6\)A case could be made that if something does not play a decisive role in motivating one to study a philosophical tradition, then it is not a “reason” for studying it at all. However, in this discussion I allow supporting reasons in order to accommodate those who would claim that in many cases one has more than one important reason for doing something, meaning that one has multiple sources of motivation. I still maintain though that it is usually possible to identify a primary reason.
despite its decline in economic and intellectual dominance that these things did not represent their primary reason for studying it.

One might then claim that philosophers are only initially motivated by a country’s economic or political dominance to study its philosophical traditions. According to this view, although philosophers at one time studied Greek philosophy because Greek civilization was dominant, philosophers today have different reasons for studying it. This view asserts that the core philosophical texts in the history of Western philosophy all come from countries that were at one time economically or politically dominant. One may or may not affirm this claim depending upon which texts one takes as the “core” of the Western tradition, but what is important for our purposes is that this view asserts that philosophers’ primary reasons for studying philosophical traditions have changed. I do not think it is the case that philosophers’ primary reasons for studying philosophical traditions have changed, but this is a point I will return to below. For now, I only wish to point out that although this view allows for the fact that philosophers have continued to study Greek philosophy despite the decline in the dominance of Greek civilization, it still does not explain why philosophers have continued to study Greek philosophy. This is the question that interests me because answering it will allow me to respond to philosophers who do not see the importance of studies concerned with Chinese thought.

Now one could claim that philosophers continue to study philosophical traditions because they are tied to civilizations that were once economically or politically dominant. To support this claim, one could argue that philosophers should study the

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7Although population sometimes plays a role in economic or political dominance, this view excludes a country’s population in and of itself as a reason for studying its philosophical traditions, because having a large population has never been the sole reason for a country’s economic or political dominance.
philosophies of countries that used to be economically or politically dominant in order to learn how to improve our own economic or political system and avoid certain mistakes. On this view, then, the primary goal of inquiry is greater economic or political achievement on our part.

One of the important things about this account is the way in which it differs from the previous accounts I have discussed. The view that we should study the philosophies of other cultures in order to improve our economic or political system is the first position we have examined that specifies the reason why philosophers think Greek philosophy and traditions like it are still worth studying. It also gives us a reason to study the philosophies of countries that currently hold a dominant position economically or politically or that are becoming more dominant, because we can also learn important things from them. However, this account does not give us a reason to study all philosophical traditions; it only gives us a reason to study those philosophies that are tied to civilizations that have been or are economically prosperous or politically dominant, because on this view, the *reason* for studying a philosophical tradition is to learn how to become more economically or politically successful ourselves.

One might object to this last claim by pointing out that we can also learn important things about economic or political achievement from countries that have not been prosperous in these areas. For instance, one could maintain that if we study the reasons why some countries do not become economically or politically powerful, then we will be better able to avoid economic or political pitfalls. One might also point to the role other countries have played in the economic or political prosperity of more dominant countries as a reason for studying them. According to this view, we can learn *something*
from the economic and political sagas of all countries, or at least most of them. Although
this view might be attractive on some level, we should recall that we are examining a
particular position, namely one that sees China’s recent economic growth as a reason to
study it. When one claims that a country’s increasing economic or political dominance is
the reason for studying its philosophical traditions, one is claiming that economic or
political dominance—as opposed to failure or decline—makes a tradition worth studying.
If one does not think the economic or political success of a country makes its
philosophical traditions more worthy of study than other philosophical traditions, then
one should not offer economic or political success as the reason why we should study
them. Indeed, that political or economic dominance makes certain traditions worth
studying is what it means to offer political or economic dominance as *reasons* for
studying a country’s philosophical traditions.

As a final note, it is simply not the case that we need to study the philosophical
traditions of all or most countries in order to learn how to prosper economically or
politically. Economists and political analysts typically identify patterns and strategies
that explain the economic and political successes and failings of various countries.
Consequently, it is not always necessary to study their various histories and philosophies
in order to understand why certain approaches are more effective than others, or why
certain combinations of factors can be detrimental to a nation’s success in certain areas.
Accordingly, in some cases it is not necessary or even particularly helpful to study a
country’s philosophical traditions in order to understand the reasons for its economic or
political position.
I want to consider one final response to my inquiry. One might try to defend the weaker claim that we can learn more from countries that have enjoyed or are enjoying economic or political dominance. This view does not exclude the philosophical traditions of countries that have not been economically or politically dominant. Indeed on this account, economic or political dominance are sometimes but not always the primary reason for philosophers to study philosophical traditions. However, we are still left with the question of what makes philosophical traditions that are not tied to economically or politically dominant countries worth studying. Further, the view that philosophers have different primary reasons for studying different traditions implies that they have different goals of inquiry in different cases, which is problematic because the goal of philosophical inquiry as opposed to other forms of inquiry is one of the things that defines the discipline of philosophy. In order to avoid this implication, one would have to concede that economic or political reasons are never the primary reason why philosophers study a philosophical tradition. One could maintain that economic or political dominance is a supporting reason for philosophers to study certain philosophical traditions, but one would still need to specify the primary reason for studying them.

I have now mentioned several times the matter of the goal of philosophical inquiry. I understand this goal as being tied to the intrinsic value of truth and goodness. I will discuss this matter in greater detail below, but for now it will suffice to say that the goal of philosophy is knowledge of truth and human flourishing, broadly construed. The main reason why I reject the claim that philosophers should study certain philosophical traditions because they are tied to economically or politically dominant countries is that offering economic or political dominance as the reason for studying philosophical
traditions marks one of two things as the goals of inquiry, and neither of them are philosophical. First I will discuss the view that takes economic or political dominance to be the goal of inquiry, and then I will consider the view that takes peaceful interactions between nations and citizens as the goal of inquiry.

In order to understand how the view that we should study philosophical traditions because they are tied to economically or politically dominant cultures marks economic or political dominance as the goal of inquiry, it is helpful to explore the assumptions behind the claim that a civilization’s past or present economic or political dominance is the reason why philosophers should study its philosophical traditions. On this view, we should study the philosophies of civilizations that were dominant in the past (e.g., Greek philosophy) in order to learn more about their methods so that we can improve our economic or political system; the goal of philosophical inquiry is greater economic or political achievement on our part. According to this view, we should study the philosophical traditions of countries that are currently dominant, or becoming more dominant (e.g., China) because it will enable us to dialogue with these countries more successfully in the current and future world market. But we must consider why we would want to dialogue more successfully with economically or politically prominent countries. Surely part of the reason is that we want to be able to collaborate with them, but I also think it is fair to assume that we want to be able to compete with them more effectively. This means learning how to increase our own economic and political dominance, and possibly how to undermine the dominance of others as a way of maintaining our dominance in these areas. On this view, then, the goal of philosophical inquiry is greater
economic or political achievement on our part, where achievement is understood as a form of dominance.

I do not think a convincing case can be made that economic or political dominance is the goal of philosophical inquiry. Although it might be the case that philosophers care about economic and political achievement, and sometimes work to show how certain ideas might be relevant to these matters, it is not the case that these are the goals of philosophical inquiry in general. To begin with, if philosophers’ reasons for studying various philosophies were tied to the former or current economic positions of certain countries, then there would be evidence of this in the sort of arguments they make. For example, it is relatively clear from the analyses of many economists and political scientists that their reason for being interested in Chinese culture is its contemporary relevance for the economic or political situation. This is why their discussions typically involve only those dimensions of the Chinese tradition that are directly related to or can be used to understand the current economic or political situation. This is simply not true of the discipline of philosophy. Philosophers continue to explore a wide range of theoretical and practical matters that are unrelated to economic prosperity and political dominance, because they are interested in accounts that might be true and valuable. That

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8 Although a number of scholars have linked Confucianism with capitalism in East Asia, their arguments do not always draw strictly on those dimensions of the Confucian tradition that deal with economic or political prosperity. For example, in support of their argument against the claim that Confucianism is concerned with upholding a particular kind of feudal society, Robert Bellah and Tu Weiming both argue that Confucianism is concerned with the good life for human beings generally. This viewpoint responds to Max Weber’s claim that religion was a possible factor in the emergence of capitalism in the Protestant West and its failure to develop in Confucian China. On Weber’s view, which was further developed by Joseph Levenson, Confucianism was incompatible with modernization defined in terms of industrial capitalism. Against this claim, Bellah and Tu have argued that Confucianism offers the kind of ideals that Weber argues are a necessary constituent of capitalism. They also argue that a deeper understanding of Confucianism sees hierarchical relationships as defining the set of obligations citizens owe to each other in a democratic society. These views, then, take Confucianism as a kind of ideology or world view and argue that it has a direct impact on the economic success or failure of those countries in which it is a primary cultural influence. See Max Weber, *The Religion of China: Confucianism and*
is, they are interested in accounts that might lead us to a better understanding of the world and ourselves, and that might help us to lead richer lives. Once again, that is not to say that some philosophical discussions cannot be insightfully applied to explorations of economic or political dominance. However, I think it is clear that economic or political dominance—or even achievement—is not the goal of philosophical inquiry.

The second position I want to consider is one that I think some comparative philosophers have in mind when they suggest that China’s economic growth gives us a reason to study Chinese philosophy. According to this view, philosophers should study the philosophies of economically or politically dominant countries as a way of achieving peaceful interactions among nations and citizens. This view is premised on the claim that studying other philosophical traditions helps us to get along better with others in an increasingly pluralistic society, and in a world where we are much more likely to encounter those of other cultural traditions. Unlike the previous account of why we should study the philosophical traditions of economically or politically powerful countries, this reason is not premised on the desire to compete more effectively with others or dominate them. Instead of marking economic or political dominance as the goal of inquiry, it marks peaceful interactions among nations and citizens as the goal of inquiry.

This view provides a noble account of why we should study certain philosophical traditions, and I think it is based on an accurate observation. Most specialists in non-

Western philosophy and many other scholars would agree that studying the philosophical underpinnings of other cultures can teach us a great deal about how to interact and dialogue in more culturally sensitive ways with those of other cultural traditions. But it has some of the same difficulties as other reasons we have examined. To begin with, it only gives us a reason to study philosophical traditions tied to cultures we are likely to come in contact with and that we have some difficulty understanding. This is what makes Chinese philosophy a candidate for study: China’s economic growth seems to guarantee that we will have more interaction with the Chinese, and Chinese culture is significantly different from our own. European philosophies, however, would not be candidates because they fail to meet the second condition. Because they are tied to Western cultures, we have had more contact with them and more practice interacting and dialoguing with them, and they are not as different from our own culture. Accordingly, this reason for studying philosophical traditions only applies to some traditions, which poses a problem we discussed earlier: on this view philosophers have entirely different kinds of goals of inquiry depending upon the philosophical traditions they are studying.

An additional problem is that this reason for studying certain philosophical traditions is easily undermined. Indeed, it would no longer constitute a reason for studying certain philosophical traditions if one could show that encounters with members of those cultural traditions is not inevitable, or that Westernization is so prevalent and forceful that it will soon no longer be necessary for us to understand other cultural traditions in order to interact and dialogue peacefully. One could also simply reject the claim that philosophers’ understanding of Chinese philosophy will ultimately make a noticeable difference in the tenor of the relationship between China and the U.S., on the
grounds that U.S. politics and foreign relations are driven by economic and political concerns, and not by a desire for greater cultural sensitivity and understanding.

In addition, although studying the philosophical traditions tied to other cultures can certainly increase our ability to dialogue with others in a more sensitive manner, it is not the case that it is necessary for us to study other philosophical traditions in order to interact with those of other cultures in a sensitive manner. Indeed, one might argue that certain traits of character, and not knowledge of a philosophical tradition, is what ultimately makes one a culturally sensitive person. So although I think it is worth considering the claim that a commitment to studying the philosophical underpinnings of other cultures is a necessary (though by no means sufficient) condition of positive and enduring relations between nations, and perhaps among citizens living in a pluralistic society, I do not think this constitutes a good reason for philosophers to study Chinese philosophy.

The important point here is that although some philosophers have offered China’s economic prominence and large population as reasons why we should study Chinese philosophy, these are not the primary reasons why professional philosophers study philosophical traditions. As we have seen, philosophers do not tend to think they lack a reason to study the philosophies of economically weak countries or those with small populations. Indeed, I think most specialists in Chinese philosophy would maintain that Chinese philosophy was just as worthy of study ten years ago, prior to the increase in China’s economic growth. I think they would also maintain that Chinese thought would be deserving of our attention even if China had not become the world’s most populous nation. So before offering a further account of the reason why most philosophers who
study Chinese philosophy think it is important, I want to address the question of why specialists in Chinese thought sometimes give economic or political reasons for studying Chinese philosophy.

The answer to this question differs when specialists in Chinese philosophy are addressing their colleagues in the field of philosophy as opposed to students and colleagues who are not philosophers. I think it is fair to say that comparative philosophers offer economic and political reasons to philosophers who study the Western tradition primarily out of a desire to show that although professional philosophers have been almost exclusively concerned with the Western philosophical tradition up until this point, there is now a reason to study non-Western philosophy. For example, a good number of specialists in Chinese thought have appealed to the rising position of China on the economic and political scene as evidence that philosophers now have a reason to pay attention to the philosophical traditions of China. What is odd about this claim is that it seems to imply that philosophers did not previously have a reason to study Chinese philosophy. But this claim, or any claim that Chinese philosophy is more relevant now than it was before, is strange coming from philosophers who have devoted their lives to understanding the Chinese philosophical tradition, for they clearly do not really think the Chinese philosophical tradition has only just now become important. I suspect that when comparative philosophers offer economic or political reasons for studying Chinese philosophy to their fellow philosophers, they also do it in order to avoid insulting their colleagues and predecessors by saying what needs to be said: the systematic exclusion of non-Western philosophical traditions from the discipline of philosophy is an
institutionalized form of ethnocentrism. The fact that Western philosophical traditions are considered essential to philosophy and are a central part of how philosophers are educated and evaluated, while non-Western traditions have been excluded in both thought and practice from most philosophy departments can only be understood as a form of institutionalized prejudice.

It is clear that professional philosophers are trained in a certain range of Western philosophical traditions because certain traditions have been accepted, perhaps uncritically, as essential within the discipline of philosophy. But this still does not tell us anything about philosophers’ reasons for studying those philosophical traditions. I have noted that the goals of philosophical inquiry are knowledge of truth and human flourishing, and I think it is accurate to say that most philosophers study philosophical traditions because they think the ideas and ways of life described by various philosophical traditions might be true and valuable. The exclusion of non-Western philosophies from the discipline of philosophy does not change this fact, but it does indicate that there is a large body of philosophical work that most philosophers have not even become remotely acquainted with, let alone examined carefully. It also means that if philosophers take their own reasons for doing philosophy seriously, they will work to

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9 One could make a case that it is more specifically a form of eurocentrism, because American pragmatism has been neglected as well, but there are at least two important differences between the place of pragmatism and non-Western philosophies. First of all, the relatively small amount of attention given to American pragmatism partly stems from the fact that there are very few major figures in the pragmatic tradition compared with the Western analytical and continental philosophical traditions. Second, figures like Peirce, James, and Dewey are usually taught as a part of the history of (Western) philosophy, even if they are not given as much attention as other figures and movements.

10 In the academy, philosophy is now the exception rather than the rule in this case. For example, history departments typically have specialists in Japanese and Chinese history, and religious studies departments usually have specialists in the areas of Chinese religions, Buddhism, and Islam. It seems then that although the academy acknowledges that non-Western traditions have histories and religions, it does not yet fully acknowledge that non-Western traditions have philosophies.
make these traditions a part of how philosophers are educated and evaluated. This, of course, has been the point of my focusing on this issue so intensely as an introduction to this dissertation.

What specialists in Chinese philosophy need to say, then, is that the reason philosophers should study Chinese philosophy is the same reason they study any philosophical tradition: because the ideas these traditions express might be true or valuable. It is not only the case that this reason is the primary reason for philosophers to study Chinese philosophy; it is also a distinctly philosophical reason for studying Chinese philosophy.

Here I distinguish between philosophical reasons for inquiry and other kinds of reasons. Philosophical reasons concern the intrinsic value of the philosophical traditions under study, whereas other kinds of reasons concern their extrinsic value. If one has a philosophical reason for studying a philosophical tradition, then one thinks there is something about the specific nature of those ideas and practices themselves that makes them worth studying. Philosophical reasons are directly related to the goal of philosophical inquiry, which is why the truth and normative value of ideas and practices

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11 Some comparative philosophers have argued that the Western tradition is essentially bankrupt by virtue of its failure to provide adequate answers to the most important questions of philosophy, and that this is why philosophers must study the Chinese tradition. I do not think this is a particularly productive approach for a number of reasons. First, most Western philosophers are unlikely to accept the claim that the entire Western tradition is bankrupt and has nothing productive to teach us. In any case, this is a very difficult claim to defend due to the fact that it is so broad. Second, I have alluded to the fact that it seems duplicitous for specialists in Chinese philosophy to claim that the traditions they study have only recently become relevant to Western philosophers, because most of them also claim that the Chinese tradition provides accounts that are true and valuable. In other words, it seems that the real reason why comparative philosophers believe we should study Chinese philosophy is that the accounts provided by Chinese philosophers are insightful. It is not necessary to accept the view that the Western tradition has utterly failed in order to accept the view that there are true and valuable ideas in the Chinese tradition. Indeed, one would hope that both traditions have important insights to offer. Third, although I have pointed out that comparative philosophers might claim that Chinese philosophy only recently became relevant to Western philosophers in order to avoid insulting their colleagues and predecessors, I think it is a greater insult to them to claim that the Western philosophical tradition has failed completely.
make them worth studying. Other reasons, in contrast to philosophical reasons, show how studying certain ideas and practices can help one to achieve some end, but it is not the specific nature of those ideas and practices that help one to achieve those ends. For example, as we have seen, there is nothing about the specific nature of the ideas and practices in the Chinese philosophical tradition that will necessarily help us to achieve economic dominance, or that will help us to bring about peaceful interactions between nations and citizens. Rather, it is because of China’s current economic position that understanding the Chinese tradition could prove helpful in achieving these goals.

As indicated, the primary reason why most specialists in Chinese thought study Chinese philosophy is that they think some of the ideas and ways of life discussed there offer an account that is insightful. The primary reason for philosophers to study any philosophical tradition is the belief that it might contain true and valuable ideas. Philosophers, then, should be interested in exploring philosophical traditions that have been neglected because the ideas and ways of life in those traditions might hold insights that we have yet to explore.

Unlike those in the natural sciences, philosophers have no reason to believe they have exhausted the number of philosophical questions that can be explored, or the ways in which these questions can be addressed. In *On Liberty*, John Stuart Mill points out that “. . . the only way in which a human being can make some approach to knowing the whole of a subject, is by hearing what can be said about it by persons of every variety of opinion, and studying all modes in which it can be looked at by every character of mind.” He adds that “the general or prevailing opinion on any subject is rarely or never

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the whole truth, [and] it is only by the collision of adverse opinions that the remainder of
the truth has any chance of being supplied.”13 Mill’s point reinforces what I have argued:
philosophers should study different philosophical traditions because they might contain
true and valuable ideas. Here we can see that the way one answers the question of why
one should study Chinese philosophy is directly related to why one thinks philosophy is
worth doing at all.

I would now like to return to the question of why specialists in Chinese thought
sometimes offer economic or political reasons for studying Chinese philosophy to
students and colleagues who are not philosophers, or to those outside of the academy.
Most philosophers realize that among those who are unfamiliar with the discipline of
philosophy, as well as those who are only acquainted with certain areas or ways of doing
philosophy, there is a tendency to think that it is not a practical discipline. I think
philosophers usually appeal to economic or political reasons in an effort to show those
who are not in the field of philosophy that the ideas they study are relevant to people’s
lives.

However, I also think it is a mistake to think that most people would find
economic or political reasons for studying Chinese philosophy more compelling than
philosophical reasons. The way in which philosophy is practically relevant differs
significantly from the way in which disciplines driven by current economic and political
interests are relevant, but I think it is the case that certain areas of philosophy are much
more relevant to people’s lives if relevance is determined by the things people value

13Ibid., 54.
Although most people are concerned to some degree about matters of global economics and foreign policy, the matter of what values we should instill in our children, what religious beliefs and practices should be a part of our lives, and how we should prioritize the many claims on our time are, in a very real sense, the stuff of our lives. I think it is generally the case that people care a great deal about whether or not the things they believe are true, and whether the things they teach their children to value—and the way in which they are teaching them—will help them to become kind and thoughtful human beings, and to lead better, richer lives overall. In fact, I think most people care a great deal more about these things than about matters of global economics or politics.\footnote{I do not mean to imply that citizens are not affected by economic or political matters, only that economic and political concerns generally are not at the top of the list of people’s priorities. For instance, although the high cost of gasoline affects most citizens financially, this matter is a minor annoyance compared with concerns about the well-being of one’s children.}\footnote{Here I am thinking of the area of ethics as well as some aspects of the philosophy of religion.}

I suspect that philosophers offer a country’s economic position, political power, or population as reasons to study its philosophical traditions because these reasons demand less of everyone involved. If one thinks the reason for studying Chinese philosophy is to prevent the Chinese from swamping the rest of the world, or in order to better understand them when they do, then studying Chinese philosophy does not call for us to examine our personal beliefs and values, or to evaluate Chinese values. On this view, the goal of studying Chinese philosophy is simply to acquire practical information that will help us to get along better in the world. If, however, one thinks the reason for studying Chinese philosophy is that the ideas and practices found in the Chinese tradition might be true and valuable, then something more is required of us, namely a willingness to examine the extent to which our lives might be improved by the ideas and practices we
study. Accepting the fact that the ideas and practices advocated by any philosophical tradition could be true and valuable often requires a willingness to examine and possibly revise one’s beliefs and practices. Economic and political reasons for studying philosophy do not require very much of us because they do not require us to examine and consider revising our beliefs and values, even when they require us to consider revising our position on an economic or political matter. Similarly, these reasons do not require philosophers to try to convince others that their beliefs and values are worth examining and possibly revising.

In sum, I think philosophers tend not to give philosophical reasons for studying philosophy because they are afraid of asking too much of their audience. Indeed, some people might respond by saying or thinking that they are perfectly happy with their lives, and so there is no reason for them to study other approaches. Perhaps it is best to recall Socrates’ reply to this kind of response in order to recall just how antithetical it is to the philosophical attitude. In dialogues such as the *Euthyphro*, Socrates does the kind of critical questioning that earned him the reputation for being a “gadfly,” picking away at people’s confident assertions in order to uncover the truth about what matters most in one’s life. This quest for truth and value, which opposes the uncritical acceptance of conventional beliefs, defines philosophy. Philosophers should realize that philosophy is difficult not only because it requires hard thinking, but because it often requires the hard work of getting others to see why the examined life is better than the unexamined life.

At this point, it should be relatively clear that on my view, the reason why philosophers study different philosophical traditions is because they believe those traditions might contain ideas and practices that are true and valuable. This fact is not
surprising, given that philosophers are concerned primarily with evaluating the truth and normative value of certain kinds of claims. No philosopher would accept the view that there is a necessary relationship between the truth or normative value of a claim and the number of people who make it, the economic position of the countries where those individuals reside, or the political orientation of their government. And although the increasing economic prominence of China may help to show how studying Chinese culture can be extrinsically valuable, it does not constitute a philosophical reason for studying Chinese philosophy. Consequently, it is not a good primary reason for philosophers to study Chinese philosophy.

I want to consider one final argument that one might give to support the claim that we should study non-Western philosophical traditions. One could claim that philosophers should do comparative philosophy16 because comparing and contrasting different answers to the same, similar, or related questions helps us to get clearer about each of the positions we are studying, and it illumines the questions that are being examined. One might offer as an example the question, “How do we know what is moral?” and the respective answers of Immanuel Kant and Mengzi. Upon initial introduction to one of these theories alone, one might not appreciate the complexity of the question or the strengths and weaknesses of the theory under study. However, once students learn of an alternative theory, they begin to see what is at stake in answering the question and the problems that can arise in the course of answering it. In the process of comparing and contrasting different answers to the same question, they notice issues that

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16Here “comparative philosophy” refers to the study of philosophers and texts from non-Western philosophical traditions in comparison to and in contrast with American, European, Greek and Roman philosophy.
are not addressed by one theory, precisely because another theory addresses them, and as a result they are better able to evaluate the strengths and weaknesses of various theories.

These observations are all accurate, but they do not constitute a philosophical reason for doing comparative philosophy because they do not concern the intrinsic value of the traditions being compared. Instead, they concern the value of comparisons more generally. For instance, one could come to an appreciation of the strengths and weaknesses of various theories without comparing them to Chinese philosophical theories. It is just that theories that offer a distinctively different approach, such as many Chinese views, tend to be more helpful for developing a reflective perspective on one’s own theories. In general, studying the assumptions of others increases our awareness of our own presuppositions. But although this outcome gives us a reason to study philosophical theories that offer a distinctively different approach, it does not give us a reason to study Chinese views in particular. The Western tradition itself is full of rich diversity, and at the very least we could find Western theories that are different enough to help us develop a more reflective perspective. For example, consider my earlier example of the question, “How do we know what is moral?” Hume provides an answer to this question that is significantly different from Kant’s, and it seems that it would be adequate for helping us to develop a reflective perspective on the question and on Kant’s answer to it. Here we see why it is important to have a philosophical reason for studying non-Western philosophical traditions, whether one’s study involves comparative work or not. Philosophical reasons are based on the intrinsic value of philosophical traditions. This basis gives philosophical reasons an enduring quality because they do not depend on
external factors such as the current economic or political position of a certain country, or one’s need for a distinctly different view in order to develop a more reflective perspective.

Before proceeding to a particular discussion of why my study of Rawls and the *Analects* is important, I want to make one final remark about the reasons for studying Chinese philosophy. The philosophical traditions of China and India also form the core religious traditions of those countries, and their influence has spread widely and saturated the cultures of surrounding nations like Korea and Japan. Despite the turbulent political histories of these nations, the cultural influence of the indigenous traditions of Asia has not been successfully undermined by the entry of Western philosophies like Marxism, even when there have been overt campaigns to do so. Philosophers should be especially aware of the way in which philosophical and religious traditions influence cultures and shape the thinking of the humans who dwell in them. I have argued that non-philosophical reasons do not constitute good primary reasons for philosophers to study Chinese philosophy, and I maintain the primary reason why philosophers should study different cultural and philosophical traditions is that the accounts they provide might be true and valuable. But if any supporting reasons for studying Chinese philosophy are worthy of our consideration, it is surely the idea that the future of productive interactions between citizens in a pluralistic democracy and in an increasingly interactive world might depend in part on the knowledge and attitudes that can be cultivated in the course of studying other philosophical traditions.

This dissertation is a comparative study of the most important political philosopher of the second half of the twentieth century, and the text that is most closely associated with the founder of Confucianism, which has had a remarkably wide-ranging
(in terms of the number of different countries it has influenced) and pervasive (in terms of the extent of its influence in those countries) cultural influence in Asia. It should not be lost on readers that John Rawls is an American philosopher, following in the contractarian tradition of liberalism that shaped the formation of our own constitution. It is not an understatement to say that *A Theory of Justice* is one of the most influential works in moral and political philosophy written in the twentieth century. Considered as a whole, Rawls’s work has probably evoked more commentary and attracted wider attention than any other work in moral or political philosophy in the twentieth century. As anyone familiar with his work knows, Rawls’s fifty-year career was guided by the belief that a just society is realistically possible.\(^\text{17}\)

On the other side of this comparative study is Kongzi, who lived from 551-479 B.C.E. Born in the state of Lu, located in what is now Shandong Province in the People’s Republic of China, Kongzi lived and taught during the latter part of the Zhou 周 dynasty, also known as the “Eastern Zhou” (*Dongzhou* 東周 770-256 B.C.E.). Unlike the earlier part of the Zhou dynasty (the “Western Zhou,” *Xizhou* 西周 1122-771 B.C.E.), the Eastern Zhou was not a time of peace and stability. To the contrary, it was a time of extreme political turbulence characterized by violence and warfare both between and within different states.\(^\text{18}\) After resigning from an executive position as the “minister of

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\(^{17}\) See Freeman’s preface in the *Collected Papers* (ix-xii). Freeman provides a concise overview of the essays that have spanned Rawls’s career.

\(^{18}\) The earlier part of the Eastern Zhou (722-481 B.C.E.), during which Kongzi lived, is also known as the Spring and Autumn Period. The *Zuo zhuan* 左傳, one of three traditional commentaries on the *Spring and Autumn Annals* (*Chunqiu* 春秋), paints a vivid picture of what life was like before and during Kongzi’s time. See the translation by James Legge (*The Chinese Classics*, Vol. 5) and selected translations by Burton Watson [*The Tso Chuan* (New York: Columbia University Press, 1989)]. For a useful survey covering Chinese history from the earliest times through the Qin unification, see Michael Loewe and Edward Shaughnessy, eds., *The Cambridge History of Ancient China: From the Origins of Civilization to
Kongzi devoted his life to the belief that there was still hope for a stable, harmoniously functioning society. He worked to transmit the cultural forms of the Western Zhou, which he took to be the central ideas and practices of a humane society, to his students and contemporaries while striving to embody them in his own conduct. Kongzi became one of the most influential figures in the latter part of the Eastern Zhou.

The period following his death, known as the Warring States Period (Zhanguo shidai 戰國時代 403-221 B.C.E.) is sometimes called the era of the “100 schools of thought” (bai jia 百家), because it was a period in which philosophical debate flourished in China. As Bryan Van Norden points out, the influence Kongzi has had on the Chinese tradition, and indeed, on several cultures in Asia, is comparable to the combined influence of Jesus and Socrates on the Western tradition. Similar to his Western counterparts, we know Kongzi’s work and thought only through the writings of his students, followers, and philosophical opponents.

It is clear that Rawls and Kongzi have had a tremendous influence—Kongzi over the Chinese philosophical tradition and Rawls over the fields of ethics and political philosophy. In addition, their work reflects important themes and values in the respective


19That is, he was the head of the department or ministry of crime in the state of Lu. This position (si kou) is sometimes translated as “police commissioner.” There are references to Kongzi having held this position in the Zuozhuan, the Mozi, and the Mengzi. Although Creel regards these accounts as apocryphal, I think Bryan Van Norden is correct to point out that it is hard to ignore the testimony of three independent sources. See Bryan W. Van Norden, “Introduction” in Van Norden, ed., Confucius and the Analects: New Essays (New York: Oxford University Press, 2002), p. 33 n. 51.

20Ibid., 3.
cultures from which they come. But why should we compare the work of these two philosophers? Can we not learn enough about their ideas by studying them independently, or in comparison with their contemporaries? My response to these questions has two parts; the first concerns the preceding discussion of comparative philosophy, and the second concerns the impetus for my study.

My general response to the question of why one should study Chinese philosophy extends to the comparative study of Rawls and the *Analects* in particular. Although there have been major studies of Confucian concepts like *Ren* (仁, “humaneness,” “benevolence”), *de* 德 (“Virtue”), and *li* 禮 (“rites,” “ritual propriety”), there have been no major studies of the sense of justice in the *Analects*, or in classical Confucianism more broadly.²¹ I will argue that an understanding of the role a sense of justice plays in the *Analects* leads to a better understanding of the text as a whole and a more extensive understanding of the concept of justice itself. In addition, my study will show that there is an important point of comparison between Rawls’s understanding of a sense of justice and the view found in the *Analects*. This insight not only serves to correct some previous misunderstandings of both Rawls and the *Analects* (a point I will return to below), but also shows that there is a deep point of resonance between the articulation of a sense of justice by the most influential American political philosopher of the 20th century and the foundational text of the most influential school of Chinese thought. This fact is both startling and remarkable, and it tells us something about justice and about ourselves as human beings.

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²¹A handful of essays have dealt with Confucian views of justice in varying degrees of depth. I will discuss them in Chapter Two.
This study was prompted by a number of claims made by comparative philosophers working on the Confucian tradition in comparison with and in contrast to Western philosophy. Although I will discuss this body of work more extensively in Chapter Two, I wish to note here that I believe a comparative study of Rawls and Kongzi is needed partly in order to correct some serious misunderstandings that have emerged from this body of work. These misunderstandings have been appropriated and referenced by subsequent philosophers working on comparisons of Confucianism and Western thought. They have also appeared separately in secondary work that is not of a comparative nature, some of which is focused specifically on Rawls, and some which is focused on the Analects. Thus, one reason why this work is important is that it corrects what I take to be some detrimental misunderstandings in the fields of comparative philosophy, Chinese philosophy, political philosophy, and ethics. I will argue that a comparative reading of Rawls and the Analects can help us to better understand the nature of these misunderstandings, and to correct them, even though these misunderstandings could be corrected in other ways as well. I will have more to say about this argument when I outline my project at the end of the chapter.

A secondary reason why this comparative study is important is that it will help comparative philosophers, and readers of comparative studies, to better understand the interpretive, thematic, and procedural challenges one faces when doing comparative work. In the next section I discuss some of the interpretive, thematic, and procedural difficulties that contribute to misunderstandings in the context of comparative work, and as a result are central to my comparative project. The goal here is to increase awareness of these

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22 In chapters two and three I will discuss specifically which studies are the targets of my critique.
challenges so that comparative philosophers can intentionally and self-consciously work to address them.

II. Three Challenges for the Comparative Philosopher

Comparative philosophers face three serious challenges in their work. In this section, I show how each of these challenges represents a different reason comparative studies sometimes fail to represent the subjects under study in a fair and accurate manner or to deliver fruitful and insightful results. I will begin by discussing what I call “interpretive” issues, which concern the initial interpretations comparative philosophers have of philosophers they are comparing. Interpretive questions concern whether the study presents a compelling and textually supportable account of the views under study. Sometimes philosophical work focuses entirely on the defense of a particular interpretation of a philosopher’s view. In the field of comparative philosophy, the bulk of one’s argument typically focuses on a set of comparisons or contrasts between two thinkers, meaning that interpretive questions are not the primary focus. But for a comparative study to get off the ground, one must first have defensible interpretations of the two figures, texts, theories, or concepts being compared. If adequate textual evidence is not available to defend the initial interpretations, then the extent to which other dimensions of the comparison are well-done is something of a moot point.23 This is why interpretive questions must be considered prior to thematic or procedural questions.

23The exception to this seems to be the case of productive misreadings. Sometimes, misreadings of texts provoke interesting and novel ideas, and so long as one does not present these ideas as an account of classical Chinese philosophy, then misreadings can be philosophically productive. But one would be engaged in a different type of project and would no longer be explaining how other philosophers have thought.
There are a number of things that can go wrong at the interpretive level of a comparative study, but most of these problems result from a comparativist’s desire to emphasize the similarities or differences between the two subjects being compared in order to strengthen the conclusion of the comparative study. I now wish to examine two contemporary comparative studies in order to illustrate the different kinds of interpretive problems that can derail a comparative study.

An example of a comparative study that falters due to an inadequate interpretation is found in a 2003 article in the *Journal of the American Academy of Religion*, where Eske Mollgaard argues that Zhuangzi 莊子 has a moral imperative that is comparable to Kant’s categorical imperative. Of his claims about the *Zhuangzi*, the most problematic is his claim that the statement in Chapter Six, “Do for others in not doing for others,” is Zhuangzi’s moral imperative (363). Mollgaard does not explain why we should interpret this passage, above all other passages, as Zhuangzi’s moral imperative, nor does he provide a textual account of why he believes the “truly ethical question” in the *Zhuangzi* is “how to constitute oneself according to a law” (358). In fact, Mollgaard’s claim that Zhuangzi has a moral imperative at all needs to be considered. This claim, apart from any statement about the content of Zhuangzi’s “moral imperative,” is controversial because the *Zhuangzi* states that general rules and principles take us farther away from the *dao*. Mollgaard’s comparative study cannot get off the ground due to a lack of

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24Mollgaard also argues that Zhuangzi’s religious ethics is comparable to the Gospels, but for the purposes of this paper I will only examine his comparison of Zhuangzi and Kant. [Eske Mollgaard, “Zhuangzi’s Religious Ethics,” *Journal of the American Academy of Religion* 71:2, 347-70]. Hereafter cited parenthetically with page number.

25One of the *Zhuangzi’s* prevailing themes is that misguided discriminations, thrust upon us by society, are what stand between us and the movement of the *dao* in our lives. The *Zhuangzi* tells us repeatedly to set aside all discriminations and refrain from attempting to govern the world morally or otherwise: “I have heard of letting the world be, of leaving it alone; I have never heard
textual evidence for his interpretation of Zhuangzi, and also his failure to argue against the common reading of Zhuangzi, which is based on Zhuangzi’s condemnation of general moral rules, rites, and principles. Thus, his initial interpretation of one of the subjects under study is flawed.

Although Mollgaard’s interpretation of Zhuangzi is designed to highlight the similarities between Zhuangzi and Kant, a flawed interpretation can also over-emphasize the differences between the two subjects being compared. An example of this is Roger Ames’s and David Hall’s account of the contrast between the concept of creativity in classical China and the concept of creation in the Judeo-Christian tradition in their work, *Daodejing “Making This Life Significant”: A Philosophical Translation*. They write that *cheng* 聲 is a concept of “creativity” that itself is “more primordial than God.”

They write that in the Judeo-Christian tradition, God “makes” things as opposed to “creating” them.

God, as Omnipotent Other Who commands the world into being, is *Maker* of the world, not its *Creator*. In the presence of the perfection that is God, nothing can be added or taken away. There can be no novelty or spontaneity. Thus, all subsequent acts of “creativity” are in fact secondary and derivative exercises of power. Creativity can make sense only in a processual world that admits of ontological parity among its constitutive events and of the spontaneous emergence of novelty (16-17).

of governing the world. You let it be for fear of corrupting the inborn nature of the world; you leave it alone for fear of distracting the Virtue of the world. If the nature of the world is not corrupted, if the Virtue of the world is not distracted, why should there be any governing of the world?” [Burton Watson, trans., *The Complete Works of Chuang Tzu* (New York: Columbia University Press, 1968), 114.]


27 Although it is not the subject of the point I am making here, it is worth noting that Ames’s and Hall’s rendering of *cheng* 聲 as “creativity” is controversial. It is more commonly translated as “sincerity.” Ames and Hall discuss their interpretation of *cheng*, again appealing to Whitehead, in *Focusing the Familiar* (Honolulu: University of Hawai’i Press, 2001), 30-35.
Ames’s and Hall’s interpretation of the Judeo-Christian understanding of God and Creation does not reflect the traditional self-understandings of either the Jewish or the Christian tradition. Ames and Hall rely on a Whiteheadian reconstruction of these views, writing that they “follow A.N. Whitehead in questioning the appropriateness of using ‘creativity’ in the familiar creatio ex nihilo model that we associate with Judeo-Christian cosmogony.”28 But Ames and Hall do not reference any Jewish or Christian sources to support their claims, nor do they cite specific Whiteheadian sources. This is problematic because there are a number of counter-examples to Ames’s and Hall’s account of doctrinal views of God and Creation in both Judaism and Christianity. For example, there have been a range of Orthodox views on God and Creation within each tradition, but none of them distinguish between “Maker” and “Creator,” as Ames and Hall claim. Additionally, contemporary scholars of these traditions do not regard them as one tradition, and reject the term “Judeo-Christian” in scholarly work, especially in theological areas where there is significant divergence between Jewish and Christian perspectives. So in this case, the comparative study is flawed at the interpretive level, due to a textually unsupportable and overall reductionistic account of the traditions under discussion.

In all of these cases, philosophers who are familiar with the figures under study will likely reject the comparison at hand because the initial interpretations of the philosophers under study are inaccurate, inadequately defended against an abundance of textual evidence, or because they portray the philosophers and their traditions in a one-dimensional way. Of course, providing responsible interpretations of the philosophers

28 Ames and Hall, Daodejing “Making This Life Significant,” 16.
one studies is not a problem that is limited to comparative philosophy. Unlike interpretive questions, the second area I wish to examine strictly concerns comparative philosophy. “Thematic” issues concern what comparative philosophers are comparing. For example, one might choose a thematic issue such as Ren 仁 (“humaneness”) to compare in two texts like the Analects and the Mengzi. Then, one would need to defend a particular interpretation of Ren in each text. But the choice of what thematic issue to compare is different from the choice of what interpretation of that thematic issue to defend and how to go about defending it.

In the studies examined above, Mollgaard compares Kantian and Zhuangzian understandings of moral laws and rules, whereas Ames and Hall compare Judeo-Christian and Daoist understandings of creativity. Here we can see clearly the difference between thematic issues, which concern what we are comparing, and the interpretive issues discussed above, which concern how we interpret what we are comparing (e.g., interpreting Zhuangzi as advocating a moral law that one must act in accordance with in order to be moral; interpreting the Christian and Jewish traditions as having a singular, shared understanding of God as “Maker” of the world). These are distinct aspects of comparative studies. That is, we can distinguish between the different kinds of problems interpretation, as opposed to thematization, poses for comparative work. For example, one might object to an interpretation of Zhuangzi that says he advocates a moral law (an interpretive issue), without objecting to a comparison of Kant and Zhuangzi on the subject of moral laws and rules per se (a thematic issue). On the other hand, one might find the interpretations of two philosophers given in a comparative study to be fair and accurate (an interpretive issue), but object to a comparison of those two philosophers
because it is not particularly illuminating (a thematic issue). I will now examine two examples of distinct thematic approaches.

One of the main goals pursued by Edward Slingerland in his work, *Effortless Action: Wu-Wei as Conceptual Metaphor and Spiritual Ideal in Early China*, is to show the potential of contemporary conceptual metaphor theory as a methodological approach for sinology, comparative religion and philosophy, and the humanities in general.29 Slingerland claims that most comparative studies fail because of distinctly methodological mistakes. By “methodological,” Slingerland partly means what is compared, and he argues for the superiority of one methodology in particular.30 He writes that comparing metaphors is a “middle way” between traditional approaches that compare individual terms or general philosophical theories. According to Slingerland, the structure of conceptual metaphors “is more general than any linguistic sign, but also more basic than a theory, and cognitive linguists argue that it is at best this intermediate level of conceptualization that most of our reasoning patterns are based.”31 Slingerland argues that comparing metaphors is superior to comparing concepts or theories because it


30 The “methodological” approach Slingerland argues for includes a distinctive view of how comparative studies should be conducted thematically, that is, what they should focus on as the topic of the comparison. As we shall see, the approach he advocates also involves a number of robust interpretive claims, and so it is not strictly a response to the thematic question.

31 See Edward Slingerland, “Conceptual Metaphor Theory as Methodology for Comparative Religion,” *Journal of the American Academy of Religion* 72:1 (March 2004), 17. Cf. *Effortless Action*, 26-27. Slingerland focuses on the approach of cognitive linguistics and the argument—best known to the academic community through the work of George Lakoff and Mark Johnson—that human cognition depends heavily on metaphor. As Slingerland puts it, “While abstract concepts such as ‘time’ or ‘death’ may have a skeleton structure that is directly (i.e., non-metaphorically) represented conceptually, in most cases this structure is not rich or detailed enough to allow us to make useful inferences. Therefore, when we attempt to conceptualize and reason about abstract or relatively unstructured realms, this skeleton structure is fleshed out (usually automatically and unconsciously), with additional structure provided by the primary metaphors derived from basic bodily experience, often invoked in combination with other primary schemas to form complex metaphors or conceptual blends” (“Conceptual Metaphor Theory as Methodology for Comparative Religion,” 14; *Effortless Action*, 22-23).
helps us to focus on the important similarities between two thinkers. Indeed, he writes that “as we begin to apply the methods of cognitive linguistics to classical Chinese texts,” the degree of similarity between modern English and ancient Chinese conceptual metaphors is striking. Slingerland concludes, “I would venture to guess that, beneath the surface differences in conscious theological and political commitments, one would find deeper similarities between the various traditions’ metaphorical models for self and self-cultivation.”

We should not underestimate the significance of this last claim. Conceptual metaphor theory sees metaphors as part of the deep structure of thought, and maintains that the conceptual “deep grammar” underlying metaphors is, as Slingerland puts it, “in certain respects more revealing and significant than the explicit theories themselves.”

Slingerland claims that metaphors tell us more than explicit theories or concepts. He argues that if we want to know what a philosopher really thinks about a particular concept, then “we need to look at the actual metaphors they use when discussing the concept rather than third-person, theoretical accounts of the concept (although, of course, such theoretical accounts will almost inevitably invoke the metaphor in a revealing way).”

The problem with Slingerland’s argument is that philosophers who use the same metaphors do not always argue for the same position, which seriously undermines the

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33 Ibid., 272.

34 Ibid., 272.

claim that metaphors tell us more than theoretical accounts of the concepts under study. Two philosophers can use the same metaphor to support or illustrate different and sometimes even contradictory positions, indicating that the metaphor itself does not reveal the deep structure of their philosophical views.

An example of this is the shared use of the metaphor of the “heart-mind (心心) as a mirror” by Zhuangzi and Xunzi. In the Zhuangzi, the mirror metaphor describes the sages’ state of mind when they are in harmony with the Way: “Perfect Persons use their heart-minds like mirrors—going after nothing, welcoming nothing, responding but not storing.”

Here, the still heart-mind is constitutive of the sage’s harmony with the Way and spontaneous responsiveness to the world. Xunzi, however, uses the mirror metaphor to describe a state that is preparatory for learning about the Way. According to Xunzi, making one’s heart-mind like a mirror is part of the path to clear thinking and good judgment. Those with heart-minds like mirrors are ready to learn from and respond to both their teachers and their traditions in an appropriate way. As we can see, Xunzi’s instrumental view of the heart-mind represents a marked contrast with the Zhuangzi, where a “heart-mind like a mirror” is sagely achievement and an end in itself.

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36 Translation adapted from Watson, The Complete Works of Chuang Tzu, 97. Zhuangzi and Xunzi both use this metaphor in a distinctively Chinese way. Instead of passively reflecting the objects that came before them, the early Chinese believed that mirrors respond to their environment in active and dynamic ways, evidencing a mysterious power.

37 Xunzi 21.11-13. [See Eric Hutton, trans., Xunzi, in Readings in Classical Chinese Philosophy, ed. Philip J. Ivanhoe and Bryan W. Van Norden, p. 277.] My thanks to Philip J. Ivanhoe for pointing out the difference between the constitutive and preparatory uses of this metaphor.

38 Although Xunzi does not take the state of the “heart-mind like a mirror” to be an end in itself, he still maintains with Zhuangzi that it is responsive, as mirrors were seen as responsive and active. The heart-mind is calm like a reflective surface, but it is not passively reflective. Here we can see the importance of understanding metaphors within the context of certain cultural beliefs, such as early Chinese beliefs about mirrors. This is another dimension of the study of metaphors that Slingerland’s analysis neglects. See my review of Slingerland’s work in China Review International 10:2 (2003), pp. 452-6.
As this example shows, a comparative study of metaphors alone could mislead someone into believing that two philosophers defend the same position simply because they use the same metaphor. In order to avoid this problem, comparative studies of metaphors must contextualize their accounts in the same way conceptual or theoretical studies do. Although Slingerland accurately points out that the comparative study of metaphors can be a productive topic, it is not the case that comparing metaphors avoids the interpretive problems encountered by other approaches.

His acceptance of the approach of conceptual metaphor theory is especially problematic because it advocates the comparison of metaphor schemas—broad categories of metaphors that manifest themselves across traditions. This approach neglects the philosophical and cultural contexts of metaphors, which as we have seen leads to a number of interpretive problems.

My analysis of Slingerland’s view has mentioned the thematic possibilities of comparing metaphors, concepts, and theories. But there are other approaches as well. I wish to look now at a comparative study that utilizes two less common but insightful thematic approaches. In *The Sense of Antirationalism: The Religious Thought of Zhuangzi and Kierkegaard*, Karen Carr and Philip J. Ivanhoe set out to show how comparative studies provide opportunities for “broadening our view of the world and

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39 In his essay, “Conceptual Metaphor Theory as Methodology for Comparative Religion,” Slingerland discusses two major kinds of comparisons. One of these is what he calls the theory-based approach, defined by taking a philosophical theory from one culture and comparing it with a theory from another culture. He points out two difficulties with this approach, but I wish to note that these are not in fact thematic or what he calls “methodological” difficulties, because they are not difficulties that are directly tied to the comparison of theories, as opposed to, say, concepts or metaphors. Both of the difficulties he points out are in fact interpretive difficulties. First, he points out that trying to find a theoretical equivalent in another tradition “often involves doing considerable violence to the actual language or—more commonly—reading isolated passages out of their historical context.” This is exactly the sort of problem we saw in Mollgaard’s reading of Zhuangzi. Second, Slingerland discusses the tendency to present a view of theoretical uniformity in the cultures being compared, so that it appears that all Confucians, for example, subscribe to a single theory. This is one of the interpretive difficulties I noted in my discussion of Ames’s and Hall’s claims about Judeo-Christian views of God and Creation.
deepening our understanding of our own place within it.” Carr and Ivanhoe argue that Zhuangzi and Kierkegaard represent a view they call antirationalism, which offers a distinctive position on the relationship between reason and religious experience. Carr and Ivanhoe maintain that this relationship is cast in its fullest relief when these two thinkers are approached comparatively. Among the similarities and differences they discuss, Carr and Ivanhoe argue that Zhuangzi and Kierkegaard make use of a similar philosophical style to support their view. Carr and Ivanhoe write that Zhuangzi and Kierkegaard both “argue in humorous ways that result in the embarrassment of reason. This often leads us to laugh not only at the view they are engaging but at the larger project of reasoned inquiry itself” (91). Carr and Ivanhoe point out that neither Zhuangzi nor Kierkegaard endorse direct argumentation as a way of moving people to become better selves, but instead describe—and in Kierkegaard’s case, write from the perspective of—a diverse collection of individuals who exemplify ideal and less-than-ideal forms of life.

Another thematic issue Carr and Ivanhoe explore is the role Zhuangzi and Kierkegaard played in their respective historical contexts. Zhuangzi, like Kierkegaard, reacted against the philosophical climate of his time, and his rejection of the status quo is closely linked to his antirationalist views, according to Carr and Ivanhoe. Zhuangzi responded critically to the Confucians, the advocates of the rites and virtues such as filial piety, as well as to the Mohists and Sophists, who advocated the application of objective reason. Despite their very different philosophical positions, Zhuangzi thought the Confucian, Mohist and Sophist views were objectionable for the same basic reason: they lead humans away from their natural, prereflective intuitions. According to Zhuangzi,

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individuals must “pare away the interferences of tradition, hold at bay the scheming rational mind, and learn to hear and heed the spontaneous inclinations and tendencies of the Heavenly dao” (29).

Kierkegaard too was a critic in his context. He responded to the state church of Denmark and institutional Christianity as a whole, which according to Kierkegaard entailed a loss of individuality. Kierkegaard’s second target was the abstract or objective thinking embodied in the philosophy of Hegel. Within the Hegelian scheme, in which Christianity is an inevitable stage in the universal unfolding of World Spirit, Kierkegaard believed the individual is also stripped of responsibility and choice (20-27). In Carr’s and Ivanhoe’s work, we see an example of how comparisons can focus on something other than theories, concepts, or metaphors, shown in their comparison of the philosophical styles of Zhuangzi and Kierkegaard, and their comparison of the way Zhuangzi and Kierkegaard both served as antirationalist critics of the dominant philosophical and religious traditions of their times.

We have seen how certain thematic issues can make one more prone to interpretive difficulties such as the tendency to neglect the philosophical and cultural contexts of the subjects of the comparison. “Procedural” questions are the final area I wish to mention. These questions deal with how consistently comparative philosophers follow their stated or implied method and more generally, how carefully a comparative study is conducted. Procedural questions deal strictly with how a comparative study unfolds, how it is structured, and what it includes. I want to distinguish procedural questions from interpretive questions, which deal with the initial interpretations of the two philosophers under study, and thematic questions, which deal strictly with the theme
or topic being compared. Let us examine an illustration to see more specifically what procedural questions are and how they can be distinguished from interpretive and thematic questions.

In “Putting the Te Back in Taoism,” Roger Ames describes de 德 as “the Daoist conception of particularity.” He writes that de is “importantly defined as an event, ‘arising’ or ‘presencing,’” the “transforming content and disposition of an existent: an autogenerative, self-construed ‘arising’” (124). Ames goes on to say that “for the classical Chinese philosopher, the world of particulars is alive in the sense that they are aware of and hence ‘feel’ or ‘prehend’ other particulars in their environment” (125).

Here, and throughout the essay, Ames uses the vocabulary of Western process philosophy to describe the concept of de without citing any sources in process philosophy or stating that he is appropriating process language in his discussion of Daoism. Yet, the terms he uses are terms of art in process philosophy. “Presencing” refers to the Whiteheadian concept of concrescence, the coming-into present being from the past. The principle of concretion is what makes something concrete as a particular in relation to others.

What is interesting about this procedure is that Ames systematically uses the distinctive and specialized language of Western process philosophy as a conceptual frame for his interpretation of the Daoist notion of de. The fact that the vocabulary of Western

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42Ames retains this view of de in his more recent work. Ames and David Hall write that de connotes the “insistent particularity” of things: “Given the intrinsic relatedness of particulars in this conception of existence as process, de is both process and product— both the potency and the achieved character of any particular disposition within the unsummed totality of experience. Dao and de are related as field and focus respectively.” [Roger T. Ames and David L. Hall, Daodejing: “Making This Life Significant”: A Philosophical Translation, 60.]
process thought is highly specialized is important, because one might argue that any Western terms used to translate Chinese concepts are equally problematic. However, this does not seem to be the case, because a term such as “virtue” is commonly used among English-speaking philosophers working with different philosophical traditions to express very different understandings of virtue, which is why philosophers from Aristotle to Anscombe offer detailed accounts of what they mean by “virtue.” But whereas Aristotelians, Kantians, and other ethical theorists have described various understandings of virtue, the terms Ames appropriates are used almost exclusively by process philosophers. Terms used in Western process philosophy, such as “presencing” and “prehend” are associated with technical definitions in the process tradition, much in the same way that “the categorical imperative” is associated with Kant’s technical definition. Thus, whereas philosophers commonly refer to different understandings of virtue, and are accustomed to hearing new and different accounts of it, discussions of “the categorical imperative” are immediately associated with Kantian moral philosophy. Indeed, most philosophers would find it strange for someone to give an account of the categorical imperative that was not related to Kant’s view. The terms Ames uses are of the latter sort, though they are not as widely understood among philosophers as a term like the categorical imperative.

Although Ames makes heavy use of process language, he does not cite Whitehead, nor does he make any reference to process philosophy in this essay. In other later work he discusses his use of Whitehead and process philosophy. For example, in *Focusing the Familiar*, which was published twelve years after the essay on *de*, Ames writes with David Hall, “Our argument is simple and direct: The use of substance language to
translate Chinese insights into a world of process and change has led to seriously inappropriate interpretations of the Chinese sensibility. The virtue of the work of A.N. Whitehead and other representatives of the process tradition is that they have attempted to introduce ontological understandings that would allow for the appreciation of the role of true creativity in shaping the processes and events that comprise the world around us. [43]

Here, Ames states that there is an important similarity between Whitehead’s view and early Chinese views, but his comparative work in the early essay on *de* does not make this claim, or even mention Whitehead. Rather, his comparative work in this essay consists of using Whiteheadian language to translate and describe Chinese concepts. Whereas an explicit comparative procedure involves a discussion of the similarities and differences between the concepts and traditions under study, Ames’s comparative procedure is inexplicit in this essay, which presents a problem. Because Ames does not discuss the similarities and differences between Whitehead’s view and early Chinese views, and between concepts such as “prehending” and *de*, he fails to address a number of important questions regarding translation, interpretation, and commensurability between philosophical systems that his analysis raises. The reader is left to assume that he thinks the concepts are identical, because he proceeds without any qualification or explanation of how he understands the relationship between them. [44]

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[44] Bryan W. Van Norden writes that Ames takes what he calls the “radical view,” in part due to his discussion of the deep chasm between the concepts and texts of Western philosophy and Chinese philosophy. I hold that a tension exists in Ames’s work, which presupposes a strong commensurability between the Chinese tradition and Deweyan pragmatism and process philosophy. However, in the case of other areas of Western thought, as Van Norden points out, Ames’s work emphasizes a chasm that is nearly
The important point for the purpose of this study is that Ames’s work shows why a keen understanding of procedural questions is important in comparative work. How one proceeds in the comparative process, in particular the explicit discussion of both similarities and differences in a fair and balanced manner, can determine the success or failure of a comparative study. An additional procedural question is how explicitly and completely comparativists describe their initial interpretations of figures and concepts. In Ames’s study, one might agree with Ames’s interpretation of Daoist cosmology (an interpretive issue), and also with his claim that there are illuminating similarities between Whiteheadian philosophy and Daoist philosophy (a thematic issue), and yet still disagree with the inexplicit way he goes about his comparative study (a procedural issue). A comparative study, then, can be derailed from the outset by indefensible interpretations of the philosophers being compared (the interpretive issue), but it can also be derailed at the comparative stage by the question of what one compares (the thematic issue), or by the failure to make explicit one’s interpretations of the two subjects and to discuss the similarities and differences between them as completely as possible (the procedural issue).

III. Outline of Chapters and Textual Matters

There are two main goals of this study. My first aim is to correct a view that has been advanced by several scholars of Chinese and comparative philosophy, namely, that the absence of terms such as “justice” in classical Chinese indicates that classical Chinese texts are not concerned with questions of justice, and that classical Confucian philosophers were not interested in the ideas that are the focus of modern Western

political philosophy. Against these claims, I argue that there are deep and important areas of agreement between the understanding of a sense of justice in the *Analects* and John Rawls’s account of a sense of justice. I show that on both views, a sense of justice is cultivated first within the context of parent-child relationships and then within communities, finally emerging as a fully developed moral sense that informs the capacity to feel and act in certain ways toward other members of society.

My second aim is to show how comparative work can help us to understand more fully and accurately the features of two or more views. I argue that studying the idea of a sense of justice in the *Analects* alongside a Rawlsian sense of justice highlights some important dimensions of Rawls’s work that have been neglected, including the role he assigns to the family and the community in his account of how citizens cultivate a sense of justice. I also argue that Rawls’s discussions of moral psychology and the development of a sense of justice provide readers with a model for understanding the role that moral capacities can play in political philosophy. Rawls’s account helps readers to see how an appreciation for justice can be expressed in a text like the *Analects*, even though there is not a fully developed theory of justice or a single term that consistently designates “justice.” I offer this model for comparative philosophy as an alternative not only to some of the views discussed earlier in this chapter, but also to views that see comparative philosophy as an opportunity to show how one philosophical position can serve as a corrective supplement to another or as an enterprise concerned primarily with arguing for the superiority of one philosophical tradition over another.

My approach is not to compare individual terms or concepts found in Rawls and the *Analects*. Instead, I examine the way certain concepts and themes function together
to create a sense of justice, which in turn contributes to a larger account of a well-ordered and stable society in Rawls and a harmonious and humane society in the *Analects*. There are two primary reasons why I have chosen this approach. First and foremost, I believe that focusing on a set of concepts and themes leads to a more accurate understanding of both of the views under study, because it is part of my argument that an understanding of a sense of justice in both Rawls and the *Analects* requires an understanding of the way multiple concepts and themes intersect. In Chapter Two I discuss in detail the reasons why several philosophers have failed to see this important area of agreement between Rawls and the *Analects*, and an important part of my argument concerns the mistaken view that the absence of a term that uniquely refers to “justice” in the *Analects* is sufficient evidence for concluding that there is no concept of justice in the *Analects*. I show how an understanding of a sense of justice emerges from a number of different concepts, even though none of them alone uniquely refers to a sense of justice. Likewise, I show how a number of important ideas in Rawls have been neglected in studies that focus on only one or two concepts. Thus, an accurate understanding of a sense of justice in both texts under study requires a broader examination of the ideas at work in them.

The second reason I focus on a set of concepts and themes is that I think this approach can help comparative philosophers avoid some of the interpretive problems that other methods sometimes exacerbate. Although no thematic approach can in itself prevent interpretive problems in comparative studies, the topic of one’s comparison can make one more or less prone to certain difficulties. Focusing on a comparison of the way multiple concepts function together usually steers one away from interpretations that portray philosophers and their traditions as one-dimensional. Comparisons which focus
on multiple concepts can also help to prevent the neglect of philosophical and cultural contexts in which certain ideas are situated. Both of these problems are less likely to occur in a study where a comparativist must discuss multiple concepts and the way they function together because the comparativist’s eye is more likely to take account of the big picture by virtue of not being focused on two individual concepts. However, that is not to say that studies of individual concepts cannot be done carefully, nor is it to say that comparisons of multiple concepts always avoid the pitfalls of other kinds of studies.

The interpretive challenge of providing compelling textual evidence for one’s interpretation of both thinkers under study in a comparison, and the procedural challenge of discussing similarities and differences explicitly and extensively remain daunting regardless of one’s topic. In order to address these areas, I devote individual chapters to discussing my interpretations of Rawls and the *Analects*, before proceeding with my comparative discussion. In these chapters, I focus intensively on the primary texts under study while also taking account of and responding to important critiques and influential readings of the ideas in question. My comparative discussion also includes an explicit discussion of the differences between Rawls’s view and the view found in the *Analects*.

Having already discussed interpretive, thematic, procedural, and textual matters in Chapter One, I narrow my focus to Rawls and the *Analects* in Chapter Two, where I consider the body of work that focuses on Confucianism, human rights, and freedom, in addition to the few essays that have specifically attempted to compare conceptions of justice in modern Western liberalism with Confucian views. A number of comparative philosophers have argued that the concepts central to modern Western liberalism are fundamentally incompatible with the Confucian worldview. I examine the view that
there is no understanding of justice in the *Analects*, and I argue against the claim that the absence of a term for “justice” serves as evidence for this view. I also examine the view that early Confucian sources offer an alternative theory or conception of justice, and I argue that proponents of this view typically fail to show that they are describing an account of justice, as opposed to a social ideal. In addition, I correct some misrepresentations of Rawls that are prevalent among proponents of both of these positions.

In Chapter Three I offer an account of Rawls’s understanding of the capacity for a sense of justice. I begin with an overview of Rawls’s basic view, beginning with his claim that humans have an innate capacity for social co-operation. Rawls argues that humans have two moral powers that give them the capacity to be full participants in a fair system of co-operation: the capacity for a sense of justice and the capacity for a conception of the good. I show that for Rawls a sense of justice is the ability to feel or perceive what is fair, and it is the primary source of our motivation to act fairly toward other members of society, and to act in accordance with the principles or standards that are designed to help establish and preserve a just society, one that addresses circumstances where individuals suffer as a result of the moral arbitrariness of natural or social contingencies. I discuss how a sense of justice is cultivated within the context of the family, community, and society, and the contribution it makes to establishing a society that has “stability for the right reasons,” on Rawls’s view.

In Chapter Four, I provide an account of the sense of justice in the *Analects*. I begin by discussing the larger context of the self-cultivationist account provided in the *Analects*. I then argue that in the *Analects*, members of society, like members of a
family, are expected to have a deep and particular concern for the well-being of other members, because they have the capacity for a sense of justice. I discuss the evidence for this view seen in discussions of *de* 德 ("Virtue") and rulership, *jun* 均 ("equal distribution"), *yi* 義 ("rightness"), as well as a number of other important themes and ideas. I then revisit the distinction between a term and a concept that I made in Chapter Two and show why this distinction is important for my argument. Finally, I anticipate some counter-examples to my view and show why these passages do not constitute evidence against the view that a sense of justice is considered important in the *Analects*.

In Chapter Five, I offer a comparative analysis of the senses of justice in Rawls and the *Analects*. After discussing some significant similarities and differences between them, I turn to the question of why these similarities and differences are particularly instructive for philosophers studying Rawls, the *Analects*, or the idea of a sense of justice. I argue that a comparative reading of Rawls and the *Analects* highlights the importance of Rawls’s position on questions of human nature and helps us to understand some ways in which his account could be strengthened. I also argue that the *Analects* helps us to better understand the self-cultivationist dimensions of Rawls’s account. I then address how an understanding of Rawls’s work can help us to better understand certain aspects of the ethical account presented in the *Analects*, especially concerning the importance of non-arbitrary distinctions between members of society, the relationship between the right and the good, and the importance of the judicial virtues. In my conclusion, I revisit the three challenges discussed in the first chapter and discuss the extent to which I have met these challenges in my analysis.
Before proceeding with the program outlined above, I wish to address some important historical and textual matters concerning the way I will proceed with respect to the texts on both sides of my comparative project. It will become apparent in a moment that the work of John Rawls is substantially easier to address than the text of the *Analects*, but nonetheless it will be helpful for the reader to understand the view of Rawls’s corpus that informs my argument.

There has been considerable discussion of the relation between Rawls’s early work, which culminated in *A Theory of Justice* (1971), and his later *Political Liberalism* (1993). Scholars have speculated about the continuity in Rawls’s views and whether certain apparent changes are responses to communitarian critiques of Rawls’s early work. I think it is best to consider Rawls’s own remarks on this matter first. In his final work, *Justice as Fairness: A Restatement*, he discusses where genuine revisions in his work occur between his earlier and later work and the impact they have on his overall view. He writes that there are three main changes from the view presented in *A Theory of Justice*: “. . . first, changes in the formulation and content of the two principles of justice used in justice as fairness; second, changes in how the argument for those principles from the original position is organized; and third, changes in how justice as fairness itself is to be understood: namely, as a political conception of justice rather than as part of a comprehensive moral doctrine” (xvi).

The last revision Rawls mentions has been the source of much scholarly discussion.\(^{45}\) In *Political Liberalism*, Rawls specifies that although the distinction

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\(^{45}\)For a strong criticism of the ambiguity of *Theory* on this fundamental matter, see Charles Larmore, *Patterns of Moral Complexity* (Cambridge: Cambridge UP, 1987), 118-30. I will devote the following discussion to this aspect of the changes in Rawls’s view because it is the source of most
between a comprehensive doctrine and a political conception is absent from Theory, and the change from one to the other is a significant shift in the view as a whole, “nearly all the structure and substantive content of justice as fairness” goes unchanged into that conception as a political one (PL, 177n). The fact that Rawls acknowledges both fundamental continuity and significant changes in his work allows for a spectrum of positions on how to understand the relationship between his early and later works.

Almost all acknowledge a degree of change with respect to the issue of comprehensive vs. political liberalism. Some emphasize the continuity, reading Political Liberalism as articulating what is implicit in Theory, while others emphasize the changes, arguing that the shift in Rawls’s view is a response to communitarian criticisms of his work. Rawls’s own view does not embrace either of these positions. He says that the distinction between a comprehensive doctrine and a political conception was “unfortunately absent” from Theory, but he also maintains that there is not a basis for saying the changes are replies to criticisms raised by communitarians and others (PL, 177n, xixn respectively).

I accept Rawls’s own assessment of his work because I think the account he provides is consistent with what we find in his work. Rawls writes that the distinction between a comprehensive doctrine and political liberalism should be seen as . . . clarifying how justice as fairness is to be understood . . . . Even though the problems examined in Theory in any detail are always the traditional and familiar ones of political and social justice, the reader can reasonably conclude that justice as fairness was set out as part of a comprehensive moral doctrine that might be developed later should success encourage the attempt. This restatement removes that ambiguity: justice as fairness is now presented as a political conception of justice. To carry out discussions of the degree of continuity in Rawls’s early and later work. For a further discussion of the other shifts Rawls mentions, see JF, xvi-xvii.

this change in how justice as fairness is to be understood forces many other changes
and requires a family of further ideas not found in *Theory*, or at least not with the same
meaning or significance (*JF, xvii*).

I view the important changes in Rawls’s work as developments rather than
thoroughgoing revisions, owing primarily to Rawls’s desire to show that his position was
not vulnerable to objections raised by his communitarian critics. Although my discussion
draws primarily on Rawls’s later work, especially *Justice as Fairness* because it is the
final formulation of his view, I think Stephen Mulhall and Adam Swift are correct to
point out that “. . . doing justice both to Rawls and to his critics will require us to refer to
both [*Theory* and the later work]. The communitarians were writing in criticism of the
first, but both it and some subsequent writings that were available to them already
provided responses to many of their objections—responses which a more careful reading
might have taken into account.”

The textual issues surrounding the *Lunyu* (the *Analects*), are more
complicated. There is considerable disagreement about the integrity of the received text
of this collection of the teachings of Kongzi and his students. The text compiled by He
Yan (190-249 C.E.) is divided into twenty books, which are further divided into
chapters that vary in length from sentence-long quotations to dialogues. Early
discussions of the *Analects* mention the existence of three different versions of the
*Analects* in the Western Han, each with a different number of books. Almost all
contemporary scholars of the text agree that it was composed by several different authors

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47 For a concise and helpful discussion of some of these issues, see Stephen Mulhall and Adam
(Cambridge: Cambridge University Press, 2003), 460-87.

East Asian Studies, 1993), 315.
from different time periods, and that it may be a synthesis of the three versions in existence in the Han. Although I will follow the view that it is unlikely that any stratum of the Analects was composed after the early fourth century B.C.E., disagreement among scholars of the Analects surfaces with respect to the question of how many different strata of the text there are, how they should be dated, and how much weight we should put on the existence of different strata.49

D.C. Lau maintains that the Analects can be separated into two strata—the first fifteen books and the last five. Lau draws on the work of Qing dynasty scholar Cui Shu崔述 (1740-1816), who demonstrated on linguistic grounds that the last five books of the Analects are significantly later than the others. Nonetheless, Lau still treats the text as presenting a unified vision.50 Arthur Waley suggests that books 3-9 represent the oldest stratum of the text.51 As Van Norden has pointed out, Waley may be referring to the thematic or organizational unity of each of these books, which may indicate that they were edited around the same time.52 On Waley’s view, then, another distinct stratum of the text exists in addition to Lau’s two.

Steven Van Zoeren goes even further in his form-critical approach to the Analects, maintaining that there are four strata: books 3-7, 1-2 and 8-9, 10-15, and 16-20.53 Van Zoeren argues that these strata represent not only different time periods, but also

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49I will return to the subject of the dates of composition of the Analects later in this section. However, readers may refer to Loewe, ed., Early Chinese Texts: A Bibliographical Guide, pp. 313-23 for an overview of discussions of authorship, date of composition, textual history, and edition.


substantially different viewpoints. The most extreme position on the stratification of the
text, however, is the view E. Bruce and A. Taeko Brooks present in their work, *The
Original Analects*.\(^{54}\) Brooks and Brooks argue that each book of the *Analects* represents
a discrete stratum, and they identify a large number of later interpolations within each
book in an attempt to support their claim that the text was composed over a longer period
of time than has generally been accepted. They argue, for instance, that the later strata
were put together as late as the third century B.C.E. Further, Brooks and Brooks see the
text as a heterogeneous collection of different perspectives.\(^{55}\)

The only agreement among these scholars on the strata, excepting Brooks and
Brooks, is that books 16-20 represent a stratum of the text. But there seems to be a larger
disagreement between textual scholars using the form-critical approach, such as Van
Zoeren and Brooks and Brooks, and philosophers working on the text. As Van Zoeren
notes, textual scholars using the form-critical approach tend to “systematically discount
the continuities in a tradition, perhaps unfairly.”\(^{56}\) On the other hand, philosophers have
tended to set the textual issues aside based on their view that the influence of the received

\(^{54}\) E. Bruce Brooks and A. Taeko Brooks, *The Original Analects* (New York: Columbia University

\(^{55}\) There are a number of difficulties with the work of Brooks and Brooks. For example, in his
review of *The Original Analects*, Edward Slingerland points out the highly speculative nature of the claim
that there is a “rate of accretion” that applies to the strata of the *Analects*, and that on this theory, the text
was composed at a fairly constant rate, in distinct bands that are each one chapter thick. He also discusses
the philosophical weaknesses of the view of Brooks and Brooks, arguing that their “lack of philosophical
orientation reveals itself . . . in their resolutely political rendering of the text. Practicing a rather extreme
hermeneutics of suspicion, they systematically discount the possibility that philosophical developments of
early themes by later compilers might actually be genuine attempts to elucidate the Master’s teachings and
make them relevant to a new age. Rather, doctrinal innovations are generally seen in terms of political
stratagems designed to enhance the prestige of one line of disciples over another” (140). See Slingerland’s
review, the response from Brooks and Brooks, and Slingerland’s reply, in *Philosophy East and West* 40:1
(2000), 137-47.

text alone merits its study.\textsuperscript{57} Both sides of this debate make important points. The philosophers accurately point out that the \textit{Analects} in the form we have it is an integral part of the foundation of the Confucian tradition. The received text has generated the rich and extensive commentarial tradition, and it has had a profound influence on Chinese culture, and on a number of cultures throughout Asia in both pre-modern and contemporary times. On the other hand, although this information contributes to the argument for studying the received text, textual scholars are correct to point out that it is not a justification for ignoring the textual issues.

A part of studying the \textit{Analects} as an important philosophical text is the consideration of the extent to which the text provides a consistent, unified view on various subjects. If, indeed, the text of the \textit{Analects} is a collection of chapters with interpolations from different eras, written by different authors, then we should not be surprised to find evidence of this fact in the wide range of ideas advocated in the text. However, the existence of distinct and even competing views on certain topics does not preclude the existence of unified themes and ideas. For example, one might find that descriptions of certain virtues are quite consistent throughout the text, while there are different and at times competing accounts of other virtues. In addition, one might find passages that seem to provide different accounts of what constitutes filial conduct or ritual propriety, but still find unity in the basic understanding of these ideas and the fact that they are regarded as virtues throughout the text.

\textsuperscript{57}See, for example, Ames and Rosemont, who point out that the accumulation of evidence in favor of any given theory about the composition of the \textit{Analects}, though interesting and important, does not bring into question the enormous influence of the received \textit{Analects}. They write, “It thus deserves to be read as carefully and as deliberately as it was read by seventy-odd generations of Chinese, in just the form in which it has been handed down to us.” [\textit{The Analects of Confucius} (1998), 9-10]
In general, I believe the received text of the *Analects* exhibits a high degree of unity and consistency in its themes and ideas. I think that across most of the text, competing accounts of the same concept, or the clearly identifiable presence of multiple and significantly different accounts of the same concept, are the exception rather than the rule. For example, I do not believe that there are many different views of what constitutes “filiality” across the text. In cases where two or more passages are difficult to square with one another, one usually still finds the same basic vision for human beings and the virtues they should cultivate. Furthermore, it should not surprise us that there would be passages in ancient Chinese texts that are difficult for 20th century Western readers to understand, nor should it surprise us to find some degree of diversity in a text that we know was composed by different authors and which also contains interpolations. All of these issues must be taken into consideration and carefully balanced by readers of the *Analects*.

Although I think the *Analects* presents a reasonably unified and consistent vision for human beings and the societies they live in, my argument regarding a sense of justice in the *Analects* does not assume that there is a unified, consistent, and coherent account of this idea. Indeed, it is my responsibility to provide the textual evidence in support of my argument that there is a unified, consistent and coherent account of a sense of justice, and it is also my responsibility to anticipate and answer the objections raised by counter-examples to my view. In Chapter Four, in the course of setting out the defining features of the understanding of a sense of justice found in the *Analects*, I will attempt to do this. I direct the reader to my chapter on the *Analects* because my argument that there is a reasonably consistent and coherent account of a sense of justice in the text—as opposed
to multiple and perhaps contradictory senses of justice—can only be supported through an examination of the textual evidence. In Chapter Four, I examine the passages from the *Analects* that express a sense of justice in comparison with and in relation to one other, against the background of the broader ethical vision presented in the *Analects*. I believe there is a unified ethical vision in the *Analects*, and that I also think there is ample textual evidence to support this claim.

Thus, my study assumes that there are ideas and themes that consistently surface throughout the text and that together reveal a particular vision for human societies. I believe these ideas and themes distinguish the “school of Kongzi” from the later work of Mengzi 孟子 and Xunzi 荀子, and this is especially evident in the absence of debates about human nature, more sophisticated conceptions of the *xin* 心, (“heart-mind”), and discussions of interschool rivalries that are found in the *Mengzi* and the *Xunzi*. These facts contribute to the evidence in support of the view that it is unlikely that any stratum of the *Analects* was composed after the early fourth century B.C.E.

Unlike fields such as Classics, and areas of philosophy such as Kantian studies, where there are editions of texts which virtually all scholars use as their standard in making references, there are as yet no universally accepted standard texts for ancient Chinese works. Chapter divisions within books of the *Analects* differ slightly from edition to edition. In my references to the text, I follow the numbering found in the Chinese University of Hong Kong Institute of Chinese Studies Ancient Chinese Texts Concordance Series. English language translations typically follow or approximate this organization of the text. As indicated, some translations from the *Analects* in this work are my own while others follow the translation by Edward Slingerland (2003) with my
modifications. In addition, I refer to two traditional commentaries on the *Analects*: He Yan 何晏, *Lun yu ji jie* 論語集解 (242 C.E.) and Zhu Xi 朱熹, *Si shu ji zhu* 四書集注 (1177 C.E.). All translations from these two works are my own, unless otherwise noted.
CHAPTER TWO

Human Rights, “Justice,” and Confucianism

Over the past two decades, there has been a proliferation of work concerning human rights and Asian thought.\(^1\) This topic has become an increasingly common focus in comparative philosophy over the past ten years, and much of this work has focused on highlighting the areas of agreement and disagreement between modern Western liberalism and Confucianism. Comparative studies in this area can be divided into three major groups. First, there are those who maintain that the central tenets of modern Western liberalism are in some important ways compatible with the fundamental ideas of the Confucian tradition.\(^2\) The second and third groups are comprised of those who maintain that the central tenets of modern Western liberalism are a marked contrast with Confucian views and perhaps even fundamentally incompatible with them. While the

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second group maintains that the Confucian tradition’s failure to address certain liberal concerns represents a shortcoming of Confucian political philosophy, those in the third group argue that Confucianism offers a welcome alternative and potential solution to the problems found within and perhaps even created by modern liberal political philosophy.

In the first section of this chapter I offer a response to the question of why most studies of Confucianism and liberalism have focused on human rights instead of justice. I then discuss the work of Henry Rosemont, Jr., whose Confucian-inspired critique of the Western liberal conception of rights has had considerable influence in the field of comparative philosophy. In the second section I analyze and respond to Rosemont’s account. In section three I distinguish between a term and a concept and discuss the relevance of this distinction for discussions of justice and Confucianism. In the fourth section I discuss the previous studies that have explored the subject of justice in early Confucianism.

I. The Concept of Rights in Confucianism

In contrast to the overwhelming body of work concerning human rights, only a handful of essays have explored understandings of justice in Confucianism. One way to approach the question of why studies of Chinese political philosophy have focused on rights instead of justice is to examine more closely the basic claims these studies make.

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5See the essays by R. P. Peerenboom, Alan Fox, Xunwu Chen, Yang Xiao, and Ruiping Fan discussed later in this chapter.
Although I will focus on what I take to be the primary conceptual and practical reasons why the subject of rights has been the focus of so many studies of Chinese thought, there are also political reasons to consider, as well as the influence of scholarly fashion or trends in the academy, and I will briefly touch on these matters as well.

As this chapter will show, a number of scholars of early Chinese thought accept the view that if the language a philosopher writes in lacks a term for “rights” or “justice,” this is sufficient proof that the philosopher has no concept of “rights” or “justice.” Accordingly, it might seem that the widely accepted belief that there is no term in classical Chinese that uniquely refers to what we call “justice” is one reason why most scholars have not explored the subject of justice in Chinese thought. However, the fact that many scholars think the absence of a term implies the absence of a concept does not explain why the subject of rights has been so prominent in studies of Chinese thought. Few scholars believe there is a term in classical Chinese that uniquely refers to what we call “rights,” and yet while the subject of justice has been almost entirely ignored in light of the absence of a term for justice, the exploration of rights has become the central focus of a large body of work.

It is my view that scholars have tended to focus on rights instead of justice primarily due to its perceived practical import. Much of the work in this area is geared toward addressing the need for the protection of human rights in China. The primary question of this sort is how to determine the most effective way to dialogue with the Chinese about human rights. In an effort to provide an answer to this question, the following questions are explored: What do the Chinese think about the concept of human rights? What reasons for establishing protections of human rights would the Chinese be
most likely to accept? Is there an appreciation for human rights in the indigenous traditions of China, and if so, might it be best to approach the subject of human rights by showing that these traditions value human rights? We should notice the distinctly practical as opposed to philosophical nature of all of these questions. They are geared toward determining how we can most effectively communicate with the Chinese about the subject of human rights.⁶

There is a tendency in the literature comparing Western liberalism and Confucianism to make a connection between the strategic matter of how to build the strongest case for increased protections of human rights in China and the conceptual question of whether anything like the Western conception of human rights exists in the indigenous philosophies of China. A number of scholars argue that these issues are inextricably bound because the best way to convince the Chinese that they need to improve protections on human rights in China is to appeal to the vision of human beings articulated within their own tradition. On this view, the Chinese are more likely to accept Confucian reasons than Western philosophical reasons for why human rights protections are important. Some scholars who take this position argue that the Confucian tradition has analogues of concepts like human rights, while others argue that Confucianism has

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⁶The interest in certain kinds of rights and the relationship they have to Chinese philosophical views clearly has to do with the pressing nature of certain topics in contemporary international politics. In contrast with discussions of human rights, there has been virtually no philosophical work on the idea of property rights in ancient China, even though the Chinese had clear and publicly shared views about the ownership of land. However, discussions of intellectual property rights in China have generated a great deal of interest because Western companies want to avoid pirating. William P. Alford’s monograph, To Steal a Book is an Elegant Offense: Intellectual Property Law in Chinese Civilization (Stanford, CA: Stanford University Press, 1995) suggests that traditional sources played such a strong role in the ethical, political, and social aspects of Chinese society that the Chinese could not have developed a notion of intellectual property rights. Alford’s work is widely cited by people who work on policy in China. For a study and critique of Alford’s view that offers a more historically and philosophically grounded account of why certain aspects of traditional Chinese thought and society made the development of a conception of intellectual property rights less likely, see Philip J. Ivanhoe, “Intellectual Property and Traditional Chinese Culture,” in Joseph Keim Campbell, Michael O’Rourke, and David Shier, eds., Topics in Contemporary Philosophy, Vol. 3, Law and Social Justice (Cambridge, MA: MIT Press, 2005), 125-42.
concepts that, although they differ from the central ideas in Western liberal theory, can still be used to build a case for human rights. According to both of these views though, Chinese philosophical concepts can be used to convince the Chinese that by their own cultural standards human rights are important.

It is important to understand that on the view I am describing, we should study Confucian philosophy because it is a source for distinctively *Chinese* concepts that support the idea of human rights. Confucian thought is only worth studying in this capacity so long as the Chinese find Confucian reasons for improving human rights more appealing than the reasons given by Western philosophers or human rights advocates. This reason for studying Confucian philosophy is non-philosophical; it does not concern the intrinsic value of the concepts under study. The assumption then is that because someone is Chinese, they will be more likely to accept reasons that originated in Chinese philosophy than reasons that originated in Western philosophy. Although many people who make this argument have the best interest of China in mind, and indeed, some of them are Chinese, I think the view that representatives of the Chinese government or Chinese citizens will be more likely to accept Confucian reasons than Western liberal reasons at best underestimates the abilities of the Chinese audience in question, as well as the multiple sources that have shaped their beliefs and commitments. It implies that these individuals are ultimately incapable or unwilling to evaluate reasons on their own merit, and that they will be decisively swayed by the cultural origin of those reasons—and by one cultural origin in particular.  

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7The parallel argument for the West does not seem to hold. Although the idea of human rights emerged out of Christian beliefs about persons being created in God’s image, the modern Western liberal tradition has probably had the greatest influence on the appropriation of human rights conceptions in the West. However, the liberal tradition, especially as it is seen in Rawls, does not appeal to Christian beliefs
However, there is another kind of argument that scholars have made regarding the connection between human rights discourse and Confucian thought. According to this view, if we understand Confucian political philosophy, then we will realize that this view of human societies is true and valuable. As a result of this realization, we will no longer try to dialogue with the Chinese about human rights because we will see that the Chinese tradition has a better way of addressing the sorts of concerns that human rights are designed to address in the Western tradition. On this view, Confucian philosophy can be used to correct human rights violations in China and the maladies of Western society. Furthermore, this view sees the Western concept of human rights and related concepts as part of the problem in Western society. We should note that according to this position, Chinese philosophical ideas provide a true and valuable account of what human beings are like and how we can best live together. Thus it is clear that this view gives a distinctly philosophical reason for studying Chinese philosophy. In this chapter, I will focus the greatest share of my attention on this position.

It is important to note, however, that there is a more moderate position between the two very different approaches to human rights and Chinese thought that I have just described. The most extensive research on the history of the idea of human rights in China has been done by Stephen C. Angle and Marina Svensson. In *The Chinese Human Rights Reader*, they provide an overview of the development of the idea of human rights as a way of convincing citizens to support human rights. To the contrary, Rawls says that if religious reasons are given, then non-religious reasons or public reasons should also be available. The idea of public reason explicitly concerns the reasons citizens are most able and likely to accept. It is interesting to think that with respect to human rights in Western societies, most proponents of human rights accept a form of Rawls’s view that we should not give reasons rooted in traditional religious (Christian) perspectives, whereas they maintain that with respect to human rights in Chinese society, we should give reasons rooted in traditional religious and philosophical perspectives. This shows that these particular advocates of human rights are not principled defenders of public reason, but instead are more concerned with expediency.
over the course of Chinese intellectual history, in addition to a collection of essays written by Chinese scholars in the last century on the subject of human rights. \(^8\)

According to Angle and Svensson, “the discussion of rights in China has long been motivated by indigenous concerns, rather than imposed from without, and it has been interpretive and critical, rather than passive and imitative.” \(^9\) However, they are well aware that until the mid-nineteenth century, there was no single term in Chinese that corresponded to the English term “rights” or its cognates in other European languages. Angle and Svensson write that “discussions of rights built upon Confucian ideas and concepts while at the same time trying to develop them by drawing on and incorporating foreign ideas.” \(^10\) They note that the term *quanli* 權力 (“rights”) has a history of being used in Confucian literature to mean the “power and profit” that can tempt one away from morality. Such a meaning is obviously quite different from what we mean by “rights,” an observation that has led some scholars to suggest that *quanli* is simply a bad translation for “rights.” But, Angle and Svensson point out,

The problem with calling *quanli* a bad translation, though, is its implication that the only process at work in the origins of Chinese rights discourse is a (failed) attempt to mirror and adopt Western concepts and standards. We believe that Chinese rights discourse shows a complex interaction between people discovering and interpreting foreign ideas that they take to be of universal significance, on the one hand, and people building from a foundation of native terms and concerns, on the other. Very often these people are one and the same, and the two modes of thought interpenetrate one another, as when native terms are used to explain what foreign ideas mean. \(^11\)

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\(^9\) Ibid., xiii.

\(^10\) Ibid., xx.

\(^11\) Ibid., xvi.
In his work, *Human Rights and Chinese Thought: A Cross-Cultural Inquiry*, Angle develops his position in greater philosophical detail. He points out that the problem with much of the work on human rights and Chinese thought is that “it implies an equation of classical Confucianism with the whole of the Chinese tradition and seems to assume that Chinese moral discourse is static . . . . [But] if the question of whether Chinese culture is compatible with human rights is to be relevant, we need to look at more recent Chinese culture, in all its complexity.”

When we look carefully at later texts, we begin to see that, even when European texts concerning rights are translated into Chinese, “these translations seem to be part of an existing discourse almost as much as they begin a new one.” Angle shows quite convincingly that there is, and has been for some time, a distinctive discourse about rights in China, with its own concepts, motivation, and trajectory. But he also shows that this discourse has been related in various ways to, and influenced by, European and American rights discourses. He argues that it is inaccurate to portray this story as one of *either* the Chinese having an indigenous conception of human rights (or the origins of such a conception) *or* the West bringing their wholly foreign conception of human rights to China. In reality, it is *both* the case that the early Chinese had conversations which led them to a certain range of concerns they came to identify as rights, *and* that these conversations were influenced in varying degrees at various times by Western discussions of human rights.

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13Ibid., 101.
Angle notes that it is clear that the concept of rights found in the Chinese tradition is a normative notion, dependent on, among other things, an understanding of justice.\textsuperscript{14} But Angle’s work, like the other scholarly discussions of human rights and Chinese thought outlined above, focuses on the idea of rights. Quite understandably, there is a tendency in discussions of human rights and Chinese thought to assume that a just society is a good thing, and to focus on the question of how best to achieve a just society through understandings of certain rights. According to the first view we examined, human rights violations make Chinese society unjust, which is why some scholars are primarily concerned with finding a strategy for convincing the Chinese that protecting human rights more forcefully and extensively is a pressing need. The second view I looked at assumes that the Confucians have a more effective vision of how to achieve a good society, and part of that vision involves aiming for the larger goal of a humane and harmonious society rather than the more minimal goal of a just society.\textsuperscript{15} On this latter view, human rights are not the best way to make a society more just, humane, or harmonious. Rather, human rights are what a society settles for when it fails to recognize and address the real needs of human beings. We can see that neither of these views takes justice to be the matter in need of discussion. Even Angle, who takes a more balanced approach, focuses on the idea of human rights rather than justice. These studies have in common the fact that they assume that a just society is desirable, even if what we call justice is but a small part of the larger goal of humaneness and harmony.

\textsuperscript{14}Angle and Svensson, \textit{The Chinese Human Rights Reader}, xv.

\textsuperscript{15}For an argument supporting the view that societies need more than justice, see Avishai Margalit, \textit{The Decent Society}, trans. Naomi Goldblum (Cambridge, MA: Harvard University Press, 1996). In \textit{The Law of Peoples}, Rawls, too, deals with the notion of decent societies that do not reflect liberal justice (pp. 59-78).
As a result of the assumption that human rights protections either help or hinder the establishment of a just society, few who commend the study of Confucian philosophy as a way of better understanding or communicating about the subject of human rights have questioned whether or not the ideal Confucian society is just. It would, after all, be difficult to argue that Confucian concepts support the view that human rights are essential or even important if one thought the ideal Confucian society was unjust. We can also assume that if one thinks the Confucian articulation of what a society should be like is superior to Western articulations of the ideal society, then one does not think Confucian society is fundamentally unjust. The consensus seems to be that even if there are no Confucian analogues of concepts such as rights or justice, we should not conclude that the Confucian tradition did not care about the way members of society were treated by rulers, officials, and by one another. Indeed, later in this chapter we will see that most scholars who have explicitly addressed the concept of justice in Confucianism have argued—despite their insistence that there is no term for justice in classical Chinese—that the Confucians addressed issues which fall under the rubric of justice “understood broadly,” and that the ideal Confucian society was, in some important sense, just.

Scholars of Confucianism have tended to assume that Confucian thought values justice in some sense, because Confucian texts express ideals like a humane and harmoniously functioning society, and we often think of justice as being a part of those ideals. The tendency to assume that justice is a goal shared by Confucian and Western societies—even if it is but one small part of a larger vision—seems to be the primary conceptual reason why justice has not been a favored subject of study in explorations of Confucian political philosophy. That is, the idea that justice is valued in Confucian thought has for
the most part not been seen as something worth questioning or discussing because it is simply assumed to be the case.

In addition to the fact that most scholars do not assume that human rights are a part of the Confucian vision of society in the way that they assume justice is, studies focusing on rights are more readily applicable to contemporary discussions of human rights in China than discussions of justice. They are also of greater interest and more easily accessible to the general public than philosophical discussions of what justice is and how different societies understand it. Thus, one reason why it has become popular to write about human rights and Chinese philosophy is that it is easier for philosophers to justify the practical relevance of their work. Additionally, philosophers have the opportunity to pursue their own political agendas when they discuss topics such as human rights or democracy in China, as opposed to theoretical accounts of concepts like justice. Finally, there is the tendency of scholars to follow topical trends. The subject of human rights and Asian thought has been one such trend over the past fifteen years, largely because the subject of human rights has been so prominent in mainstream political discussions of China. As more work has been done in this area, there have been more arguments for scholars to respond to, criticize, or endorse, and more scholars have felt obligated to add their voice to the growing number of voices engaged in this discussion.

The work of Henry Rosemont, Jr., has been one of the most influential of these voices. Indeed, most of the literature highlighting the differences between Confucianism and Western liberalism sounds like an echo of Rosemont’s view. The four essays in which Rosemont most clearly sets out his view of rights and Confucianism span a period of eleven years. I will focus primarily on two of these essays: “Why Take Rights
Seriously: A Confucian Critique” and “Which Rights? Whose Democracy?” because they contain the most extensive discussion of the theoretical and conceptual issues that are at stake in explorations of classical Confucianism and modern Western liberalism. I will, however, occasionally refer to “Rights-Bearing Individuals and Role-Bearing Persons,” which focuses mostly on understandings of personhood, and “Human Rights: A Bill of Worries,” which focuses on contemporary discussions of human rights, democracy, and China.

Rosemont’s work challenges what he takes to be one of the central presuppositions of modern Western liberalism: the view that humans have rights, by virtue of being human. He maintains that this presupposition is grounded on the view that human beings are “freely choosing autonomous individuals.” According to Rosemont, rights-oriented political theories based on this vision are flawed, largely because the concept of human rights, “and related concepts clustered around it like liberty, the individual, property, autonomy, freedom, reason, choice, and so on, do not capture what it is we believe to be a human being . . . .”

Rosemont argues that the view that human beings are basically autonomous individuals is unique to the Western tradition, and that as a result, it is alien to the

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majority of the world’s cultures. According to Rosemont, “three-quarters of the world’s peoples have, and continue to define themselves in terms of kinship and community rather than as individual rights-bearers.” 20 Rosemont argues that because most of the world’s peoples do not use rights-based language to describe their privileges and obligations to other members of society, we should consider the extent to which this language accurately describes our priorities as members of a society. In support of his argument, Rosemont writes,

There are no traditional close semantic equivalents for “democracy,” “justice,” or “rights” in most of the world’s languages: these are Western . . . . Specifically for the early Confucians, there are, in addition to “rights,” “democracy” and “justice,” no analogous lexical items for most of the modern Western basic vocabulary for developing moral and political theories: “autonomy,” “freedom,” “liberty,” . . . . 21

As a result of the absence of these and several other terms, Rosemont concludes that there are no such concepts in early Confucianism. This conclusion is based on the view that, for example, “Speakers of languages having no term corresponding to moral cannot logically have any moral principles or theories.” 22

As a result of these conceptual differences, if we wish to find a theory “within which both ethical statements and an ethical theory can be articulated which can be applicable to, and appreciated by, all of the world’s peoples,” we must turn to the resources of other traditions. 23 Rosemont’s reasoning here is largely practical: he says members of other traditions will be unable to appreciate rights discourse because they do not already have terms for these ideas in their own tradition. He concludes then that our

20Ibid., 230.
21Ibid., 219-20.
23Ibid., 168.
efforts to initiate dialogues that will lead to greater cross-cultural understanding and humanitarianism will fail if we use this sort of discourse. But the general character of Rosemont’s agenda is more distinctly philosophical than this claim indicates.

At first, one might think Rosemont is underestimating those in other cultural traditions by claiming that they will not be able to learn to appreciate other ways of thinking about human lives. However, there is more to Rosemont’s view than the procedural claim that if another culture lacks terms for the things we want to dialogue about then members of that culture will be unable to understand and agree with what we have to say. His argument does not end with the claim that most of the world is not even close to sharing our view from the outset because the primary reason why Rosemont thinks we should abandon our political discourse and our corresponding view of human beings is that on his view, these ideas are not true or valuable. In other words, Western philosophy simply gets it wrong. What ultimately motivates Rosemont’s claim that we should abandon our rights-based view of human beings and their societies is his belief that the Western tradition has failed to accurately describe human beings, and as a result, it has failed to provide an account that will help them to lead more meaningful lives. Here, it is abundantly clear that Rosemont’s reason for doing comparative philosophy is philosophical: he thinks Confucian ideas are true and valuable, and he thinks Western liberal ideas are neither.

Rosemont’s view that the Western tradition is bankrupt is rooted in his claim that autonomy is at the core of Western values. According to Rosemont, the view that human beings are autonomous is incompatible with the view that human beings are social by nature and that the most important dimensions of who they are can only be described
with reference to their relationships with others. On his view, a highly impersonal and largely irrelevant cluster of theories about human beings has resulted from Western philosophers’ insistence that human beings are autonomous. He writes,

Since the time of Descartes Western philosophy—not alone moral philosophy—has increasingly abstracted a purely cognizing activity away from persons. It has determined that this use of logical reasoning in a disembodied “mind” is the choosing, autonomous essence of individuals, which is philosophically more foundational than are actual persons, the latter being only contingently who they are and therefore of no great philosophical significance.24

When Rosemont refers to “actual persons,” he means the concrete details of our lives, especially the roles that define us in relationships with others. Rosemont writes that philosophers fail to acknowledge the importance of human relationships when they maintain that persons have a logically reasoning, autonomous essence. In fact, he thinks the emphasis that Western philosophy has placed on autonomy has led to anti-social accounts of human beings, in turn leading philosophers away from explorations of subjects that will help us to lead more meaningful, fulfilling lives. As Rosemont puts it, “the contemporary philosophical stereotype of a disembodied, purely logical and calculating autonomous individual is simply too far removed from what we feel and think human beings to be.”25

Rosemont, however, offers a hopeful response, because he maintains that the Confucian tradition never made the same mistakes the Western tradition did. This, he says, is because they never had a conception of autonomy. “What the early Confucian writings reflect . . . is that there are no disembodied minds, nor autonomous individuals;

24Ibid., 175.

25Ibid., 176.
unless there are at least two human beings, there can be no human beings.”26 Here we can see that Rosemont’s critique of the Western liberal tradition is driven by his belief that the Confucian tradition provides a superior account of human beings, both descriptively and normatively. He says, “Confucian selves are not autonomous individuals, they are altogether relational persons, persons leading lives integrated morally, aesthetically, politically, and spiritually—moreover, they lead these lives in a human community.”27

Rosemont maintains that there is a distinctly Confucian view of personhood, according to which human persons consist entirely of their relationships with others. “I am the totality of roles I live in relation to specific others . . . . [It] would be misleading to say that I ‘play’ or ‘perform’ these roles; on the contrary, for Confucius I am my roles.”28 This view, he says, leaves no room for a “free, autonomous, choosing self.”29 Rosemont writes that according to the Confucian perspective, “in an important sense I do not achieve my own identity” because “my life as a teacher can only be made significant by my students, my life as a husband by my wife, my life as a scholar only by other scholars.” He writes that although “a great deal of personal effort is required to become a good person . . . nevertheless, much of who and what I am is determined by the others with whom I interact, just as my efforts determine in part who and what they are at the

26Ibid., 175-176.


28*Rights-bearing Individuals and Role-Bearing Persons,* 90.

29Ibid., 91.
same time.”\(^\text{30}\) According to Rosemont we do not choose the roles that comprise our selves because others must relate to us in a particular way before we are our selves. Our identity, Rosemont says, is conferred upon us. On his view, the early Confucians see the self as entirely comprised of a set of roles, which we cannot choose to create or make significant ourselves because we exist only in relation to others.\(^\text{31}\)

\section*{II. Roles, Rights, and Two Misrepresentations of Rawls}

I have learned a great deal from Rosemont about the importance of traditions, social roles, and communities, and the way in which these aspects of human life can shape our understanding of what it means to be a person. Each of these features of human moral life will be discussed as I develop my own account of a Confucian sense of justice in chapters four and five. I would like to make a few general observations about the view Rosemont presents before raising some questions about his position and discussing its limitations as they pertain to my project. First, I think it will be helpful to clarify the difference between philosophical reasons for rejecting a position and practical considerations that make a position more difficult for certain people to understand or accept. When Rosemont states that seventy-five percent of the world’s peoples define themselves in terms of kinship and community rather than as individual rights-bearers, and that they have never conceived of themselves as the latter and lack the conceptual resources to do so, he is not offering a philosophical reason for rejecting a rights-based

\(^{30}\)Ibid.

conception of the self. That is, there is nothing about a rights-based conception of the self *per se* that makes it impossible to understand and therefore impossible to accept. Rather, Rosemont points out that for those raised in certain kinds of cultures, certain understandings of the self are more difficult to grasp because they are so different from the view to which they are accustomed. If we take his point seriously, then we can see that it would also be quite difficult for those raised in cultures with a rights-based conception of the self, such as our own culture, to understand the role-based conception of the self Rosemont describes.

By claiming that most of the world’s cultures have a role-based conception of the self, Rosemont is offering a reason why international dialogues might progress more slowly if we continue to use a rights-based discourse instead of a role-based discourse. It simply takes time for those of other cultural orientations to learn to think in terms of a different view of the self. But Rosemont knows that efficiency is not a reason to reject a rights-based view of the self, because it is not impossible for those who conceive of themselves in one way to understand and learn to think in terms of an alternative conception of human beings. Indeed, this is what Rosemont calls for when he suggests that we would be better off with a role-based conception of the self in our own culture.

More importantly, though, the truth or value of a given perspective is not determined by the number of people who live their lives according to it or the amount of time it takes for them to learn to think in terms of an alternative view of human beings. For the philosopher, if a theory is true or valuable, then it is well worth the time and effort it takes to learn about it.
I realize that Rosemont does not think the rights-based view is a true or valuable account of human beings, but it is important to distinguish between rejecting the rights-based view because it will take a great deal of work for everyone to understand and appreciate it, and rejecting the rights-based view because it is not a true or valuable account. The most charitable interpretation then is that Rosemont claims that the majority of the world’s peoples have a role-based conception of the self in order to acknowledge some of the practical challenges involved in cross-cultural dialogues, and not because he thinks it constitutes a reason to reject the rights-based view. At the very least, it is not his primary reason for rejecting the rights-based view, for his primary reason seems to be philosophical in character. Rosemont claims that the concept of human rights, and related concepts tied to the rights-based view, “do not capture what it is we believe to be a human being…and even more fundamentally they cannot, I believe, be employed to produce…a theory that is in accord with our basic moral intuitions . . . .”\(^32\)

Now that we have distinguished the philosophical heart of Rosemont’s view from the practical considerations he mentions, it is important to get clear on what he believes the Confucian tradition captures about human beings and our basic moral intuitions that the rights-based view does not. He writes that Chinese philosophical terms

\[\ldots\] focus attention on qualities of persons, and on the kinds of persons who have or do not have these qualities. Where we would speak of choice, they speak of will, resolve; where we invoke abstract principles, they invoke concrete roles, and attitudes toward those roles. Moreover, if the early Confucian writings are to be interpreted consistently, they must be read as insisting on the altogether social nature of human life, for the qualities of persons, the kinds of persons they are, and the attitudes they have, are exhibited not in actions but only in human interactions.\(^33\)

\(^32\)“Which Rights? Whose Democracy?” 220.

\(^33\)“Why Take Rights Seriously,” 176.
The first thing to notice about what Rosemont says here is that many of the things he attributes to Chinese philosophy are also found throughout the history of Western philosophy. Discussions of will, resolve, attitudes toward roles, the social nature of human life, qualities of persons and their attitudes as they are exhibited in interactions with others are found in the ethical writings of ancient philosophers like Aristotle, and modern philosophers such as Hume, Kant, and Mill. More recently, the field of virtue ethics has given extensive attention to qualities of persons and the kinds of persons who have or do not have certain qualities. However, perhaps Rosemont does not mean to imply that Western philosophers never talked about these issues, but rather that most of them tended to talk more about other things. Perhaps he wishes to emphasize the altogether social nature of human life in Confucianism, and his claim that according to the early Confucian tradition, humans are entirely comprised of their roles in relation to others. Indeed, these claims are much more novel, and offer a contrast to a number of Western philosophers. But it still seems to me that there are a number of things here with which most Western ethicists would agree. The most important of these is probably the claim that Rosemont attributes to Herbert Fingarette: “for the Confucians there must be at least two human beings before there can be any human beings.”

Almost any analytic ethicist would agree with this claim, because until there is more than one person, we cannot begin to ask what we owe people qua their being persons. Ethics does not begin

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until one “has” or considers more than one person, for only then do we have the possibility of “person” in general.35

The fact that many Western ethicists would agree with these claims helps to clarify who Rosemont’s primary targets are in his critique of Western philosophy. Once we have noticed that most philosophers in the field of ethics share his concerns, it is clear that his critique must be aimed elsewhere. Rosemont repeatedly states that he thinks Western philosophers have strayed from “the continuing search for how better to live, and how to live with one another in this complex world.”36 His criticisms, then, are directed primarily at philosophers outside of the field of ethics, who have lost touch with the questions of practical philosophy. Let us take a look at a few passages where Rosemont critiques Western philosophy in general in order to see more specifically who he has in mind. Rosemont writes that he has not found in early Chinese thought “the mind-body, free will versus determinism, or the existence of evil problems that so thoroughly permeate the writings of Western philosophers.”37 He also says, “the writings of virtually every Western philosopher from Descartes to the present can only be seen as incantations for exorcising the human ghost from the calculating machine, to the current extreme that we cannot any longer even be certain that we are not brains in vats.”38 The problems and ideas he mentions here are most illuminating, because from the examples

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35One example of this view in contemporary analytic ethics is Stephen Darwall’s account of the importance of the second-person perspective. Darwall defended this view most recently in his Presidential Address to the Central Division of the American Philosophical Association, “Respect and the Second-Person Standpoint,” presented on April 24, 2004, Chicago, IL.

36“Why Take Rights Seriously,” 179.


38“Why Take Rights Seriously,” 176.
he gives, it is clear that Rosemont’s target is not “virtually every Western philosopher,” but Western epistemologists, philosophers of mind, and those working in certain areas of metaphysics. The issues he mentions here are not the primary concerns of Western ethics or political philosophy. In fact, a number of Western ethicists share Rosemont’s impatience with certain investigations in the fields of epistemology and philosophy of mind.

The question, then, is why Rosemont considers philosophers in the liberal tradition of ethics and political philosophy to be his main opponents. Most of his examples of the failure of Western philosophers to discuss issues that have practical import are not from the Western liberal tradition. However, some of Rosemont’s examples of rights-based views and understandings of autonomy are taken from liberalism. Rosemont’s critique here extends to Western ethicists like John Rawls. But it is at best peculiar to group Rawls together with contemporary epistemologists and philosophers of mind. If we are concerned with the practical relevance of philosophy for human lives, then Rawls’s discussion of how modern liberal democracies work and how we can improve them is distinct from and largely unconnected to Gilbert Ryle’s “ghost in the machine” and Hilary Putnam’s discussion of brains in vats.39

Yet, Rosemont associates Rawls with these views because he thinks Rawls’s account of justice reflects the same kind of detachment from the way human beings really are. This view is evident in his suggestion that Rawls’s view of human beings

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39Rawls’s concern with political stability is the primary way he expresses his practical interest. For Rawls an ethical or political arrangement that does not result in a stable society is inadequate because it is not practical. His interest in practical applicability is why he develops such an extensive account of how we can come to be committed to justice as fairness.
exemplifies “the contemporary philosophical stereotype of a disembodied, purely logical and calculating autonomous individual,” which he says is

... simply too far removed from what we feel and think human beings to be. It has raised problems that seem incapable of solution, and it is therefore becoming increasingly difficult for moral or political philosophies embodying this stereotype to have much purchase even on ourselves, not to mention the peoples who do not live as inheritors of the Western philosophical tradition.

Take only one small example: John Rawls’s very rich and influential concept of the veil of ignorance. [Kongzi] would have to interpret it, I believe, as an insistence that the conceptual ground laying of a decent society should be entrusted to thoroughgoing amnesiacs; and he would be rather bewildered by that. 40

Rosemont’s remarks do not accurately portray the original position. According to Rosemont, Rawls’s idea that “free, autonomous individuals are already cut off from each other in the original position” is antithetical to a view that sees persons as fundamentally interconnected and entirely comprised of their roles. 41 He claims that Rawls sees the essential nature of persons as independent of and prior to their attributes and relationships. In order to understand why this account misrepresents Rawls’s view, one must first understand the nature of the original position.

In A Theory of Justice Rawls says that the original position is “a purely hypothetical situation.” 42 He does not mean that humans could survive in the absence of their attachments to others, their values, or other aspects of their identity. The original position is not in any sense a theory of human nature or a model of how people really are but a description of a mode of thought or point of view that human beings are capable of adopting. Rawls uses the original position to show that we are capable of making decisions about social justice in the absence of certain biases. The effort to put aside
biases is done for the sake of being fair to all others affected; individuals are assumed to live in community with others, or else the original position would not serve a purpose.

The original position represents a uniquely human capacity, and on Rawls’s view it is an important part of what makes us human.

According to Rawls, “the fact that we occupy a particular social position is not a good reason for us to accept, or to expect others to accept, a conception of justice that favors those in this position.”

Here, Rawls refers to the criterion of reciprocity, according to which humans are both able and willing to establish principles of justice that will benefit others even when they themselves will not benefit in certain ways because their social position is different. In short, we have the ability to reason and act in the best interest of others by considering what reasons for accepting a conception of justice would be acceptable to us if we were positioned similarly. Rawls continues:

To model this conviction in the original position the parties are not allowed to know their social position; and the same idea is extended to other cases. This is expressed figuratively by saying that the parties are behind a veil of ignorance. In sum, the original position is simply a device of representation: it describes the parties, each of whom are responsible for the essential interests of a free and equal person, as fairly situated and as reaching an agreement subject to appropriate restrictions on what are to count as good reasons.

The original position is an “artificial device of representation,” and so it does not require a person to abandon her actual roles and relationships. Rawls says that the original position does not presuppose a metaphysical conception of self, nor does it have metaphysical implications for the self because our reasoning in the original position does

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44Ibid., italics mine.

45Rawls, PL, 28.
not commit us to a metaphysical doctrine of the self. The idea that the original position presupposes a metaphysical conception of the self—one which sees the essential nature of persons as independent of and prior to their attributes and relationships—is, as Rawls puts it, “an illusion caused by not seeing the original position as a device of representation.”

Further, and perhaps most importantly, Rawls argues that even as a device of representation, the original position does not give us a picture of individuals who are cut off from other members of society. He tells us in *Theory* that “the persons in the original position are not to view themselves as single isolated individuals. To the contrary, they assume that they have interests which they must protect as best they can and that they have ties with certain members of the next generation who will also make similar claims.” Martha Nussbaum expounds on Rawls’s position, pointing out that the original position gives us “an account of the moral point of view, a point of view we can try to enter in real life at any time . . . [T]he veil of ignorance is thus a model of one part of a person, the part that is capable of being unselfish and caring for others . . . . In effect, as Rawls insists, the entirety of the original position is a model of benevolence.” Why can we not simply model benevolence directly, by imagining the parties as benevolent with full information? Nussbaum reminds us of Rawls’s answer. “. . . [T]he original position comes, in effect, to the same thing, but with a superior economy and clarity given by the fact that we do not have to ask questions such as, How intense is the

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46 Rawls, CP, 402.

47 Rawls, TJ, 181.

benevolence and toward whom?, What information precisely? And so forth (TJ, pp. 147-9/127-9 rev.).”

With the original position, Rawls gives us one aspect of the human capacity for moral reasoning, and not a theory of human nature or a description of the extent to which persons are isolated from others or identified by their relationships. In fact, although Rawls’s original position is not a theory of human nature, he does in fact describe his view of human nature in the form of two moral powers he attributes to human beings: the capacity to have a conception of the good and the capacity for a sense of justice. The latter, as we will see more clearly in Chapter Three, involves one’s recognition of others and one’s responsibility to them. So, it is clear that Rawls’s understanding of human nature does not conceive of individuals in isolation from one another, but rather, as fundamentally interconnected, social beings.

I want to return to Rosemont’s view in order to examine more closely the reasons why he finds the Confucian account more plausible and more appealing than the account he attributes to Western liberalism. After noting that Western philosophy has “increasingly abstracted a purely cognizing activity away from persons” and “determined that this use of logical reasoning in a disembodied ‘mind’ is the choosing, autonomous essence of individuals,” Rosemont asks us to note how different the Confucian view of persons is from “focusing on me as an autonomous, freely choosing individual self. For the early Confucians there can be no me in isolation, to be considered abstractly . . . .” These remarks are particularly interesting because they show that Rosemont thinks

49Ibid.

50“Why Take Rights Seriously,” 175-77.
autonomy implies an isolated form of life in which individuals make decisions in the absence of attachments, relationships, or emotional ties of any sort. He illustrates his interpretation of the Western understanding of autonomy with a quotation from Aldous Huxley: “We live together, we act on, and react to, one another; but always and in all circumstances we are by ourselves. The martyrs go hand in hand into the arena; they are crucified alone.” Rosemont also quotes A.E. Housman: “I, a stranger and afraid, in a world I never made.”

Rosemont is correct to point out that according to some understandings of human beings in Western philosophy, we are alienated and isolated from one another in a deep and pervasive sense. Existentialists in particular have defended various forms of this position. It is problematic, however, to attribute this view to the entire Western tradition, or even to the Western liberal tradition in general. Rawls does not make any remarks implying that he sees individuals as isolated from one another in this fundamental sense. For Rawls, the capacity to co-operate with others is one of the most basic capacities human beings have. But before discussing the way in which Rawls understands autonomy and personhood, I would like to note that Rosemont’s apparent understanding of autonomy is not the typical philosophical use of the term. Autonomy is, most straightforwardly, self-governance. To be autonomous is to be self-directing, and this concept applies to communities or individuals. Now it is clear that even people who see themselves as defined by their roles are self-governing in this sense, because they


52. Charles Taylor’s The Ethics of Authenticity (Cambridge, MA: Harvard University Press, 1991), offers a criticism of this kind of view.
make choices. Although they may not have a choice about the responsibilities that are a part of their roles, that is, the responsibilities that come with being a daughter, a sister, a wife, and a mother, everyone has a choice about whether they will fulfill those responsibilities or not, and how they will go about fulfilling them. Thus, it seems clear that human beings are autonomous in the basic sense of being capable of making their own choices about such matters. That said, the whole history of Western philosophy going back to Socrates presupposes that individuals are autonomous, because the history of philosophy involves giving reasons for holding beliefs to individuals whose minds can be changed through philosophical dialogue.

Rosemont, however, understands autonomy as implying isolation. That is, he interprets self-governance as meaning that one is not influenced at all by others, and thus that one must be isolated from others in every important sense. However, it is not the case that autonomy implies isolation, because one can be autonomous and yet still be influenced by others in important ways. Being influenced by others does not mean that one is wholly controlled, manipulated, or governed by others. Accordingly, one can be autonomous but still have others as an integral part of one’s life and even one’s identity. Although Rosemont is not satisfied with the view that our relationships with others are a part of our identity, because he maintains that on the Confucian view we are entirely comprised of our roles, it is important to understand that autonomy in its ordinary usage does not imply isolation from others.

Rosemont attributes his view of autonomy-as-isolation to Rawls. Another reason why it is a misrepresentation of Rawls’s view to say that autonomy implies isolation is found when one appreciates the two forms of autonomy that Rawls describes: moral
autonomy and political autonomy. Moral autonomy characterizes a way of life and reflection discussed at length by Mill in On Liberty and also by Kant. Rosemont seems to have moral autonomy in mind when he discusses the Western liberal conception of autonomous individuals. Moral autonomy is the individual’s capacity to be self-directing or self-governing, which according to Mill and Kant should be embraced and cultivated. But in distinguishing between moral and political autonomy, Rawls concludes that moral autonomy is tied to a comprehensive view, and that is why he rejects this value as appropriate for the political realm. Rawls agrees with Rosemont, then, that moral autonomy is not a capacity that is embraced and cultivated by all cultures, religions, or philosophical views. “Whatever we may think of autonomy as a purely moral value, it fails to satisfy, given reasonable pluralism, the constraint of reciprocity, as many citizens, for example, those holding certain religious doctrines, may reject it. Thus moral autonomy is not a political value, whereas political autonomy is.”

Rawls understands political autonomy as “the legal independence and assured integrity of citizens and their sharing equally with others in the exercise of political power.” Whereas moral autonomy formulates an ideal of self-governance, political autonomy formulates the independence and integrity of citizens. When Rawls says citizens are politically autonomous, he means that they have the capacity and the opportunity to participate in the political process. Political autonomy is not a formulation of a particular view of the self, rather, it is a formulation of the capacities and opportunities members of society have to participate in the formation of the basic

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53 Rawls, LP, 146.
54 Ibid.
structure of their society. For the purposes of this discussion, what is important about Rawls’s view of citizens as politically autonomous is that he affirms the importance of individual capacities and opportunities while affirming the important role communities play in developing these capacities. Thus, Rawls does not see persons as individuals in isolation, achieving their own identity through an exercise of moral autonomy.

Rosemont writes that if we understand the early Confucians accurately, we will come to appreciate the difference between defining ourselves “in terms of kinship and community rather than as individual rights-bearers.”\(^{55}\) According to the latter view, individuals have rights “by virtue of their being true, autonomous individuals, free to pursue their own projects rather than being obliged to assist me with mine.”\(^{56}\) Rosemont takes this to be substantially different from the Confucian view, where the first priority is “membership in a community with each member assuming a measure of responsibility for the welfare of all other members.”\(^ {57}\) I agree with Rosemont’s claim that this account provides both an accurate description of human capacities and a compelling view of how humans should interact with one another as members of a society. The problem is simply that Rosemont mistakes Rawls as an opponent of this view.

Rawls’s contention is that members of a just society are obligated to assist other members of society in their pursuit of certain goods, and his second principle of justice makes it clear that members of such a society have both the capacity and the willingness

\(^{56}\) Ibid., 221.
\(^{57}\) Ibid., 225.
to assume a measure of responsibility for the welfare of other members. The important point here is that Rawls does not hold the extreme position on autonomy that Rosemont attributes to him. However, it will be sufficient for my purposes to note that Rosemont’s critique of Rawls is based on two fundamental misrepresentations of Rawls’s view, the first concerning the nature of the original position and the second concerning Rawls’s affirmation of political instead of moral autonomy in the political realm. Additionally, we have seen that Rosemont makes two criticisms of Western philosophers in general, when in reality these criticisms are directed at specific areas of Western philosophy. First, Rosemont says Western philosophers are no longer concerned with questions of “how better to live, and how to live with one another in this complex world.” As we have seen, Rosemont generalizes about Western philosophy by calling attention to a view that may be true particularly of certain Western epistemologists and metaphysicians, but does not apply to most Western ethicists. Second, Rosemont criticizes Western philosophers for adopting a view that sees persons as “purely logical and calculating autonomous individuals” who are isolated and alienated from one another. Neither of these criticisms apply to all, or even many, of the views found in Western ethics, political philosophy, the tradition of Western liberalism, nor, as we have seen, Rawls.

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58Rawls formulates the two principles of justice in the following way: “(a) Each person has the same indefeasible claim to a fully adequate scheme of equal basic liberties, which scheme is compatible with the same scheme of liberties for all; and (b) Social and economic inequalities are to satisfy two conditions: first, they are to be attached to offices and positions open to all under conditions of fair equality of opportunity; and second, they are to be to the greatest benefit of the least-advantaged members of society (the difference principle)” (JF, 42-3).
III. The Distinction Between Terms and Concepts

At this point, it should be clear to the reader why it is appropriate to discuss Rosemont’s work before proceeding with my comparison of Rawls and the Analects in the following chapters. Much of the literature discussing Western liberalism and Confucianism takes Rosemont’s view as its starting place or adopts a version of the basic dichotomy between Western and Confucian philosophy that Rosemont presents. Many scholars accept the claim that a number of terms associated with Western liberalism do not exist in classical Chinese, and that as a result there are no concepts of democracy, justice, or rights in Confucian thought. Specifically, Rosemont says the early Confucians lack “analogous lexical items for most of the Western basic vocabulary for developing moral and political theories,” including rights, democracy, justice, autonomy, freedom, liberty, subjective, objective, individual, rational, choice, private, public, dilemma, and ought. In this section I explore the claim that because there is not a term for justice in classical Chinese, there is not a concept of justice in classical Confucianism. I discuss Rosemont’s formulation of this claim, as well as other discussions of the absence of a term for justice in Confucianism.

In the essay “Confucian Justice: Achieving a Humane Society,” R.P. Peerenboom writes that “there is not even a term for ‘justice’ in the classical lexicon of [Kongzi].” Peerenboom says, “The most likely candidate, yi, has been translated in terms associated with justice—righteousness, duty, principle, obligation—though never, to my knowledge, consistently as justice.” He concludes that the absence of a term for justice should not

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59 For example, David Hall and Roger Ames rehearse Rosemont’s claims about autonomy almost verbatim in “The Irrelevance of Rights-Based Liberalism.” [The Democracy of the Dead: Dewey, Confucius, and the Hope for Democracy in China, 105-108.]

trouble us, because “such Western-influenced language is inappropriate in the Confucian context.”

Other scholars echo Peerenboom’s view. In “The Aesthetics of Justice: Harmony and Order in Chinese Thought,” Alan Fox writes, “Yi as it functions in the Confucian sense is a kind of moral intuition, a sense of right and wrong, which might be described as serving justice, but certainly not as constituting it.”

Similarly, in “Social Justice: Rawlsian or Confucian?” Ruiping Fan notes that there is no term for justice in the Confucian tradition, and writes, “Apparently, the classical Confucian literature, although profound in its social concern and rich in its range of topics, does not have a single concept congruent with the Western notion of justice . . .”

Even those who maintain that the concept of justice is found in Confucianism usually attempt to identify a term for justice in order to show that the concept exists. In the essay, “Trying to do Justice to the Concept of Justice in Confucian Ethics,” Yang Xiao argues that the term yi can be translated as justice in some instances, which “is enough for proving that there is a concept of justice in ancient China.”

Despite the obvious differences between these views, Peerenboom, Fox, and Fan all share the assumption that in order for there to be a concept of justice there must be a term for it, while Xiao maintains that having a term is sufficient for having a concept.

These assumptions lead these scholars to conclude with Rosemont that without a term for

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justice in classical Chinese, we cannot show that the concept of justice exists in classical
Confucian thought. In addition to the larger question of whether the absence of a term
conclusively indicates the absence of a concept, there are three additional questions that
need to be answered in order to understand fully the position of these scholars. If one
thinks there must be a term for justice in order for there to be a concept of justice, then
one’s answer to any one of these questions could lead one to conclude that there is no
concept of justice in classical Confucianism. The first question is whether one defines a
term as a single lexical item that consistently and uniquely corresponds to the concept it
denotes. Second, there is the question of whether one thinks justice is a part of the
semantic range of any classical Chinese characters. The third question is how one
understands the concept of justice. I consider these questions in order, before addressing
the larger question of whether the absence of a term implies the absence of a concept.

In order to understand why the question of how one defines a term is important
for my analysis, it will be helpful to recall that Rosemont maintains that there are “no
traditional close semantic equivalents” for “rights,” “justice,” or “democracy” in most of
the world’s languages. Rosemont and Peerenboom both acknowledge their indebtedness
to the writings of Alasdair MacIntyre on this point. According to MacIntyre, “there is no
expression in any ancient or medieval language correctly translated by our expression ‘a
right’ until near the close of the middle ages: the concept lacks any means of expression
in Hebrew, Greek, Latin or Arabic, classical or medieval, before 1400, let alone in Old
English, or in Japanese even as late as the mid-nineteenth century.”\(^{65}\) Rosemont and
Peerenboom add classical Chinese to MacIntyre’s list of languages lacking a term for “a

right.” Further, they endorse MacIntyre’s claim that it follows from the fact that there was no term for “a right” that no one in these cultures had a concept of rights. According to MacIntyre, if a concept “lacks any means of expression” in a given language, then the members of the culture who speak that language have no acquaintance with the said concept. Before discussing the reasons why I think this view is problematic, we should notice that MacIntyre moves quickly from the claim that there is no expression “correctly translated by our expression ‘a right’” to the conclusion that “the concept [of a right] lacks any means of expression” in the languages he mentions. MacIntyre does not specify what he means by a “correct translation” of an expression. Peerenboom seems to interpret him as meaning a single lexical item that uniquely corresponds to the concept of a right. Rosemont refers to the absence of “traditional close semantic equivalents” or “analogous lexical items.” Although he only lists single lexical items as examples of terms that cannot be found in classical Chinese, it is possible that by “traditional close semantic equivalents” he allows for multiple lexical items or phrases to serve as translations. In any event, although he claims that there is no term for “justice,” he does not develop this claim like Peerenboom and some of the other scholars I have mentioned do. Peerenboom only considers single lexical items (characters) in classical Chinese as possible candidates for translations of the term justice. Specifically, as we have seen, he dismisses the possibility that yi 義 (“rightness”) could be a translation of justice based on the fact that although yi has been translated “in terms

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67 Italics mine.

associated with justice,” it has never been translated “consistently” as justice. In doing
this, I think Peerenboom implies that there is not a term for justice in classical Chinese
because there is not a single lexical item that uniquely corresponds to the concept of
justice on each occasion of its use.

First let us consider the matter of how a term is defined. It is important to be clear
that if I have correctly understood Peerenboom’s view, the only correct translation of
“justice”—and the only evidence that the concept of justice exists in classical
Confucianism—is a single Chinese character that uniquely designates the concept of
justice on each occasion of its use. However, the claim that a single lexical item must
uniquely and consistently correspond to a concept in order to serve as a correct
translation for it is not a reasonable requirement for translators. As any translator knows,
lexical items—especially those denoting concepts rather than discrete objects—simply do
not have such narrow semantic ranges. Furthermore, the standard definition of a term is
not a single lexical item that uniquely and consistently corresponds to a concept. There
are two separate issues here: the matter of whether a term is “a single lexical item” and
the matter of whether a term must “uniquely and consistently correspond” to the concept
it specifies. Regarding the first matter, on the standard definition, a term consists of one
word or a group of words, or for our purposes, one Chinese character or a group of
characters. Some concepts are expressed not by single lexical items but by combinations
of them, or phrases.

Philip J. Ivanhoe provides some helpful examples of terms that consist of multiple
lexical items. He argues that the larger problem here is the failure to distinguish between

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a term and a concept, or what he calls a kind of “character fetishism,” in which Chinese characters are thought to be identical to the ideas they represent. He points out that one way in which this problem manifests itself is the tendency to neglect the fact that multiple words or characters sometimes form terms that express concepts. Ivanhoe provides the example of the claim that there was nothing called “Confucianism” during the time of Mengzi. He says,

While there was not a single word designating the Confucian tradition at this point in time (the term \textit{ru} surely had a much broader and unregulated meaning), there was a very clear sense among a certain group of scholars that Kongzi had preserved and codified a particular set of ideas, practices, and related classical texts that embodied ‘the Way of the former sages.’ This was described as ‘the Way of Kongzi’ and was advocated and defended against competing ways.

The terms Ivanhoe mentions appear in Mengzi 3B9 and are comprised of four characters each (\textit{xian sheng zhi dao} 先聖之道 and \textit{Kongzi zhi dao} 孔子之道). These are examples of multiple lexical items that are used to denote a single concept. As Ivanhoe points out, Kongzi’s followers used terms that clearly show they were conscious of themselves as a distinct group dedicated to certain themes, texts, and to the person Kongzi. That is, they had a concept of themselves as a distinct school of thought—which is the concept we denote by the term “Confucianism.”

\footnote{Philip J. Ivanhoe, \textit{Ethics in the Confucian Tradition: The Thought of Mencius and Wang Yang-ming}, 2\textsuperscript{nd} ed. (Indianapolis, IN: Hackett Publishing Company, 2002), 210-11 n. 2. Edward Slingerland appropriates this term in his essay, “Conceptual Metaphor Theory as Methodology for Comparative Religion.” Slingerland discusses “word fetishism,” and points to Rosemont’s work as an example of this problem (p. 36 n. 9).}


\footnote{Mengzi 3B9 discusses the competing teachings and ways of Mo Di 墨翟 (Mozi 墨子) and Yang Zhu 楊朱. This makes it clear that not only did Kongzi’s followers understand themselves as Confucians, but they also understood that there were other distinct schools of thought. In 7B36, we find another good example of the Mohists and Yangists as competing options to the Confucians, and in this passage the word \textit{ru} (儒) clearly designates the followers of Kongzi as distinct from other groups. Also significant is Mengzi}
As we can see, the absence of a single lexical item designating a concept does not mean that there is not a term for that concept, because a term can consist of multiple lexical items. In addition, though, there is the matter of whether a term must uniquely and consistently designate a concept. According to this claim, the term for justice must only mean justice on each occasion of its use. This view, however, excludes terms with a broad semantic range—terms that have different meanings on different occasions of their use, and that may in some cases carry more than one meaning on the same occasion of their use. For instance, it might be the case that yi 義 (“rightness”) is sometimes used in the sense of appropriateness, while other times it is used to mean justice, and on still other occasions it is used to describe something that is both appropriate and just.

We can see then how the view that terms are single lexical items or that they uniquely and consistently correspond to concepts could lead someone to conclude that there is not a term for justice at all, when in fact there might be a term that consists of multiple lexical items or has a broad semantic range, or both.

It is possible that I have mis-attributed to Peerenboom the view that a term is a single lexical item that uniquely and consistently corresponds to a concept. As I have said, I think his remarks about rights and justice imply that he accepts this view. However, if he does not accept this view, then when he says there is no term for justice in

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3A4, which describes members of the Tillers and serves as an example of someone studying a thinker and becoming committed to the life he advocates.

73 Rosemont acknowledges that a number of Chinese characters have a broad semantic range. For example, he points out with Roger Ames that li has the following meanings: “ritual,” “rites,” “customs,” “etiquette,” “propriety,” “morals,” “rules of proper behavior,” and “worship.” They further claim that “in classical Chinese the character carries all of these meanings on every occasion of its use” (Roger T. Ames and Henry Rosemont, Jr., The Analects of Confucius: A Philosophical Translation, 51).

74 As we will see in the next section, this is kind of argument Yang Xiao makes in “Doing Justice to the Concept of Justice in Confucian Ethics.”
classical Chinese he is actually making a stronger claim than I have attributed to him. On this view, which is the view I think Rosemont holds, *yi* does not mean justice on *any* occasion of its use, and justice is not part of the semantic range of any other classical Chinese character or phrase, either. I disagree with this claim, and in Chapter Four I will argue that an understanding of justice is clearly expressed in the *Analects*, even if justice is not a good one-word translation for any single Chinese character on most or any occasions of its use.

However, the matter of whether one thinks justice is a part of the semantic range of certain Chinese characters depends on how one understands the concept of justice. Rosemont seems to understand the concept of justice in relation to “purely logical and calculating autonomous individuals” who are isolated and alienated from one another. I think that Rosemont’s misrepresentation of Rawls is at the root of the problem here, because Rosemont associates the concept of justice with the “rights-based” understanding of the self. Later in this chapter we will see that Rawls distinguishes carefully between the concept of social justice—what justice means for institutions in general—and different conceptions of social justice, which further specify what constitutes justice in a society. In Chapter Three I will show that Rawls’s understanding of social justice is not tied to a view of isolated autonomous individuals who are alienated from one another.

I have yet to discuss the general question of whether the absence of a term implies the absence of a concept, if a term is understood as either a word or a phrase that may have a broad semantic range. It is my view that even if one could show that there is not *any* term that *ever* means justice in classical Chinese, this evidence would still not be sufficient to show that there is no understanding of the concept of justice in classical
Chinese thought. Philosophical discussions sometimes reveal an understanding of a concept without a single term designating the concept that is being discussed.

An example is seen in the well-developed account of the concept of self-cultivation without a single term that consistently represents the idea in the Analects. In Chapter Four I will argue that multiple terms that are used to describe self-cultivation and that this is significant in relation to my argument about a sense of justice, but for now I wish to note that throughout the text, the concept of self-cultivation is described through discussions of ideas such as de 德 (“Virtue”) and junzi 君子 (“exemplary person”).

Terms such as xue 學 (“learning”), xiu 修 (“cultivating”), si 思 (“reflecting”), xing 省 (“examining”), and xi 習 (“practicing”) describe some of the activities that constitute the process of self-cultivation. However, no one of these terms alone consistently designates the concept of self-cultivation. Yet despite the fact that no one of these terms is consistently used in all discussions of self-cultivation, few if any scholars of Confucianism would defend the claim that there is no concept of self-cultivation in the Analects. Similarly, although the character xing 性 (“human nature”) only appears twice in the Analects, it seems clear that Kongzi has a view about human nature, even if it is not an explicitly developed theory as in the works of Mengzi and Xunzi. The following

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75 Although xiu shen 修身 means “self-cultivation,” it is not used in the Analects. Clearly, however, self-cultivation is one of the central concepts in the text. So although self-cultivation evidently has a lexical representative in classical Chinese, the early Chinese texts that describe self-cultivation do not rely on this lexical representative to express and describe the concept of self-cultivation. I will discuss this matter in detail in Chapter Four. For now I simply wish to point out that the account of self-cultivation is established by a number of passages about fan xing 反省 (“self-reflection”), xue 學 (“study”), etc.

76 In 5.13 Zigong says “one does not get to hear the Master expounding on” the subject of human nature (xing 性), but there is agreement in the commentarial tradition that Kongzi did have views on human nature. This though seems to be the only thing the commentarial tradition reaches a consensus about on this passage. For a broad study of Analects 5.13, see Philip J. Ivanhoe, “Whose Confucius? Which Analects?” in Confucius and the Analects: New Essays, ed. Bryan W. Van Norden (New York: Oxford
claim in *Analects* 1.2 clearly reflects a view of human nature, without using the term *xing* 性: “The *junzi* applies himself to the roots. ‘Once the roots are firmly established, the Way will grow.’ Might we not say that filiality and respect for elders are the root of *Ren* (humaneness)?”

Here we see one respect in which the text of the *Analects* differs significantly from, say, Socratic dialogues. Socrates and his interlocutors typically search for definitions of terms as a way of understanding certain ideas, meaning that they are likely to repeatedly use a single term as they analyze and reject various definitions of the concept they are discussing. In the *Analects*, Kongzi and his interlocutors engage in discussions that concern a range of interlocking ideas. They provide detailed accounts of these ideas through dialogue and description but not by offering simple definitions to be rejected or affirmed, which means that they are not as likely to use a single term repeatedly in reference to the ideas they are discussing.

In summary, there are four reasons why I disagree with the claim that because there is no term for “justice” in classical Chinese, there is no concept of justice. First, I reject the claim that a term for justice in classical Chinese must be a single lexical item,

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University Press, 2002), 119-133. Regarding the other passages in the *Analects* that provide clarification on this matter, in 17.2 Kongzi says, “By nature (*xing* 性) people are similar; they diverge as the result of practice (*xi* 習).” At the very least, this indicates that Kongzi thought human nature did not determine people fully; their nature was malleable in some sense. This, of course, ties Kongzi’s view of human nature to his view of self-cultivation, which as we have seen does not have a single consistent lexical representative either.

The idea of human nature found in the *Shijing* 詩經 is also a good example. Although many poems in the *Shijing* give a sense of what the authors thought about human nature, the term for human nature (*xing*) only appears in one ode in the *Shijing* (Part III, Book II, Ode VIII, verses 2,3,4). The character is used three times in this ode, but even there some commentators take the term in the sense of *ming* (life) and translate it as “span of life” or “years.” [See James Legge, trans. *The Chinese Classics, Vol. IV. The She King or The Book of Poetry* (Hong Kong: Hong Kong University Press, 1960), p. 492. For a study that shows there is a complex and distinctive view of human nature in the *Shijing* despite the fact that the term *xing* is not prominent in the text, see Xu Fuguan, *Zhongguo renxing lun shi* (“A History of Human Nature in China”), xian qin pian (Shanghai: Shanghai san lian shudian, 2001).]
or a term that uniquely and consistently represents the concept of justice. This view does not allow phrases (combinations of multiple lexical items) or lexical items with a broad semantic range to be considered as terms. Second, I reject the claim that there is no combination of classical Chinese characters specifying concepts that together express an understanding of justice. Third, I reject the claim that the concept of justice implies a view of autonomous individuals who are isolated from others in some important sense. Fourth, I reject the view that the absence of a term is conclusive evidence of the absence of a concept because general discussions sometimes reveal that there is an understanding of a concept even if there is not a single term that consistently represents it.

What does this analysis tell us about the concept of justice in classical Confucianism? To begin with, it tells us that even if there is not a term in classical Chinese that clearly and consistently designates the concept of justice, it is not

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78 Xunwu Chen seems to make an argument that multiple terms together specify an appreciation for justice in “Justice as a Constellation of Fairness, Harmony and Righteousness” [Journal of Chinese Philosophy 24 (1997), 497-519]. For more on Chen’s argument, see n. 82.

79 The more general point I am making is that ideas and theories can be expressed without terms that specifically represent them. The behavior of pre-linguistic children provides evidence in favor of the related view that one can have a concept or theory without a term. For example, if one places a ball on the floor and then covers it with a blanket, a young child will look under the blanket for the ball. The child does not assume that the ball has disappeared. However crudely put, the child must have had a theory that the ball was under the blanket, even without yet having terms for things. I am aware that Rosemont disagrees with this position in his essay, “Against Relativism” [in Interpreting Across Boundaries, ed. Gerald J. Larson and Eliot Deutsch (Princeton, NJ: Princeton University Press, 1988), p. 40 n.11] He writes that “we may attribute prelinguistic awareness to babies . . . awareness of pain, heat, hunger, and so on, without talking of their having concepts; to be in pain is clearly distinguishable from having the concept expressed by the open English sentence ‘. . . is in pain.’ And on the basis of this distinction it can be maintained that people have both sensations and concepts and that we attribute specific sensations to people on the basis of either their behavior or their speech, but that we attribute concepts to them only on the basis of the latter.” However, it seems to me that we do indeed attribute concepts to people on the basis of their behavior, and it should be noted that in the example I give above, it is not simply a question of the child being in pain or being hungry. Rather, the child draws certain conclusions and acts based on what she sees, and that is certainly sufficient for saying she has a theory about what she will find when she looks under the blanket, that is, she expects to find the ball. For two excellent essays that take account of the recent work in both philosophy of science and developmental psychology on this subject, see Eric Schwitzgebel, “Children’s Theories and the Drive to Explain,” Science & Education 8: 457-488, 1999, and “Theories in Children and the Rest of Us,” Philosophy of Science, Supplemental Issue, 63: s202-s210, 1996.
necessarily the case that classical Chinese philosophers did not have an understanding of the concept of justice, or that they did not write about it. Accordingly, it may be the case that justice is part of the semantic range of some terms. It may also be the case that a range of different terms are used to describe the concept of justice, as is the case with the idea of self-cultivation. A general understanding of justice and an appreciation for the issues the concept of justice addresses may be apparent in the overall vision of society presented in the *Analects*, even if there is not a term that uniquely designates the concept of justice.

**IV. Justice in Confucianism**

Before discussing my interpretation of Rawls and the *Analects* in the following chapters, it will be helpful to provide an overview of the work that has focused on the subject of justice and the *Analects*. As I stated at the beginning of the chapter, this body of work is quite small. I begin by looking at Alan Fox’s essay on justice in Confucianism, because he takes Rawls’s view of justice as his starting place. I then examine the positions of R.P. Peerenboom and Ruiping Fan, who both reject Rawls’s understanding of justice in favor of a Confucian alternative. Finally, I examine an essay by Yang Xiao. Unlike the essays by Fox, Peerenboom and Fan, Xiao argues that there is a term for justice in classical Chinese.

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80 Most of the essays discussed here explore “Confucian justice” broadly, making no distinctions between the views of, for example, Kongzi, Mengzi and Xunzi, and later figures like Zhu Xi. Although I include these studies, I do not discuss work that focuses only on texts other than the *Analects* because I think there are important differences between the views presented in them. To my knowledge, there have been no studies that focus strictly on the understanding of justice in the *Analects*.

81 I will not discuss Chung-ying Cheng’s “Critical Reflections on Rawlsian Justice Versus Confucian Justice” [Journal of Chinese Philosophy 24 (1997), 417-26]. As far as I can tell, Cheng’s main point in this article is to provide editorial reflections on the other essays published on justice in an issue of JCP, which are discussed in this section.
In “The Aesthetics of Justice: Harmony and Order in Chinese Thought,” Fox’s aim is to find a term “that serves the same function in Chinese thought as the word ‘justice’ does in, for instance, Rawls’ thought.” He writes that his use of Rawls is justified because “along with arguing on behalf of thinking of justice in terms of fairness, [Rawls] also analyzes the qualities which any notion of justice must demonstrate.” He cites Rawls’s discussion of a conception of justice, which, as Fox puts it, “must constitute the guiding principle underlying the structure of society’s institutions.” The problem with Fox’s analysis is that he shifts from speaking of the purpose of the notion or concept of justice to Rawls’s discussion of a conception of justice. On Rawls’s view, which strictly concerns social justice, the concept of justice and a conception of justice are two different things. The latter is a technical term for Rawls. A conception of justice is comprised of “a characteristic set of principles for assigning basic rights and duties and for determining what they take to be the proper distribution of the benefits and burdens of social cooperation.” Examples of a conception of justice include utilitarianism, perfectionism, and justice as fairness. Rawls goes on to elaborate the distinction between a concept and a conception:

Thus it seems natural to think of the concept of justice as distinct from the various conceptions of justice and as being specified by the role which these different sets of principles, these different conceptions, have in common. Those who hold different conceptions of justice can, then, still agree that institutions are just when no arbitrary distinctions are made between persons in the assigning of basic rights and duties and when the rules determine a proper balance between competing claims to the advantages of social life. Men can agree to this description of just institutions since

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82 Fox, “The Aesthetics of Justice,” 44.
83 Ibid.
84 Ibid.
the notions of an arbitrary distinction and of a proper balance, which are included in the concept of justice, are left open for each to interpret according to the principles of justice that he accepts. These principles single out which similarities and differences among persons are relevant in determining rights and duties and they specify which division of advantages is appropriate. Clearly this distinction between the concept and the various conceptions of justice settles no important questions. It simply helps to identify the role of the principles of social justice (TJ, 5).  

On Rawls’s view, then, there is only one concept of justice, but there are many different conceptions of justice. We should keep in mind here that Rawls’s focus is social justice, and so he defines the concept of justice in terms of the justice of a society’s institutions—its political constitution and the principal economic and social arrangements (TJ, 6). A society’s institutions are just when they do not make arbitrary distinctions between persons in the assigning of basic rights and duties, and when the rules determine a proper balance between competing claims to the advantages of social life. Thus, we can see that on Rawls’s view, a society exhibits an understanding of the concept of justice when its institutions reflect the view that it is wrong to make arbitrary distinctions between persons in assigning the privileges and obligations they will have as members of society, and when the rules by which society operates address the question of who should be given which advantages of social life, and why.

Different conceptions of justice have different interpretations of what constitutes a “non-arbitrary” distinction, that is, which similarities and differences are relevant in determining rights and duties. They also have different definitions of what constitutes a “proper balance,” that is, which division of advantages in a society is seen as just. A conception of justice specifies how these terms are understood by formulating principles.

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86 I have used Theory as my base text because it is the text Fox cites. I have italicized “concept” and “conceptions” in order to highlight Rawls’s distinction.

87 In his articulation of justice as fairness, Rawls calls these features “fair terms of cooperation” (JF, 7).
of justice. As Rawls puts it, a conception of justice is an interpretation of the role of the principles of justice (TJ, 9). But in order to have the concept of justice, a society’s institutions only need to reflect two basic beliefs: (1) arbitrary distinctions between people should not determine what privileges and obligations they have as members of society, and (2) there should be a standard for determining who should enjoy the advantages of social life, and under what conditions. Conceptions of justice contain principles that explicitly address these two issues.

This discussion is relevant to my analysis because it shows that Fox is mistaken when he equates the concept of justice with a conception of justice. Fox explicitly states that he will adopt Rawls’s view of “the qualities which (sic) any notion of justice must demonstrate,” but he goes on to list some of the characteristics of the conception of justice Rawls proposes. The trouble here is two-fold. In addition to confusing the concept of justice with a specific conception of justice, Fox’s list of characteristics is not even one Rawls offers in his discussion of his conception of justice. Rather, Fox’s list of “at least four functions performed by an adequate conception of justice as it is described by Rawls” is a combination of statements gathered from four different places—and four different discussions—in Theory.88

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88Fox lists the following functions. In brackets following each, I have specified which parts of Theory he quotes from for support, noting the page numbers in the revised version in parentheses. a) it must help to inform the basic structure of society [TJ p. 7 (p. 6 rev.), from Rawls’s discussion of the fact that his analysis concerns social justice—the justice of institutions]; b) it must lead to increased social order [TJ p. ix (p. xix rev), from Rawls’s original Preface, where Rawls states that a theory of justice should introduce order and system into our considered judgments]; c) its legitimacy must be publicly acknowledged as making sense, so as to limit popular dissatisfaction and discontent (that is to say, there must be at least general agreement concerning the fairness of the basic structure of society) [TJ pp. 4-5 (pp. 4-5 rev.), from Rawls’s discussion of what constitutes a public conception of justice]; and d) it must help to clarify and prioritize moral considerations [cites TJ p. 53 (p. 46 rev.), from Rawls’s discussion of a moral theory at the conclusion of Ch. 1].
Clearly, Fox misattributes these “functions” of a conception of justice to Rawls, but I would like to make an additional observation about them. On Fox’s view, a conception of justice has the following four functions: it informs the basic structure of society, leads to social order, is widely agreed upon by members of society, and it helps to clarify and prioritize moral considerations. But if these qualities define the concept of justice, then it is difficult to distinguish justice from other social ideals. These four functions could easily be attributed to a wide range of virtues or guiding principles that are valued by a society; there is nothing about them that expresses a particular concern or range of concerns. This difficulty becomes even more evident in Fox’s discussion of the Chinese concept of zhi 治, which he translates as “governing” and “healing.” He writes that “zhi, though not a literal translation of the word ‘justice,’ does in fact fit the four characteristics we earlier identified as crucial to a viable notion of justice as Rawls conceives it.” Fox goes on to explicate his claim.

First, [zhi] does in fact speak to the basic structure of society, in that it provides parallels between the orderly state, the orderly family, and the exemplary individual; and these parallels work in both directions. Second, [zhi] leads to increased social order, which is clearly prioritized both in terms of regulating the state (zhi qi guo) and in terms of pacifying the whole world (tianxia ping). Third, in a society properly managed according to [the model of zhi], the analogical, micro/macrocosmic parallels will be obvious enough to everyone to ensure proper observance of the roles expected of each individual. That is because of the emphasis on “filial piety (xiao), which

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89In Human Rights and Chinese Thought: A Cross-Cultural Inquiry, Steve Angle points out that a similar problem emerges with claims that a concern for rights can be found in classical Confucianism. He says, “Rights have a distinctive conceptual structure that sets them apart from other moral commitments, like duties or ideals. The humanistic ideals found in the populist chapters of the Analects certainly resonate with some of the ideals expressed in the more general assertions of the UDHR [Universal Declaration of Human Rights], but this is very different from finding ‘rights’ in the Analects” (21). I take the same general position with respect to justice having a distinct conceptual structure that sets it apart from other moral commitments and social ideals.

90Fox’s primary Confucian source is The Great Learning.

ensures proper respect for family obligations and consistent conformity to traditional familial patterns. Finally, [zhì] clarifies and prioritizes moral considerations by emphasizing the importance of traditional virtues while still seeing the value of bringing those traditional values into coordination with contemporary and other contextual circumstances. Thus zhì serves a function in the Daxue similar to the notion of “fairness” in Rawls’ theory of justice. 92

Here again we see that Fox confuses the concept of justice with a conception of justice by claiming that zhì serves the function of “fairness” in Rawls’s theory. He seems to take fairness as the defining feature of the concept of justice. Fairness, though, is Rawls’s way of describing the character of the terms of co-operation in a particular conception of justice. He does not apply it to the concept of social justice. However, more important than Fox’s confusion between the concept of justice and a conception of justice and his misattribution of four characteristics to Rawls’s view is the fact that the four characteristics of justice Fox discusses do not distinguish justice from other ideas that help to organize a society.

Rawls tells us that the concept of justice is “but one part of a social ideal,” (TJ, 9) and he cautions that conceptions of justice, which offer an account of the distributive principles for the basic structure of society, are

... not to be confused with the principles defining the other virtues ... A complete conception defining principles for all the virtues of the basic structure, together with their respective weights when they conflict, is more than a conception of justice; it is a social ideal. The principles of justice are but a part, although perhaps the most important part, of such a conception. A social ideal in turn is connected with a conception of society, a vision of the way in which the aims and purposes of social cooperation are to be understood (TJ, 8-9).

I think it is clear that the characteristics Fox attributes to the concept of justice are actually characteristics of a social ideal. These characteristics do not offer guidance on the distributive aspects of the basic structure of society—the assigning of privileges,

92Ibid.
obligations, and the appropriate division of social advantages. For this reason, they are not characteristics of the concept of justice as Rawls understands it. But even without using Rawls’s definition of the concept of justice as opposed to a social ideal, we can see that the features Fox identifies are too general. On this view, justice does not deal with a particular set of concerns, rather, justice could be anything that informs the basic structure of society, leads to social order, is widely agreed upon by members of society, and helps to clarify and prioritize moral considerations. Fox is incorrect then in saying that zhi fits the four characteristics “crucial to a viable notion of justice as Rawls conceives it,” for three reasons: (1) Fox mistakes Rawls’s definition of a conception of justice for his definition of the concept or notion of justice; (2) Fox mistakenly asserts that Rawls offers a list of four characteristics of the concept of justice; (3) According to Rawls’s actual view, these four characteristics are some of the features of a social ideal rather than the defining features of the concept of justice.  

Given that Fox’s difficulties are so closely tied to his misrepresentation of Rawls’s view, one might ask why it is necessary to use Rawls’s definition of the concept of justice in order to understand Confucian views of justice. In contrast with Fox’s analysis, essays by R.P. Peerenboom and Ruiping Fan both reject Rawls’s definition of justice from the outset. In “Confucian Justice: Achieving a Humane Society,” R.P.

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Xunwu Chen’s account in the essay “Justice as a Constellation of Fairness, Harmony, and Righteousness” resembles Fox’s account in some important respects. Chen claims that “a Confucian conception of justice as a constellation of fairness, harmony, and righteousness” provides “a general intellectual, moral and institutional scheme for a fair society in which individuals can realize themselves as humans in a full sense” (498). Like Fox, he confuses the concept of justice with a conception of justice. He also misrepresents Rawls as claiming that “justice is fairness,” apparently because he confuses the name of the conception of justice Rawls advocates (justice as fairness) with Rawls’s definition of the concept of justice. In general, Chen seems to give an account of a social ideal rather than evidence for the concept of justice or a conception of justice in Confucianism. Because his argument closely resembles the arguments of Fox and Peerenboom in this regard, I will not discuss it in further detail here.
Peerenboom claims that no terms analogous to “justice” as Rawls uses it are used to describe the qualities of a good society in Confucianism. Peerenboom concludes that there is no concept of justice in Confucianism that resembles the concept of justice in Western philosophy, but he maintains that we can still use the word “just” to describe Kongzi’s vision of the good society. In “Social Justice: Rawlsian or Confucian?” Ruiping Fan agrees with Peerenboom that the good Confucian society can be called just, even though Confucian philosophers do not have a concept of justice as Western philosophers understand it. Before examining these accounts of justice in Confucianism, I would like to note that Peerenboom’s and Fan’s discussions of Western liberalism and of Rawls in particular contain a number of inaccuracies and misrepresentations. However, because I have already addressed some of these problems in my discussions of Rosemont and Fox, I will focus primarily on how these authors understand the subject of justice in Confucianism.

Peerenboom writes that in “unpacking the conceptual framework of Confucian ethics, care must be taken to avoid the imposition of our deep-seated presuppositions about what justice, in a broad sense, must be like.” He says that he will “take up the Confucian position as both a challenge and a potential corrective to Rawlsian justice and

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94 Much of Peerenboom’s argument in this essay also appears in R.P. Peerenboom, Law and Morality in Ancient China (Albany: SUNY Press, 1993), 126-137.

95 For example, Peerenboom refers to “the Enlightenment-Rawlsian social contract theory of justice” (18) as a single theory, even though Rawls clearly distinguishes his view from, and indeed, offers a critique of, earlier social contract theories.

96 It is worth noting that Peerenboom and Fan both misrepresent the nature of the original position and Rawls’s understanding of autonomy. For example, see Peerenboom pp. 18-19, 24, 30, and Fan pp. 149-50.

Its role in ethical and socio-political theory.”98 Peerenboom goes on to describe MacIntyre’s distinction between a “morality of law,” defined by its emphasis on “protecting the basic rights of individuals and prohibiting those actions which would destroy the bonds of the community,” and a “morality of virtues,” which is concerned with “standards of excellence—‘those qualities of mind and character which would contribute to the realization of their common good or goods.’”99 Attributing the former view to Rawls and the latter to Kongzi, Peerenboom writes, “Consequently, [Kongzi] is not preoccupied, as are his counterparts who advocate a morality of law, with justice, rights, liberties, and the like. He calls not for legal justice, but for humanity.”100 Peerenboom does not offer an account of why a morality of law and a morality of virtues are mutually exclusive, but notes that “where contractarians see ahistorical individuals in competition with each other, [Kongzi] sees persons bound together by deep historical roots.”101

According to Peerenboom’s interpretation of Kongzi, “one must earn the rights granted to him and guaranteed by society” by demonstrating “one’s credentials as a participating member of society.”102 One does this by showing one’s “willingness to participate in collective living, to search for a cooperative solution, to become humane

98Ibid.
100Ibid., 21. Peerenboom’s primary Confucian source is the Analects.
101Ibid.
102Ibid., 22.
(ren).” Peerenboom says this occurs through specific acts of yi 義 (‘rightness’).

Noting that yi should not be translated as “justice,” Peerenboom goes on to translate it as “aesthetic judgments (yi) of harmony” and also as “creative signification.” He writes that “one must respond to the particular circumstances with an open mind, and with a willingness to be flexible and to join in a cooperative search for a harmonious solution.” This response is called for because Confucianism “is not a morality of universal laws or principles, but a morality of virtues within an historical tradition. There is not…a given ideal or standard of excellence, which is universally operable and straightforwardly applicable in every context.”

Peerenboom writes that Rawls’s particular conception of justice “incorporates certain features central to many other theories of justice,” namely the assumption that “society consists of atomistic individuals in competition with each other, each solely interested in maximizing his or her own end.” Peerenboom says this view of human beings is similar to a Hobbesian “war of all against all” and a Rousseauian view in which noble savages living free and independent lives enter into social relationships only when it is convenient to do so, given their individual interests. “Given the assumption that society is an arena in which self-interested individuals compete for scarce resources and

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103Ibid., 23.

104Ibid., 22, 25.

105Ibid., 26.

106Ibid., 25. In Chapter Four it will be apparent that I disagree with Peerenboom’s understanding of Confucian ethics. For now it will suffice to say that I think there are clear ideals and standards of excellence in texts like the Analects, Mengzi, and Xunzi, which are designed to apply across the wide range of situations humans encounter. Simply because there are not universal laws or principles that are formulated as they are in, say, Kantian ethics, does not mean that there are not other kinds of standards that apply.

107Ibid., 19.
goods, what will be needed, it is asserted, is a set of principles, rules or laws which will adjudicate between conflicting claims plus some mechanism to enforce the law. This will ensure that there is sufficient order for society to function. Peerenboom concludes that Western understandings of justice are concerned with “securing a minimum level of basic rights for alienated individuals unable or unwilling to participate cooperatively in collective living . . . .” He writes that for Kongzi, this view amounts to failure because it assumes “that there is no way to overcome the self-interested passions and desires of the animal world and to move beyond the bestial level of the Hobbesian order.”

It is simply not the case that all Western theories of justice, or even all contractarian theories of justice, assume something like a view of human nature in which individuals are seen as atomistic and solely interested in maximizing their own ends. Peerenboom’s description of Western liberal views of persons is reminiscent of Rosemont’s understanding of autonomy. Peerenboom cites Rawls’s description of the original position in support of his attribution of this view to Rawls, making the mistake of interpreting the original position as a theory of human nature. Although I will reserve further discussion of Rawls for Chapter Three, it is worth noting that Rawls explicitly argues against some of the views Peerenboom attributes to him. For now it will suffice to say that compared with other liberal theories of justice, Rawls takes one of the most optimistic and socially-oriented views of human beings when he claims that humans have a fundamental capacity for co-operation and a “sense of justice” that leads them to make sacrifices for the least advantaged members of society.

108Ibid.
109Ibid., 23.
Peerenboom argues that for Kongzi, the ideal of society is social harmony and humaneness instead of justice. But after reiterating the differences between Confucianism’s “morality of virtues” and the Western “morality of law,” Peerenboom says,

In summary, for Confucius a just state is a humane state, one in which each member contributes his or her unique talents to the realization of the highest quality of social harmony achievable. Justice is an aesthetic judgment of quality rather than a deduction from first principles, justice as a harmonization of the disparate interests and potentialities in the creation of a maximally humane state is a matter of degree, and context dependent. In contrast, what many today take to be the ‘first virtue’ of society, a justice of equal rights, liberties, and opportunities for all guaranteed under the law is, for Confucius, an admission of failure on our part to achieve humanity and to realize a truly humane and hence just society.\textsuperscript{110}

What is puzzling here is Peerenboom’s use of the word “just,” because he argues that harmony and humaneness are the highest achievements in Confucian society. He has not argued that justice is somehow a part of this achievement. Rather, Peerenboom maintains that according to Kongzi, “to give priority to laws aimed at establishing justice” is “an acknowledgement of the bankruptcy of the human spirit, of human creativity and understanding. It is to accept that we, like the beasts, are only capable of pursuing narrowly defined self-interests.”\textsuperscript{111} On Peerenboom’s view, there is no room for laws, principles or standards concerning justice in Kongzi’s conception of society. But Peerenboom makes the stronger claim that Kongzi is \textit{opposed} to principles and standards that work to ensure justice in a society. It is important to be clear on what this claim amounts to. On Peerenboom’s interpretation, Kongzi does not think societies should work to prevent arbitrary distinctions among individuals when deciding who will have certain privileges or obligations, nor is there anything wrong with distributing the


\textsuperscript{111}Ibid., 32.
advantages of society randomly, *unless one thinks it is inharmonious or inhumane to do so*. The only reasonable explanation for Peerenboom’s insistence on retaining the word “just” to describe Kongzi’s society is that he thinks cases of injustice would *always* be considered inhumane.

Peerenboom smuggles in the concept of justice at the end of his essay by claiming that “a just state is a humane state.” But he does not argue for this claim. In order to support the view that the concept of Ren 仁 (“humaneness”) always includes or assumes an understanding of justice, one would have to argue that humaneness is a standard of excellence according to which certain actions are always prohibited. This, however, is precisely the view of Confucianism Peerenboom argues against, because as he puts it, “There is not...a given ideal or standard of excellence, which is universally operable and straightforwardly applicable in every context.” If this claim itself is taken straightforwardly, then there is no conduct that would always be considered inhumane, because such a view would make humaneness a standard of excellence that is universally operable.

An additional problem is that Peerenboom does not tell us what he means when he says that justice is “an aesthetic judgment of quality” and “a harmonization of the disparate interests and potentialities.” Earlier in the essay, after claiming that yi 義 (“rightness”) should not be translated as justice, he says that yi means “aesthetic

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112 By saying that a just state is a humane state, Peerenboom gives the impression that he endorses Rawls's view where right precedes but can help constitute the good. Clearly, though, he does not endorse this view. His claim might be more clearly stated as “a humane state is a just state.”

113 Ibid., 25.
judgments of harmony.”¹¹⁴ There is a striking similarity between Peerenboom’s
definition of yi as “aesthetic judgments of harmony” and his definition of the Confucian
concept of justice as “aesthetic judgments of quality.” This similarity makes his
insistence that yi does not mean justice rather puzzling. One way to make sense out of
these claims would be to assume that Peerenboom means to say that yi does not mean
justice in the Western sense. Thus, we must interpret Peerenboom as claiming that
Confucians have an entirely different definition of “justice.” But one has to wonder,
then, why he insists on using the word “justice” if he actually means something else by it.
If Peerenboom defends the view that the Confucian tradition does not have anything like
the concept of justice as Western philosophers understand it, then he should not use the
word justice to describe the different concepts he attributes to the Confucians.

A similar set of difficulties emerges in Ruiping Fan’s essay on justice and
Confucianism. Fan argues that the Confucian vision of society is geared toward the goal
of Ren 仁 (“humaneness”), but Fan claims that a society centered around humaneness
constitutes a “Confucian theory of justice.”¹¹⁵ It is unclear precisely what Fan takes to be
the defining features of a theory of justice. First, Fan notes that Rawls’s view of social
justice primarily concerns the distribution of fundamental rights and duties and the
determination of the division of advantages.¹¹⁶ Fan then claims that classical Confucian

¹¹⁴Ibid., 21.

¹¹⁵In what follows I attempt to provide an accurate account of Fan’s argument. However, there are
a number of problems with this essay. The first difficulty is Fan’s reference to “Confucians” as though
Confucians are a single entity. Fan makes use of the Analects, the Mengzi, the Xunzi, The Great Learning
and The Doctrine of the Mean, as well as later texts like The Debate on Salt and Iron, which was written in
the Han dynasty, and the work of Huang Zongxi, a Qing dynasty scholar. Fan moves freely between these
texts as though they are advocating the same position, but he does not defend this claim, which is tenuous
at best. In addition, Fan misrepresents Rawls’s view on a number of issues.

¹¹⁶Fan, “Social Justice: Rawlsian or Confucian?” 144.
literature “does not have a single concept congruent with the Western notion of justice in the sense of giving everyone their due.” Later, Fan refers to Rawls’s “general idea of social justice” as “treating people as equals.” Fan denies that the Confucian tradition has an understanding of justice that resembles any of these ideas.

Fan admits that the Confucian theory of justice does not address the same things Rawls’s theory addresses, but unlike Peerenboom, Fan argues that the Confucians would agree with Rawls that there ought to be fundamental principles to direct the institutions, laws, and policies of society. However, “Confucians could not affirm that such principles primarily concern the distribution of primary social goods.” Fan maintains that the Confucians still have a theory of justice though, and, notably, he makes the stronger claim that there is a conception of justice in Confucianism—not only an understanding of the concept of justice. Fan writes, “Given that we can follow Rawls to understand social justice as involving establishing fundamental moral principles to guide the structure of society, such principles are already implicit in classical Confucianism.” Fan goes on to describe the “Confucian theory of justice” as consisting of the moral principles that are designed to guide the structure of society.

Fan uses a quotation from the Mengzi to support the claim that “For Confucians, all that matters is that there should be ren (humanity) and yi (righteousness).” On the Confucian view, Fan writes, “a theory of the good for humans cannot be defined without

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117 Ibid., 145.
118 Ibid., 149.
119 Ibid., 145.
120 Ibid., 145.
121 Ibid., 147. Fan cites Mengzi 1A:1
reference to primary human virtues.”

Fan then concludes, “the Confucian theory of justice cannot fail to involve a theory of the virtues.” From this point on, Fan seems to equate a social ideal with a theory of justice. He writes, “the ultimate concern of the Confucian general justice is loving humans by pursuing intrinsic goods rather than distributing instrumental benefits.” But Fan does not specify in what sense “loving humans”—which he associates with “the principle of ren”—is related the concept of justice. Although Fan goes on to say that we can “derive, from this general principle [of ren], more concrete principles to guide society generally, politically, and economically, so as to lay out a complete picture of Confucian social justice,” Fan actually offers an account of the central place of ren (“humaneness”) in Confucian moral philosophy.

Fan does, however, relate ren to Rawls’s discussion of justice, claiming that ren requires us to embrace the inequalities that Rawls’s conception of justice is designed to eliminate:

Since Confucians take such inequalities and asymmetries as important moral features of human society, a Confucian conception of social justice must take them into account. Indeed, in exploring social justice, Confucianism offers sufficient space for both human equality and human inequality. Although the Confucian principle of ren requires loving all humans, this requirement is not that one should love all humans equally or similarly.

There are two things to note here. First, Rawls’s “general idea of social justice” is not “treating people as equals,” as Fan asserts. As we have already seen, on Rawls’s

122 Ibid.
123 Ibid.
124 Ibid., 148.
125 Ibid.
126 Ibid., 150.
127 Ibid., 148.
definition of the concept of social justice, a just society does not prohibit inequalities or distinction between persons *per se*. A just society only seeks to avoid *arbitrary* distinctions between persons. Even on the conception of justice Rawls defends, certain kinds of inequalities are called for and defended by him as conducing to the best. For Rawls, these inequalities are designed to achieve social justice. According to Fan, “For Confucians, what social justice ought to maintain is harmonious relations among unequals.” But it seems that what Fan actually means here is that what a *good society* ought to maintain is harmonious relations among unequals. Fan concludes that “compared with Rawls’ view of ‘justice as fairness,’ the Confucian view can be noted as ‘justice as harmony.’” Fan does not specify why and in what sense the concept of harmony amounts to a conception of justice in particular, instead of a social ideal.

Although Fan refers to the “Confucian view of social justice, with its principle of ren as the essential line to direct political systems,” he does not provide an account of how loving all humans equally or similarly relates to the principles of justice that direct a society’s institutions. One could interpret Fan as arguing that the principle of ren should replace principles of justice, but then it is unclear why Fan continues to use the word justice, and why he maintains that “principles to guide society generally, politically, and economically” are “already implicit in the principle of ren.” I think it is relatively clear that what Fan describes is not a theory or conception of justice, but a rather a social ideal. So although Fan describes his discussion as illustrating “basic disagreements and

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128Ibid., 152.
129Ibid.
130Ibid.
contrasts between Rawls and classical Confucians regarding social justice,” what the essay actually illustrates is that classical Confucians have a conception of the good society, and that this sort of view is different from having a conception of justice as it is understood by Rawls. Although it is not entirely clear, Fan’s main point seems to be that Confucians see the good as prior to and constitutive of the right, whereas Rawls maintains that justice as fairness is prior to any thick conception of the good.

Fan as well as others whose work I have surveyed and in certain respects criticized here are right for arguing against any simple reading of Kongzi as a liberal defender of Rawlsian justice. This is an important point with which I wholly agree. Nevertheless, because he and others tend to conflate having a concept or sense of justice with Rawls’ particular conception or theory of justice, they do not see important aspects of Kongzi’s and Rawls’s respective views. I want to acknowledge that all of the essays I have discussed aim to show that there are genuine ethical and political views in Confucian texts, and that these understandings of human societies are worthy of our consideration. I agree with these claims. However, according to the interpretations of Fox, Peerenboom, and Fan, the Confucian tradition does not address the set of concerns addressed by the various Western conceptions of justice. I think the reason these scholars still maintain that there is a conception of justice in Confucianism is attributable to the confusion of a social ideal and a conception of justice. To recall, a social ideal, is “connected with a conception of society, a vision for the way in which the aims and purposes of social cooperation are to be understood.”

There is no question that in early

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131 I am using Rawls’s distinction between the concept of justice and a social ideal (TJ, p. 9).
Confucianism, we find articulations of the latter. But these authors all attempt to define “justice” much more broadly than it can reasonably be understood.

Peerenboom, Fox, and Fan identify virtues and practices that, according to certain Confucian texts, help members of society to get along better. These seem to serve, at least on Fox’s and Fan’s view, as guiding principles for society. But simply because a society has guiding principles does not mean that they are principles of justice, or that they are just principles. One would have to show that guiding principles addressed a certain range of concerns in order to show that they tell us something about a society’s view of justice. The final essay I consider in this chapter attempts to show that the Confucian tradition addresses the same range of concerns that conceptions of justice address. This essay takes a distinctly different approach from the previous studies I have examined in this chapter because it acknowledges that in order to show that there is an understanding of justice in Confucianism, the understanding that is to be argued for must have a family resemblance to the concept of justice that is the focus of Western conceptions of justice.

In “Justice in Confucian Ethics,” Yang Xiao argues that in the Analects and the Mengzi, “the concept expressed by the term yi [義 (“rightness”)] in Confucian ethics is a concept of justice.” Xiao discusses Rawls’s distinction between the concept of justice and a conception of justice, and correctly notes that “particular ideas such as equal rights, which can only be found in a modern liberal conception of justice” are not a part of the concept of justice itself. Xiao goes on to maintain that “we can indeed find the concept of justice in Confucian ethics,” although “the concept of justice we should define has to

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be sufficiently empty, broad and abstract.”\footnote{Ibid., 523, 529.} Xiao rejects Rawls’s definition of the concept of justice as “too narrow” in two different ways. First, Rawls maintains that the first characteristic of just institutions is that they do not make arbitrary distinctions between persons in assigning basic rights and duties. Xiao suggests that instead of “rights and duties,” we should substitute “a variety of things, such as wealth and rank, profits, a wife, respect, honor, and so on.”\footnote{Ibid., 533.} Second, Xiao objects to Rawls’s definition of justice because Rawls confines his analysis to social justice, that is, to a society’s political constitution and principal economic and social arrangements. Xiao writes that “we need a concept of justice that can apply to basic structures (or institutions) and actions and persons as well” because the concept of justice as it is expressed by yi does not only concern social justice.\footnote{Ibid.}

One might object to Xiao’s rejection of Rawls’s definition of the concept of justice for two reasons. First, Xiao rejects Rawls’s “basic rights and duties” rather quickly. In the context of defining the concept of justice, what Rawls means by “rights and duties” are the privileges and obligations members of society have as members of society. It is only in his articulation of justice as fairness—a particular conception of justice—that Rawls develops a more particular understanding of what these rights and duties are and how they work.\footnote{I provide a defense of this claim in Chapter Three.} So even if one does not think it is accurate to say that members of Confucian society as it is envisioned in the Analects and the Mengzi have “rights and duties,” if one acknowledges that they have distinct privileges and obligations
qua being members of society then Rawls’s definition of the concept of justice is not especially problematic. One might also object to Xiao’s claim that Rawls’s account of the concept of justice does not concern the justice of actions and persons. Although it is correct to say that Rawls confines his analysis to the justice of institutions, his understanding of social justice does concern the justice of actions and persons as they relate to establishing, applying, and upholding the principles of justice in a society. As I will show in Chapter Three, Rawls’s discussion of the capacity for a sense of justice makes it clear that his account of whether a society’s basic structure is just depends upon citizens having a sense of justice. However, given that Xiao is interested in the concept of justice as a whole and not social justice in particular, it is understandable why he would not want to rely upon Rawls’s definition as a starting place.

As an alternative to Rawls’s proposal, Xiao adopts the following definition of justice: “treat like cases alike and different cases differently,” derived from H.L.A. Hart’s observation that the leading precept of justice has traditionally been formulated this way. Hart acknowledges that this precept is a central element in the idea of justice, but he cautions that “it is by itself incomplete and, until supplemented, cannot afford any determinate guide to conduct.” However, Xiao accepts it as sufficient for determining whether actions, persons, and the basic structure of a society are just: “Formulated in this way, the concept of justice can apply to actions, persons, etc, not just to the basic structure of society.” Xiao then offers two examples—one from the Mengzi and one from the Analects—that reflect the view that “If someone invariably sticks to a general

\[137\] Xiao, 533.

\[138\] Ibid., 533-534.
rule, he does not have yi.’”\textsuperscript{139} On Xiao’s view, these passages provide evidence that distinctions are made between different kinds of cases, showing that the precept “To be yi is to treat like cases alike and different cases differently” is operative rather than a rule that all cases of all kinds should be treated alike. Xiao acknowledges that yi does not always refer to treating like cases alike and different cases differently. However, he writes, “The fact that sometimes [yi] behaves like ‘just’ is enough for proving that there is a concept of justice in ancient China.”\textsuperscript{140}

For now I will set aside the issue of whether the textual evidence Xiao provides is sufficient to show that the precept “To be yi is to treat like cases alike and different cases differently” is consistently used in the \textit{Mengzi} and the \textit{Analects}. The question that interests me is whether a convincing case can be made that the use of this precept is sufficient for showing that the concept of justice is expressed in these texts. The question then is whether treating like cases alike and different cases differently is an acceptable definition of justice. Of the various accounts of justice in Confucianism we have examined, Yang Xiao’s account is the only one that offers a definition of justice as a distinct concept that applies to a certain range of cases in a way that other important Confucian concepts do not. Xiao’s account is also the only one that offers an understanding of justice that addresses some of the distinct issues various Western conceptions of justice address. However, there is clearly more to the concept of justice than treating like cases alike and different cases differently; social justice typically involves distributive principles regarding opportunities and goods in general and

\textsuperscript{139}Ibid., 540.

\textsuperscript{140}Ibid., 531.
principles regarding responsibilities to the worst off. Xiao’s definition only accounts for one aspect of the concept of justice. This problem emerges partly because Xiao focuses on only one classical Chinese concept, arguing that yi alone means justice. As my discussion in the previous section of this chapter indicates, this approach suffers from the failure to distinguish between a term and a concept, and specifically the assumption that a single lexical item—and not multiple terms or general discussions—represents a concept. Accordingly, Xiao must define justice without exceeding the semantic range of yi, and in doing so much of what we usually mean when we use the word “justice” is excluded from the definition.

Xiao, like Fox, Peerenboom and Fan, thinks that the Confucian tradition has concepts that are designed to achieve some of the same outcomes as Western conceptions of justice. Several of these authors take note of Rawls’s well-known claim, “Justice is the first virtue of social institutions.” It may be in part because of this claim that they each go on to argue for the Confucian concepts that can, on their view, be considered the first virtues of Confucian society. The most interesting thing about these essays is that despite the fact that they all claim to discuss a Confucian concept, conception, or theory of justice, none of them show that there is any concept that approximates social justice as we ordinarily understand it. The question then is what defines our ordinary understanding of the concept of social justice. What qualities cause us to use the words “just” or “unjust” with respect to different aspects of a society’s basic structure? In the next chapter, I discuss Rawls’s answer to this question.
CHAPTER THREE

The Sense of Justice in Rawls

... if citizens are acting for the right reasons in a constitutional regime, then regardless of their comprehensive doctrines they want every other citizen to have justice. So you might say they’re all working together to do one thing, namely to make sure every citizen has justice. Now that’s not the only interest they all have, but it’s the single thing they’re all trying to do. In my language, they’re striving toward one single end, the end of justice for all citizens.¹

One place to begin an examination of Rawls’s theory of justice is with the fact that Rawls is interested in offering an account of justice that can be understood and accepted by a wide range of people. Rawls offers a conception of justice that is strictly political so that it will be acceptable to citizens committed to a diverse array of comprehensive views. Such diversity is a prominent feature of the modern liberal democracies to which Rawls intends his analysis to apply. Democracy, for Rawls, implies diversity or “reasonable pluralism,” which results in part from the freedom to pursue different conceptions of the good—conceptions not dictated by the state. As such, we should expect profound differences in belief and conceptions of the good so that “public agreement on the basic questions of philosophy cannot be obtained without the state’s infringement of basic liberties.”² As a result of this fact, Rawls holds that in order to secure agreement between citizens on political questions of justice in a democracy, we must avoid controversial philosophical, moral, and religious questions.

¹ “Commonweal Interview with John Rawls,” CP, 622.

Still, as the passage above indicates, Rawls maintains that citizens in certain kinds of societies are united in a very important pursuit: “the end of justice for all citizens.” This chapter explores Rawls’s claim that members of society have both the capacity and the motivation to strive for the end of justice for all members of society. Specifically, I explore the fundamental capacities and motivations Rawls ascribes to human beings in order for his account of justice to work. I focus primarily on Rawls’s claim that humans have a *fundamental capacity* for co-operation and a “sense of justice” that leads them to make sacrifices for the least advantaged members of society. I argue that Rawls’s definition of the concept of social justice is *not* tied to a view of isolated autonomous individuals who are alienated from one another, but, to the contrary, that Rawls takes an optimistic and socially-oriented view of human beings in his account of moral psychology and basic human capacities. I also show that Rawls’s account relies heavily on the idea that a sense of justice is a capacity to be cultivated within the context of the family, community, and larger society, and that the fully developed sense of justice resulting from this process of cultivation is the single most important thing in the stability of a just society over time.

Given the analysis presented in Chapter Two, it is clear then that my argument in this chapter addresses a fundamental misreading of Rawls that has been prevalent not only in discussions comparing Western liberalism and Confucianism but also in communitarian critiques of Rawls’s work. One particular communitarian criticism that has served as a resource for a number of comparative studies is Alasdair MacIntyre’s claim that Rawls, and liberalism more generally, fosters a form of asocial individualism. The dimension of Rawls’s work that I discuss in this chapter, namely the cultivation of a
sense of justice, has been neglected in this literature. I will argue that Rawls’s understanding of justice rests on his view that members of just societies have the capacity to cultivate certain postures toward other members of society, postures which include emotional and dispositional traits constituted by a sense of justice. Most fundamentally, this posture is characterized by a genuine concern for others, and by the desire to advance everyone’s position and affirm everyone’s good.

I. Political Liberalism and the Concept of Justice

It is important to begin by recalling the distinction Rawls draws between the concept of justice and a conception of justice we examined in Chapter Two, because it will be an important distinction throughout this study. There is a profound difference between advancing an explicit theory of justice, and presenting a consistent concept of justice expressed by making a cluster of specific claims about human needs, capacities, tendencies, and the like. So much has been written on Rawls’s theory of justice that I will focus instead on the concept of justice Rawls unveils through the claims he makes about human needs, capacities, and tendencies, as well as through his articulation of the specific conception of justice that is called “justice as fairness.”

At the end of Chapter Two we were left with the question of what defines our ordinary understanding of the concept of justice. We should recall that Rawls confines his analysis to social justice, which specifically concerns a society’s institutions, that is, the extent to which its political constitution and principal economic and social arrangements are just. So the question before us is how we are to understand the idea of social justice. Our initial inclination might be to ask what qualities cause us to use the words “just” or “unjust” with respect to different aspects of a society’s basic structure,
but Rawls makes an important qualification about this sort of question at the beginning of *Theory*. He writes that he is primarily interested in considering a “strict compliance” as opposed to a “partial compliance” theory. Strict compliance studies the principles of justice that would regulate a well-ordered society, whereas partial compliance studies principles that govern how we are to deal with injustice, including theories of punishment, just war theory, and civil disobedience (TJ §2, p. 8). Rawls maintains that studying the ideal theory—justice in a well-ordered society—is the best place to begin because it is first necessary to understand what we are aiming for in order to provide a basis for addressing the pressing problems of how we are then to deal with injustices. A well-ordered society, on Rawls’s definition, is a society in which everyone accepts the same publicly agreed-upon principles of justice, has an effective sense of justice that enables them to understand and apply those principles, and acts according to the requirements of their position in society (JF, 8-9).

Rawls maintains that his understanding of the concept of justice does in fact “tally with tradition” (TJ §2, p. 9). That is, he maintains that his understanding of justice does not conflict with the traditional notion of social justice, and he turns to Aristotle’s view to show that this is the case. Rawls says that Aristotle’s view, from which most familiar formulations of justice derive, is that of refraining from *pleonexia*, or gaining some advantage for ourselves by seizing what belongs to others (e.g., their property, rewards, offices), or by denying others that which is due to them, (e.g., the fulfillment of a promise, the repayment of a debt, the showing of proper respect).  

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3 *Nichomachean Ethics*, 1129b-1130b5.
steady and effective desire to act justly, and Rawls notes that Aristotle’s view presupposes “an account of what properly belongs to a person and of what is due to him. Now such entitlements are, I believe, very often derived from social institutions and the legitimate expectations to which they give rise. There is no reason to think that Aristotle would disagree with this, and certainly he has a conception of social justice to account for these claims” (TJ §2, p. 10). Here Rawls notices that Aristotle’s account of just actions and persons depends on an account of social justice.

Even in his earliest work on justice, Rawls notes that it is important to distinguish between justice as a virtue of particular actions or persons and social justice because the meaning of the concept varies according to whether it is applied to particular actions, persons, or institutions. He acknowledges, though, that these meanings are connected. The definition of justice Rawls adopts is designed to apply to the justice of the basic structure, which Rawls considers to be the most important case of justice because it very often serves as a foundation for deriving other sorts of specific accounts of justice.

Rawls’s account of social justice not only provides a basis for responding to partial compliance and how to deal with questions of societal injustice, but also to more specific cases of just actions and dispositions. This is one reason why he says that when the basic structure of a society is just, a society has secured “background justice” (JF, 10).

Rawls’s theory, then, is not offered as a description of ordinary meanings but as an account of “certain distributive principles for the basic structure of society. I assume that any reasonably complete ethical theory must include principles for this fundamental problem and that these principles, whatever they are, constitute its doctrine of justice” (TJ

4,“Justice as Fairness,” CP, 48.)
§2, p. 9). He writes that questions of justice and fairness arise when free persons with no authority over one another are participating in their common institutions, and when they are working to settle or acknowledge the rules that define their association and to determine the resulting shares in each person’s benefits or burdens. On Rawls’s view the concept of justice is defined by the role of its principles in assigning rights and duties and defining the appropriate division of social advantages. A conception of justice, on the other hand, is an interpretation of this role.

In Chapter Two I made what could be considered a controversial claim: that when used within the context of Rawls’s definition of the concept of justice, “rights and duties” simply means the privileges and obligations members of society have because they are members of society. It is important to establish that this is, indeed, the case, because as we have seen, the idea of “rights” in the technical sense of human rights, which “attach equally to all individuals, whatever their sex, race, religion, talents or deserts, and [that] provide a ground for a variety of particular moral stances” is a relatively late development. As we have seen, MacIntyre maintains that “those rights which are alleged to belong to human beings as such and which are cited as a reason for holding that people ought not to be interfered with in their pursuit of life, liberty and happiness” had yet to be formulated in the ancient and medieval periods. In using the idea of “rights” to define the concept of justice, Rawls does not mean to imply that Aristotle and other philosophers who expressed an understanding of the concept of justice had developed the idea of human rights in this technical sense. Rather, when Rawls says the concept of justice is defined by the role of its principles in assigning rights and duties, he

5 The Sense of Justice,” CP, 97.

is talking about basic rights and duties as part of the basic structure of society. By rights, Rawls means citizens’ “opportunities and their ability to take advantage of them,” which are specified by a society’s basic structure and thus are something citizens have by virtue of having citizenship when they are born in a particular country (JF, 10). It is important to remember that the principles of justice that regulate a society’s basic structure do not apply directly to or regulate internally institutions and associations within society (e.g., firms, labor unions, churches, or families). These institutions and associations are affected by the principles of justice but “these constraints arise indirectly from just background institutions within which associations and groups exist, and by which the conduct of their members is restricted.”

The important point for now is that by “rights” Rawls simply means the opportunities and privileges citizens have qua citizens. Similarly, when Rawls discusses “duties” in the context of his definition of the concept of justice, he does not mean moral duties as they are defined within Kantian moral theory. This much is clear from the fact that Rawls’s understanding of the concept of justice is sufficiently broad to include a wide range of views, including those of utilitarian and Aristotelian persuasions. In addition, Rawls’s goal is to provide a theory of justice that will apply to modern liberal democracies in which reasonable pluralism is a fact, which provides another reason why Rawls is so careful about avoiding definitions of concepts such as “rights” and “duties” that are specific to certain comprehensive theories, such as the comprehensive liberalisms of Kant or Mill. It is important to learn not to trip over Rawls’s language when he uses terms that we might be accustomed to associating with particular philosophers or

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7Rawls notes, for example, that churches can excommunicate heretics, but they cannot burn them (JF, 10-11). Later in this chapter, I will discuss this matter specifically with respect to families.
theories, including “rights,” “duties,” “principles,” “free,” and “equal.” Rawls provides
careful definitions of all of these terms, and despite the fact that he is deeply influenced
by Kant, he does not use them in the same way Kant does. This should not surprise us
given the fact that he clearly distinguishes his view from comprehensive theories.
Further, Rawls expects us to remember that even the specific conception of justice he
calls “justice as fairness” is not a form of comprehensive liberalism. His understanding
of the concept of justice is of course much broader yet. We will be reminded of just how
broad Rawls’s definitions are when we examine what Rawls means by “free and equal
persons” below.

Now that we have established that Rawls’s understanding of the concept of justice
concerns the privileges and obligations that members of a society have qua members of
society, let us turn to the details of Rawls’s definition of the concept of justice. For
Rawls the concept of justice is specified by the role played by different sets of principles,
or conceptions of justice. The concept of justice is what different conceptions of justice
have in common; it is what they are all designed to accomplish. Institutions are just
when (1) no arbitrary distinctions are made between persons in the assigning of basic
rights and duties, and when (2) the rules that govern society determine a proper balance
between competing claims to the advantages of social life. Different conceptions of
justice define what distinctions count as “arbitrary” and what constitutes a “proper
balance,” but the key is that they formulate principles stating which similarities and
differences are relevant and not arbitrary in determining what rights and duties citizens
will have, and which division of advantages is appropriate (TJ §1, p. 5).
In order to understand exactly what the concept of justice consists of, it will be helpful to note that according to Rawls, the basic structure of society must be the primary subject of justice because its effects are profound, and they are present from the start. Societies are structured in such a way as to contain various social positions. People are born into particular families and thus begin their lives in certain social positions that are not of their own choosing, and do not result from their own actions. These social positions shape one’s hopes and expectations, and the opportunities one has to fulfill those hopes and expectations are determined in part by the political system as well as economic and social circumstances. Rawls writes that “the institutions of society favor certain starting places over others. These are especially deep inequalities. Not only are they pervasive, but they affect men’s initial chances in life; yet they cannot possibly be justified by an appeal to the notions of merit or desert. It is these inequalities, presumably inevitable in the basic structure of any society, to which the principles of social justice must in the first instance apply” (TJ §2, p. 7). Rawls addresses these inequalities by emphasizing that the concept of justice seeks to address arbitrary distinctions between persons in the assigning of basic rights and duties, and also when he speaks of establishing a proper balance of competing claims to the advantages of social life.

Most straightforwardly, the concept of social justice is the idea that citizens should not be automatically penalized for the disadvantages they face by no choice of their own. A regard for justice tells us that arbitrary distinctions should be eliminated, and that a proper balance of competing claims in a society means individuals should have some control over their destinies. When Rawls says that citizens work for the ideal of
justice for all, he is positing a good they all value—the good of having choices and control over one’s own life and the good of not suffering for the inequalities in their prospects in life that arise from contingencies.

Social justice occurs when a society’s institutions include regulations that preserve background justice. Here, society is conceived of in a certain way—a society that values social justice takes as its ideal “the idea of society as a fair system of cooperation between citizens as free and equal” (JF, 56). This is Rawls’s particular articulation of the concept of justice, and he goes on to formulate a conception in which he specifies what principles of background justice are presupposed by a society that takes this idea of society seriously. Rawls’s articulation of “justice as fairness” contains some of his most important remarks about human capacities and motives that create the possibility of achieving a just society. Although my analysis assumes a basic familiarity with Rawls’s conception of justice, it will be helpful to review some of the central features of “justice as fairness” as we explore the concept of justice as Rawls understands it. However, it should be remembered that Rawls’s particular conception of justice is not our primary concern.

On that note, it is appropriate to turn to the idea of society as a fair system of cooperation between citizens as free and equal. In Rawls’s earliest formulation of his view of justice, the 1958 paper “Justice as Fairness,” he writes that the fundamental idea in the concept of justice is fairness.⁸ In his later work, he retains and develops this idea at some length, noting that in calling a particular conception of justice “justice as fairness,” he does not mean that the concepts of justice and fairness are the same (TJ §3, p. 11).

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⁸“Justice as Fairness,” CP, 47.
Rather, Rawls means that fairness is one aspect of justice, albeit the fundamental aspect. Indeed, fairness is at the heart of Rawls’s critique of the classical utilitarian conception of justice, for “it is this aspect of justice as fairness for which utilitarianism, in its classical form, is unable to account.”

Rawls focuses on “the usual sense of justice in which it is essentially the elimination of arbitrary distinctions and the establishment . . . of a proper balance between competing claims.” The concept of fairness, on Rawls’s view, relates to right dealing between persons who are cooperating with or competing against one another, as when one speaks of fair games, fair competition, and fair bargains. The question of fairness arises when free persons, who have no authority over one another, are engaging in a joint activity and among themselves settling or acknowledging the rules which define it and which determine the respective shares in its benefits and burdens. A practice will strike the parties as fair if none feels that, by participating in it, they or any of the others are taken advantage of, or forced to give in to claims which they do not regard as legitimate.

On Rawls’s view, what makes the concept of fairness fundamental to justice is the possibility of the mutual acknowledgement of principles by free persons who have no authority over one another. Accordingly, the claim that humans have an innate capacity for social co-operation is one of the most basic claims on which Rawls bases his analysis of justice. Fundamental to Rawls’s understanding of social justice is “the idea of society as a fair system of social cooperation over time from one generation to the next” (JF, 5). The central organizing idea of a fair system of social cooperation is worked out in conjunction with the idea of citizens as free and equal persons, which I return to below, and the idea of a well-ordered society (JF, 5; Cf. TJ §7, §3). There are three essential features of social cooperation. First, social cooperation is guided by publicly recognized

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9 Ibid.

10 Ibid., 48.

11 Ibid., 59.
rules and procedures that are accepted as appropriate by those whose conduct they regulate. Second, the idea of cooperation includes the idea of fair terms of interaction, and third, the idea of each participant’s good. For Rawls, citizens’ capacities and motivations, especially with respect to their interactions with one another, are integrally connected with the idea of fair terms of cooperation. Fair terms specify “an idea of reciprocity, or mutuality: all who do their part as the recognized rules require are to benefit as specified by a public and agreed-upon standard” (JF, 6; Cf. PL, 16). Reciprocity is the midpoint between altruism, in which one acts impartially for the interests of others, and mutual advantage, where each individual benefits equally.

We can see how reciprocity is distinct from mutual advantage on the one hand, because it does not draw on purely selfish motives. On the other hand, reciprocity is clearly distinct from total altruism because individuals cannot reasonably be expected to support a social arrangement unless they stand to benefit from it in some way. Above all reciprocity is a relation among citizens in a well-ordered society, and according to Rawls, justice as fairness “perches” on this relation (PL, 17). When reciprocity characterizes the relations among citizens, they do not desire to preserve the benefits of previous injustices, which means they do not always benefit equally. In order to overcome previous injustices, benefits must be distributed in such a way as to provide the greatest benefit to the victims of those injustices. These are the individuals Rawls calls the least advantaged members of society. Reciprocity then is a relation “expressed by principles of justice that regulate a social world in which everyone benefits judged with respect to an appropriate benchmark of equality defined with respect to that world” (PL, 17). According to Rawls,
the two principles of justice\textsuperscript{12} taken together formulate an idea of reciprocity among citizens. For Rawls, reciprocity functions (1) in the original position to establish the basic principles of justice and (2) in the well-ordered society for the appropriate application of these principles.

Rawls writes that justice as fairness regards citizens as “free and equal.” Citizens are free in that “they conceive of themselves and of one another as having the moral power to have a conception of the good” (JF, 19). Rawls understands a conception of the good as “an ordered family of final ends and aims which specifies a person’s conception of what is of value in human life or, alternatively, of what is regarded as a fully worthwhile life” (JF, 19). Part of what it means for citizens to be free is that they are capable of revising and changing their conception of the good on reasonable and rational grounds, if they choose to (JF, 21). A second way in which citizens view themselves as free, according to Rawls, is that they see themselves as “self-authenticating sources of valid claims” (JF, 23). This means that they are entitled to make claims on their institutions in order to advance their conception of the good, provided that it falls within the range permitted by the public conception of justice.

Citizens are equal in that “they are all regarded as having to the essential minimum degree the moral powers necessary to engage in social cooperation over a complete life and to take part in society as equal citizens” (JF, 20). Here, it is especially important to recognize that “equal” for Rawls does not mean that citizens think of each

\textsuperscript{12} Rawls formulates the two principles of justice in the following way: “(a) Each person has the same indefeasible claim to a fully adequate scheme of equal basic liberties, which scheme is compatible with the same scheme of liberties for all; and (b) Social and economic inequalities are to satisfy two conditions: first, they are to be attached to offices and positions open to all under conditions of fair equality of opportunity; and second, they are to be to the greatest benefit of the least-advantaged members of society (the difference principle)” (JF §13, pp. 42-43).
other as having the same position in life. Rawls’s discussion of equality does not concern
the number or kinds of responsibilities people have, their economic position in society, or
other features of their particular situation. It is important to recognize this fact because
one of the defining features of Rawl’s account of justice is that even in just societies,
people are not equal in these ways. Just societies are committed to responding to some
kinds of inequalities in particular ways, but justice does not mean that we should strive to
eliminate all inequalities.

Rather, when Rawls says citizens are equal he means that they have some of the
same basic capacities by virtue of being human. According to Rawls, citizens have two
moral powers: the capacity for a sense of justice, which includes the capacity to
understand, to apply, and to act from principles of justice, and the capacity as just
individuals to have, to revise, and to pursue a conception of the good, which is discussed
above. Rawls’s discussion of citizens’ equality focuses on the way citizens conduct
themselves within their individual communities and within the larger, well-ordered
society. Rawls notes that one’s conception of the good is typically set within and
expresses certain comprehensive religious, philosophical, and moral doctrines that exist
and are cultivated within individual families and communities. “The members of a
community are united in pursuing certain shared values and ends (other than economic)
that lead them to support the association and in part bind them to it” (JF, 20). Citizens’
capacity for a sense of justice, on the other hand, enables them to function in a well-
ordered society where not everyone shares their particular conception of the good. “The
citizens of a well-ordered society affirm the constitution and its political values as
realized in their institutions, and they share the end of giving one another justice, as society’s arrangements require” (JF, 20).

In sum, for Rawls “free and equal persons” are free in the sense that they conceive of themselves and others as being able to have a conception of the good that is of their own choosing. They are equal in the sense that they have the basic moral capacity to form, revise, and pursue that conception of the good, as well as the capacity for a sense of justice. This freedom and equality concerns some of the minimal capacities required of a human being for participation in a society, and the idea of free and equal persons belongs to a political conception of justice. It is not taken from a psychological or philosophical view of personhood, although it is compatible with one or more of these conceptions. Rawls writes that political conceptions of justice are identifiable by the fact that their principles, standards, and values “are not the result of applying an already elaborated and independent religious, philosophical, or moral doctrine, comprehensive in scope and general in range” (JF, 182). Political conceptions of justice instead formulate a family of highly significant moral values that apply to the basic structure of society. These are political values because they arise from two special features of the political relationship. First, these relationships occur within the basic structure of society, which we enter only by birth and exit only by death. Second, the political relationship is regularly imposed on citizens, some of whom may not agree with the justificatory reasons for the basic structure of political authority (the constitution), or with the grounding of certain laws to which they are subject.

In short, the political relationship is not voluntary in some of the ways that associational, familial, and personal relationships are. The latter kinds of relationships
are not backed by a coercive power such as the state’s machinery for enforcing its laws, and we could, if we wanted to, enter or leave these kinds of relationships (JF, 182). Even in cultures where individuals are highly unlikely to leave familial or other important relationships because of certain culturally specific values, they still have the freedom to leave associational, familial, and personal relationships. It may be the case that they will not exercise that freedom or even reflect on the possibility of exercising it, but clearly whether or not one is willing or likely to consider certain kinds of actions as real possibilities is different from being *incapable* of considering certain kinds of actions. Being prevented by a coercive power from leaving the political relationship is quite different from being unwilling or unlikely to consider leaving associational, familial, and personal relationships because of one’s cultural values.

I want to say a bit more about Rawls’s view of persons and their attachments here. Although he has often been misunderstood as claiming that our moral identities are not essential to who we are—a misunderstanding that we examined in Chapter Two—Rawls in no way denies the centrality of our commitments, attachments, and relationships to our identities. Indeed, he says “If we suddenly lost them, we would be disoriented and unable to carry on. In fact, there would be, we might think, no point in carrying on. Our conceptions of the good may and often do change over time, however, usually slowly but sometimes rather suddenly. When these changes are sudden, we are particularly likely to say that we are no longer the same person” (JF, 22). Rawls acknowledges then that our commitments, attachments, and relationships are so central to who we are that changes in these areas of our lives constitute a profound and pervasive shift in our moral identities. Rawls’s point with respect to free and equal persons, however, is that even when our
personal commitments, attachments, and relationships change, we still have the same privileges and obligations as citizens. In other words, our public or legal identity is unaffected by changes in our moral identity. Rawls does not mean to minimize the impact or importance of changes in our commitments and attachments. He simply points out that despite these changes, we are still members of society in the same basic sense that we were before (JF, 23).

II. Rawls and the Sense of Justice

As we can see, the meaning and role of the idea of free and equal persons in Rawls’s work is grounded in his attribution of two moral powers to human beings (JF, 18-19; Cf. TJ §3-4, pp. 10-19). In what follows, I explore in greater detail the first of these powers: the capacity for a sense of justice, which is the capacity to understand, apply, and act from a public conception of justice that characterizes fair terms of social co-operation. According to Rawls, this capacity, together with the capacity for a conception of the good, gives citizens the capacity to be full participants in a fair system of cooperation.

The capacity for a sense of justice is both the source of citizens’ considered judgments about justice and an important part of their motivation to value social justice. It is evident in citizens’ attitudes and in their actions. As Rawls puts it, this capacity, combined with the capacity for a conception of the good, enables persons “not only to engage in mutually beneficial social co-operation over a complete life but also to be moved to honor its fair terms for their own sake” (JF, 19). It is the latter part of what

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13Rawls also notes that our personal identity as this concept is understood by some writers in the philosophy of mind does not change when our moral identity changes.
Rawls says here that is of greatest interest in this analysis, because as we will see, a sense of justice is what moves citizens to honor the terms of cooperation that ensure fairness.

Rawls understands a sense of justice as the realization that members of a society need fair terms of social co-operation, and as the reason why they value fair terms. A sense of justice expresses the willingness, if not the desire, to act in relation to others on terms everyone can endorse publicly (PL, 19). For Rawls, the very idea of fairness is an interesting one from the standpoint of moral psychology. Even in his early discussions of justice, Rawls notes that “acting fairly requires more than simply being able to follow the rules; what is fair must often be felt, or perceived, one wants to say.”

The fact that Rawls talks about a sense of justice as the ability to feel and perceive what is fair, and also as what “moves” citizens to act justly, is essential to understanding what it really means to have a sense of justice. We should recall here that in his initial formulation of the concept of justice at the beginning of Theory, Rawls acknowledges the reality of injustice in societies. With the source of social injustice in view, it is much easier to see why societies need to address social justice. It is also easier to see what a sense of justice makes us feel about injustices, on Rawls’s view. He writes that the basic structure of society needs to be the primary subject of justice because the kind of injustices that result from the structure of society are profound and present in a person’s life right from the start. As we saw earlier in this chapter, Rawls tells us that “the institutions of society favor certain starting places over others. These are especially deep inequalities. Not only are they pervasive, but they affect men’s initial chances in life; yet they cannot possibly be justified by an appeal to the notions of merit or desert. It is these

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inequalities, presumably inevitable in the basic structure of any society, to which the principles of social justice must in the first instance apply” (TJ §2, p. 7).

Rawls is specific about the kinds of inequalities he is referring to, and so there should be no confusion about the fact that the inequalities he discusses are tied to those contingencies over which we have no control. His clearest articulation of this is found in his discussion of justice as fairness, but it tells us a great deal about his understanding of a sense of justice and how it works more generally. Rawls writes that inequalities in citizens’ life-prospects are affected by three kinds of contingencies: “(a) their social class of origin: the class into which they are born and develop before the age of reason; (b) their native endowments (as opposed to their realized endowments); and their opportunities to develop these endowments as affected by their social class of origin; (c) their good or ill fortune, or good or bad luck, over the course of life (how they are affected by illness and accident; and, say, by periods of involuntary unemployment and regional economic decline).” Rawls adds that even in a well-ordered society, “our prospects over life are deeply affected by social, natural, and fortuitous contingencies, and by the way the basic structure, by setting up inequalities, uses those contingencies to meet certain social purposes” (JF, 55). He goes on to point out that “if we ignore the inequalities in people’s prospects in life arising from these contingencies and let those inequalities work themselves out while failing to institute the regulations necessary to preserve background justice, we would not be taking seriously the idea of society as a fair system of cooperation between citizens as free and equal” (JF, 56).

Most basically, our sense of justice causes us to feel for those who are born into those situations in life that society does not favor. It is our sense of justice that tells us
there is something wrong if children have no real chance to advance in society because they were born into a poor family. Here we see most clearly that Rawls is describing a very basic and deep moral sense that human beings have. It is tied to their ability to feel for others, which is one reason why he speaks of citizens being “moved” by their sense of justice. No doubt another reason why Rawls uses the language of citizens being moved is to emphasize how powerful a sense of justice can be. It moves human beings to sacrifice some of their own benefits for the sake of others, and citizens with a well-developed sense of justice will not hesitate to say that it is right—and just—to give the child born into a poor family certain compensations that will not be given to a child born into a wealthy family. Here we can see clearly that the sense of justice is most basically the sense that everyone deserves a chance, and that it is wrong to let certain individuals wither away as the result of their circumstances.

Rawls’s earliest formulation of this idea is found in the 1963 essay, “The Sense of Justice.” He takes the idea of a sense of justice from Rousseau’s *Emile*, where Rousseau asserts that “the sense of justice is a true sentiment of the heart enlightened by reason, the natural outcome of our primitive affections.” In this early essay, Rawls develops a psychological construction to illustrate the way in which Rousseau’s thesis might be true and to answer some questions about the idea of a sense of justice, including the question of what accounts for people doing what justice requires. Rawls’s answer is the capacity for a sense of justice. He maintains that one’s sense of justice “may be aroused or assuaged, and it is connected not only with such moral feelings as resentment and indignation but also, as I shall argue, with natural attitudes such as mutual trust and

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Rawls says that because the ability to do what justice requires is so closely tied to these very important moral feelings, people “would lack certain essential elements of humanity” if they did not have a sense of justice. From the beginning of his work on a sense of justice, then, Rawls ties this capacity to being human.

One of Rawls’s most fundamental claims is that a sense of justice is the result of “a certain natural development.” He maintains that the psychological construction he offers provides an account of the stages of development by which the sense of justice arises from “our primitive natural attitudes.” Rawls does not claim that this psychological construction represents what actually takes place in every human. However, he says he has tried to make it reasonably plausible, including “only those psychological principles which are compatible with our conception of ourselves as moral beings.”

His goal, then, is not to make an argument that all people develop their natural capacity for a sense of justice in exactly the same way, but to show that, indeed, people seem to have a natural capacity for a sense of justice and that certain experiences and environments are particularly conducive to its development.

In “The Sense of Justice,” Rawls develops a psychological construction of the way the sense of justice might develop. It consists of three stages representing the development of three forms of guilt feelings: authority guilt, association guilt, and

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17 Ibid.
18 Ibid., 97.
19 Ibid., 100.
20 Ibid.
principle guilt.\textsuperscript{21} Rawls is influenced by Piaget’s work here, noting that he follows the main lines of Piaget’s account of the development of the sense of justice, incorporating Piaget’s distinction between the morality of authority and the morality of mutual respect.\textsuperscript{22} Rawls uses the relationship between parents and children to show how the sense of justice is initially nurtured through the development of authority guilt. Children love, trust, and have faith in their parents, and these natural attitudes are normally not misplaced. Additionally, children tend to be “moved by certain instincts and regulated only (if at all) by rational self-love,” and so they come to love their parents and to recognize the love their parents have for them.\textsuperscript{23} Rawls notes that while the capacity for love is innate, it requires special circumstances for its development. “The parents’ love for the child, then, may explain a child’s love for his parents . . . . He does not love them in order to ensure, say, his security, although he could seem to love them for this reason. That his love of them does not have a rational explanation follows from the concept of

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\textsuperscript{21}In the final formulation of his work on justice, Rawls says he would not make any substantial changes to the moral psychology behind the three-stage development of the morality of principles originally articulated in “The Sense of Justice” and also discussed in Theory (JF, 196). The only change Rawls makes to this account in Theory is terminological: instead of referring to authority, associational, and principle forms of guilt, he refers to these stages as three different forms of morality. However, his basic argument concerning what defines these three areas does not change. In what follows, I occasionally refer to Theory simply because Rawls sometimes states things more clearly there.
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\textsuperscript{22}Ibid. See Jean Piaget, The Moral Judgment of the Child (London: Routledge and Kegan Paul, 1932). One might have reservations about whether Rawls’s psychological construction is consistent with his claim that “The conception of the person itself is meant as both normative and political, not metaphysical or psychological” (JF, 19). Rawls clearly bases his account of a sense of justice on Piaget’s work. Rawls’s account is not a particularly controversial psychological account in the sense that it seems quite straightforward to say that children initially learn to follow rules and to feel guilty for violating them in the context of their relationship with their parents. I am not, then, sure why Rawls feels the need to deny that he presents a psychological conception of the person. He is clearly trying to avoid an account that is tied to a comprehensive doctrine, which is why he avoids metaphysical commitments, but one could say that not all psychological accounts are as controversial as metaphysical accounts tend to be. It is also the case that not all doctrines (psychological, philosophical, or otherwise) are plausibly comprehensive, in the sense of being life-directing.
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\textsuperscript{23}“The Sense of Justice,” CP, 101.
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love: to love another is to care for him for his own sake as his rational self-love would incline.”

Children are not in a position rationally to reject parental injunctions. As a result, if they love and trust their parents, children will accept their parents’ precepts, strive to live up to them as worthy objects of esteem, and accept their parents’ way of judging them.

In time, children impose these standards on themselves and judge themselves accordingly. That is not to say, of course, that children are not tempted to transgress the parental precepts. However, it does mean that children will manifest what Rawls calls authority guilt when they violate the general precepts or particular injunctions that their parents expect them to obey. “Guilt feelings are shown (among other ways) in the inclination to confess and to ask for forgiveness in order to restore the previous relation; they are part of what defines a relation as one of love and trust.”

Even in cases where children have feelings of anger toward their parents, their feelings of love for their parents will in the end prevail.

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24 Ibid., 101-102.

25 It seems clear, Rawls says, that “the sense of justice is acquired gradually by younger members of society as they grow up. The succession of generations and the necessity to teach moral attitudes (however simple) to children is one of the conditions of human life” (TJ §70, p. 405). Additionally, he says, “given the nature of the authority situation and the principles of moral psychology connecting the ethical and the natural attitudes, love and trust will give rise to feelings of guilt once the parental injunctions are disobeyed” (§70, p. 407). First, parents must love their children and be worthy objects of their children’s admiration, thus arousing in them a sense of their own value and the desire to become the sort of person their parents are. That is, parents need to be moral exemplars. Secondly, they must enunciate clear and intelligible (and of course justifiable) rules that the child can comprehend, giving reasons for these injunctions so far as these can be understood. Additionally, “The parents should exemplify the morality which they enjoin and make explicit its underlying principles as time goes on” (§70, p. 407).

26 Ibid., 102.

27 Ibid., 101.
A child’s circle widens as she become older, even though the family remains at the center. “The virtues of a good son or daughter are explained, or at least conveyed . . . . Similarly there is the association of the school and the neighborhood, and also such short-term forms of cooperation, though not less important for this, as games and play with peers. Corresponding to these arrangements one learns the virtues of a good student and classmate, and the ideals of a good sport and companion” (TJ §71, p. 409). The second stage in Rawls’s psychological construction is association guilt, which involves participation in various joint activities. Rawls says these associations are especially important because this type of moral view extends to the ideals adopted later in life. They help one learn how to interact as a member of different groups, and they also help one learn what it means to be a member of society. “The content of these ideals is given by the various conceptions of a good wife and husband, a good friend and citizen, and so on. Thus the morality of association includes a large number of ideals each defined in ways suitable for the respective status or role. Our moral understanding increases as we move in the course of life through a sequence of positions” (§71, p. 410).

Participants at this stage are bound by ties of friendship and mutual trust, and rely on one another to do their part. Thus, Rawls is only talking about associations where there is a genuine sense of community and caring for one another, and in which the participants know one another personally, or get acquainted over the course of their time together. “So if participants in a joint enterprise regularly act with evident intention in accordance with their duty of fair play, they will tend to acquire ties of friendship and mutual trust.”28 Given these feelings and relations against the background of a scheme of

28Ibid., 103.
cooperation, persons who fail to do their part will experience feelings of association guilt. Rawls writes that these feelings show themselves in various ways, including the inclination to make good the loss to others when individuals do not fulfill their obligations or play fairly, and to admit what one has done and to apologize to others in the group. Feelings of association guilt are seen in the inclination to ask for reinstatement and to acknowledge and accept reproofs and penalties. “The absence of such inclinations would betray the absence of ties of friendship and relations of mutual trust. It would manifest a capacity to associate with others in disregard of those principles which one knows would be mutually acknowledged. It would show that one had no qualms about the losses inflicted on others (or gains taken from them) as a consequence of one’s own acts, and that one was not troubled by the breaches of mutual confidence by which others are deceived.”

Rawls emphasizes the importance of role-specific duties and the abilities one cultivates with respect to thinking about and considering the needs of others at this stage. One learns to apply the principle of reversibility, seeing things from the perspective of others, and as a result it seems plausible that “acquiring a morality of association (represented by some structure of ideals) rests upon the development of the intellectual skills required to regard things from a variety of points of view and to think of these together as aspects of one system of cooperation” (TJ §71, p. 412). Familial ties and other close relationships are the basis for the development of such things as one’s inclination to make good the harms caused to others, willingness to admit that what one has done is unfair and thus wrong and to apologize for it, and thus for the development of

\[29\] Ibid.
one’s sense of justice. “Thus just as in the first stage certain natural attitudes develop
toward the parents, so here ties of friendship and confidence grow up among associates.
In each case certain natural attitudes underlie the corresponding moral feelings: a lack of
these feelings would manifest the absence of these attitudes” (§71, p. 412).

Association guilt, then, involves a genuine sense of what it means to be a
participant in a community, and to value one’s obligations to others. It shows that
members of a community have developed moral feelings, leading them to internalize
certain practices to the extent that they do not associate with others in a way that
completely disregards their feelings and interests. There is a general air of disregard in
one who does not have association guilt, and an extensive sense of regard for the well-
being of others in one who feels association guilt. It is significant that for Rawls, a sense
of justice at this stage is not seen most clearly in one’s capacity to associate perfectly
without any failures or mistakes, but rather in how one feels and responds to those
failures or mistakes when one makes them. Of course, one’s feelings are likely to affect
one’s tendency to fail or make mistakes, but Rawls is most concerned with the moral
psychology here, namely the question of how one feels about what one does and how
those emotions and attitudes affect one’s actions. This is because, as we will see, a sense
of justice is most fundamentally the capacity to feel in certain ways toward others. Rawls
notes that the effects of this capacity and the attitudes it generates go a long way toward
maintaining stable schemes of cooperation. 30

The third stage in Rawls’s psychological construction concerns principle guilt. In
both of the previous stages, Rawls connects the forms of guilt he discusses with “an

30I discuss Rawls’s understanding of stability at the end of this chapter.
actual natural attitude toward certain particular persons: with authority guilt these persons are parents, and in association guilt they are fellow-associates. Very often, however, we feel guilty for doing something when those injured or put at a disadvantage are not persons with whom we are tied by any form of particular fellow-feeling.”\(^31\) Rawls says these cases form a third type of guilt called principle guilt, which is felt when one does something that violates particular institutions (in this case, principles of justice) one has accepted. He accounts for these kinds of feelings with a third psychological law: “given that the attitudes of love and trust, friendly feelings and mutual respect, have been generated in accordance with the two previous psychological laws, then, if a person (and his associates) are the beneficiaries of a successful and enduring institution or scheme of cooperation known to satisfy the two principles of justice, he will acquire a sense of justice.”\(^32\) Rawls notes that we can determine that a person’s sense of justice has been “acquired,” or fully developed in two ways. We first see a sense of justice in one’s acceptance of just institutions, which “shows itself in feeling guilty for infractions which harm other persons even though these persons are not the objects of any particular fellow-feelings.”\(^33\) Second, Rawls says, the sense of justice manifests itself in a willingness to work for (or at least not to oppose) the setting up of just institutions, or for the reform of existing institutions according to the requirements of justice. “Guilt feelings associated

\(^{31}\)Ibid., 105.
\(^{32}\)Ibid.
\(^{33}\)Ibid.
with the sense of justice are characterized as principle guilt feelings since in their explanation reference is made to principles, in this case to principles of justice.”34

When people accept just institutions, they become partly responsible for acting in accord with the standards of those institutions. Principle guilt feelings spring from breaches of institutions accepted as satisfying the principles of justice or from resistance to reforms required by the principles of justice, and individuals feel guilt when they violate these principles because of their acceptance of them.35 According to Rawls, “The acceptance of the principles of justice implies, failing a special explanation, an avoidance of their violation and a recognition that advantages gained in conflict with them are without value; and should such violations nevertheless occur, in cases of temptation, feelings of guilt will tend to restore joint activity.”36

It is important, too, to see why principle guilt represents the third stage in Rawls’s account of how people develop a sense of justice. Rawls actually goes further than simply claiming that principle guilt is a form of guilt. He writes that principle guilt is “guilt proper” because it is “a complete moral feeling” whereas the two previous forms of guilt were not.37 What Rawls means by a “complete moral feeling” here is that the feeling would be strong enough to move one to interact with others in certain ways even

34Ibid.

35Ibid., 105-106.

36Ibid., 106. It seems clear that feelings of guilt do not restore joint activity, but rather the actions that can (and should) result from these feelings help lead to such restoration. I think Rawls means that the feelings of guilt are where the possibility of restoration begins, but he does not point out other feelings and dispositions that need to be present in order for this kind of restoration to occur. Shame seems to be more apropos here. A sense of falling short of some ideal is much more conducive to self-improvement than a recognition of disobeying or transgressing. Accordingly, the sort of guilt Rawls discusses seems to be a necessary but not sufficient condition for a fully developed sense of justice.

37Ibid.
if one did not have a special relationship with them. When one experiences principle guilt, one feels guilty for having harmed other persons even though they are strangers.

So, we know that principle guilt is not felt simply by virtue of emotional and personal ties to particular people. But that is not to say that Rawls thinks family and other special relationships are unimportant, or that we should not feel a greater sense of burden when we have wronged those who are close to us. Indeed, he says that the ability to feel a greater degree of responsibility in cases where we have wronged someone close to us is an important feature of the relationship between principle guilt and associational guilt. He writes: “where the ties of natural attitudes are present in the form of friendship and mutual trust, the feelings of guilt will be greater than when they are absent. The transmuted association guilt will reinforce principle guilt.”

The need for a commitment to principles of justice is strictly a practical consideration for Rawls. It is simply a matter of fact that no one in a large society knows everyone else. Rawls’s account is not designed to apply to small villages; in fact, “the

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38 Although Rawls thinks that association guilt “quite naturally leads up to” principle guilt, he also says that for some time at least, one’s motive for complying with principles of justice “springs largely from his ties of friendship and fellow feeling for others, and his concern for the approbation of the wider society” (TJ §72, p. 414). But according to Rawls, these feelings provide a basis for fully developing a sense of justice, and the conception of acting justly is a natural outgrowth of those previous experiences with one’s parents and associations with others.

39 Ibid., 106. In Theory, Rawls stresses that “our natural attachments to particular persons and groups still have an appropriate place . . . . The violation of these ties to particular individuals and groups arouses more intense moral feelings, and this entails that these offenses are worse. To be sure, deceit and infidelity are always wrong….But they are not always equally wrong. They are worse whenever bonds of affection and good faith have been informed . . . .” (TJ §72, p. 416). Rawls’s remarks concerning the fact that these bonds serve as a basis for developing concern for others outside of one’s immediate circle simply reflect the fact that not everyone in a modern liberal democracy (the subject of his analysis) knows everyone else personally, and yet they still care when their actions have wronged others. This is why principle guilt and a morality of principles constitute the third stage in one’s development of a sense of justice. A mature sense of justice also functions in at least some relationships with individuals we know well, particularly with people we might know well but strongly dislike—perhaps for good reasons. A well-developed sense of justice in these cases helps one to view these other individuals as persons, and helps one to treat them with justice.
institutional scheme in question may be so large that particular bonds never get widely built up. In any case, the citizen body as a whole is not generally bound together by ties of fellow feeling between individuals, but by the acceptance of public principles of justice” (TJ §72, p. 415). Rawls’s main point here is that an important part of what it means to be moral is to understand that one should treat others with respect, even if they are not a part of one’s “inner” circle of family and friends. On most views of moral development, it is not permissible only to show respect and consideration for one’s family and friends, while disregarding the interests of others.\(^40\) It is wrong to act unjustly even in cases where it will only hurt those with whom one is unacquainted.

We can see then why Rawls maintains that the capacity for a sense of justice is the fundamental aspect of moral personality in the theory of justice.\(^41\) An individual who experiences principle guilt has shown an appreciation for the fact that it is always wrong to violate the principles of justice, regardless of who is harmed. Here we can see clearly that having a sense of justice is about understanding that the principles of justice are designed to protect everyone from injustice, and as a result, we know that someone has a developed sense of justice when they feel guilty for infractions that harm other persons even though they are not in a personal relationship with them.\(^42\) Again, that is not to say

\(^{40}\)This sort of view is reminiscent of how the Mohists understood the Confucians. Mozi criticizes the Confucians for only caring about their families and friends, and thus for “excessive partiality” which leads to the neglect and harm of those who are outside of one’s inner circle. Furthermore, the Mohists thought we should only have principle guilt. Their conception of the good is exhausted by their conception of justice. It seems clear that the Mohists misinterpret the Confucian position as it is expressed in the *Analects*. My argument in Chapter Four will show that the Confucian view is more moderate and certainly does not allow for one to disrespect or disregard the well-being of those outside of one’s immediate circle. As we will see, the most cultivated rulers and the most cultivated individuals are those who have a highly developed sense of respect and care for the well-being of all members of society.

\(^{41}\)Ibid., 97.

\(^{42}\)Insofar as it is easiest to see that someone has developed a sense of justice when they feel principle guilt, which concerns those with whom they do not have a special relationship, Rawls’s view
that one does not have additional obligations when one harms those one is close to. But we must remember that Rawls’s concern is to address the subject of social justice, and not how best to maintain or repair family relationships or friendships. As we have seen from his psychological construction of a sense of justice, he advocates the view that a fully developed sense of justice depends critically on its cultivation within the family and other close relationships.

I highlight this part of Theory in part to show that Rawls addresses with sensitivity some issues he has been accused of neglecting. It is not insignificant that Rawls begins with the relationship between parents and children in his psychological construction of a sense of justice. This particular dimension of Rawls’s view has been neglected by some of his critics. One of the most significant criticisms feminist philosophers have posed with respect to Rawls’s work is rooted in the feminist defense of the centrality of emotions and relationships in ethical and political life. Some feminist philosophers have maintained that Rawls does not give adequate attention to the role of the emotions in moral judgment and moral development. As we have seen, Rawls

 resembles Kant’s view that it is easiest to tell that a person has moral motivations in those cases where we can be sure that they do not feel like doing the right thing, specifically when “all sympathy with the fate of others” has been extinguished. Of course, Kant does not mean to say that feelings are unimportant or that it is a good thing to feel indifferently toward others, only that one’s feelings or inclinations are not a factor in determining the morality of one’s actions. For Kant, a moral person must be “beneficent not from inclination but from duty.” This is similar to how Rawls places emphasis on having a fully developed sense of justice that causes one to act justly towards those for whom one does not feel preferential love. The deep and important difference between Rawls and Kant here is that Rawls endorses the view that one’s emotions are an indicator of moral development and that they play a crucial role in developing the ability to act morally toward others with whom one does not have a pre-existing relationship that involves feelings of love, sympathy, and care. This understanding of moral development is the more Humean dimension to Rawls. For Kant’s view, see Immanuel Kant, *Groundwork of the Metaphysics of Morals*, translated and edited by Mary Gregor (Cambridge, U.K.: Cambridge University Press, 1997), esp. pp. 11-12 [4:398-4:399 in the Academy Edition].

43 There is an ongoing body of feminist work criticizing liberal theory for its denigration of emotion. See, for example, Alison Jaggar, *Feminist Politics and Human Nature* (Totowa, NJ: Rowman and Littlefield, 1983), pp. 28-47; Virginia Held, *Feminist Morality: Transforming Culture, Society, and Politics*
makes the emotions the most critical factor in his account of children’s moral development in the context of the family, which performs the task of caring for children and providing for the initial development of their sense of justice. In a well-ordered society, moral principles actually engage citizens’ affections, forming sentiments whose content cannot be described adequately without mentioning the principles of justice. This is why Rawls says “the sense of justice is continuous with the love of mankind” (TJ §72, p. 417). Charges that Rawls fails to take the emotions and relationships seriously as contributing to the development of moral and political reasoning or to the bonds of society are seriously undermined by Rawls’s discussion of these matters.


44 The Idea of Public Reason Revisited,” CP, 595-596.

45 Still, some critics have maintained that the bonds of continuity in a society depend primarily on emotions or tradition as opposed to rationally justifiable principles. They argue that these two options are mutually exclusive and attribute the latter view to Rawls. See Bernard Williams, “Morality and Social Justice,” Tanner Lectures given at Harvard University (1983); John Haldane, “The Individual, the State, and the Common Good,” Social Philosophy and Policy 13 (1996), 59-79. I think these critics underestimate the role Rawls gives to the emotions.

46 For a critique that sees Rawls’s account as relying too heavily on the emotional and relational ties the feminists criticize Rawls for neglecting, and which represents theoretical differences in psychology, see John Deigh “Love, Guilt, and the Sense of Justice,” The Sources of Moral Agency: Essays in Moral Psychology and Freudian Theory (New York: Cambridge University Press, 1996), 39-64. Deigh argues that the “optimistic view” taken by Rawls is insufficient compared with the “pessimistic view,” accepted by Hobbes, Hume, and, perhaps most significantly, Freud. He writes that on Rawls’s optimistic view, “the sense of justice is itself a form of good will toward humanity, a sentiment of the heart, which grows out of the natural sentiments of love and friendship, as these mature in the context of a social order” (40-41). The pessimistic view, Deigh says, maintains that “our sense of duty and justice results from society’s turning to its advantage asocial and antisocial drives that are part of our natural endowment and that if left untutored and unharnessed would ruin whatever peace and harmony our capacities for goodwill and fellow feeling could establish” (40). Deigh bases his critique on the argument that Rawls conflates guilt and remorse, which, if correct, is an important objection because as we have seen, Rawls conceives of guilt as the characteristic emotion of the sense of justice. For a defense of Rawls against Deigh’s criticisms, see Richard Kyte, “Guilt, Remorse, and the Sense of Justice,” Contemporary Philosophy 14:5 (1992), 17-20. Kyte argues that even if Deigh’s criticisms are correct, it does not have as great an effect on Rawls’s overall account of moral development as Deigh implies, because remorse is as significant an indication of the moral sense as guilt.
It is also worth pointing out that Rawls’s attentiveness to the importance of family and community does not end with his account of moral development, because his understanding of what the principles of justice allow us to do is bound up in our roles and relationships with others. In Theory, Rawls writes that the principles of justice allow one to experience “the realization of self which comes from a skillful and devoted exercise of social duties,” and he calls this “one of the main forms of human good” (TJ, §14, p. 73). Rawls goes on to claim that the naturally advantaged—with native gifts of, say, intelligence—should not gain merely because they are more gifted, “but only to cover the costs of training and education and for using their endowments in ways that help the less fortunate as well. No one deserves his greater natural capacity nor merits a more favorable starting place in society . . . . Thus we are led to the difference principle if we wish to set up the social system so that no one gains or loses from his arbitrary place in the distribution of natural assets or his initial position in society without giving or receiving compensating advantages in return” (TJ §17, p. 87). This passage of course contains one of the most controversial remarks Rawls ever made: that the difference principle represents, in effect, “an agreement to regard the distribution of natural talents as in some respects a common asset . . . .” As Thomas Nagel points out, though, “not everyone is convinced that there is anything unfair about people’s benefiting differentially from the employment of their own natural abilities even though they have

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47 Rawls qualifies this sentence in the 1999 revised edition of Theory, quoted here (p. 87, TJ 1999). In the original 1971 edition, this line reads, “the difference principle represents, in effect, an agreement to regard the distribution of natural talents as a common asset . . . .” (p. 101, TJ 1971). Notice that in the revised edition, Rawls says citizens agree to regard “the distribution of natural talents as in some respects a common asset,” which softens the claim slightly.
Indeed, this particular remark of Rawls’s is at the heart of a disagreement within the liberal tradition itself between those who, like Rawls, see social justice as the fight against any kind of undeserved inequalities, and those who, like many of Rawls’s liberal critics, maintain that social justice does not concern natural abilities. On this latter view, as Nagel points out, “it can seem like an assault on the independence of persons to say that they have no right to the benefits which flow from [their] identity, except insofar as this also benefits others.”

Obviously, Rawls faces some liberal and communitarian critics. He is unable to pacify his critics in the liberal tradition largely because he acknowledges the role that enduring attachments and loyalties play in the formation and development of our identity. He writes that in addition to affirming the values of political justice and working toward the embodiment of these values in political institutions and social policies, citizens often do have at any given time, affections, devotions, and loyalties that they believe they would not, indeed could and should not, stand apart from and evaluate objectively. They may regard it as simply unthinkable to view themselves apart from certain religious, philosophical, and moral convictions, or from certain enduring attachments and loyalties. These two kinds of commitments and attachments—political and non-political—specify moral identity and give shape to a person’s way of life, what one sees oneself as doing and trying to accomplish in the social world. If we suddenly lost them, we would be disoriented and unable to carry on. (JF, 22)

In *Theory*, Rawls writes that he considers the community absolutely essential to the formation of a person’s identity. He acknowledges that the concepts we use to describe our lives often presuppose a social setting as well as a system of belief and thought that is the outcome of the collective efforts of a long tradition . . . . We need one another as partners in ways of

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49 Ibid., 79-80.
life that are engaged in for their own sake, and the successes and enjoyments of others are necessary for and complementary to our own good. (TJ §79, p. 458)

Indeed, one of the reasons why Rawls focuses on the basic structure of society is that “the social system shapes the wants and aspirations that its citizens come to have. It determines in part the sort of persons they want to be as well as the sort of person they are.” (TJ §41, p. 229) In Political Liberalism Rawls develops this idea further by arguing for the full publicity condition, according to which the justificatory grounds of any theory of justice must be publicly available, so that citizens are “in a position to know and to accept the pervasive influences of the basic structures that shape their conception of themselves, their character and ends” (PL, 68).^{50}

### III. The Cultivation of Justice in Rawls

One of the most interesting dimensions of Rawls’s discussion of the capacity for a sense of justice is that he quite clearly conceives of citizens who have a “well-developed” sense of justice, as opposed to those who do not. The psychological construction of how a sense of justice develops makes it clear that Rawls conceives of this capacity as something that one must cultivate. In this section, I want to explore further two

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^{50} The objection that Rawls neglects the extent to which persons are indebted to their community for the way they think about themselves has been pursued at length by a number of scholars, including Michael Sandel. In their analysis of the communitarian critique of Rawls, Stephen Mulhall and Adam Swift point out that Rawls “explicitly concedes the validity of Sandel’s claim about the phenomenology of our moral experience (PL, 31), and he is happy to see such constitutive values and communal attachments flourish in the context of family life, churches, and scientific societies; what he denies is their appropriateness for the realm of politics” (466). For a concise but detailed overview of communitarian critiques of Rawls, as well as a discussion of Rawls’s replies, see Mulhall and Swift, “Rawls and Communitarianism,” in The Cambridge Companion to Rawls. For the communitarian critique of Rawls, see Michael Sandel, Liberalism and the Limits of Justice, 2nd edition. (Cambridge, UK: Cambridge University Press, 1988). See also Charles Taylor, Philosophical Papers, vol. 1: Human Agency and Language (Cambridge, UK: Cambridge University Press, 1985); Philosophical Papers, vol. 2: Philosophy and the Human Sciences (Cambridge, UK: Cambridge University Press, 1985); Sources of the Self: The Making of Modern Identity (Cambridge, UK: Cambridge University Press, 1989), and Alasdair MacIntyre, After Virtue (South Bend, IN: Notre Dame, 1981).
questions: (1) What does it mean to say that all human beings have the *capacity* for a sense of justice? (2) What is it about certain conditions that nourishes a sense of justice, and what is missing in those conditions where its development is impeded or prevented entirely?

One thing that seems clear is that on Rawls’s view, the capacity for a sense of justice is something that all healthy, normally raised human beings possess.\(^{51}\) He writes that “it seems almost certain that at least the vast majority of mankind has a capacity for a sense of justice and that, for all practical purposes, one may safely assume that all men originally possess it. It is plausible to suppose that any being capable of language is capable of the intellectual performances required to have a sense of justice; and, given these intellectual powers, the capacity for the natural attitudes of love and affection, faith and mutual trust, appears to be universal.”\(^{52}\) What Rawls appears to mean by “the intellectual performances required to have a sense of justice” are the sorts of abilities we have seen in the psychological construction Rawls provides—the ability to feel guilt, to respond in kind to the love and affection of one’s parents, to imagine how it would feel to be in the position of someone else. He associates a sense of justice with the natural attitudes he mentions here—love and affection, faith and mutual trust. And, most importantly, he says that under normal conditions all human beings originally possess a sense of justice.

\(^{51}\)Rawls’s claim, then, is a *generic* and not strictly a *universal* claim. In this respect his claim resembles Mengzi’s claim about the possession of moral sprouts: all healthy, normally raised members of the species possess them. For a discussion of the difference between generic and universal claims, and the significance of this difference for Mengzi’s thought, see Philip J. Ivanhoe, “Confucian Self Cultivation and Mengzi’s Notion of Extension,” in *Essays on the Moral Philosophy of Mengzi*, ed. Xiusheng Liu and Philip J. Ivanhoe (Indianapolis, IN: Hackett Publishing Company, 2002), 222-3.

\(^{52}\)“The Sense of Justice,” CP, 114.
One might say, though, that Rawls is smuggling in something much more robust than a basic capacity that humans “originally” possess. After all, he says that a sense of justice is “the capacity to understand, to apply, and normally to be moved by an effective desire to act from (and not merely in accordance with) the principles of justice as the fair terms of social cooperation” (PL, 302, Cf. JF, 19). One with a sense of justice *honors* fair terms of cooperation. Rawls also discusses “companion powers” to the two moral powers that enable a person to be a fully cooperating member of a fair system of cooperation, namely the powers of reason, inference, and judgment. These powers, Rawls says, are required for the exercise of a sense of justice (JF, 24). The two moral powers and these companion powers are, Rawls says, the “minimum essentials to be a fully cooperative member of society” (JF, 170). But quite clearly, when human beings are born into this world, they are not yet able to exercise the powers of reason, inference, and judgment.

This difficulty shows why it is important that when Rawls talks about the capacity for a sense of justice, he is describing the capacity *to develop* a sense of justice. At its most advanced stages, one who has a sense of justice can understand principles of justice and act according to them. Put differently, one is able to understand the rules, and play fairly, and one is also motivated to do so. Those who have a well-developed sense of justice do not break the rules every chance they get. So it is important to understand that Rawls means all humans have the *potential* to be this way, and this is why he speaks of all humans as originally possessing the *capacity* for a sense of justice. He does not say that all humans originally possess a fully or even partially developed sense of justice, nor does he say that the development of a sense of justice is inevitable. For Rawls a sense of
justice is a capacity to be honed, cultivated, and developed, and this process can only occur under certain conditions and circumstances.\footnote{This poses for Rawls what we might call “Xunzi’s Dilemma.” Xunzi, who rejects Mengzi’s claim that humans have innate moral tendencies, faces the challenge of explaining how anyone could have taught himself to be virtuous, and thus how we can account for the emergence of the Confucian moral tradition that is essential for our moral progress. Similarly, Rawls maintains that just institutions require a sense of justice, but such a sense can only develop in a just society. For more on “Xunzi’s Dilemma,” which was first pointed out by David S. Nivison, see Nivison’s The Ways of Confucianism, ed. Bryan W. Van Norden (Chicago, IL: Open Court Press, 1996). This set of issues is further analyzed by Bryan W. Van Norden in “Mengzi and Xunzi: Two Views of Human Agency,” David Wong in “Xunzi on Moral Motivation,” and T.C. Kline, III in “Moral Agency and Motivation in the Xunzi, all in Virtue, Nature, and Moral Agency in the Xunzi ed. T.C. Kline, III and Philip J. Ivanhoe (Indianapolis, IN: Hackett Publishing Company, 2000).}

Rawls’s account of the original position also makes it clear that he thinks the capacity for a sense of justice is one of the things all humans begin with, and that one who grows up under just institutions is at least likely to develop that sense of justice. A well-developed sense of justice is one of the things he accords those behind a veil of ignorance. Rawls writes that “this initial situation is fair between individuals as moral persons, that is, as rational beings with their own ends and capable, I shall assume, of a sense of justice” (TJ §3, p. 11). In fact, Rawls says that because “the sense of justice is a necessary part of the dignity of the person,” utilitarian conceptions of justice really do not acknowledge it as a basic capacity. “It is because of this dignity that the conception of justice as fairness is correct in viewing each person as an individual sovereign, as it were, none of whose interests are to be sacrificed for the sake of a greater net balance of happiness,” but rather only in accordance with principles of justice.\footnote{The Sense of Justice,” CP, 115.} Thus, for Rawls, the first and most fundamental error of utilitarianism is that it fails to recognize the inherent dignity of the human person, which consists in our moral capacities. Utilitarians fail to realize that each person has the capacity for a sense of justice, and this shows how
Rawls’s understanding of justice more adequately addresses the concerns humans actually have. It is important to see that Rawls’s conception of a sense of justice does not simply mean that individuals want to get their own fair share. Rather, on Rawls’s understanding, human beings have certain feelings when other people are slighted, as well.

Certainly in the absence of the capacity for a sense of justice no one could complain if the utilitarian principle were applied, and so the possession of a sense of justice is necessary for the conception of justice to hold. But lack of a sense of justice would undermine our capacity to identify ourselves with and to care about a society of such persons . . . . We would not be moved by its injustices, since what they cannot resent and be indignant about among themselves we cannot resent and be indignant about for them. This is not to say that we might not be moved by the cruelties of such a society, but from the standpoint of justice, it would not be a society which aroused our moral feelings.  

The contrast with utilitarianism here also shows how Rawls’s entire analysis of justice is based on the idea that humans have the capacity for a sense of justice. It is not the case, then, that Rawls builds his account strictly on the foundation of Kantian rational principles, because the most basic capacity humans have with respect to justice is the capacity to feel in certain ways toward others. For Rawls it is clear from the natural course of the psychological development of humans that they have the capacity for a sense of justice. This matter simply has to do with the capacities and attitudes humans increasingly display over time when they develop as moral beings. This claim is not uninteresting because Rawls assumes that in order for humans to develop certain capacities and attitudes, they must be predisposed toward developing them in some sense.

\[55\] Ibid.

At the end of the day, our tendency might simply be evolutionary good luck. Of course, one could also see this as a part of a divine plan.
There is some question about what Rawls means by “capacity.” At times, he seems to indicate that humans have an initial tendency toward developing a sense of justice, almost as though humans gravitate toward it. This is a stronger view than the position that humans can develop a sense of justice, but have no initial tendencies to feel and see things in this way. On the first view, humans have an observable, active initial tendency toward a sense of justice regardless of their environment, even though this tendency requires certain conditions for further development. On the second view, however, the capacity for a sense of justice is a latent capacity—it does not begin to develop until it is placed under certain conditions. The question, then, is how much of a “capacity” for a sense of justice humans have prior to being shaped by their environment, that is, what sort of natural tendencies do they have to feel and think that certain situations are right or wrong, just or unjust?57

At one point in his discussion of the development of a sense of justice, Rawls mentions “the abilities that we find latent in our nature” (TJ p. 375-6). The fact that he uses the word “latent” to describe the capacity for a sense of justice indicates that although he thinks humans have the potential to develop a sense of justice, he does not think this potential is observable and active at first. Rather, it must be drawn out and encouraged. Now Rawls thinks that this capacity is cultivated in the first stage of moral development, which means that the capacity for a sense of justice is observable from a very early age, even though it is not fully developed yet. One might say that this capacity can be seen when one child grabs a toy away from another child, and the child from whom the toy has been taken insists—through a variety of emotional and linguistic

57There is an interesting similarity between the issues I am discussing here and the debate between Mengzi, who maintains that humans have innate moral “sprouts” and Xunzi, who thinks that humans are morally blind at birth. This similarity will be discussed further in Chapter Five.
expressions—that something is *not right* about this situation. But consider another example, one that involves a concern for others rather than oneself: a teacher distributes coloring books and crayons to a group of small children, but skips one child and fails to give her what the others have received. The child is likely to object, and might even begin to cry, calling her predicament to the attention of the other children, who are *not* likely to simply continue coloring and ignore the child in distress. Rather, they too will become distressed, seeing that something is not right about the situation. They might then notify the teacher that there is a problem, or try to comfort their classmate. Some children might begin to cry as a result of seeing another child in distress. Still others might offer to share their book and crayons. These expressions of the capacity for a sense of justice would certainly be primitive, but they could be counted as observable tendencies toward a sense of justice. The point is that the children in these stories recognize that something is wrong about certain kinds of situations, and their concerns are not simply narrowly egoistic. Of course one could insist that the children have already been shaped by their environments and learned these behaviors, but living in kin-groups is something we do by nature, and share with many related creatures. So it seems clear that these behaviors serve as evidence of basic non-egoistic tendencies to sense that something is wrong or right about a certain kind of situation.58

As for the question of what conditions help a sense of justice to develop properly and what conditions prevent its proper development, Rawls says a number of things.

58 There is much more robust evidence to support the case for psychological altruism than my very modest examples suggest. For an argument that natural selection is unlikely to have given us purely egoistic motives, and a study that provides evidence for the reality of psychological altruism, see Elliott Sober and David Sloan Wilson, *Unto Others: The Evolution and Psychology of Unselfish Behavior* (Cambridge, MA: Harvard University Press, 1998). Sober and Wilson provide a response to the traditional perspectives in biology, psychology, and philosophy, and take into account the impact of evolution on human motivation while also providing a detailed analysis of altruism throughout the animal kingdom.
Clearly, if Rawls takes the position that a sense of justice is an active, visible tendency and not a latent one, then the strength of his account depends significantly on his ability to provide an account of why a sense of justice fails to develop properly in some people.

In *Theory*, Rawls says the moral development that occurs during the first stage of his psychological construction fails to take place under certain conditions, such as when a child is made to follow certain precepts that “not only may appear to him largely arbitrary but which in no way appeal to his original inclinations” (TJ §70, p. 408). These remarks re-confirm the fact that Rawls thinks a sense of justice is a basic capacity to be developed in humans by appealing to their natural inclinations, rather than a disposition that must be wholly acquired because it is designed to restrain or restrict natural tendencies. Rawls concludes that in the absence of affection, example, and guidance, the process of moral development cannot take place, “and certainly not in loveless relationships maintained by coercive threats and reprisals” (TJ §70, p. 408).

Rawls says that native endowments of various kinds require education and training, and “among what affects their realization are social attitudes of encouragement and support, and institutions concerned with their early discipline and use” (JF, 57). This is why childhood education should “encourage the political virtues so that they want to honor the fair terms of social cooperation in their relations with the rest of society” (PL, 199). By political virtues, Rawls means “the cooperative virtues of political life: the virtues of reasonableness and a sense of fairness, and of a spirit of compromise and a readiness to meet others halfway” (JF, 116). These virtues, Rawls tells us, underwrite the desire to cooperate with others on terms characterized by mutual respect.
Rawls is clear that there are differences in the environments where a person’s sense of justice might develop, and these differences can impact its development dramatically. In some cases, individuals’ sense of justice flourishes beyond ordinary expectations. “For example, the judicial virtues are excellences of the moral power of a sense of justice and there is, let’s suppose, considerable variation in the capacity for those virtues. These powers involve intellect and imagination, the capacity to be impartial and to take a wider and more inclusive view, as well as a certain sensitivity to the concerns and circumstances of others” (JF, 170). Citizens who have a greater capacity for the judicial virtues obviously have “a greater chance of holding positions of authority with the responsibilities that call for the exercise of those virtues” (170). But he notes that individuals who have especially highly developed judicial virtues are those whose sense of justice has been “properly trained and exercised.” His choice of words here indicates the view that a significant amount of training and shaping of a sense of justice must occur in order for it to be fully developed. Those who have “highly developed” judicial virtues have a sense of justice that has been “properly” trained and exercised, which implies that everyone could, and should, have highly developed judicial virtues. This claim is at once an affirmation of Rawls’s view that a sense of justice needs training and exercise in order to be fully developed.

Rawls goes on to say that if a society’s basic structure is just, then members of society “have available to them the general all-purpose means to train and educate their basic capabilities, and a fair opportunity to make good use of them, provided their capabilities lie within the normal range” (JF, 171). Thus, so long as citizens have the two moral powers and the companion powers, a just society plays an important role in the
Rawls’s psychological construction emphasizes the need for a sense of justice to undergo a process of cultivation, beginning within the context of the family and continuing within larger communities. It is important to notice the kinds of words Rawls uses to describe this process. In the passages examined above, he speaks of a sense of justice being “trained,” “exercised,” “educated,” “encouraged,” “sustained,” “formed,” and “nurtured.” To be sure, Rawls maintains that a sense of justice requires self-cultivation, and it is clear that within these contexts it is not simply a matter of what 

*cultivation* of those powers. Rawls’s language here is clear—a just society “trains and educates” one’s sense of justice. He says that when just institutions are established and working well over time, “the cooperative political virtues are encouraged and sustained. Crucial to this process is that the principles of justice express an idea of reciprocity that is lacking in the principle of utility” (JF, 117). Put another way, “citizens’ sense of justice, given their character and interests as formed by living under a just basic structure, is strong enough to resist the normal tendencies to injustice” (JF, 185). When citizens publicly recognize principles of justice, “this public recognition itself not only encourages mutual trust among citizens generally but also nurtures the development of attitudes and habits of mind necessary for willing and fruitful social cooperation” (JF, 117). It is clear, then, that a sense of justice must be nurtured throughout its development by a certain kind of environment where certain sorts of commitments are valued. Establishing, maintaining, and reforming reasonably just (though always imperfect) institutions over several generations “is a great social good and appreciated as such. This is shown by the fact that a democratic people esteem it as one of the significant achievements of their history” (JF, 201).
others do to and for an individual. As we have seen, children respond in certain ways to
the way they are treated and as they grow older, they begin to make more choices about
the sort of person they want to be. These choices are certainly shaped by the
environment they have been raised in, but part of what Rawls is saying is that a just
society encourages its citizens to cultivate certain virtues, and it gives them opportunities
to exercise those virtues. Eventually, under proper conditions of development where
their sense of justice is encouraged, drawn out, and reinforced within the context of the
family and the community of which they are a part, individuals develop a concern for
those outside of their immediate circle. This is seen in Rawls’s account of principle guilt.
“The idea is that, given certain assumptions specifying a reasonable human psychology
and the normal conditions of human life . . . citizens’ sense of justice, given their
character and interests as formed by living under a just basic structure, is strong enough
to resist the normal tendencies to injustice. Citizens act willingly to give one another
justice over time” (JF, 185, Cf. PL, 141).

We should not pass too quickly over Rawls’s claim that “the basic structure is
arranged to include the requisite institutions of background justice so that citizens have available to them the general all-purpose means to train and educate their basic
capabilities, and a fair opportunity to make good use of them, provided their capabilities
lie within the normal range” (JF, 171, italics mine). Here Rawls indicates three things:
(1) citizens whose rational capacities function normally from birth have the same
capacity for a fully developed sense of justice provided that they are given an
environment in which it can be cultivated properly. (2) Citizens’ capacity for a sense of
justice needs to be “trained and educated,” just as one’s capacity for a conception of the
good needs to be—and will inevitably be—developed and shaped by one’s family and community. (3) Certain environments contribute to the proper development of a sense of justice more than others. Among other things, the opportunity to exercise one’s sense of justice plays an important role in the process of training and educating it.

There are some interesting points of resonance between Aristotle and Rawls that emerge in the context of Rawls’s discussion here. Rawls postulates what he calls “the Aristotelian Principle” as a basic principle of motivation. According to the Aristotelian Principle, “other things equal, human beings enjoy the exercise of their realized capacities (their innate or trained abilities), and this enjoyment increases the more the capacity is realized, or the greater its complexity” (TJ §65, p. 374). Rawls notes that in the *Nichomachean Ethics*, Aristotle affirms (1) that many kinds of pleasure and enjoyment arise when we exercise our faculties; and (2) that the exercise of our natural powers is a leading human good (TJ p. 374 n. 20). One of the ideas expressed by the Aristotelian principle is that human beings take more pleasure in doing things as they become more proficient at them. It implies that a person’s capacities increase over time, and as individuals train these capacities and learn how to exercise them, they will in due course come to prefer more complex activities that call upon their newly realized abilities (TJ §65, p. 375).

Rawls notes an additional “companion effect” of the Aristotelian Principle. “As we witness the exercise of well-trained abilities by others, these displays are enjoyed by us and arouse a desire that we should be able to do the same things ourselves” (TJ §65, p. 375-376). Now Rawls stresses that this principle only formulates a tendency and not an

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59 *Nichomachean Ethics*, Book VII, Chapters 11-14, and Book X, Chapters 1-5.
invariable pattern, but it is important for our purposes because it gives us a better sense of how Rawls thinks a sense of justice is developed. Rawls notes that as a consequence of the moral psychology specified by the Aristotelian Principle, the exercise of the two moral powers is experienced as good (JF, 200). As citizens develop a sense of justice, they are eager to extend it, use it, and to be challenged in their application of it. In addition, when they witness others exercising a sense of justice, it arouses a desire to exercise their own sense of justice.60

Some of Rawls’s remarks on community, too, resonate with Aristotelian points. He asks how it is possible that moral principles can engage our affections, and one of the answers Rawls offers is that “the sense of justice is continuous with the love of mankind” (TJ §72, p. 417). Although Rawls acknowledges that love goes beyond the moral requirements of justice, “yet clearly the objects of these two sentiments are closely related, being defined in large part by the same conception of justice” (TJ, p. 417). He writes that the sense of justice aims very directly at the well-being of persons, and “it supports those arrangements that enable everyone to express his common nature. Indeed, without a common or overlapping sense of justice civic friendship cannot exist” (TJ, p. 417).

An outstanding discussion of Aristotle’s view of these matters is found in John Cooper’s “Political Animals and Civic Friendship.”61 In this essay, Cooper explores


Aristotle’s claim that human beings are by nature “political animals” or animals that live in cities.62 This claim is Aristotle’s ground for holding the view that “whatever a human being’s happiness or flourishing ultimately turns out to consist in, it must be something that suffices not just for his own individual good but also somehow includes the good of his family, his friends and his fellow citizens.”63 For Aristotle, the fact that cities are more than mere conventions but rather contribute to human flourishing means that “cities can demand the abiding respect of independent-minded persons” in a deeper sense.64 In Aristotle’s city, people have a further concern about moral character. As Cooper puts it, “of course they want not to be cheated or otherwise treated unjustly, in business or anywhere else, but they also care what kind of people their fellow citizens are. They want them to be decent, fair-minded, respectable, moral people (anyhow, by their own lights).”65 Cooper writes that Aristotle implies that civic relations among citizens of a single city, since they are not merely commercial, do involve just these concerns. That is, he holds that in cities we find a general concern on the part of those living under the constitution of a city and participating in its civic life for the moral characters of all those similarly engaged--a concern that no one taking part in civic life be unjust or indeed vicious in any way. This is a concern of each citizen for each other citizen, whether or not they know each other personally, and indeed whether or not they have had any direct and personal dealings with one another whatsoever.66

Cooper notes that even in twentieth-century liberal states, Aristotle’s observation seems to hold good. “There seems to be no denying that ordinary Americans, for

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62 Cooper, “Political Animals and Civic Friendship,” 303.
63 Ibid. See Aristotle, *Nichomachean Ethics* Book I:7 (1097b); *Politics* Book I:2 (1253a 2-3).
64 Ibid., 304.
65 Ibid., 314.
66 Ibid.
example, are characteristically quite a bit concerned about the moral standards of people prominent in government, business and industry . . .”

When we hear of corruption in these arenas, “independently of any way one may expect to suffer financial losses or other direct injuries to one’s interests from these people’s behavior, one feels injured and diminished simply by there being such people in positions like that. Something is wrong with us, one feels, that among us that sort of person is found in that sort of place.”

Cooper points out that even citizens of a modern liberal democracy like our own feel tied to one another “in such a way and to such an extent that they can and do take an interest in what their fellow-citizens quite generally are like as persons; they want to think of them as good, upstanding people, and definitely do not want them to be small-minded, self-absorbed, sleazy.” What our fellow-citizens are like matters to us personally, in a way that is tied to our common citizenship in the same country. We are concerned about the personal qualities of our own fellow citizens in a way that we are not concerned about citizens of foreign countries, because we feel “some connection to, some involvement with--almost some responsibility for--the former that [we] do not have for the latter.” We feel responsible for what our fellow citizens are like in some sense, because it somehow reflects on us.

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67 Ibid., 315.

68 Ibid. One needs only to think of the way most of us react to corporate corruption or political malfeasance in order to see that this is true.

69 Ibid., 316.

70 Ibid., 316. The willingness to give to charitable organizations to aid fellow citizens who are the victims of natural disasters like hurricanes and earthquakes serve as examples here. We want to do our part to help because we feel bound to other members of our society in an important way, and we feel that it is part of our responsibility as citizens to help one another in such times of need.
Aristotle grounds the bonds between citizens, which grounds their concern for one another’s character, on civic friendship. As Cooper puts it, “Each expects his fellow-citizens in their dealings with him (political, economic, and social) to be motivated not merely by self-interest (or other private particular interests) but also by concern for his good for his own sake (for his qualities of mind and character, as Aristotle emphasizes . . . but also for other elements in his good).” Civic friendship is different from personal friendships in that it does not require any degree of intimacy or personal knowledge of one another. However, Cooper points out that a comparison with the family is instructive, because for Aristotle “the good fortune or success or good character of one member is experienced by the others as somehow part of their good as well, and in fact we do think it constitutes a contribution to the good of the other family-members.” Civic friendship is simply an extension of these kinds of psychological bonds, because it makes citizens like a large extended family in the sense that each member of society participates in the good of the others.

Now this dimension is important for the current study because it helps us to see the dimensions of Aristotle that are very much present in Rawls, despite the differences between them. Namely, Rawls thinks citizens care about one another’s well-being; it is

71 Ibid., 316-318. For Aristotle’s discussion of civic friendship, see Eudemian Ethics, Book VII: 9-10. See also Aristotle’s distinction between different kinds of friendship in the Nichomachean Ethics, Book VIII.

72 Ibid., 319.

73 Ibid., 320.

74 Ibid. Cooper notes that citizens are obviously quite unlike a family in other respects. This poses a contrast to the view found in the Analects, according to which the family serves as the model for what a state should be like.
an important part of what it means to have a sense of justice. But of course there are important differences between Rawls and Aristotle as well, the most important of which concerns their view of the good. According to Rawls, justice as fairness rejects civic humanism, which is a form of Aristotelianism: “it holds that we are social, even political, beings whose essential nature is most fully achieved in a democratic society in which there is widespread and active participation in political life. This participation is encouraged not merely as possibly necessary for the protection of basic liberties but because it is the privileged locus of our (complete) good” (JF, 142). Rawls rejects this view because it is a comprehensive doctrine, evidenced by the fact that it specifies a particular conception of the good. However, Rawls also specifies that civic humanism should not be mistaken for the truism that we must live in a society to achieve our good. “Rather, civic humanism specifies the chief, if not the sole human good as our engaging in political life, often in the form associated historically with the city-state, taking Athens and Florence as exemplars” (JF, 143). To reject humanism, Rawls argues, is not to deny that one of the great goods of human life is achieved by citizens through engaging in political life. It is just that the extent to which we make engagement in political life part of our complete good is up to us as individuals to decide, from Rawls’s point of view, and it varies from person to person.

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75 Rawls adopts Charles Taylor’s definition of civic humanism in Philosophy and the Human Sciences (Cambridge: Cambridge University Press, 1985), pp. 334f. He notes that Taylor attributes this view to Rousseau, while noting that Kant does not accept it.

76 Rawls also notes that justice as fairness is compatible with classical republicanism, which differs from civic humanism. Classical republicanism is the view that the safety of democratic liberties requires the active participation of citizens who have the political virtues needed to sustain a constitutional regime. “The idea is that unless there is widespread participation in democratic politics by a vigorous and informed citizen body moved in good part by a concern for political justice and public good, even the best-designed political institutions will eventually fall into the hands of those who hunger for power and military glory” (JF, 144).
Rawls’s rejection of civic humanism is tied to the difference between Rawls and Aristotle on the subject of the right and the good. W. D. Ross initially distinguished between the claims of liberty and right, and the good, meaning the desirability of increasing aggregate social welfare. Rawls agrees with the claim that each member of society has an inviolability founded on justice, which even the welfare of everyone else cannot override. “Justice denies that the loss of freedom for some is made right by a greater good shared by others” (TJ §6, pp. 24-5). The basic idea of the priority of the right over the good is that one person’s freedom should never be sacrificed against their will for the greater good. In Rawls’s conception of justice, then, “persons accept in advance a principle of equal liberty . . . . They implicitly agree, therefore, to conform their conceptions of the good to what the principles of justice require, or at least not to press claims which directly violate them” (TJ §6, p. 27). As a result, no person’s freedom is disregarded and sacrificed in order to benefit others. Certain things are accepted as unacceptable forms of conduct for the members of society from the outset. Thus, “An individual who finds that he enjoys seeing others in positions of lesser liberty understands that he has no claim whatever to this enjoyment. The pleasure he takes in others’ deprivations is wrong in itself . . . . The principles of right, and so of justice, put limits on which satisfactions have value; they impose restrictions on what are reasonable conceptions of one’s good” (p. 27).

The important conclusion from this, for Rawls, is that in justice as fairness, one does not take human propensities and inclinations as a given, and then seek the best way to fulfill them. Here Rawls has in mind the utilitarian view, where humans are seen as

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seeking happiness, and a society’s job is to work for the greatest amount of happiness for the greatest number. Rawls maintains that this view is profoundly unjust because certain people’s interests are necessarily sacrificed in the name of the greater good. On Rawls’s view, citizens’ desires and aspirations are restricted from the outset by the principles of justice, which specify certain boundaries everyone must respect. “We can express this by saying that in justice as fairness the concept of right is prior to that of the good . . . . The priority of justice is accounted for, in part, by holding that the interests requiring the violation of justice have no value” (TJ §6, pp. 27-8). The point here is that “initial bounds are placed upon what is good and what forms of character are morally worthy, and so upon what kinds of persons [humans] should be” (p. 28). Unlike the utilitarian view, which sees human propensities as inevitable, Rawls maintains that humans have another set of capabilities that can be cultivated, such as a sense of justice, and that they need not and should not simply give in to following what might be their initial tendencies. That is not to say, however, that Rawls thinks the utilitarian account of natural human tendencies is accurate, because as we have seen, he thinks a sense of justice is a basic capacity all of us possess. The failure to realize the inherent dignity it represents and the fact that this moral capacity can and should be encouraged, cultivated and shaped, are among the fundamental mistakes of utilitarianism. Here, Rawls agrees with almost every thinker in the Chinese tradition. Simply having or satisfying a desire is not any reason to think that this is good, but most utilitarians seem to think that it is good, preference utilitarians being the clearest example.

Rawls denies that the priority of the right “implies that justice as fairness can use only very thin, if not purely instrumental, ideas of the good. But to the contrary: the right
and the good are complementary; any conception of justice, including a political conception, needs both, and the priority of the right does not deny this” (JF, 140). Rawls points out that just institutions and the political virtues serve no purpose unless those institutions and virtues sustain conceptions of the good that citizens affirm as worthy of their allegiance. A political conception of social justice must allow sufficient space, then, for the ways of life citizens embrace. “In a phrase, the just draws the limit, the good shows the point” (JF, 141, Cf. PL, 173-4). Rawls stresses that the priority of the right does not mean that ideas of the good must be avoided. That, he says, is impossible (JF, p. 201). The priority of the right simply means that the ideas of the good that are used must meet certain requirements.78 Thus, although Aristotle’s view and Rawls’s view place different restrictions on what the good can be, both views still consider ideas of the good to be necessary for a conception of justice.

We still may wonder how exactly a sense of justice cashes out in practice. It is thus necessary to discuss the best theoretical instantiation of a sense of justice, that is, Rawls’s articulation of a just society. Rawls’s clearest formulation of the difference a sense of justice makes in members of a just society is his discussion of a society that has “stability for the right reasons” (JF, 185; Cf. PL xlii).

IV. Stability for the Right Reasons

Social stability, for Rawls, is evident in what happens when a conception of justice is put into practice. Do citizens abide by the principles of justice, and if so, why?

78“In justice as fairness, then, the general meaning of the priority of right is that admissible ideas of the good must fit within its framework as a political conception. Given the fact of pluralism, we must be able to assume: (1) that the ideas used are, or could be, shared by citizens generally regarded as free and equal; and (2) that they do not presuppose any particular fully (or partially) comprehensive doctrine” (JF, 141).
A stable society is one in which citizens consistently abide by the principles of justice that govern the institutions of their society. The simple fact that a society has a conception of justice does not mean that people will consistently act justly. The problem of stability arises because a just scheme of cooperation may not be in equilibrium, much less stable, so that “an individual, if he is so inclined, can sometimes win even greater benefits for himself by taking advantage of the cooperative efforts of others” (TJ §76, pp. 434-435). By equilibrium, Rawls means that the result of agreements between willing participants is “the best situation that [each person] can reach by free exchange consistent with the right and freedom of others to further their interests in the same way” (TJ §20, p. 103). A just scheme of cooperation is in equilibrium when no one has an incentive to alter it. Stability, however, is a step further than equilibrium. Rawls writes, “If a departure from this situation sets in motion tendencies which restore it, the equilibrium is stable” (TJ, p. 103). Social stability, then, occurs when a just scheme of cooperation not only has equilibrium, but also safeguards against a departure from the terms of cooperation.

As we have seen, the cultivation of a sense of justice in members of society is an indispensable part of establishing justice in society. According to Rawls, the conditions which create stability occur when “those taking part in [just] arrangements acquire the corresponding sense of justice and desire to do their part in maintaining them” (TJ §69, p. 398). We have seen how social justice depends on citizens cultivating certain attitudes toward one another. In an important sense, then, a just society depends on the posture citizens take toward one another. Further, Rawls says, social stability has a great deal to do with the posture citizens take toward the principles of justice. A conception of justice
is more stable when citizens are more willing to abide by its requirements. This is why Rawls tells us that stability “depends upon a balance of motives: the sense of justice that it cultivates and the aims that it encourages must normally win out against propensities toward injustice” (TJ, p. 398).

The willingness to abide by the requirements of a conception of justice is created in part by a sense of justice. As we have seen, to insure stability citizens must have a sense of justice, which is characterized by a concern for those who would be disadvantaged by the failure of others to abide by the principles of justice. The posture citizens have toward the principles of justice must be defined by the belief that the aims that the conception of justice encourages should consistently take priority over any propensities toward injustice (TJ §69, p. 398).

The Rawlsian conception of stability is a notable contrast to Hobbesian stability. Both Rawls and Hobbes maintain that when a system of cooperation is stable, each person thinks others will do their part and so there is no tendency for one not to do one’s own part. However, for Rawls, mutual trust that comes from a developed sense of justice is responsible for this state of affairs, whereas for Hobbes, this role is played by one’s fear of the sovereign. As Rawls points out, relations of mutual trust are analogous to the role of the sovereign, except that in the case of the former, “it is the consequence of a certain psychological principle of human nature in such systems, and the implications of the generated attitudes.”79 Thus for Hobbes, stability comes at the price of justice.

79. The Sense of Justice,” CP, 105.
because nearly absolute sovereignty is needed to secure stability. Rawls, however, is only concerned with the problem of stability in a just society.

As Samuel Freeman indicates, contrasting Rawls with Hobbes distinguishes a stable society that is just from a stable society that is unjust. Another important distinction is between a stable society and one that is not. In a stable society, citizens are satisfied that the existing institutions are just, and as a result, they do not desire “either to violate or to renegotiate the terms of social cooperation” (JF, 125). In a democratic regime, “stable social cooperation rests on the fact that most citizens accept the political order as legitimate . . . and hence willingly abide by it” (JF, 125). This willingness depends heavily on what Rawls calls the publicity condition: principles are publicly known and regularly appealed to in deciding and justifying laws and institutions in the society (TJ §23, p. 115). The publicity condition allows citizens to see the conception of justice in action and evaluate why it deserves their allegiance. Utilitarian conceptions of justice are unstable precisely because of what happens when there is public knowledge of the standard of maximum aggregate utility. When those who are called upon to make sacrifices learn of the standard for determining the distribution of benefits, they resent the arrangement.

Thus the scheme will not be stable unless those who must make sacrifices strongly identify with interests broader than their own. But this is not easy to bring about. The sacrifices in question are not those asked in times of social emergency when all or some must pitch in for the common good . . . . Even when we are less fortunate, we are to accept the greater advantages of others as a sufficient reason for lower expectations over the whole course of our life (TJ §29, p. 155).

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In a stable society, the standard for determining the distribution of benefits must advance everyone’s position. Fair terms of cooperation specify “an idea of reciprocity, or mutuality: all who do their part as the recognized rules require are to benefit as specified by a public and agreed-upon standard” (JF, 6). In turn, unlike utilitarian conceptions, “since everyone’s good is affirmed, all acquire inclinations to uphold the scheme” (TJ §29, p. 155).

Rawls discusses the instability of a compromise at length. If citizens abide by a conception of justice as the result of a compromise, they will likely tire of the arrangement eventually and desire to violate the terms of social cooperation. Rawls uses the phrase “modus vivendi,” which typically characterizes a treaty between two states whose interests put them at odds, to refer to this scenario. The compromise is honored because it is in the interest of both parties or states to abide by it, “But in general both states are ready to pursue their goals at the expense of the other, and should conditions change they may do so.” (PL, 147). The reasons for acting in accordance with the principles of justice are not strong enough in the case of a modus vivendi because “its stability is contingent on circumstances remaining such as not to upset the fortunate convergence of interests” (PL, 147). For Rawls, the stability achieved by a modus vivendi is unreliable because citizens have decided to abide by the terms of cooperation for the wrong reasons.

What, then, are the right reasons for citizens to abide by the terms specified by the principles of justice? This is one of Rawls’s central interests when he formulates his conception of social stability. He develops an alternate conception of stability in contrast with a modus vivendi, telling us that in the case of stability for the right reasons, “each
view supports the political conception [of justice] for its own sake, or on its own merits” (PL, 148). If citizens support the principles of justice for the right reasons, they will not withdraw their support in the event that their comprehensive view becomes dominant. One test of stability for the right reasons is “whether the consensus is stable with respect to changes in the distribution of power among views. This feature of stability highlights a basic contrast between an overlapping consensus and a modus vivendi, the stability of which does depend on happenstance and a balance of relative forces” (PL, 148).

Rawls tells us that stability involves two questions: (1) Will individuals who grow up under just institutions acquire an effective sense of justice, meaning that they generally comply with the principles of justice that have been adopted by their society? (2) Given the fact of reasonable pluralism in a democracy, will the conception of justice be the focus of an overlapping consensus among a variety of reasonable comprehensive doctrines? (PL, 141) These two questions turn out to be closely linked, because as Rawls shows, citizens who acquire an effective sense of justice are those who are prepared and willing to endorse the principles of justice through an overlapping consensus.

Rawls introduces the concept of an overlapping consensus as a way of addressing the diversity of reasonable comprehensive doctrines that characterizes a modern liberal democracy. Rawls is aware that citizens of such diverse comprehensive views will not all desire to abide by the principles of justice for exactly the same reasons. But Rawls also believes there is common ground among these comprehensive views, and this is what makes them “reasonable.” Reasonable persons are those who acknowledge that not all citizens share the same comprehensive view, and that this requires them to moderate
their demands out of respect for others. Reasonable persons, then, are ready to discuss terms of co-operation others propose because they desire “for its own sake” a social world in which they can cooperate with other citizens on terms that are acceptable to all and freely pursue their own understanding of the good life (PL, 50).

A reasonable society is comprised of reasonable persons, and so it is one in which “all stand ready to propose fair terms that others may reasonably be expected to accept . . .” (PL, 54). In addition, however, stability for the right reasons requires citizens to endorse the conception of justice for reasons rooted in their own comprehensive doctrine. “All those who affirm the political conception start from within their own comprehensive view and draw on the religious, philosophical, and moral grounds it provides” (PL, 147). Rawls writes,

In a democratic society marked by reasonable pluralism, showing that stability for the right reasons is at least possible is also part of public justification. The reason is that when citizens affirm reasonable though different comprehensive doctrines, seeing whether an overlapping consensus on the political conception is possible is a way of checking whether there are sufficient reasons for proposing justice as fairness (or some other reasonable doctrine) which can be sincerely defended before others without criticizing or rejecting their deepest religious and philosophical commitments (PL, 390).

Just as it is unacceptable for citizens to propose terms of cooperation that are uniquely associated with one comprehensive view, it is also unacceptable for them to propose terms of cooperation that are a compromise between their view and the views of other citizens. Instead, citizens must have reasons for abiding by the principles of justice that are not in conflict with their own comprehensive view or the reasonable comprehensive views of others. This is the only way stability for the right reasons can occur.
There is a deep sense in which stability for the right reasons comes from an overlapping consensus, because the basis of social unity lies here. If a liberal society is to be stable, its political conception of justice must be endorsed by an overlapping consensus. Each citizen must see her own comprehensive doctrine manifested politically in the conception of justice that governs the basic structure of society. This gives citizens a reason to uphold its principles regardless of the balance of power among different comprehensive doctrines.

The reasons citizens give for abiding by the conception of justice in the case of an overlapping consensus differ dramatically from those associated with a modus vivendi compromise. The stability of a modus vivendi persists only so long as a citizen’s favored comprehensive doctrine is too weak to dominate the others. A citizen would abandon the conception of justice if her own view could dominate. Stability, for Rawls, is a condition in which there is deep-seated agreement on fundamental questions about the basic structure of society. So in an overlapping consensus, the reasons for abiding by the principles of justice are imbedded in the values of each citizen, as opposed to being a compromise requiring a sacrifice, regardless of how slight, from within these values. Each citizen believes that abiding by the principles of justice is the best thing for everyone in the society, and as a result, they will endorse and abide by them “without being dominated, pressured, or manipulated” (PL, xlv). Social stability emerges when citizens endorse the conception of justice for these reasons—the right reasons—because these reasons have roots far deeper than the temporary balance of power in society. Regardless of whether one comprehensive view increases and gains dominance, citizens
will still abide by the principles of justice, because they are already doing so for the right reasons.

Rawls says the reasons for endorsing the conception of justice include the principles of justice and “an account of the political virtues through which those principles are embodied in human character and expressed in public life” (PL, 147). Rawls also maintains that stability for the right reasons “implies that the reasons from which citizens act include those given by the account of justice they affirm” (PL, xlii). Stability for the right reasons means that the reasons citizens have for abiding by the principles of justice are connected with the principles of justice themselves. When citizens propose terms that citizens committed to other reasonable comprehensive views would endorse, they are applying a crucial aspect of the principles of justice, namely, that the standard for determining the distribution of benefits must advance everyone’s position and affirm everyone’s good.

A political conception of justice must “generate its own support” and the institutions to which it leads must be “self-enforcing” (JF, 124-25). This means that the right reasons for abiding by the principles of justice include reasons given by the principles of justice themselves. The posture citizens take toward their fellow citizens in the process of proposing fair terms of cooperation is one that is specified by the principles of justice. Further, when citizens honor the terms of cooperation specified by the principles of justice, their public recognition of those terms encourages mutual trust among citizens and “nurture the development of attitudes and habits of mind necessary for willing and fruitful cooperation” (JF, 117). When this occurs, the “basis of social unity is the deepest because the fundamental ideas of the political conception are
endorsed by the reasonable comprehensive doctrines, and these doctrines represent what citizens regard as their deepest convictions—religious, philosophical, and moral. From this follows stability for the right reasons.” (PL, 391-92).

What matters is “the kind of stability, the nature of the forces that secure [the conception of justice] . . . . Put another way: citizens’ sense of justice…is strong enough to resist the normal tendencies to injustice. Citizens act willingly to give one another justice over time. Stability is secured by sufficient motivation of the appropriate kind acquired under just institutions” (JF, 185). Despite differences in their comprehensive views, reasonable persons must have a certain posture toward other citizens in their society and toward the principles of justice. This posture is defined by a genuine desire to see everyone benefit from the terms of social cooperation, and as a result to abide by the principles designed to ensure the proper distribution of these benefits. Citizens who have this posture abide by the principles of justice for the right reasons.

Rawls’s description of stability for the right reasons is closely related to his description of reasonable persons as desiring a certain sort of social world “for its own sake.” Here we should recall that the reasons citizens give for abiding by the principles of justice when there is stability for the right reasons include reasons given by the conception of justice itself. Their reasons, in this sense, go all the way down. Reasonable citizens have a well-developed sense of justice that has been cultivated through the processes discussed earlier in this chapter, and they desire to abide by the principles of justice because they are just. The social world that results from the implementation of the conception of justice is intrinsically good; it is desirable for its own sake.
In sum, a society has stability for the right reasons when its members have inclinations to advance everyone’s position and affirm everyone’s good. All persons are capable of taking such a posture by virtue of their sense of justice. For Rawls, the best instantiation of a sense of justice is one in which the standard for determining the basic political institutions of society and thereby determining the distribution of benefits in a society advances everyone’s position and affirms everyone’s good. When a sense of justice works as it should, all are concerned for those who would be disadvantaged by the failure of others to abide by that standard.

For Rawls, a society with fair terms of cooperation produces a strong sense of justice in its members, which in turn produces stability for the right reasons. Those who grow up under just institutions develop an informed allegiance to those institutions sufficient to render them stable. They do not become self-aggrandizing individualists, but good citizens. Growing up in a just society helps to develop and shape citizens’ senses of justice, making it strong enough to resist the normal tendencies to injustice. “Citizens act willingly to give one another justice over time. Stability is secured by sufficient motivation of the appropriate kind acquired under just institutions” (JF, 185). In a society whose members count on each other’s sense of justice, “a person normally wants to act justly as well as to be recognized by others as someone who can be relied upon as a fully cooperating member of society over a complete life” (PL, 306).

Liberal theory is underpinned by concerns about how to achieve a community that functions well. Rawls’s account is grounded on the idea that citizens have the capacity for a sense of justice, and when it is cultivated properly, the possibility of a just society that is stable for the right reasons exists. However, there is more than one kind of view
that makes use of a sense of justice. We will see this clearly in the next chapter, when we turn to the articulation of a sense of justice found in the *Analects*. 
CHAPTER FOUR

The Sense of Justice in the Analects

I have heard that those who possess a state or noble house are not concerned about whether their people are few in number, but rather about whether their people are content; they are not concerned [so much] about poverty, but about unequal distribution. If wealth is equally distributed, there should be no poverty.\(^1\)

As we turn to the Analects, we return to the questions raised in Chapter Two: Does the text of the Analects reveal an appreciation for a sense of justice through its discussion of other concepts and virtues? And/or is the semantic range of certain terms sufficiently broad to include a sense of justice? This chapter is devoted to showing how an appreciation for a sense of justice is expressed in the Analects. In the first section, I argue that the primary concern of the Analects is to advocate the cultivation of a certain set of virtues in human beings. In the second section, I show that a distinctive set of concerns emerges in the context of this discussion of self-cultivation, and that these concerns evidence an appreciation for a sense of justice. In the third section of the chapter I defend my argument against a series of possible objections, including the view that there is no term for a sense of justice and, therefore, no idea of it in the Analects. I also discuss some passages that could be offered as counter-examples to the view that there is an appreciation for a sense of justice in the text, as well as the view that the history of ancient China does not reflect an appreciation for a sense of justice.

\(^1\)Analects 16.1. The translation is my own.
I. The Cultivation of the Virtues in the Analects

Although this study focuses on the view we find in the text of the *Analects* as a whole, it will be helpful to begin by getting a sense of Kongzi as his story is presented in the *Analects*. In 4.8, Kongzi says, “Having in the morning heard that the Way was being put into practice, I could die that evening without regret.” In passages like this, we get the distinct sense that Kongzi’s life is devoted to the propagation of the Way (Dao 道) in the world. Indeed, the *Analects* tells us that Kongzi was called by Heaven (Tian 天) to put Heaven’s plan for human beings—the Way—into practice. In 3.24, we are presented with a scene in which Kongzi and his followers are departing from the state of Lu after he has resigned from his official position as the minister of crime. A border official says to them, “You disciples, why should you be concerned about your Master’s loss of office? The world has been without the Way for a long time now, and Heaven intends to use your Master like the wooden clapper for a bell.” The point here is that Kongzi’s loss of office is somehow part of a grand plan laid out by Heaven, according to which Kongzi is called to spread the teachings of the Way and wake up the world from its fallen state.

In other passages, Kongzi speaks of his sense of vocation and his relationship to Heaven. In 7.23, he says “It is Heaven itself that has endowed me with virtue,” and then he goes on to say that he has nothing to fear in Huan Tui, a military officer from the state of Song who had attempted to harm him. Kongzi makes a similar remark in 9.5, when he is surrounded in Kuang and says “If Heaven intended this culture to perish, it would not

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2 I follow the He Yan commentary in taking this passage as Kongzi’s lament for his personal hope of seeing the world attain the Way. [He Yan, *Lun yu ji jie* 讀語集解, *Zhong yong shuo can ben* [Zhang Jiucheng], *Lun yu ji jie* [He Yan ji jie], et. al. (compilation), (Taipei: Taiwan shang wu yin shu guan, 1981), p. 9.]
have given it to those of us who live after King Wen’s death. Since Heaven did not intend that this culture should perish, what can the people of Kuang do to me?” In both of these passages, it seems clear that Kongzi is not afraid of his destiny in this world because he is walking the path to which Heaven has called him. In 14.35, Kongzi laments that no one understands him, and when Zigong asks him how he could say this, he replies, “I am not bitter toward Heaven, nor do I blame others. I study what is below in order to comprehend what is above. If there is anyone who could understand me, perhaps it is Heaven.” Again, we see that Kongzi has a special relationship with Heaven, and a sense of having been called to devote his life to the propagation of Heaven’s plan for human beings: the Way.

In the *Analects*, the Way (*Dao*) is described in Kongzi’s instructions to others, and in his students’ remarks and questions. It is also exemplified in the model Kongzi provides in his own life. In 2.11, he says “Both keeping the past teaching alive and understanding the present—someone able to do this is worthy of being a teacher.” Indeed, his calling is tied to his insistence that people should return to the way of life embodied in the earlier part of the Zhou 周 dynasty. In 3.14 Kongzi says “The Zhou gazes down upon the two dynasties that preceded it. How brilliant in culture it is! I follow the Zhou.” Here the image of the Zhou dynasty gazing down upon the Xia 夏 and Shang 商 dynasties expresses Kongzi’s view that Zhou culture incorporated the best aspects of the cultures that preceded it. He sees the Zhou as a culmination of wisdom, and a clear expression of what the world looks like when people follow the Way. Kongzi says that he is not someone who was born with knowledge, rather, “I simply love antiquity, and diligently look there for knowledge” (7.20). This is why he insists that he
transmits instead of innovating (7.1). Further, he says he does not possess the fault of trying to innovate without acquiring knowledge: “I listen widely, and then pick out that which is excellent in order to follow it; I see many things, and then remember them” (7.28). Here again, Kongzi insists that his knowledge comes from learning the Way of the former kings; a well-trodden path that the world must find its way back to.

In a number of places, Kongzi says his mission is tied to encouraging others in their own quest to follow the Way. He is consistently self-deprecating, saying in 7.34, “How could I dare to lay claim to either sageliness or Ren 仁 (“humaneness”)? What can be said about me is no more than this: I work at it without growing tired and encourage others without growing weary.”³ He says his aspiration is “to bring comfort to the aged, to inspire trust in my friends, and to be cherished by the youth” (5.26). Whenever Kongzi speaks of his life’s work, it is tied to his relationships with others, and not to some sort of personal reverence or building a personal relationship with Heaven, even though he sees himself as carrying out Heaven’s plan for human beings by advocating the Way.

On the view of society presented in the Analects, the Way serves as a standard for organizing not only a harmonious life but a harmonious society as well. In 1.12 Master You says, “When it comes to the practice of ritual, it is harmony (he 和) that should be valued. It is precisely such harmony that makes the Way of the former kings so beautiful, and in all matters, great and small, we should follow them. Yet if you know enough to value harmony but try to attain it without being regulated by the rites, this will not

³Cf. 7.2.
work.” The task of self-cultivation is the key to realizing a harmonious society. In 8.7 we are told that for the scholar-official, who has devoted his life to the path of Confucian moral self-cultivation, “the burden is heavy and the Way is long. He takes up Ren (仁) (humaneness”) as his burden—is it not heavy? His way ends only with death—is it not long?” Ren (仁) is the highest of the Confucian virtues, and it carries the sense of humaneness or human-heartedness, benevolence, and highest goodness. As this passage indicates, taking up Ren is the task of one who treads the Way.

The Way plays an important part in the unity of Confucian virtues. These virtues together specify a vision of a certain way of life so that one who embodies these virtues has a life that “hangs together” coherently, which is the weakest sense in which there must be some kind of unity among the virtues. We would want to say that if someone embodied some of these virtues but neglected the others, something would be missing and their life would not be complete in an important sense. On the other hand, each human life is lived in cooperation with and against the backdrop of many other lives, and the Way shows us how to organize and navigate these roles and relationships.

In the person of Kongzi, we get a glimpse of what the task of self-cultivation involves, for he not only advocates the Way, but also exemplifies what it means to be a self-cultivationist devoted to following the Way. We see this clearly in 7.3: “That I fail to cultivate Virtue (de 德), that I fail to inquire into what I have learned, that upon hearing what is right I remain unable to move myself to do it, and that I am unable to

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4Translation modified.

5Translation modified.
Self-cultivation, he tells us, concerns the attitude one takes toward learning and not the amount of theoretical knowledge or wisdom one possesses, even though one who is devoted to the path of self-cultivation is likely to acquire the latter. In 9.8, he asks, “Do I possess wisdom? No, I do not. A common fellow asked a question of me, and I came up completely empty. But I discussed the problem with him from beginning to end until we finally got to the bottom of it.” Here we see the priority given to intellectual virtues like tenacity, diligence, and intellectual humility.

Indeed, most of the discussions of self-cultivation are related to discussions of learning (xue 學), and the attitude one brings to it. In the opening passage of the *Analects* Kongzi says, “To learn and then have occasion to practice what you have learned—is this not satisfying?” In 1.7, we are asked to imagine someone who recognizes and admires worthiness and therefore works to eliminate unworthy qualities in herself, who fully exhausts her strength in serving her parents, and who is trustworthy in her interactions with friends and colleagues. The passage insists that “it is precisely such qualities that make one worthy of being called ‘learned.’” Throughout the text of the *Analects* are descriptions of the arduous process of “learning” (xue 學), “cultivating” (xiu 裏) Virtue (7.3), “reflecting” (si 思) on what one has learned (2.15), “examining” (xing 省) one’s own conduct (1.4, 12.4), “inspecting” (xing 省) the moral conduct of others (2.9), “practicing” (xi 習) what one has learned (1.1) and what one has taught (1.4). In 1.15 we catch a glimpse of how rigorous this process is. Kongzi praises Zigong as one who is

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6Translation modified.
informed about the past, and thus, one who knows what is to come, after Zigong quotes from the *Book of Odes* (*Shijing* 詩經): “As if cut, as if polished; As if carved, as if ground.” This passage reflects the difficulty of self-cultivation by using the metaphor of cutting and polishing bone and ivory, and carving and grinding jade.

Kongzi insists that “One who is Ren 仁 (“humane”) sees as his first priority the hardship of self-cultivation, and only afterward thinks about results or rewards. Yes, this is what we might call Ren” (6.22). In 8.17 he says, “Learn as if you will never catch up, and as if you feared losing what you have already attained.” Kongzi says in 14.42 that the junzi 君子 (“exemplary person”) cultivates himself in order to achieve respectfulness (jing 敬), in order to bring peace to others, and in order to bring peace to all of the people. The junzi, who serves as a moral exemplar and the ideal to which all should aspire, is the most highly cultivated person in Confucianism. The junzi embodies the full range of Confucian virtues, including filiality, trustworthiness, courage, and wisdom. “Cultivating oneself and thereby bringing peace to all of the people is something even a Yao or a Shun would find difficult” (14.42). This passage reflects Kongzi’s awareness of the demanding nature of the task at hand, but more importantly, the discussion of respectfulness (jing 敬) earlier in this passage reflects Kongzi’s view that self-cultivation begins with children learning to show respect for their parents and other elders, then extending that respectfulness to others in their families and communities, and finally, to all people. Kongzi encourages his students to demand much of themselves while asking little of others (15.15), and says that “The junzi is distressed by his own inability, rather

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7Translation modified.
than the failure of others to recognize him” (15.19). In addition, “the junzi seeks it in himself; the petty person seeks it in others” (15.21).

We saw earlier that Kongzi is an exemplar of self-cultivation, something that is also seen in 2.4: “At fifteen, I set my mind upon learning; at thirty, I took my place in society; at forty, I became free of doubts; at fifty, I understood Heaven’s Mandate; at sixty, my ear was attuned; and at seventy, I could follow my heart’s desires without overstepping the bounds of propriety.” The Analects describes other specific exemplars of self-cultivation as well. One of the clearest and most highly praised is Yan Hui, Kongzi’s most exceptional student. Yan Hui died tragically at a young age, and Kongzi’s tremendous grief at this loss is described in the Analects (11.9-11.10). Kongzi describes Yan Hui as one who truly loved learning, saying, “He never misdirected his anger and never made the same mistake twice” (6.3), which indicates his control over his emotions and his actions. Kongzi also says that Yan Hui embodied the capacity for concentration, attentiveness, and reflection that is most characteristic of a true self-cultivationist. “For three months at a time his heart-mind did not stray from Ren (“humaneness”). Others could only sporadically maintain such a state” (6.7). In 9.20, Kongzi says Yan Hui never grows weary in conversation. Yan Hui’s own comments also reflect his commitment to self-cultivation and to his teacher, whom he credits with taking the time to encourage and lead him forward on the Way. In 9.11, Yan Hui talks about his pursuit of the Way:

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8 Translation modified.
9 Translation modified.
10 Translation modified.
The more I look up at it the higher it seems; the more I delve into it, the harder it becomes. Catching a glimpse of it before me, I then find it suddenly at my back. The Master is skilled at gradually leading me on, step by step. He broadens me with culture and restrains me with the rites, so that even if I wanted to quit I could not. When I have exhausted my strength, it seems as if there is still something left, looming up ahead of me. Even though I desire to follow it, there seems to be no way through.

It is striking how much humility Kongzi’s most outstanding student shows here, which reflects both the difficulty of the task of self-cultivation and Yan Hui’s excellence. A part of his success seems to be his intellectual humility, and his realization that he still has a long way to go. Yan Hui says in 5.26 that his aspiration is to avoid being boastful about his own abilities or exaggerating his accomplishments, and indeed, nowhere do we get the sense that he failed to avoid these things. Kongzi says of Yan Hui, “I watched his advance, and never once saw him stop” (9.21). All of this is extraordinary when one considers that Yan Hui came from a very poor background. In 6.11 Kongzi says that Yan Hui lives in an alley, with only a bamboo dish of rice and a gourdful of water to drink. He says that other people could not have endured such hardship in life, but “it never spoiled Hui’s joy. Admirable indeed was Hui!”

Yan Hui’s attitude toward his low station in life marks an important emphasis in the *Analects*. Kongzi maintains throughout the text that an interest in material gain, fame, or prestige is not the concern of a person following the path of self-cultivation. We will see later in this chapter that the *Analects* describes the virtue of *yi* ("rightess") as directly opposing and guarding against a concern with profit and gain, but this idea is a broad theme running through the text. In 4.9 Kongzi states that one who has set his intentions upon the Way but is still ashamed of his clothing and food is “not worth

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11 The translation is my own.
engaging in discussion.” No doubt, Kongzi has Yan Hui’s exemplary attitude in mind here. He goes on to say in 4.11, “The junzi cherishes Virtue, whereas the petty person cherishes the soil. The junzi cherishes [the fairness associated with] punishments, whereas the petty person cherishes exemptions.”\textsuperscript{12} Ames and Rosemont translate this last line, “Exemplary persons cherish fairness; petty persons cherish the thought of gain,” noting that the character xing （“punishments”) here carries the sense of the fairness that is associated with just punishments.\textsuperscript{13} Here we see that Kongzi associates virtue with an appreciation for the institutions that keep people in line, helping to maintain a harmonious society. On the other hand, he thinks those who are concerned about physical possessions and profit are also likely to be those who are not concerned about the rites, laws, and how they maintain a harmonious society. They have their own self-interest and material gain in mind, rather than their moral character and the character of others.

Kongzi’s lack of regard for prestige is related to his disdain for those who are concerned with material gain. In 9.2 we learn of a villager who makes fun of Kongzi, saying sarcastically, “How great is Kongzi! He is so broadly learned, and yet has failed to make a name for himself in any particular endeavor.”\textsuperscript{14} When Kongzi learns of this cutting remark, he says to his disciples, with equal sarcasm, “What art, then, should I take


\textsuperscript{14}Translation modified.
up? Charioteering? Archery? I think I shall take up charioteering.” Here Kongzi shows his contempt for mere technical skills, but he clearly thinks there is nothing more important, indeed, more practical, than the matter of what sort of person one should be. *Analects* 9.6 accords well with this theme. The Prime Minister says to Zigong, “Your Master is a sage, is he not? How is it, then, that he is skilled at so many menial tasks?” Later, hearing of this, Kongzi says, “How well the Prime Minister knows me! In my youth, I was of humble status, so I became proficient in many menial tasks. Is the *junzi* broadly skilled in trivial matters? No, he is not.” Here Kongzi asserts that his technical skills come from his humble background, and not from his commitment to the path of self-cultivation, continuing to insist that there is a distinction between the origins of technical skills and moral character, even though, as in his case, we may find some people who possess both.

As I noted briefly above, the capacity to feel and act in certain ways toward others in a society grows out of self-cultivation that begins in the context of familial relationships. In 1.2 Master You says, “A young person who is filial and respectful of his elders rarely becomes the kind of person who is inclined to defy his superiors, and there has never been a case of one who is disinclined to defy his superiors stirring up rebellion. The *junzi* applies himself to the roots. ‘Once the roots are firmly established, the Way will grow.’ Might we not say that filial piety (*xiao* 孝) and respect for elders constitute the root of *Ren* ("humaneness")?” The quotation from the *Book of Odes* in this passage indicates a connection between the cultivation of filiality as the “roots” of one’s moral

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15 Translation modified.

16 Translation modified.
character and the ability to follow the Way throughout one’s life. One who cultivates the virtue of filiality tends to develop a moral sense, learning to embody the other virtues that are parts of the Way.

In particular, we should notice that 1.2 mentions that one who is filial does not stir up a rebellion. The idea that filiality constitutes the roots of political order prevails in the Analects. One of the clearest formulations of this idea is found in 2.21, where Kongzi responds to questions about why he is not involved in government with a quotation from the Book of Documents (Shujing 書 經): “Filial, oh so filial, Friendly to one’s elders and juniors; Exerting influence upon those who govern.” After quoting this passage, Kongzi says, “Thus, in being a filial son and good brother one is already taking part in government. What need is there, then, to speak of ‘participating in government’? It is difficult to imagine a clearer indication of the connection Kongzi sees between the cultivation of filiality and political order. He thinks that the government alone cannot bring about a stable and harmonious society; rather, such stability must be initially cultivated in the context of the family. Members of society must develop certain dispositions, learning to think and feel for others in certain ways, if there is to be political order. The family serves as the model for the ideal state in this regard.

In 14.43, Kongzi gives us a sense of what he thinks happens when this process of self-cultivation does not occur. Upon observing a young man who is waiting for him sitting with his legs sprawled out, clearly in breach of the proper posture and attitude for receiving an honored guest, Kongzi says, “A young man devoid of humility and respect for his elders will grow into an adult who contributes nothing to his community. Growing older and older without dignity to pass away, he becomes a burden on society.”
This remark accords well with the other passages we have been examining, because it shows that Kongzi does not endorse the view that children will simply “grow up” and automatically take responsibility at a certain point in their lives. Rather, poor behavior at a young age, and in particular the failure to show respect for one’s elders, grows into a larger problem and actually obstructs one’s moral progress as one gets older. Kongzi thinks this young man will grow up to be someone who has no sense of responsibility to others, and as such will be nothing but a burden on society. One learns to think of others in certain ways and feel the responsibility to contribute at a very young age.

When we examine the remarks about filiality in the \textit{Analects}, we see that one’s accordance with the Way has just as much to do with feelings and attitudes as it does with actions. \textit{Analects} 2.7 says, “Nowadays ‘filial’ means simply being able to provide one’s parents with nourishment. But even dogs and horses are provided with nourishment. If you are not respectful, wherein lies the difference?” This passage sees respect (jing 敬) as constituting an emotional attitude, and not simply actions.\textsuperscript{17} In 2.8 Kongzi points out, “It is the demeanor that is difficult. If there is work to be done, disciples shoulder the burden, and when wine and food are served, elders are given precedence, but surely filial piety consists of more than this.” Demeanor or face (se 色) refers to the outward manifestation of one’s inner reflections and feelings about one’s conduct. In the context of self-cultivation, Kongzi describes a particular conception of the capacities humans have in relation to one another—both with respect to their feelings and attitudes, and with respect to their conduct.

\textsuperscript{17}I follow most traditional commentaries on the \textit{Analects} here in maintaining that an emotional attitude and not just one’s physical behavior is important when it comes to being filial. For a helpful sampling of a few commentaries on this issue, see Slingerland, \textit{Confucius Analects}, 11.
There are a number of other places where Kongzi discusses the importance of cultivating certain emotional attitudes. When Kongzi is asked about “the roots of ritual,” he responds by saying, “What a noble question! When it comes to ritual, it is better to be spare than extravagant. When it comes to mourning, it is better to be excessively sorrowful than fastidious” (3.4). The rites (li 礼) are an integral part of the Way, and a cultivated person knows them well. But here Kongzi tells us that the roots of ritual are actually the emotions that inform and motivate the rites. We should be reminded here of Kongzi’s remarks about filiality being the root of Ren (“humaneness”). In 3.4 he indicates that one’s feelings about what one is doing are the roots of ritual. In both of these cases, Kongzi’s remarks can of course be understood in a number of ways. One way to understand these claims about roots is to see them as evidence for the view that one’s feelings toward others are where things begin and what provides the enlivening force sustaining self-cultivation. Thus one’s filial love and respect for one’s parents and elders, and one’s sorrow when one performs a mourning ritual, are the foundation of filiality and ritual propriety. We begin with the feelings, and it is always the feelings we go back to when there is a problem. We should err on the side of showing our feelings rather than going through the motions, although of course we must balance proper feelings with proper actions.

There is additional evidence to support this view in 3.26: “Someone who lacks magnanimity when occupying high office, who is not respectful when performing ritual, and who remains unmoved by sorrow when overseeing mourning rites—how could I bear to look upon such a person?” Kongzi’s own performance of the rites as it is described in the Analects also indicates the importance of emotional attitudes. Although many
passages describe for us Kongzi’s careful performance of ritually specific behavior, other passages describe behaviors that are significant because they concern his emotional attitudes. *Analects* 7.9 and 7.10 note that “when the Master dined in the company of one who was in mourning, he never ate his fill,” and “the Master would never sing on a day when he had wept.” As Slingerland points out in his summary of the accompanying commentaries, these passages show that Kongzi felt the rituals and “was profoundly affected by the emotions they evoked. Understood this way, the point is not that [Kongzi] consciously refrained from eating his fill or singing, but that he was actually rendered unable to eat a full meal or engage in light-hearted activities.”¹⁸ These passages all indicate that for Kongzi, being a cultivated person involves having certain virtues that are constituted by both emotional attitudes and actions.

The *Analects* presents a novel view of how it is that a variety of different individuals engaging in self-cultivation can add up to the sum total of a stable, harmonious society. To begin with, Kongzi maintains that it is through the conduct of others that we learn how to become good ourselves. In 4.1 he says, “To live in the neighborhood of those who are Ren (“humane”) is fine. If one does not choose to dwell among those who are Ren, how will one obtain wisdom?”¹⁹ In 5.3 he remarks that Zijian is truly a junzi, and asks, “If [the state of] Lu were really without junzi, where did he learn how to be like that?”²⁰ The *Analects* expresses the idea that it is simply a basic tendency of human beings to gravitate towards those who are good, and that cultivated

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¹⁹Translation modified.

²⁰Translation modified.
individuals increasingly feel a particular affection for those who are Ren (“humane”) (1.6). This view naturally reinforces the view I have presented above, that our feelings are of the utmost importance when it comes to moral character. I will discuss the origins of the view that we are drawn to good people and its relationship to the concept of de 德 (“Virtue”) in a moment, but first I want to examine more carefully how this idea manifests itself in the Analects. To begin, we find Kongzi instructing his students not to accept as friends those who are not their equals (1.8, 9.25). He maintains that individuals are more successful in the process of self-cultivation when they surround themselves with good people. In 15.10, he compares this dimension of self-cultivation to a craft: “Any craftsman who wishes to do his job well must first sharpen his tools. In the same way, when living in a given state, one must serve those ministers who are worthy and befriend those scholar-officials who are Ren (“humane”).”\(^{21}\)

Kongzi repeatedly indicates that we should surround ourselves with good people, “drawing near to those who possess the Way in order to be set straight by them,” (1.14). The Analects also asserts that those who are Ren (“humane”) help others to cultivate themselves: “wanting to realize himself, [one who is Ren] helps others to realize themselves” (6.30). Kongzi says in 12.16, “The junzi helps others to realize their good qualities, rather than their bad. A petty person does just the opposite.”\(^{22}\) On a related note, Zengzi says in 12.24, “The junzi acquires friends by means of cultural refinement, and then relies upon his friends for support in becoming Ren (“humane”).”\(^{23}\)

\(^{21}\) Translation modified.

\(^{22}\) Translation modified.

\(^{23}\) Translation modified.
This is not to say that we cannot learn from those who are not good, for a real self-cultivationist seizes these opportunities for further reflection. Kongzi says in 4.17, “When you see someone who is worthy, concentrate upon becoming their equal; when you see someone who is unworthy, use this as an opportunity to look within yourself.” Similarly, he says in 7.22, “When walking with two other people, I will always find a teacher among them. I pick out their good points and emulate them; I pick out their bad points and correct these things in myself.”

Kongzi also thinks we should try to help those who are erring, but Kongzi’s remarks about whom we should expend our efforts on are restricted only to those individuals who show a genuine desire to improve. In 15.8, he says, “If someone is open to what you have to say, but you do not speak to them, this is letting the person go to waste; if, however, someone is not open to what you have to say, but you speak to them anyway, this is letting your words go to waste. The wise person does not let people go to waste, but he also does not waste his words.” Similarly, when Zigong asks Kongzi about friendship in 12.23, he replies, “Reprove your friend when dutifulness requires, but do so gently. If your words are not accepted then desist, lest you incur insult.” This passage reflects a similar view to Kongzi’s remarks concerning remonstration with one’s parents in 4.18: “In serving your parents, you may gently remonstrate with them. However, once it becomes apparent that they have not taken your criticism to heart you should be respectful and not oppose them, and follow their lead diligently without resentment.” The disposition that is cultivated in the context of one’s relationship with one’s parents serves as a basis for interacting with others. One

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24 The translation is my own.
learns virtues like patience and good judgment, and one also learns what real respect demands of us in a relationship.

The *Analects* also warns us about the dangers of becoming too closely involved with those who are not following the Way. In 8.13, Kongzi advises against entering a state that is endangered, and against living in a state that is disordered. He goes on to say, “If the Way is being realized in the world then show yourself; if it is not, then go into reclusion.” Here Kongzi is concerned that individuals might be derailed in their efforts to follow the Way if they live in an environment where no one else is committed to it. Similarly, in 15.40 he says “Do not take counsel with those who follow a different Way.”

In 16.4 there is a discussion of beneficial and harmful friendships that clearly distinguishes between genuine friendships and deceptive people who may disguise themselves as friends: “Befriending the upright, those who are true to their word, or those of broad learning—these are the beneficial types of friendship. Befriending clever flatterers, skillful dissemblers, or the smoothly glib—these are the harmful types of friendship.”

The idea that we gravitate toward those who are good is related to the traditional Chinese understanding of *de* 德 ("Virtue") that preceded Kongzi. This idea is retained and quite prominent in the *Analects*. As David S. Nivison’s influential study shows, an early form of *de* 德 is found on oracle bones and bronze vessels from the *Shang* dynasty.

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25I will discuss Kongzi’s other remarks in 8.13 later in this chapter.

26I follow David S. Nivison and capitalize the translation of *de* as “Virtue.” I think this helps to distinguish the distinctive Chinese idea from the more general sense of “virtue.”
In these early uses, the character appears to be related to its cognate \textit{de 得} ("to get") phonetically, graphically, and semantically, in that one who has \textit{de 德} ("Virtue") has a hold on or "gets" others. Philip J. Ivanhoe has developed this line of argument, showing that \textit{de 德} ("Virtue") was a kind of power that accrued to and resided within individuals—especially rulers—who acted favorably toward the spirits or toward other people. One who has Virtue receives the favor of the spirits and also the allegiance of other people. “Across the different meanings this character has, \textit{de} retains the sense of an inherent, spontaneously functioning power to affect others.”

In the \textit{Analects}, a person’s \textit{de} ("Virtue") is his inherent power and natural effect on others, and \textit{de} retains its ties to the ideal of rulership in this usage. In 2.1, Kongzi says “One who rules through the power of \textit{de} ("Virtue") is analogous to the Pole Star: it simply remains in its place and receives the homage of the myriad lesser stars.” In 13.4, Kongzi says that the mere existence of a ruler who loves ritual propriety, rightness, and trustworthiness would “cause the common people throughout the world to bundle their children on their backs and seek him out.” Both of these passages emphasize the sense in which the ruler with \textit{de} attracts others, who are then inclined to respond to him as an exemplar, paying him homage. The tendency of others to be attracted to and respond in kind to the ruler is one reason why Kongzi says in 4.25, “Virtue is never solitary; it

\begin{footnotesize}
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\item Ibid., x.
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always has neighbors.” The good ruler guides the people with Virtue and keeps them in line with the rites, ordering society with his virtuous example instead of regulations and punishments (2.3).

The idea that a ruler leads the people with Virtue is found throughout the *Analects* in other discussions of rulership and also in discussions of the *junzi*’s influence. In 8.2, Kongzi says, “If the *junzi* is kind to his relatives, the common people will be inspired toward goodness; if he does not neglect his old acquaintances, the people will honor their obligations to others.” Kongzi also maintains that when the ruler is correct, he does not even need to issue official orders—his will is put into effect immediately (13.6). Likewise when a ruler is not correct, the people will not do what he says even if he issues official orders. In all of these passages we see the power that virtuous individuals have.\(^{30}\)

Even though *de* (“Virtue”) is not used in these passages, this concept is clearly being employed to describe the remarkable influence that good rulers and *junzi* have over those around them.

It is evident even from this cursory review of some of the central themes in the *Analects* that the task of self-cultivation involves cultivating a particular posture toward other members of society. Kongzi maintains that through self-cultivation, one’s dispositions are harmonized with one’s roles in the family and community, and the larger society is characterized by a concern for the well-being of each of its members. The key to a harmoniously functioning society is not found in governmental policies and techniques. Rather, members of a society must cultivate dispositions like filiality in concert with practices such as following the rites in the appropriate kind of way. Self-

\(^{30}\)Cf. 13.11, 13.12, 13.13.
cultivation does not remain in the context of one’s own immediate roles. The *Analects* indicates that it should have an outward movement. As we have seen, the concept of *de* ("Virtue") can help us understand why the fruits of self-cultivation are seen as spreading outward from one’s own roles and relationships, having an impact on other members of society.

II. Kongzi and the Sense of Justice

Now that we have established the central theme of self-cultivation, it is time to turn our attention to whether those qualities that are associated with a sense of justice are discussed in the *Analects*. We have already seen that according to the view presented in the *Analects*, having the proper feelings toward others is an essential part of self-cultivation, and that the cultivation of feelings in the context of filial relationships and practices such as the rites are believed to lead to the cultivation of feelings in wider settings. This account is mirrored in the description of *de* ("Virtue") and governing.

The *Analects* has a robust view of governing that reflects the important relationship between Virtue and the larger question of how to organize a harmoniously functioning society. *Analects* 2.20 and a series of passage in Book Twelve recount a series of exchanges between Kongzi and Ji Kangzi, the head of the most powerful of the three ruling families in the state of Lu. The exchanges are significant because we find Ji Kangzi—a powerful political figure of the time—seeking Kongzi’s advice about how to be an effective ruler. In response to his question about how to get the people to be respectful, dutiful, and industrious, Kongzi says, “Oversee them with dignity, and the people will be respectful; oversee them with filiality and kindness, and the people will be dutiful; oversee them by raising up the accomplished and instructing those who are...
unable, and the people will be industrious.” In 12.17, Kongzi again advises Ji Kangzi that the most effective way to govern is to exemplify those qualities he wishes to see in the people: “If you set an example by being correct yourself, who will dare to be incorrect?” Similarly, in order to address the problem of stealing, Kongzi says “If you could just get rid of your own excessive desires, the people would not steal even if you rewarded them for it” (12.18).

Here we see clearly the understanding of Virtue we have been discussing. Kongzi says the ruler will get back from the people the Virtue that he gives them. Perhaps the clearest formulation of this idea is in 12.19, where Ji Kangzi asks Kongzi, “If I were to execute those who lacked the Way in order to advance those who possessed the Way, how would that be?” Kongzi remains unshaken in his reply, saying, “In your governing, Sir, what need is there for executions? If you desire goodness, then the common people will be good. The Virtue of a junzi is like the wind, and the Virtue of a petty person is like the grass—when the wind moves over the grass, the grass is sure to bend.”31 In this passage, it is not especially surprising that Kongzi disapproves of the idea of executing those who lack the Way, given his own calling to propagate the Way in a world that has strayed from it. Rather, he places the responsibility at the feet of the ruler, maintaining that it is fully possible for a good ruler to inspire goodness in the people. Here, it seems clear that Virtue is indeed a power one has to affect others.

Discussions of governing in the Analects consistently emphasize the importance of the posture a ruler takes toward the people. In 12.7, Zigong asks about governing and Kongzi tells him, “Simply make sure there is sufficient food, sufficient armaments, and

31Translation modified.
that you have the confidence of the common people.” Zigong then presses Kongzi to prioritize these three things, and Kongzi says he would first sacrifice the armaments, and then the food, because “death has always been with us, but a state cannot stand once it has lost the confidence of the people.” Here Kongzi prizes the relationship a ruler has with his people and the posture he takes toward them, over material gain or military success.

However, we should not think that questions of fair distribution are considered unimportant. In 16.1, Kongzi says that good rulers are not concerned [so much] about poverty, but about unequal distribution. If wealth is equally distributed, there should be no poverty; if your state or house is in harmony, there should be no scarcity; and if your people are content, there should be no instability. This being the case, if those who are distant will not submit, simply refine your culture and Virtue in order to attract them. Once you have attracted them, you should make them content.\(^{32}\)

This passage reflects a deep interest in the quality of life members of society have and recognizes how an equal distribution of wealth contributes to that quality. Legge notes that the term *jun* 均 means “equality” or “an equally adjusted state of society.”\(^{33}\) The term also carries the sense of keeping in order or in balance, and dividing evenly or impartially. This is the clearest passage where Kongzi indicates how he thinks society should be ordered with respect to questions of fair distribution, and it strongly indicates a sense of justice. Kongzi exhibits a high degree of confidence that all of the people can be provided for, so long as the ruler does not become fixated on immediate problems like poverty. Instead, a ruler or government must look for the source of the poverty in order to find a solution to it.

\(^{32}\)Translation modified.

\(^{33}\)Legge, “Confucian Analects,” 309, 460.
It is not the case, then, that the *Analects* simply does not show a concern with basic matters such as the distribution of food and taxation, and 16.1 is not the only passage where this concern is apparent. In 12.9, Duke Ai expresses his concern about the poor harvest and his inability to meet his own needs. When Master You suggests that he try taxing the people by the traditional ten percent, Duke Ai says, “I am currently taxing them twenty percent, and even so I cannot satisfy my needs. How could reducing the tax to ten percent help?” Master You then replies, “If the common people’s needs are satisfied, how can their ruler be lacking? If the common people’s needs are not satisfied, how can their ruler be content?” A good ruler considers the common people’s needs as if they are his own. *Analects* 12.11 can be seen as providing additional explication of how this process works. Duke Jing asks Kongzi about governing, and he replies, “Let the ruler be a ruler, let the ministers be ministers, let the fathers be fathers, and the sons, sons.” The Duke, seeing what Kongzi meant then said, “Well put! Certainly if the ruler is not a ruler, the ministers not ministers, the fathers not fathers, and the sons not sons, even if there is sufficient grain, will I ever get to eat it?” In 1.5, Kongzi again emphasizes the importance of being aware of role-specific duties, saying that in order to guide a state of one thousand chariots, a leader must be respectful in his handling of affairs and display trustworthiness, while being frugal in his expenditures and cherishing others. Finally, Kongzi says that one must only employ the common people at the proper times, meaning that the use of peasant farmers in public work projects should be timed so that it will not interfere with their livelihood. A ruler must, for example, pay attention to

34 The translation is my own.

35 The translation is my own.
the times of planting and harvest and keep in mind the demands on the time of those who work the land.

It should not be lost on us that trustworthiness (xin 信) is mentioned throughout the text as a quality of the cultivated person and as an important feature of a harmoniously functioning society. The basis of any society is cooperation, and trust is one of the primary factors that make cooperation possible. When members of society trust one another, things are both more efficient and more satisfying. Julia Tao has explored the importance of trust (xin) in the political philosophy of the Analects. Tao writes,

What motivates and sustains the following of li ['procedures'] and de ['virtue'] in the making of a covenant is mutual trust that others will share the same concern to achieve the common good, the same respect for mutual interests, and the same commitment to good faith (xin) or sincerity. The contemporary significance of the traditional Chinese approach to politics is that it reminds us that it is this spirit or value of sincerity shared by citizens of a polity that makes political decisions binding . . . . In the absence of the spirit of sincerity or xin, there is no ground for any trust in the reciprocal good faith of others . . . .

Indeed, as we will see below, an important part of the ability to judge a situation fairly is one’s ability to perceive untrustworthiness in others (14.31). The cultivated person not only exemplifies qualities like trustworthiness but also has a heightened awareness of these qualities in others, which is of course one way in which individuals continually cultivate virtues like trustworthiness.

One of the things that Tao’s discussion of trust highlights is that according to the Analects, people have good reasons to put their trust in one another and in their leaders because they share a concern for the common good. In his work, Centrality and

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Commonality: An Essay on Confucian Religiousness, Tu Weiming discusses the idea of society as a “fiduciary community,” which he contrasts with the idea of society as an “adversary system.”

He writes that “politics seeks not just to achieve a high level of social solidarity but also to lay the foundation of a fiduciary community. . . . According to this line of thinking, a person without a strong moral commitment can never become a truly exemplary teacher and exert a long-lasting influence upon society; a political system without a firm ethical basis can hardly provide creative leadership for the establishment of a durable pattern of social intercourse.”

Tu’s discussion of the idea of trust within Confucian political society appears to make use of a distinction that is made in theological accounts of trust in God. A fiduciary community is a kind of moral community that is distinct from mere law and order by virtue of the fact that individuals put their trust in God strictly as an act of faith. They are not thought to have reasons for this commitment. Theologians traditionally have distinguished between this Protestant idea of fiducia and the Catholic idea of assensus. Whereas fiducia is a commitment based strictly on faith, assensus requires reason’s assent to evidence and argument.

I think Tu’s understanding of Confucian political society as a community of trust is insightful, but although Tu uses fiducia as a way of describing the Confucian idea of trust, the idea of assensus is in many respects closer to the view that is presented in the Analects. On this view, members of society are not asked to put their trust in things unseen based on faith alone, rather, they have good reasons for trusting and caring for others, and their feelings of mutual trust grow out of feelings and dispositions that have

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38 Tu, Centrality and Commonality: An Essay on Confucian Religiousness, 67.
been grounded on family relationships where they have experienced reciprocity and filial love. Unlike *fiducia*, which is based on faith alone, people have reasons to trust one another in this sort of society. Like *assensus*, which requires individuals to have *reasons* for assenting to views that point toward God, members of a Confucian society have something on which to ground their commitment to other members of society.

The idea of trust within a political society in the *Analects* is partly revealed through discussions of roles and practical matters like the distribution of food. In several passages, Kongzi indicates that a society in which everyone’s needs are met involves something much deeper than governmental policies that are designed to ensure enough grain for everyone. If everyone does not serve conscientiously in their roles as rulers, ministers, fathers, and sons, the grain will never be distributed properly. It is worth noting, too, that the ruler’s role with respect to the people is grouped together with family responsibilities in 12.11. The *Analects* seems to advocate a view where rulers must consider their responsibilities to the people on the analogy of parental responsibilities. Indeed, if we consider Duke Ai’s difficulties in 12.9, we can easily see that if children’s needs are lacking, their parents should not be content. The expectation that rulers should feel for their people in the way that parents feel for their children is significant because it shows that even the ruler, who cannot possibly know each person in his state personally, has special feelings for them.

The *Analects* emphasizes the importance of all people, and not just rulers, cultivating caring feelings for other members of society. Kongzi says in 1.6, “A young person should be filial when at home and when going out, respectful of his elders. Conscientious and trustworthy, he should care widely for the multitudes but have
affection for those who are Ren ("humane")."\(^{39}\) Here, we should notice that Kongzi first describes filiality at home, second, respect for elders in the community, and third, care for others who are not in one’s immediate circle. Zhu Xi notes that the connotations here are of caring widely, as in the rush or overflow of water. Legge follows Zhu Xi’s reading and translates this line as “He should overflow in love to all.”\(^{40}\) For Kongzi, one who cultivates filiality and respect in one’s relationships will not have an impoverishment of caring feelings for others, but to the contrary, will have a strong, almost unstoppable, tendency towards such feelings and actions.

Other passages emphasize the cultivation of one’s ability to care for “the multitudes,” or members of society that are further removed from one’s own circumstances. Kongzi tells us in 1.16 to be concerned about not knowing others instead of worrying about being known by others, which reflects a concern with one’s ability to have moral feelings for others. In 12.22, Kongzi is asked about Ren (humaneness), and he admonishes his interlocutor to “Care for others,” and “Know others.” In 6.30, Zigong asks Kongzi, “If there were one able to broadly extend his benevolence to the common people and his assistance to the multitudes, what would you make of him? Could we call him Ren ("humane")?"\(^{41}\) Kongzi responds by telling Zigong that such a person could be considered more than Ren--“Such a person is surely a sage.” This response reflects a concern with extending one’s moral feelings beyond one’s own family and community.

\(^{39}\)The translation is my own.

\(^{40}\)Legge translates ai 爱 as “love,” but I have translated it as “care” because I think this is more accurate in terms of what Kongzi expects individuals to show to those with whom they are not acquainted. That is, he expects sympathetic feelings and actions, as opposed to the emotion of love. See Legge, “Confucian Analects,” 140.

\(^{41}\)The translation is my own.
The *Analects* also gives us specific examples of people who have their priorities in order, which for Kongzi concerns the extent to which, in addition to avoiding an obsession with material goods and showing reverence and diligence in one’s religious practices, one cares about the multitudes. An example is seen in Kongzi’s praise of sage-king Yu in 8:21: “He subsisted on meager food and drink, and yet showed the utmost filiality in his offerings to the spirits. His ordinary clothes were poor, but his ceremonial headdress and cap were of utmost beauty. He lived in the humblest of dwellings, expending all of his strength on the construction of drainage ditches and canals. I can find no fault with Yu.” In the latter part of this passage, Kongzi refers to Yu’s legendary devotion to taming the floodwaters and making China habitable for people. One of the reasons why Kongzi finds no fault with Yu is that he puts the needs of the people over his own personal needs, living humbly with respect to meeting his own needs without ever neglecting his moral responsibilities to others.

In 12.5, we find a similar attitude, where Zixia says that the *junzi* (“exemplary person”) is respectful to others and observes the rites properly, and “in this way, everyone within the Four Seas is his brother.” In 8.6, we are told that the *junzi* is someone who can be entrusted both with the care of a young orphan and the command of a large state, and that he remains unshaken in the midst of all of these challenges. This passage is interesting because it emphasizes that the *junzi* is a person of enormous sensitivity—the kind of sensitivity required to care for a young orphan—and yet who also has the courage

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42 The translation is my own.

43 That is, everyone in the world is his brother.
to lead a large group of people. Additionally, we learn from 12.5 and 8.6 that the *junzi* treats others as though they are his family.\(^{44}\)

Now when the *Analects* says that a cultivated person thinks of everyone as his brother, or could be entrusted with the care of a young orphan, it does not mean that he thinks of everyone in exactly the same way as a brother or as his own children. Rather, a cultivated person feels a moral responsibility toward others. Cultivated individuals are also able to respond appropriately to the demands of different people. They have certain emotional responses to other human beings, and these are cultivated responses that begin with and are clearly seen in our responses to family members.

Thus we see in the text an emphasis on caring for other members of society. This is one of the ideas seen in discussions of *shu* ("reciprocity"). A person who cultivates a sense of reciprocity regularly employs the principle of reversibility, imagining herself in the place of others as a way of sympathetically understanding and responding to them. In 12.2, Kongzi responds to a question about *Ren* ("humanity") by saying, “When in public, conduct yourself as though you were hosting an important guest; when managing the common people, conduct yourself as though you were in charge of a great sacrifice. Do not do to others, what you do not want done to yourself. In this way, you will encounter no resentment in the state or in the family.”\(^{45}\) The teaching that one should not do to others what she does not want is repeated in 5.12, and in 15.24 Kongzi uses it to define *shu*.

\(^{44}\)Here we should be reminded of Rawls’s contention that having a fully developed sense of justice is seen in one’s ability to feel for those with whom one is not immediately associated, in addition to one’s family and friends.

\(^{45}\)The translation is my own.
The idea of *shu* ("reciprocity") and the principle of reversibility it specifies is important because we are not always initially inclined to feel for the plights of those who are far removed from ourselves. However, Kongzi thinks all humans possess the capacity to feel for others, and part of the process of self-cultivation as it is described in the *Analects* is exercising this capacity regularly so that we become more inclined to feel for others in this way. Now I do not mean to say that one who imagines herself in the place of others and works at sympathetically understanding their situation will *approve* of the actions others perform. It is important to see that one can feel for others and respond in a way that reflects sympathetic understanding and a sense of reciprocity, and still have a keen sense of rightness that informs and accompanies one’s feelings for others. There are two dimensions of this sense of rightness. If a hurricane devastated an especially poor area of a city where citizens were unable to evacuate because they did not have transportation, other citizens would feel for them because they were disadvantaged by their position in society, which they did not choose. Questions would be raised about why the government failed to assist these citizens during the evacuation process, and other citizens would express outrage at the fact that they were not given the assistance they needed. One’s sympathetic understanding for these individuals, then, would be tied to the view that they suffered an injustice and thus to a sense that they were wronged. On the other hand, one might still disapprove of desperate actions these citizens take in response to the situation they find themselves in (e.g., stealing, looting). Disapproving of certain kinds of actions because they wrong others and because they conflict with one’s obligations as a member of society comes from a moral sense.
The concept of *yi*義 (“rightness”) is one of several ideas that express this sort of concern in the *Analects*, and the best way to understand this idea is to examine the passages where it is discussed. In the first set of passages I want to examine, *yi* is paired with the opposing vice of an excessive concern for profit (*li*利). *Li*利 indicates all of the things that provide material wealth, and the Confucians use it primarily in a negative sense. In passages where it is paired with *yi*, we can see clearly that even in an ethical tradition that is context-sensitive, some things are always considered wrong. In 4.16, Kongzi says, “The *junzi* is conversant with *yi*, whereas the petty person is conversant with profit (*li*).” In 14.12, he says that when complete persons see an opportunity for profit, they think of *yi* (*jian *li* si *yi*見 利 思 義). Similarly, in 16.10 Kongzi says that when the *junzi* sees an opportunity for gain (*de*得), he thinks of *yi* (*jian *de* si *yi*見 得 思 義). In each of these passages *yi* is contrasted with the desire for profit or material gain. Furthermore, when virtuous people see an opportunity for profit or gain, they think of *yi*. This claim is especially significant, because it indicates that an appreciation for *yi* is what keeps good people from simply taking whatever they can get. So a sense of *yi* is what keeps people from stealing or cheating, or from taking more than they need. Here *yi* reflects a sense of rightness, fairness, and honesty. *Analects* 1.13 tells

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46In the following discussion, I leave *yi* untranslated to more easily facilitate an exploration of what it means in the *Analects*.

47This aspect of Confucian thought represents an important point of resonance with Aristotle.

48The translation is my own. I follow Legge’s rendering of *yu yu yi*喻 於 義 as “is conversant with *yi*” (Legge, “Confucian Analects,” 170).

49Legge translates this as “When he sees gain to be got, he thinks of righteousness” (Legge, “Confucian Analects,” 314).
us that “trustworthiness comes close to yi, in that your word can be counted on,” which reinforces the connotations of honesty seen here.

In these passages, yi keeps people from becoming excessively concerned with material wealth, from becoming greedy or taking more than their fair share. Perhaps most accurately, then, in these passages yi seems to mean a sense of fairness, although it does not concern fairness in the sense of a disposition to adhere to the law or in regard to distribution and retribution. Rather, it means something more like fair-mindedness or the tendency to make balanced judgments about persons or situations. This understanding of yi is also seen in 4.10, where having a sense of yi is contrasted with being partial and holding grudges. Kongzi says, “In the world, the junzi is not for or against anything. What is yi—this is what he accords with.”\textsuperscript{50} The junzi does not simply side with someone he is partial to, or hold a grudge against someone he does not like. Rather, he judges a situation based on yi. This passage resonates with the passages above, where yi indicates a sense of fairness and good judgment.

The second set of passages I want to consider relate yi to public service. In 17.23, Kongzi is asked whether the junzi esteems courage, and he says, “The junzi esteems yi above all else. A junzi who has courage but lacks yi will create chaos (luan 亂); a petty person who has courage but lacks yi will commit robbery (dao 盜).”\textsuperscript{51} To begin with, Kongzi distinguishes between esteeming courage (shang yong 尚勇) and esteeming yi above all else (yi zhi wei shang 義之為上). The term meaning “to esteem” or “to place

\textsuperscript{50}The translation is my own.

\textsuperscript{51}Translation modified.
a high value on” (shang 上) here is a cognate of the term used for “the highest” (shang 上), indicating that Kongzi draws an important distinction between placing a high value on courage, and placing the highest value on yi. The idea here is that too much courage and too little yi results in chaos or political disorder in the junzi’s case, whereas in the case of petty persons, it results in becoming a thief. The latter case is close to the passages we saw before, where yi carries a sense of fairness that keeps one from pursuing profit and material gain. The former case, however, is interesting because it indicates that the junzi, as an exemplar and sometimes as a ruler, can throw a state into utter disarray if he doesn’t value yi above all, but still places a high value on courage. One must understand that yi takes priority over courage and must guide, inform, and shape it.

In 5.16, Kongzi describes the exemplary rulership of Zichan, a minister from the state of Zheng, saying that “in the way he cared for the common people, he displayed benevolence; and in the way he employed the people, he displayed yi.” Here Kongzi indicates that Zichan’s actions showed that he had a sense of yi, and yi here is used to characterize the way he employed the people. Based on the passages we have already examined, we can conclude that he did not overtax them or lead them into needless conflicts with other states. He displayed a sense of honesty and fairness, genuinely seeming to have the well-being of the people in mind. This sense of yi bears an interesting relationship to 18.7, where Zilu says,

To avoid public service is to be without a sense of what is yi. Proper relations between elders and juniors cannot be discarded—how, then, can one discard the ruler’s and minister’s yi? To do so is to wish to keep one’s hands from getting dirty at the expense of throwing the great social order into chaos. The junzi takes office and does what is yi, even though he already knows that the Way will not be followed.52

52Translation modified.
Here *yi* is again credited with the *junzi*’s sense of political responsibility. In both 12.10 and 18.7, *yi* is in good part responsible for the *junzi*’s diligent fulfillment of his political role, and his sense of fairness with respect to the needs of the people.

The virtue of fair-mindedness that is seen in one who has a sense of *yi* is reinforced in a number of other discussions in the *Analects*. Kongzi tells us in 2.14 that the *junzi* associates openly with others (*zhou 周*) and is not partial (*bu bi 不比*), whereas the petty person is. This passage reinforces a claim we have already seen with respect to *yi*—the avoidance of judging situations based on personal biases or grudges. The *junzi* does not rely on partisan connections to get things done. Rather, he associates with different kinds of people, examining each person’s moral character for himself according to the standard provided by the Way. The He Yan commentary emphasizes the close connection between the virtues of conscientiousness (*zhong 忠*), trustworthiness (*xin 信*) and *zhou*.\(^{53}\) Literally, “associating openly” (*zhou 周*) implies wide association, and keeping the public good in mind. Slingerland notes that some commentators take this to imply that the *junzi* understands the broad, overarching vision that is the Way and does not become mired down in trivial details or personal biases.\(^{54}\) Here it is important to recognize that when we talk about one’s ability to set aside grudges or biases and judge a person or a situation on its own merits, we are talking about the judicial virtues. We normally say that such a person has a well-developed sense of justice or that they are fair-minded. We might also praise them in a more general sense, but it seems that we are

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\(^{53}\) He Yan, *Lun yu ji jie 論語集解*, p. 4.  
\(^{54}\) Slingerland, *Confucius Analects*, p. 12.
really pointing to a spirit of fairness and good judgment, and indeed, these are among the capacities we associate with a sense of justice.

Earlier in this chapter we looked briefly at 4.11 with its emphasis on profit. In the second half of this passage, Kongzi indicates that the junzi thinks about punishments, whereas the petty person thinks about exemptions or personal favors that will prevent him from being punished if he is caught. Now this passage is interesting because it requires us to interpret what it means for the junzi to “cherish [the fairness associated with] punishments” (huan xing 悪刑). It seems clear from the passages we have seen about governing, such as 12.19, where Kongzi indicates his view that the junzi leads by virtue instead of punishments, that he does not mean that the junzi literally cherishes—in the sense of enjoys—punishments. Zhu Xi maintains that this passage concerns the junzi’s public, impartial orientation as opposed to the petty person’s interest in personal gain at any cost.55 On this reading, what Kongzi means when he says the junzi “cherishes punishments” is that the junzi thinks about the importance of a judicial system that judges people fairly and punishes people when it is called for, protecting other members of society and the values that they uphold. Given the contrast with the petty person’s concern for exemptions or favors in this passage, we can also conclude that the junzi cares about a fair trial and officials who do not forgive transgressions because they owe someone a favor. The junzi realizes that a good society relies on its members having and acting on a sense of justice—a moral sense that calls them to act in a spirit of fairness rather than on personal interests, biases, or grudges.

The seriousness with which Kongzi takes those who do not judge situations fairly is evident in 15.14. He criticizes Zang Wenzhong, a former minister in Lu, for refusing to recognize a virtuous minister, saying that Zang failed to give a person of exceptional moral character a position. Here he makes it clear that intentionally denying a qualified person the position they deserve is reprehensible. In Kongzi’s view, Zang took what one person had rightfully earned and gave it to someone else. Kongzi also criticizes Zang’s lack of good judgment in 5.18, and what is interesting about his criticism of Zang in this particular area is that Zang Wenzhong was formerly the Minister of Justice in Lu.\footnote{Slingerland, \textit{Confucius Analects}, 180.} Thus, Kongzi’s criticism may be indicative of his view that Zang was especially unfit for his official position. In all of these passages, Kongzi emphasizes the need for members of society to cultivate the ability to judge a situation fairly, and he does not hesitate to criticize someone who fails to do so. He expresses disapproval of situations where cases are judged in a biased manner or where someone is denied the position they have rightfully earned. Kongzi is not content to let these kinds of situations pass by so long as things seem to be functioning smoothly, because he is concerned for those who are treated unfairly, and also for the moral character of those who treat them unfairly.

Among the passages that even more obviously reflect a sense of justice in the \textit{Analects} are passages that explicitly mention the justice system. In 19.19, Zengzi says, “When you uncover the truth in a criminal case, proceed with sorrow and compassion. Do not be pleased with yourself.” Here, one of Kongzi’s students describes the feelings individuals should experience upon learning of and examining a case of injustice. They should feel sorrow and compassion upon seeing that there has been injustice, rather than
being elated with their own ability to discover the truth. These feelings should outweigh anyone’s desire for fame or success.

As with discussions of self-cultivation, descriptions of Kongzi’s behavior contributes to the overall picture of a sense of justice in the *Analects*. Probably the most significant of these passages is 5.1, where we are told that Kongzi gave his daughter in marriage to Gongye Chang, who had been wrongly imprisoned for a crime. Kongzi says, “He is marriageable. Although he was once imprisoned as a criminal, he was in fact innocent of any crime.” The fact that Kongzi not only declares Gongye Chang’s innocence but also gives his daughter to him in marriage is significant because of the social stigma that was attached to former criminals. During this time in ancient China, criminals at times were marked physically when they were found guilty, sometimes in the form of tattoos. In such circumstances, it was not the case that one who was wrongly convicted could simply be “cleared” and go on to live as he previously did.

By taking one who was wrongly imprisoned as a criminal as his son-in-law, Kongzi makes a powerful statement about the priority of justice over other social judgments or stigmas. Kongzi is surely aware that his daughter, and eventually his grandchildren, may be stigmatized. But he values Gongye Chang’s innocence and the justice that is exemplified in his being cleared and going on with his life over the difficulties it may cause his family. This passage makes it clear that Kongzi cares more about the truth that Gongye Chang is innocent, and justice being served by his name being cleared, than the judgment of society and the social stigma that will remain with him as a result of his one-time conviction.
The appreciation for justice in this passage, and in the other passages discussed above, concerns the fact that having a sense of justice involves judging a situation for oneself and not simply following one’s biases, grudges, or the previous erroneous judgments of others. Although we have already discussed the concern to combat biases or grudges in the Analects, the issue of not simply going along with the judgments of others is significant because on a first reading of the Analects, one might mistakenly think that harmony is valued above all else. But harmony as a value does not mean agreeing with everyone else in order to keep the peace. Although there are instances where it is certainly easier to go along with the judgments of others, Kongzi does not advocate doing this, nor does he think this sort of response achieves harmony. In 13.23, Kongzi says, “The junzi harmonizes (he 和) and does not merely agree (tong 同). The petty person agrees, but he does not harmonize.” This passage reveals Kongzi’s awareness that an unwillingness to stand up and raise objections to the unfair judgments of others does not produce a harmoniously functioning society in the long run, even though it may temporarily prevent a conflict.

The Analects does not call for us to continually defer to others just to keep the peace. To the contrary, in 15.28 Kongzi says, “When the multitude hate a person, you must examine them and judge them for yourself. The same holds true for someone whom the multitude love.” Now there is no question that Kongzi thinks a good society requires its citizens to judge situations in a fair and balanced way, even when their judgment goes against the majority. This view is also significant because it shows that Kongzi does not think we should simply favor those to whom we are closest; rather, we must judge a

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57 Translation modified.
situation apart from any biases or grudges we may have for or against those who are involved.

On this note one might argue that on Kongzi’s view, it is not so much that harmony is not still the ultimate goal, but rather that citizens having good judgment is conducive to harmony. On this view, judging a situation fairly is the way to achieve the end of a harmonious society. The problem, however, is that it simply does not seem to be the case that judging situations in a fair and balanced manner and defending one’s judgments against the objections of others is a means to harmony, unless one thinks of harmony as a long-term goal that can only be achieved by challenging norms and standards and encouraging certain virtues in members of society despite their resistance to it. The point, though, is that harmony in these cases is not achieved immediately. As we have seen, in spite of the social stigma Kongzi gives his daughter in marriage to someone who was formerly convicted of a crime. In 15.28 he tells us to judge a person’s character for ourselves in spite of the fact that others already hate them or love them. In these cases he calls us to go against the grain, rather than accede to the judgments of others. This implies that he values fairness and good judgment even when they do not help to preserve harmony. Indeed, harmony could be attained fairly easily in many cases simply by going along with the judgment of the majority. But what Kongzi indicates in these passages is that he thinks it is wrong to sacrifice one person for the sake of harmony. Or, perhaps more accurately, if one person’s well-being is sacrificed in the name of preserving harmony among the majority, then the state of affairs is not really harmonious at all. Kongzi thinks it is more important to act fairly, treating people as they deserve
based on their innocence or guilt. We should base our judgments on what people have actually done, and who they really are.

It seems clear that in these cases, Kongzi advocates acting on one’s own sense of what is right and fair as an alternative to going along with the court of public opinion. These passages emphasize one’s ability to perceive situations accurately and clearly. In 14.31 Kongzi says, “Not anticipating betrayal, nor expecting untrustworthiness, yet still being the first to perceive it—this is a worthy person indeed.” This passage calls us to set aside our preconceived ideas and expectations in order to give others a fair hearing, but it also speaks of a certain kind of perceptiveness. A cultivated person is able to see people and situations for what they really are. They see things in a fair and balanced manner. In 12.20 Kongzi notes that cultivated persons carefully examine the words and demeanor of others, and always take the interests of their inferiors into account when considering matters, regardless of whether they are serving the state or a noble family. Interestingly, he mentions two qualities together here: first, the ability to carefully examine the conduct of others and judge it fairly, and second, the ability to consider one’s inferiors rather than simply proceeding with the interests of one’s superiors, or oneself, in mind.

In 4.5, too, Kongzi acknowledges the importance of considering the situation of the least advantaged members of society, while acknowledging that we should notice more than just one’s economic status. He says,

Wealth and social eminence are things that all people desire, and yet unless they are acquired in the proper way I will not abide them. Poverty and disgrace are things that all people hate, and yet unless they are avoided in the proper way I will not despise them. If the junzi abandons Ren (“humaneness”), how can he merit the name? The junzi does not go against Ren even for the amount of time required to finish a meal. Even in times of urgency or distress, he necessarily accords with it.\textsuperscript{58}

\textsuperscript{58}Translation modified.
In this passage, Kongzi shows that he is most interested in the way that poverty is avoided, which resonates with his remark in 16.1 that good rulers “are not concerned [so much] about poverty, but about unequal distribution. If wealth is equally distributed, there should be no poverty.” These remarks support the overall view we have been examining, namely that the Analects does not articulate a picture that is focused on achieving certain ends such as eliminating poverty, at any cost. Rather, Kongzi thinks there is a specific way in which poverty must be eliminated, namely through equal distribution (jun 均). In places like 6.4, Kongzi makes it clear that the junzi provides for the needy but does not help the rich to become richer. However, Kongzi says that the end of making sure everyone is provided for equally must be achieved in the right way, namely in a way that is Ren (“humane”). In 8.10 Kongzi says that a person who is fond of courage but who despises poverty will become rebellious, which similarly indicates that there is a right way and a wrong way to go about addressing the problem of poverty. He even goes so far as to say that he will not despise poverty unless it is avoided in the proper way (4.5). If poverty is not eliminated in the right way, then the elimination of poverty is not an end worth having, in Kongzi’s view. These remarks seem to be consistent with the view we have been discussing—that no individual should be sacrificed in the name of the greater good.

In 8.13 Kongzi says,

Be sincerely trustworthy and love learning, and hold fast to the good Way until death. Do not enter a state that is endangered, and do not reside in a state that is disordered. If the Way is being realized in the world then show yourself; if it is not, then go into reclusion. In a state that has the Way, to be poor and of low status is a cause for shame; in a state that is without the Way, to be wealthy and honored is equally a cause for shame.
There are several things to notice here. First, Kongzi speaks of following the Way in a fairly literal sense. It is clear that following the Way means avoiding those places where one does not see the Way in practice. Second, Kongzi is concerned about good people being derailed when they are surrounded by corruption and a lack of virtue. This idea helps us to understand 5.2, where Kongzi gives his niece to Nan Rong in marriage after noting that when the state possesses the Way, Nan will not be dismissed from office and when the state is without the Way he will avoid punishment or execution. Kongzi thinks Nan is a virtuous person, and as such he believes that when the state is following the Way, Nan will continue to hold office, but when the Way is no longer followed, he will extricate himself from a prominent position and thus will not become involved in corruption or find himself unjustly accused. As 8.13 indicates, withdrawing from those places where the Way is not in practice is the right thing for a cultivated person to do.

Kongzi also remarks about poverty and wealth in 8.13, saying that being poor in a state that has the Way is a cause for shame, and being wealthy in a state that is without the Way is a cause for shame. The idea here is that in a good state, virtuous persons will rise to positions of authority, and they should pursue and accept these positions willingly when a state has the Way. The implication also seems to be that those who live in obscurity or in low positions are either virtuous persons who are not fulfilling their responsibilities, or they are persons who are not virtuous. Thus it seems that on Kongzi’s view, criminals suffer poverty as a result of their own actions in a state that has the Way. The latter part of this remark indicates that only those who are corrupt will be prosperous

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59Cf. 11.6, which seems to take Nan Rong’s carefulness in speech as the reason Kongzi gave his niece to him in marriage.
in a state that lacks the Way. In an ideal state, then, there is no one who suffers from poverty unjustly.

In 14.9 and 14.10 we find an interesting illustration of the idea of just poverty. The latter part of 14.9 mentions the story of Guan Zhong, a seventh century B.C.E. statesman and the leader of the Bo clan, who evidently committed a crime. When Kongzi is asked about Guan Zhong, he says that Guan Zhong “seized the city of Pian, with its three hundred families, from the head of the Bo clan, who was reduced to the most humble circumstances and yet did not utter a single word of resentment to the end of his life.” The passage refers to the fact that Guan Zhong seized the Bo family fiefdom as punishment for a crime committed by the leader of the family. In 14.10, Kongzi says, “It is difficult to be poor and still free of resentment, but relatively easy to be rich without being arrogant.” If one reads 14.9 and 14.10 together, as some commentators do, then 14.10 seems to praise the head of the Bo family for accepting his punishment—poverty—without resentment. On this reading, 14.10 commends the leader of the Bo family for accepting his punishment without resentfulness, because it is hard to avoid feeling resentful when you are reduced to abject poverty, even when one legitimately is being punished for a crime. In relation to 8.13, it seems that the state has the Way in this case, because those who are reduced to poverty here are those who are guilty of a crime.

There is, however, an additional complexity, because 14.10 also seems to reprimand Guan Zhong, who was wealthy and who Kongzi criticizes in Analects 3.22 for

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60 The translation is my own.

61 Waley follows this reading, and groups these passages together into one paragraph in his translation (Waley, *Lunyu The Analects*, 155).
living lavishly and for ritual improprieties. When we read 14.10 as the last line of 14.9, we must remember that the original question was about Guan Zhong’s character. So, when Kongzi says that it is easy to be rich without being arrogant, this comment seems to be about Guan, whom we know tended to flaunt his wealth. On this reading, 14.10 is an especially harsh critique of Guan Zhong, because he first points out how honorable the Bo family was in the midst of abject poverty, and then he goes on to say that Guan did not even try to cultivate himself. Indeed, when we read 14.9 and 14.10 together, the picture we get seems to be one that praises the head of the Bo family above Guan Zhong.

Regardless of whether it is considered in relation to 14.9, in 14.10 Kongzi calls our attention to how difficult the task of self-cultivation is, and it is a passage that is worthy of careful examination because it shows that Kongzi was acutely aware of how hard it is to be poor. In his commentary to 14.10, He Yan says, “Dwelling in poverty is difficult, and enjoying wealth is easy—this is the constant nature of human beings. However, people should work diligently at difficult things, and yet not grow careless with regard to things that are easy.” Legge notices that in 14.10 Kongzi is making a remark about self-cultivation when he compares the level of difficulty involved in a poor person avoiding resentfulness and a rich person avoiding arrogance. In fact, he notes a

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62 In 14.9 and 14.16 Kongzi is noncommittal in his remarks about Guan’s character, even when Zilu explicitly asks if Guan was Ren (“humane”) in 14.16. In 14.17, Zigong criticizes Guan and declares that he was not Ren, but Kongzi responds by explaining some of Guan’s actions in a charitable light. However, in both 14.16 and 14.17, although Kongzi acknowledges that Guan Zhong did some good things, he never really praises Guan. And in 3.22, Kongzi pretty clearly criticizes Guan’s moral failings. Perhaps this rather mixed assessment is simply Kongzi being fair to Guan Zhong. That is, these passages may manifest a sense of fairness.

63 Trans. Slingerland, Confucius Analects, 158. See He Yan, Lun yu ji jie 論語集解, p. 38.
relationship between what Kongzi says in 14.10 and *Analects* 1.15. In 1.15, Zigong says, “Poor without being obsequious, rich without being arrogant—what would you say about someone like that?” Kongzi replies, “That is acceptable, but it is still not as good as being poor and yet joyful, rich and yet loving ritual.” Zigong goes on to quote the passage from the *Book of Odes* concerning self-cultivation that we examined earlier: “As if cut, as if polished; As if carved, as if ground.” By linking these passages, Legge seems to be pointing out that 1.15 is an appropriate remark to consider in relation to Guan Zhong, because Kongzi says it is better to be rich and love ritual than to be rich and not arrogant, and in 3.22, Kongzi criticizes Guan Zhong for being rich and not understanding ritual.

One of the things this passage shows us is just how seriously Kongzi takes being a self-cultivationist. Despite the transgressions of the leader of the Bo clan, he is praiseworthy because he works at not developing resentful feelings about his punishment, whereas Guan Zhong is not as admirable for Kongzi because he lives in luxury but does not work to avoid arrogance. From a self-cultivationist point of view, avoiding arrogance in the midst of wealth is a relatively easy task compared with avoiding resentfulness in the midst of poverty. What matters most about Guan Zhong and the leader of the Bo clan is not their past transgressions, but what they do with their lives in the present, and whether they work at being virtuous in the midst of the very different circumstances they face.

We can be fairly certain, then, that Kongzi was aware of the different levels of difficulty involved in cultivating different virtues under very different circumstances. In

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64Legge, “Confucian Analects,” 279 n. 11.
general, Kongzi’s judgment is that it is harder to avoid feeling resentment when one is poor—even when one must endure poverty as the direct result of having committed a crime—than it is to work at avoiding arrogance when one is wealthy. Further, if Kongzi has the Bo family in mind when he says this, then it is interesting that he says it is difficult to be poor and still free of resentment, instead of saying that it is difficult to be punished for one’s crime by being reduced to poverty and still free of resentment. Thus, he emphasizes one’s economic position, as opposed to how one attained that position, as the critical factor in deciding whether it will be difficult or easy to cultivate a good disposition. Kongzi does not remark on how Guan Zhong attained his wealth, but only that it is easy to be wealthy and not arrogant. Kongzi may be referring to the fact that wealthy people can take active steps to avoid arrogance, like involving themselves in charity work or other activities that keep them in touch with the needs of others and allow them to express and reinforce their sense of responsibility to others, which is certainly what Kongzi expected of rulers. In contrast, poor people generally do not have the same number of options, or the luxury of time, that wealthy people have, which can make it much more difficult to work on their disposition in certain ways.65

Although these passages highlight Kongzi’s continual emphasis on self-cultivation, they also show that Kongzi does not think a society that has the Way decides poverty or wealth arbitrarily. Indeed, the Analects repeatedly makes statements indicating that arbitrariness is not a good thing. In 9.4, Kongzi is said to be entirely free

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65It is interesting to note that Aristotle thought it was unlikely that those who were not a part of the noble class would become virtuous. In contrast, Kongzi maintains that even though it may be more difficult for poor people to self-cultivate, they are certainly capable of it. Yan Hui is an outstanding example of one who, despite his humble circumstances, dedicated himself to the path of self-cultivation and excelled.
of four faults: arbitrariness, inflexibility, rigidity, and selfishness. These are all qualities of a person with the ability to judge a situation fairly. The He Yan commentary says, “Kongzi took the Way as his standard, and so he was free of arbitrariness” (yì 意). In other places, too, the Analects takes a clear stance against arbitrariness and carelessness, which is significant in the context of a discussion about justice because principles of justice are a codified attempt to ensure that decisions about a society’s organization are not arbitrary.

Within the context of the larger ethical vision of society presented in the Analects, I think it is clear that the passages I have discussed in this section reveal an appreciation for a sense of justice. From our examination of shu 恕 (reciprocity), we can see the manner in which a morally cultivated person acts on a genuine concern for all members of society, based on her ability to imagine herself in another’s place. In 6.30, we see that being able to imagine oneself in another’s place is integrally tied to the concept of Ren 仁 (“humaneness”): “Desiring to take his stand, one who is Ren helps others to take their stand; wanting to realize himself, he helps others to realize themselves. Being able to take what is near at hand as an analogy could perhaps be called the method of Ren.”

We have seen how cultivated persons, for Kongzi, rely on an internal moral sense instead of social prejudice when they judge a situation. The Analects also makes it clear that the exemplary person is not interested in personal profit, but de 德 (“Virtue”) and yi 衞 (“rightness”). This view is evidenced further by the fact that the exemplary person aids the needy but does not help the rich to become richer.

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67 Translation modified.
Additionally, we have seen that a good leader is discontent when his people are in need. His sole concern is their welfare and not his own personal profit. In 12.20 Kongzi tells us that the accomplished person “examines other people’s words and observes their demeanor, and always takes the interests of his inferiors into account when considering something—no matter whether serving the state or a noble family.” The discussions of these ideas in the Analects reveal an interest not only in the well-being of all members of society, but an interest in their well-being with respect to a certain range of issues that we would call basic questions of social justice. The discussion of ideas like yi (“rightness”), shu (“reciprocity”), and Ren (“humaneness”) together reveal a commitment to cultivating a sense of justice in members of society.

Before moving on to section three, in which I discuss and respond to some possible objections to my argument, I want to address my use of the Analects with respect to questions of stratification. In my first chapter, I set aside questions about the stratification of the text and reserved them for this chapter. I think it is clear from my presentation of the textual evidence on this particular set of issues that there is a consistent view of how members of society should treat one another presented throughout the text. It is not that I deny that there are multiple strata or interpolations, and I do not intend to minimize the importance of text critical work. In fact, I avoid tying my argument to specific terms that may appear only in one or two passages in the text because I appreciate the implications of some of the results of those who have applied the textual-critical method. Instead, I look for ideas that are found throughout the text, because I am interested in identifying a set of ideas that are advocated in the text, and I
find that, regardless of the different periods during which various parts of the *Analects* may have been written, there is a consistent interest in the cultivation of a sense of justice.

### III. Justice without “Justice” in the Analects

Now I want to stress a couple of things with respect to my claim that the *Analects* speaks to the importance of cultivating a sense of justice. To begin with, I am not claiming that there is a term used throughout the text to mean “justice” or “sense of justice.” Rather, my claim is that when one examines the various discussions of how members of society are to treat one another, one finds a concern with treating members of society justly and fairly. More importantly, there is a concern with the feelings and attitudes one cultivates toward others, and these attitudes reflect a sense of justice. I will return to the question of how these concerns are revealed in the absence of a term for “justice” or “sense of justice” in a moment, though it should be clear that I do not think one has to use the word “justice” to show that one thinks justice is important. I am also not defending the view that “justice” is a part of the semantic range of certain characters I have discussed. Although “fairness” is pretty clearly a part of the semantic range of *yi* ("rightness"), fairness is not the same thing as justice, even though it is an important part of the idea of justice.

I also want to stress that although I think it is clearly considered important for members of society to cultivate a sense of justice, I do not think there is a full-fledged *theory* of justice in the *Analects*. The reason I discuss a *sense* of justice is that according to the *Analects*, what is most important is that members of society work to develop certain feelings and abilities as a part of their disposition. The *Analects* does not provide any clear and specific criteria for how one should balance questions of justice in a legal
system or in a constitution. In other words, the *Analects* does not give us anything like principles of justice. Indeed, this omission is one of the things that most concerned the Mohists about Confucianism, and the degree of concern we find with the need for establishing specific policies and principles for addressing questions of justice is one of the things that distinguishes the *Analects* from the *Mengzi* and the *Xunzi*.\(^{68}\)

However, that is not to say that questions of justice are neglected in the *Analects*. It simply tells us something about the way in which these questions are addressed. Specifically, they are tied to a concern with self-cultivation, and as I indicated in Chapter Two, the discussion of self-cultivation can help us to understand why the absence of a term for “justice” does not necessarily mean that the idea of cultivating a “sense of justice” is absent from the *Analects*. As we saw in the first part of this chapter, a cluster of different terms are used in the *Analects* to describe the various activities and processes that are involved in the task of self-cultivation. These terms include *xue* 學 (“learning”), *xiu* 興 (“cultivating”), *si* 思 (“reflecting”), *xing* 省 (“examining”), and *xi* 習 (“practicing”).

There are only two passages that use the term that means “cultivate” (*xiu* 興) in the *Analects*. In 7.3 Kongzi mentions failing to cultivate Virtue (*de zhi bu xiu* 德之不脩), and 14.42 he says the *junzi* cultivates himself (*xiu ji* 興己) with respect to a number of different virtues. Obviously, only one of these two passages literally mentions “self-

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\(^{68}\) Xunzi explicitly discusses the need for the government to take care of the handicapped, orphaned, ill, and destitute. For a helpful discussion of this dimension of Xunzi’s thought, see Henry Rosemont, Jr., “State and Society in the Xunzi: A Philosophical Commentary,” in *Virtue, Nature, and Moral Agency in the Xunzi*, ed. T.C. Kline III and Philip J. Ivanhoe (Indianapolis, IN: Hackett Publishing, 2000), 1-38.
cultivation” by combining the term for cultivate (xiu 脩) with a term for oneself (ji 自).\footnote{The term xiu shen 脩 身 is not used in the Analects, although it is used in other Confucian texts. Additionally, shen 身 is not a term of art in this sense; it often simply means oneself or a body (one’s own or another’s).} But there are many passages that clearly describe the process of self-cultivation, even though they do not use xiu ji or another term that specifically means “self-cultivation.” Furthermore, I think it is safe to say that if we did not have 14.42, or if textual scholars concluded that 14.42 was an interpolation from a later date, it would still be abundantly clear from the other descriptions of self-cultivation in the Analects that it is an important idea in the text.

Now one might object to my comparison of the case of self-cultivation and a sense of justice precisely because there is a term for “self-cultivation” in the Analects in that one passages that uses the term xiu ji 脩 自. But if one grants that without the one passage where this term is used, we would still be able to see the importance of self-cultivation in the Analects, then one grants that without a term for “self-cultivation” we can still tell that there is an understanding of self-cultivation presented in the text. In other words, the fact that the term xiu ji (“cultivate oneself”) exists is not particularly important because there are many other characters that describe the process of self-cultivation and what it involves. Now one could say that we should not call it “self-cultivation” if this term is not an exact translation of the terms in question, but we can then ask what we should call it. Should we simply refer to “learning,” “cultivating,” “reflecting,” “examining,” “inspecting” and “practicing” separately, or list all of the terms each time we want to talk about this range of ideas? This approach seems to imply that there is nothing in particular that unites these ideas, when in fact it seems clear that
they are all part of a larger picture. It is important for philosophers to acknowledge that there are genuine themes, ideas, and virtues that constitute a rich picture of human lives in a text like the *Analects*, as opposed to claiming that there are merely a series fragmented ideas that are not particularly united in any way. My view is that it is helpful to use a term to refer to a cluster of ideas we find in the text, when that term points to what unites those ideas, to what they all have in common, or to what they are all designed to be a part of in the larger scheme of things. Put another way, a term like “self-cultivation” here points to the family resemblance between ideas like learning, reflecting, examining, inspecting, and practicing. To interpret the *Analects* in this way is to interpret it in the same way as traditional Confucian commentators, who have understood the text this way for thousands of years.

The idea of a sense of justice in the *Analects* presents a similar case. In describing a cultivated person who behaves in an exemplary way toward other members of society, the text uses terms like *yi* 義 (“rightness”), *shu* 恕 (“reciprocity”), *Ren* 仁 (“humaneness”), *xin* 信 (“trustworthiness”), *bu bi* 不 比 (“not partial or biased”), *zhou* 周 (“associates widely, keeping the public good in mind”), and *xing* 刑 (“punishments and the sense of fairness that is associated with them”). But it is not enough just to pay attention to the terms that are used; one must pay attention to the way in which they are used and the broader discussion of which they are a part. In other words, we must pay attention to what Kongzi tells us about the ideas in question, and the fact that he praises certain qualities over others when it comes to judging certain kinds of situations. Simply presenting a list of terms does not take proper account of the things that are important in the *Analects*. This is evident in passages like 5.1, where Kongzi gives his daughter to
Gongye Chang, saying that he is innocent of any crime. We can point to terms like “not guilty” (fei qi zui 非其罪) as expressions of Kongzi’s sense of justice, but in fact Kongzi’s sense of justice is seen not only in the fact that he openly declares Gongye Chang’s innocence but in the fact that he also gives his daughter in marriage to him. All of the circumstances surrounding this situation show that Kongzi has a sense of justice, and the fact that this story was written down and included in the Analects shows that a sense of justice was important to the early Confucians. Analects 5.1 is but one of many such illustrations.

One could still argue that “justice” is included in the semantic range of some of the characters I have mentioned, because some of these characters include fairness in their semantic range, and fairness is one aspect of justice. This argument would emphasize the fact that the semantic range of certain characters in early China was seen as coherent and unified, whereas to us the semantic range appears fragmented because we don’t have a matching concept whose semantic range fully overlaps with that of the character. What this means is that characters carried what we would call multiple meanings, but what were understood as one meaning. An example is seen in the term li 礼, which is used to designate a set of traditional moral and religious practices—including what we would call rites or rituals, social customs, rules of etiquette, and sacrificial offerings. Although I have just employed multiple English words in my description of what this term means, li 礼 is a single term that includes all of these meanings. When Kongzi refers to the li in the Analects, he means a set of practices that

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70 As we saw in Chapter Three, Rawls points out that fairness is one aspect of justice but notes that fairness and justice are not equivalent (TJ §3, p. 11; “Justice as Fairness,” CP, 47). On Rawls’s view, fairness is the fundamental aspect of justice, but even if one does not accept this view, it seems to me that it is not particularly controversial to claim that fairness is one aspect of justice.
constitute a *unified* code of conduct—not a *combination* of different kinds of practices like rituals, social customs, and rules of etiquette. The fragmentation reflected in this list is not a part of the understanding of the *li* in the *Analects*, even though what we mean by this list encompasses the same kinds of practices that are designated by the term *li*. A great deal is implied by one single character; by our standards, several meanings are implied by it. So according to this argument, the idea of justice could be included in the semantic range of terms like *yi* and *zhou* because their semantic range includes fairness.

Although I have acknowledged that one could make this argument regarding the semantic range of certain Chinese terms, it is not the view I am defending here. Rather, I am interested in the specific nature of the disposition that members of society should cultivate with respect to one another, according to the view presented in the *Analects*. One might say that what the foregoing discussion shows is that capacities like a sense of justice tend to slip through the cracks if all we pay attention to are the terms in translation. The philosophical task involved in interpreting a text like the *Analects* not only involves understanding the semantic range of specific terms and the best way to translate them, but also—and much more importantly—understanding the ideas that are advocated in the course of various discussions. We face the same task when we read a Western philosopher like Rawls. One could open *A Theory of Justice* and not find the word “justice” used anywhere on a certain page, even though that page provides a robust description of what justice is through a discussion of the least advantaged members of society, the obligations that members of a society have to make certain sacrifices for one another, and the role that guilt feelings play in helping us to realize these obligations.
Even though the word “justice” may not be used a single time, there should be no doubt in our minds that Rawls is discussing the idea of justice.

Similarly, when I say there is an understanding of justice in the *Analects*, I do not mean that what constitutes a just or unjust state of affairs is exactly the same as what Rawls thinks constitutes these things. We are familiar with a broad range of theories about what constitutes social justice, and when we attribute an appreciation for social justice to different philosophers or cultures, we do not mean that they all agree on what is just. Rather, we mean that they all think a certain range of issues is important. Here the distinction between the concept of justice and specific conceptions or theories of justice is important. In a moment I will turn to the question of whether the understanding of justice in ancient China was instantiated in the form of a specific conception of justice, but for now I wish only to point out that there is, indeed, an understanding of justice. This means that there is evidence of the concept of social justice in the *Analects*. By social justice here I mean the idea that the distribution of privileges, obligations, and advantages in a society should not be arbitrary. It seems clear to me that the *Analects* does not think these things should be decided arbitrarily and that it consistently advocates certain standards for assigning privileges and obligations to members of society and also for the distribution of advantages. But more importantly, I think it is clear from the textual evidence I have provided in this chapter that according to the view presented in the *Analects*, cultivating a sense of justice is important. One’s sense of justice indicates that it is wrong for people to suffer the consequences of circumstances beyond their control, and that it is important for people to recognize the aspects of their lives that they do have control over.
But what is distinctive about a sense of justice? What distinguishes it from other kinds of moral sensibilities? Individuals with a sense of justice have cultivated virtues like reciprocity (shu 恕), and rightness (yì 義) that exercise their intellect and imagination, their capacity to be fair and to take a wider and more inclusive view, as well as a certain sensitivity to the concerns and circumstances of others. A sense of justice is often reflected in the feelings one has when other members of society are harmed because the structure of society has failed to meet their needs or ensure fairness. Those who have a sense of justice identify themselves with and care about other members of society. They are moved by injustices, which means that they have feelings of resentment and are indignant when, for example, someone is punished for a crime they did not commit or when someone does not get an official position they clearly deserved because of a grudge or a bias. A strong sense of moral accountability is implied by a sense of justice.

As the passages from the Analects that are discussed in the preceding section indicate, members of society are expected to feel and care about one another in these ways. Cultivated persons recognize when something is unfair or unjust. They feel badly about it and try to rectify the situation whenever possible. The Analects makes it clear that our behavior is not to stop with filiality, rather, filiality should grow into something that directs our relationships with those outside of our families. The idea of Ren ("humaneness") is important to balance with the discussions we find in the Analects about the need for specific things like equal distribution of food. Although the Analects clearly supports the view that a society should be strictly just in terms of the distribution of food and meeting other basic needs, the text also emphasizes that a society should be humane. Further, the claims we find in the Analects indicate that societies cannot sustain
any version of strict justice unless individuals are humane, meaning that they exemplify certain virtues or traits of character. A sense of justice is part of what constitutes humaneness because it is characterized by the ability to judge a situation fairly and justly and to feel for those who are disadvantaged by injustices.

There are, however, some passages in the Analects that may give one pause to think about whether the text consistently expresses an appreciation for justice. The most obvious of these passages is the story of Upright Gong. In 13.18, Kongzi is conversing with the Duke of She, who says, “Among my people there is one we call ‘Upright Gong.’ When his father stole a sheep, he reported him to the authorities.” Kongzi replies, “Among my people, those who we consider ‘upright’ are different from this: fathers cover up for their sons, and sons cover up for their fathers. ‘Uprightness’ is to be found in this.” Upon an initial reading of this passage, it seems that Kongzi places parental loyalty over justice. In fact, Kongzi seems to advocate going against the legal system by “covering up” for one’s father, regardless of his wrongdoing.

There are several ways of understanding this passage, but first we should notice that 13.18 does not necessarily undermine the view that developing a sense of justice is considered an important part of self-cultivation in the Analects. Instead, according to the reading presented above, it only shows that legal justice is considered secondary to parental loyalty, or filial piety. It also may be the case that a part of what it means to have a sense of justice is that one has a sense of when it is appropriate to report someone for breaking a law and when it is not appropriate. The acknowledgement that there are cases where it is appropriate to cover up for someone does not mean there is no understanding of justice whatsoever in the text. In fact, there would be no need to
comment on this purported event if Kongzi had not been interested in justice. The fact that he did comment on it and that his remarks are reported in the *Analects* shows that this was an issue he took seriously. It may also indicate that this kind of issue was being debated at the time. It is also significant that Kongzi and the Duke of She seem to share a common sense of justice: they both know that stealing a sheep is wrong. What they disagree about is how to respond to this event.

It also is not clear that Kongzi is offering a principle that is to be applied to all fathers and sons. According to the view presented in the *Analects*, one must first cultivate filiality in order to develop a sense of justice, but nowhere else in the text do we find anything indicating that filiality and a sense of justice are incompatible, or even that the latter must be suspended in favor of the former. *Analects* 13.18 seems to be the only passage that can be read in this way, and the fact that it stands alone in this regard should encourage us to explore other possible readings to see if there is an interpretation that resonates more with the rest of the text. Indeed, as the following analysis will show, there are a number of matters to consider before we can conclude that 13.18 is a counter-example to the view that the *Analects* expresses an appreciation for a sense of justice.

To begin, the term used for “stealing” (*rang* 攪) in the story of Upright Gong’s father is not the same as the term used for “robbery” or “thievery” (*dao* 盜) as it is used in passages like 12.18, where Ji Kangzi asks about the prevalence of thieves in the state of Lu. According to the Zhu Xi commentary, the term *rang* 攪 is used here instead of *dao* 盜 to indicate that Upright Gong’s father had a reason for stealing. Legge says

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71 See also *Analects* 17.12, 17.23

72 Zhu Xi, *Si shu ji zhu*, 四書集 注, p. 178.
rang means “‘to steal on occasion,’ i.e. on some temptation, as when another person’s animal comes into my grounds, and I appropriate it.” Indeed, rang seems to have the connotations of seizing or plundering, rather than professional or habitual robbery or thievery. The passage, then, does not say that Upright Gong’s father was a thief (dao 盜), which is significant because it may indicate that the passage refers to a case where there are extenuating circumstances. The question, of course, is what exactly these circumstances are, and in a moment I will consider some options. For now, we should note that Kongzi’s response is not necessarily the same response he would have given to someone whose father was a thief or robber (dao 盜), but rather a response to someone whose father stole (rang 攪) in a single, particular instance, apparently for a specified reason. Additionally, it is important to keep in mind that Kongzi is reacting to the fact that Upright Gong is praised and considered a moral exemplar for having reported his father to the authorities, apparently without even talking to his father about what happened. Moral exemplars play a critical role in self-cultivation, especially in the Confucian tradition, and so it should not surprise us that Kongzi has a strong reaction against Upright Gong being heralded as a moral exemplar. It is quite possible that Kongzi would not have responded as strongly if Upright Gong’s behavior was not being praised as exemplary. If, for example, Upright Gong had simply not been reprimanded

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73 Additionally, Legge maintains that it is not even clear that the case of “Upright Gong” is an actual case: “We cannot say whether the duke is referring to one or more actual cases, or giving his opinion of what his people would do. [Kongzi’s] reply would incline us to the latter view” (Legge, “Confucian Analects” 270 n. 18). Thus, Kongzi may be making a more general claim here. Waley notes that the term “Upright Gong” (zhi gong 直躬) is a term for “a legendary paragon of honesty” (Waley, Lunyu The Analects, 267 n. 17). Indeed, gong 躬 is both a term meaning “person” and a name, so we can also translate it as “Upright Person.” However, regardless of whether “Upright Gong” was an actual person, or simply an ideal, it is still the case that the Duke of She describes what his people take to be the most exemplary conduct.
for reporting his father, or if others had overlooked his behavior, then Kongzi might not have been as alarmed by the situation.

Now one could say that stealing is stealing, and that it is wrong regardless of the circumstances under which it was done, and that accepting such a view is central to having an appreciation for justice. But there are at least two things that need to be said in response to this claim. First, clearly, stealing was not always stealing in ancient China. There are two different characters used to describe cases of taking something that does not belong to you, which gives some indication that a distinction is being made between different kinds of stealing or different circumstances under which one steals. Second, it is simply not true that most people in our culture think “stealing is stealing.” We distinguish between those who take food and water to sustain their families during a natural disaster, and those who steal in other circumstances. Most of us would say that stealing is morally reprehensible, and our justice system reflects this view, but we do not find those who took food and water for their families in order to survive in an emergency to be morally blameworthy.  

74 We would not be inclined to call them thieves, and we might not even say they “stole” food. Rather, we are inclined to say that they “took” what they needed, even though it was not theirs, and we should notice how this language is laden with a lesser degree of moral blame, perhaps like the term (rang 撲) used to describe Upright Gong’s father’s actions. The fact that we distinguish between different kinds of crimes, even when they involve the same action, is also reflected in our legal

74In fact, we accord our military the power to do this. It is called “requisitioning,” and it is considered a good initiative for a military officer to order his or her troops to take the necessary goods to distribute to people when they are not able to get supplies after natural disasters. Of course, in such cases, the rule is to leave a note describing what was taken and by whom so that the owner can be compensated by the government.
system’s consideration of things like pre-meditation and intent, and the way in which the law distinguishes between first, second, third, and fourth degree crimes.

I now wish to return to the subject of the extenuating circumstances that apparently surround the case of Upright Gong’s father. If Zhu Xi is correct, and rang 撣 means to steal when one has a reason, then Upright Gong’s father may have stolen because he needed food, in which case the passage is not really about whether it is just for fathers and sons to report one another’s offenses. Instead, it concerns the fulfillment of filial responsibilities. At this time in China’s history, and even today in China, most people would think that a son in this sort of situation is at least partly if not fully responsible for what has occurred, because he has neglected his father’s needs. Not only has he not provided for his father in the sense of meeting his basic needs, but Upright Gong has apparently alienated his father to the point where his father does not even feel like he can ask his son for assistance in dire straits. It is important to see how backward Upright Gong’s response really is, even by contemporary American standards. Most of us would feel that we had failed our parents if they felt that their only option was to steal when they needed food, and our culture does not place as strong an emphasis on filiality and responsibility for one’s parents as Chinese culture does. Furthermore, even if one did not feel responsible for what had happened, it would still be considered callous to report one’s parents to the authorities under such circumstances, without even trying to work the situation out with them first.

If indeed Upright Gong’s father was in need, then his actions in reporting his father show a complete and utter lack of understanding of his moral responsibilities, or, worse, intentional neglect of his responsibilities. According to this reading, Kongzi is
responding to an extreme case of moral bankruptcy. If Upright Gong had covered for his father, he would have in fact been covering his own moral ineptitude in failing to care for his father as he should have. The fact that Upright Gong is not ashamed that his father felt that his only option was to steal, and that he is considered a moral exemplar by his community, is reprehensible from a Confucian point of view. We can see, then, why Kongzi begins his response to the Duke of She with the words “Among my people . . . .” Surely the case of Upright Gong looks like a foreign moral culture to him.

Even if Upright Gong’s father did not take the sheep in order to meet his needs, we can still assume that there are some exceptional circumstances that motivated his actions. At any rate, it seems that he is not a habitual thief. The real problem, then, is that Upright Gong apparently did not even attempt to understand the circumstances before he reported his father to the authorities. In the Analects, Kongzi emphasizes the need for children to try to understand their parents’ positions, regardless of whether or not they agree with their parents’ actions. In 4.18, Kongzi says children should “gently remonstrate” with their parents but that they should also be respectful and not oppose their parents regardless of how they respond to criticism. The relationship between parent and child is the basis for other relationships in the Analects. In the context of our relationship with our parents we learn how to resolve conflicts and deal with those who do things we do not like. By cultivating filiality in the midst of the tensions that are an inevitable part of the parent-child relationship, we begin to develop the ability to respond in a thoughtful, sensitive, fair, and respectful manner to others.

Indeed, the ability to feel for others and to try to understand their situation in a fair and charitable way, even in the worst of circumstances, is a crucial part of what it
means to have a sense of justice. One of the first things a person with a sense of justice—and notice here the emphasis we have seen throughout the *Analects* on cultivating good judgment and being fair-minded—would notice about this situation, is the fact that Upright Gong’s father is not a habitual thief. A particular set of circumstances motivated him to take what did not belong to him in this instance. These circumstances do not make his actions right, but they certainly call for a closer examination of the situation. It seems, then, that on the Confucian account of what constitutes a sense of justice—which involves the ability to judge a situation carefully, attentively, and fairly—Upright Gong did *not* exemplify a sense of justice when he reported his father. Indeed, in this case he lacks both filiality and a sense of justice, which is consistent with the view that filiality and respect for elders are the root of *Ren* (“humaneness”). If someone does not have a sense of filiality, then it is not at all likely that they will properly develop other moral sensibilities, including a sense of justice.

According to this reading, Upright Gong’s actions betray not only a lack of filiality, but also a lack of a sense of justice. It is significant that Kongzi re-defines uprightness in this passage rather than simply saying that he does not value uprightness. It is not that he thinks uprightness is unimportant, rather, he thinks that what counts as being upright is different. So even if one interprets Kongzi as calling for a son to take active steps to cover up his father’s wrongdoing, it is still not the case that this passage shows a disregard for justice. For Kongzi, a sense of justice is inextricably bound up with filiality. Parent-child responsibilities go both ways. In the case of Upright Gong, he failed his father both by not providing for him and by not cultivating an honest, reciprocal relationship with him. As a result, there is an important sense in which he is responsible
for his father’s stealing, at least on Kongzi’s view. Thus, it is appropriate for a son to “cover” for his father in this situation by taking steps to make sure his father will not be punished. We can be sure that for Kongzi, much else is required of Upright Gong as well, such as mending the broken relationship with his father, and perhaps taking legal responsibility for the crime. Nothing in the passage would lead one to think that Kongzi does not think a son who “covers” for his father should make things right with the owner of the sheep. On Kongzi’s view, “covering” for one’s father might entail taking responsibility for the theft, indeed, that is what we often mean when we say one person “covered” for another person.

I want to offer a final piece of evidence in support of my claim that Upright Gong’s story does not imply a lack of concern for justice in the Analects. In any given passage from the Analects, it is worth considering the matter of who Kongzi is talking to, because Kongzi sometimes gives different people different advice, based on his knowledge of their character and situation.\(^7^5\) The Duke of She is a minister to the king of the powerful state of Chu, in the walled city of She. He is discussed in two other passages in the Analects. In 7.19, the Duke of She asks Zigong about Kongzi, but Zigong does not reply. Then, later, when Zigong returns to Kongzi’s side and recounts what happened, Kongzi says, “Why did you not just say: ‘He is the type of person who is so passionate that he forgets to eat, whose joy renders him free of worries, and who grows old without noticing the passage of the years.’” Early commentators think the Duke of She was a power-hungry minister who had been trying to lure Kongzi into his service, and that Zigong was afraid to answer him because he did not want to say something that

\(^{75}\)For an excellent example of this, see 11.22.
would encourage him. Kongzi’s words to Zigong after the fact, then, indicate his lack of
interest in the prestige and material rewards associated with an official position, and that
he does not possess the traits the Duke of She would want from an official.

Although Zhu Xi and other later commentators see the Duke more
sympathetically and take Zigong’s lack of a response as a reflection of the fact that he is
in awe of Kongzi, I find the earlier reading more plausible based on what we see of the
duke’s morally backward view in 13.18. Additionally, in 13.16, the duke asks Kongzi
about good governing, and Kongzi tells him, “Those near to you are pleased, and those
who are far from you are drawn closer.” In this passage Kongzi instructs the duke about
the importance of ruling in such a way that both those near to you, such as one’s family,
are pleased, and in such a way that those who are far from you, such as the masses that
one does not have daily contact with, are drawn closer. Kongzi’s instructions here are
somewhat unique, because as we saw earlier in this chapter, in talking about ruling he
often emphasizes the need to display Virtue in one’s daily conduct in order to evoke good
conduct from the people. So it may be the case that the Duke of She is especially
deficient in his sense of how to interact with those who are closest to him, and this is why
Kongzi emphasizes to him that he needs to govern in such a way that those near to him
are pleased, and that those who are far away from him are drawn closer. This passage
may suggest, then, that he needs to use filiality as a model for how to interact with others.

Regardless of whether we consider these other passages, it is still the case that in
13.18, the Duke of She disregards the value of filiality. Given that Kongzi is talking to
the Duke of She, it is quite possible that Kongzi’s remarks are not intended to be a
general rule for everyone to adopt, but are instead intended to call the Duke of She’s own
short-sightedness and neglect of filial duties to his attention. One reason for thinking that Kongzi does not intend for this to be a general rule is that the claim that sons and fathers should cover up for one another seems to be inconsistent with what Kongzi says about the need for remonstrance. In 4.18, he makes it clear that remonstrance and not automatic compliance or approval is called for in one’s relationship with one’s parents. He extends this same view to friendship in 12.23. Although Kongzi acknowledges in both of these passages that if one’s parents or friends do not listen when one remonstrates with them, one must desist, it is still clear that a filial son would not just cover up for his father. Rather, he would see many more responsibilities implied in this scenario. I think it is likely, then, that Kongzi responds to the Duke of She in part to make a point to the duke about his own neglect of filiality. I am not alone in thinking that this interpretation is defensible. Legge maintains that the last line of the passage, zhi zai qi zhong （“uprightness is to be found in this”）, “does not absolutely affirm that this [sons and fathers covering up for one another] is upright, but that in this there is a better principle than in the other conduct.” It is also worth noting that the Duke’s preferred response serves the Duke well, because people will report crimes in his kingdom. Kongzi’s response could be understood as insisting that the Duke’s primary concern should be with the welfare of his subjects rather than law and order.

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76 Legge, “Confucian Analects,” 270 n. 18. Similar views are found in the Western tradition. As Julia Annas and Philip J. Ivanhoe have pointed out, a first century B.C.E. Stoic philosopher named Hecaton argued that it would be impious for a son to denounce his father to the magistrates when his father is plotting to steal money from the treasury or a temple. Hecaton argued that a son in this situation should defend his father on the grounds that it is better for a city to have citizens who stand by their parents than to have money. See Philip J. Ivanhoe, “Filial Piety as a Virtue,” in Working Virtue: Virtue Ethics and Contemporary Moral Problems, ed. Rebecca Walker and Philip J. Ivanhoe (New York: Oxford University Press, forthcoming 2006), n. 29.
As I pointed out earlier, the very fact that the story of Upright Gong is discussed in the *Analects* shows that the Confucians were concerned to address what constitutes a sense of justice and how it is related to filial responsibilities. There are other passages that reflect an understanding of how a sense of justice works out in a society, as well. For example, in 16.2 Kongzi says “When the Way prevails in the world, commoners do not debate matters of government,” which reflects the view that when a government is ordered properly, the people will not need to debate about and criticize government policies. In this passage, Kongzi makes it clear that when the Way is put into practice, members of society will no longer have to struggle with questions of justice and fairness, and the extent to which their government ensures these things in its policies. In 12.13 Kongzi says “When it comes to hearing civil litigation, I am as good as anyone else. What is necessary, though, is to bring it about that there is no civil litigation at all.” Both of these passages reflect Kongzi’s concern with the goal of bringing about a certain sort of society, and they seem to minimize the practices that are used to ensure justice in liberal democracies (e.g., a fair justice system, open discussion and debate about political issues). We should notice, however, that even liberal democratic political philosophers do not pride themselves on establishing a fair justice system *if that means that they consider having a fair system the end they are striving for*. I think it is the case that most Western judicial scholars, political philosophers, and ethicists would agree that it would be wonderful to have a society without civil litigation. Most of them would also acknowledge that human societies inevitably involve conflicts that have to be resolved, and that is where justice comes in. However, this does not make them pessimists about achieving well-ordered, harmonious societies. In fact, Rawls remains optimistic about
the possibility of achieving a just society, which is why he says we are striving toward the end of justice for all citizens.\textsuperscript{77} And although 16.2 and 12.13 indicate that Kongzi is concerned with the goal of achieving a humane and harmoniously functioning society, we also know from passages like 16.1 and 4.5 that he thinks that end must be achieved in the right way.

Some other passages that might trouble a reader who is interested in justice are those that, like 16.2, appear to discourage the open discussion of government policies. In 8.14, Kongzi says, “Do not discuss matters of government policy that do not fall within the scope of your official duties.” Now in terms of social justice, we tend to see free discussion of governmental policies as crucial to making sure the needs of everyone are met and that everyone gets a fair hearing. Thus, one might also be troubled by Kongzi’s claim that the \textit{junzi} is concerned about the Way and not about poverty (15.32). The commentarial tradition can provide some assistance in understanding why Kongzi might have made such claims. Some commentators think 8.14 is a criticism of some specific contemporaries of Kongzi who tended to involve themselves in matters that did not concern them. Others think Kongzi is giving an explanation for why he is not involved in governmental affairs, namely, that he considers his calling to be that of a moral teacher and not an administrative official or advisor.\textsuperscript{78} \textit{Analects} 15.32 is a reflection of Kongzi’s refusal to embrace material goods over Virtue, and also the belief that people should focus on things they can change—such as their own conduct—as opposed to things they have no control over—such as how well the crops do in any given year as a result of the weather patterns. Kongzi maintains throughout the \textit{Analects} that meeting the needs of the

\textsuperscript{77} Commonweal Interview with John Rawls,” CP, 622

\textsuperscript{78} See Slingerland’s summary of the commentaries in \textit{Confucius Analects}, 82-83.
people cannot be achieved simply by having all of the right policies, which are of course subject to things we do not control, like floods and droughts. Rather, a ruler must lead through the power of Virtue, setting an example for the people through his conduct.

There are a number of other passages in the *Analects* that encourage remonstration with leaders, and several report Kongzi doing this as well, so it is not the case that all free discussion or criticism of policies is discouraged. In 13.15, Kongzi says that the only saying that can come close to causing a state to perish is, “I take no joy in being a ruler, except that no one dares to oppose what I say.” Kongzi then remarks that if what the ruler says is good, and no one opposes him, then this policy is fine. “On the other hand, if what he says is not good, and no one opposes him, does this not come close to being a single saying that can cause a state to perish?” In both 14.21 and 14.22 Kongzi emphasizes the importance of opposing one’s superiors openly. All of these passages indicate that Kongzi does not think silent compliance when one disagrees with a policy or with a leader’s actions is consistent with following the Way. Additionally, these passages confirm the connection Kongzi sees between the way one interacts with one’s parents and the way one interacts with other members of society, including one’s superiors. One develops the skills that will be necessary to be a good member of society first by learning how to remonstrate with one’s parents, and here we see clearly one place that a sense of justice is initially cultivated.

I want to consider one final objection to my argument that the *Analects* advocates the cultivation of a sense of justice. One might object to my argument on the historical grounds that the early Chinese did not establish a system that valued fair distribution, and claim that their failure to do so undermines the view that they valued a sense of justice.
My response to this objection is that in fact the view found in the *Analects* is what created an interest in addressing concerns about distributive justice in China. The discussions found in the *Analects* were an important part of what motivated the civil service examinations, the institution that most clearly sought to establish distributive justice.\(^79\)

Kongzi’s view, as we have seen, is that although a hierarchy is necessary, all of the people should be provided for equally (e.g., 16.1, 6.4) and the individuals who evidence the highest state of moral cultivation should rule (e.g., 2.3, 13.4). This is where the idea of distributing advantages in the form of governmental positions according to one’s performance on a civil service examination originated. According to this system, individuals who hold governmental positions have access to a wide range of privileges. The idea behind the examinations was essentially to measure one’s virtue, and indeed, these examinations tested one’s knowledge of the Confucian classics. One of the problems, of course, was that it is exceedingly difficult to measure virtue through any kind of examination.

For my purposes, what is important about these examinations is the belief that the award of privileges should be by merit. There should be no doubt that this belief was of Confucian origins; even though the examination system arose after the period of the *Analects*, it was well before any contact with the West.\(^80\) The recruitment of exceptional individuals into governmental service—as opposed to those who had hereditary or other

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\(^80\) In fact, the West adopted this idea from China through enlightenment thinkers like Voltaire.
privileges not based on merit—began in the Warring States Period. Institutions began to implement an official system for selecting meritorious individuals for government service in the second century, B.C.E., under the Han government. This system was the forerunner of the elaborate civil examination system of the Tang and Song dynasties. One thing that remained throughout the evolution of the exam system, however, was the emphasis on knowledge of the Confucian classics.

The idea that political offices should be awarded based on merit, which is determined by public examination rather than lineage or the like, constitutes a strong argument that traditional Confucians had a highly developed sense of justice. It also shows that their sense of justice informed a central feature of their social and political practices. Such offices played a major role in the distribution of goods such as money, power, and prestige, and they also had a fundamental role in determining one’s own sense of worth. Here we should remember that according to Rawls, “the sense of justice is a necessary part of the dignity of the person.” It is indeed the case that the examination system created an opportunity for upward social mobility that had not existed before. Although the process of safeguarding a certain degree of impartiality by trying to make sure a wider range of people competed for governmental positions became increasingly difficult, an interest in justice is seen in these efforts. A quota system gave poorer areas more generous allotments of successful candidates on the examinations at the local level, so that more people who were not from elite families were allowed to compete in the secondary examinations. Despite the controversy that the quota system created and its

82 Elman, *A Cultural History of Examinations in Late Imperial China*, 5.
failure to make upward mobility possible for many members of the lower classes, Thomas H.C. Lee notes that “it seemingly embodied the very ideal of social justice.”

Now it is certainly the case that the civil service examinations did not seek to establish the same sort of distributive justice that Rawls seeks to establish. Additionally, the civil service exams did not entirely achieve what they were designed to, which is why there was a continual effort to revise them and create a more effective measure of moral worthiness. But we should recall that Rawls’s standard for what constitutes having a sense of justice, the concept of justice, or even having a conception of justice, is not dependent on having the same standard for fair distribution that he establishes in justice as fairness. Justice functions broadly to guard against indiscriminate distribution, manipulation, or monopoly of a range of fundamental social goods. Arbitrarily taking away one’s land or not acknowledging one’s contributions are injustices. The examination system provides strong evidence that the traditional Confucians acknowledged the importance of working to establish justice. This observation brings us to the heart of this comparative project, and it is to the comparison of Rawls and the Analects that I turn my attention in Chapter Five.

Lee, Government Education and Examinations in Sung China, 203. Lee includes documentation of the progress that some members of non-elite social classes made (see pp. 201-230). The overall picture is, of course, more complicated and many members of the lower classes were effectively excluded by the educational curriculum and linguistic requirements of the examinations. Benjamin A. Elman points out that because they were “premised on a system of inclusion and exclusion based on tests of classical literacy that restricted the access of those in the lower classes (whose literacy was too vernacular to master the classical frames of language and writing tested in the local licensing examinations), the civil examinations concealed the resulting process of social selection. By requiring linguistic mastery of nonvernacular classical texts, imperial examinations created a written linguistic barrier between those who were allowed into the empire’s examinations compounds and those—the classically illiterate—who were kept out” (A Cultural History of Civil Examinations in Late Imperial China, xxx-xxxi. See Elman’s discussion of the quota system in Chapter Five, pp. 239-294).
CHAPTER FIVE

Two Senses of Justice

The Way of Heaven, is it not like the stretching of a bow?
What is high it presses down;
What is low it lifts up.
It takes from what has excess;
It augments what is deficient.
The Way of Heaven takes from what has excess and augments what is deficient.
The Way of human beings is not like this.
It takes from the deficient and offers it up to those with excess.
Who is able to offer what they have in excess to the world?
Only one who has the Way!¹

One of the distinctive features of the Daodejing 道德經 is its conception of what it means for rulers to act in accordance with the Way, and how human societies should be arranged in order to meet the needs of the people. Although the authors of the Daodejing and the Confucian authors of the Analects articulate different conceptions of the ideal society, both accounts address the problem of excess and deficiency in human societies. They also share the view that rulers play a critical role in correcting this and other problems relating to establishing justice. And despite the deep and important differences between their accounts of the ideal ruler and their conceptions of the Way, the authors of the Analects and the Daodejing agreed that working to establish social justice is a part of following the Way. As Chapter 77 of the Daodejing says, those who have the Way offer what they have in excess to those in need; in Analects 6.4 Kongzi says that those who are dedicated to the Way give to the needy, but do not make the rich richer.

In Chapter Four I argued that the *Analects* provides an account of a sense of justice, which is one of many capacities individuals must cultivate in order to live in accordance with the Way. Social justice and fair distribution are among the central concerns of Rawls’s work as well, and as we saw in Chapter Three, Rawls grounds the claim that citizens can cultivate both the capacity and the inclination to work toward these goals on his account of a sense of justice. In this chapter, I explore these two accounts of a sense of justice comparatively. In the first section I discuss some significant similarities and differences between the Rawlsian and Confucian accounts of a sense of justice. Then, in the next two sections I show why these similarities and differences are particularly instructive for philosophers studying Rawls, the *Analects*, or the idea of a sense of justice. I discuss how a comparative reading of Rawls and the *Analects* highlights the importance of Rawls’s position on questions of human nature, while helping us to better understand the self-cultivationist dimensions of his account. I then address how an understanding of Rawls’s work can help us to better understand certain aspects of the ethical account presented in the *Analects*, especially concerning the importance of non-arbitrary distinctions between members of society, the relationship between the right and the good, and the importance of the judicial virtues.

*I. Comparing Senses of Justice*

What is a sense of justice? Although we examined this question independently with respect to Rawls and the *Analects*, the question that remains for this comparative study is the extent to which it is clear that these two sources are describing the same capacity in human beings. After all, Rawls’s work and the *Analects* represent very different philosophical projects. Rawls provides an account of a conception of justice
that is designed to accommodate the fact of reasonable pluralism in modern liberal democracies, while the *Analects* describes Kongzi’s account of the Way, which he has been called to reveal to his ancient and troubled culture. A sense of justice is but one of many important ideas that are discussed in these larger accounts. In this section I will show that despite the many differences between their historical and philosophical contexts, Rawls and the *Analects* describe the same basic moral capacity, which I have called a sense of justice. I will begin by discussing the respective answers Rawls and the *Analects* give to three questions about a sense of justice: (1) What is the basic nature of this moral capacity? (2) What circumstances arouse or assuage it? (3) Why is a sense of justice an important capacity for members of society to have?

According to Rawls’s general definition, a sense of justice is the ability to feel or perceive what is fair, and it is the primary source of our motivation to act fairly toward other members of society, and to act in accordance with the principles or standards that are designed to help establish and preserve a just society. But Rawls carefully notes that a sense of justice is much more than simply being able to follow the rules. At bottom, it is a feeling or sense of right and wrong. In particular, a sense of justice is what causes us to value fairness; it makes us not want to take advantage of others and it is the source of our feelings of indignation toward those who *do* take advantage of others, as well as our feelings of sympathy for those who are taken advantage of. A sense of justice is the moral compass telling us that there is something wrong about a certain range of circumstances, and so it leads us to *feel for* those who are victims of these circumstances. This is why Rawls tells us that a sense of justice “may be aroused or assuaged, and it is connected not only with such moral feelings as resentment and indignation but also . . .
with natural attitudes such as mutual trust and affection.”² Here we see the answer to the first question: a sense of justice is a basic moral sense that something is wrong about certain kinds of situations. It is something all humans are born with the capacity for, meaning that it is a very basic moral sense that can be developed and cultivated, and it is situated within and closely related to other moral feelings.

This remark brings us to our second question: what circumstances arouse or assuage a sense of justice? I have already stated above that a sense of justice leads us to feel that certain states of affairs are right or wrong, but what makes it a sense of justice, as opposed to a more general sense of morality? Rawls notes above that although a sense of justice is connected with certain moral feelings and attitudes such as indignation and affection, it is not identical to them. A sense of justice leads us to value fairness generally, but because Rawls’s analysis concerns social justice, he primarily focuses on circumstances where individuals suffer as a result of the moral arbitrariness of natural or social contingencies, in other words, things over which they could not possibly have control. Rawls is interested in what causes us to feel in certain ways toward those who are the victims of arbitrary distinctions that cannot be justified by an appeal to merit or desert, including social contingencies such as one’s social class of origin, natural contingencies such as one’s native endowments of intelligence or special talents, and the opportunities one has to develop these endowments based on one’s social class of origin. A sense of justice, according to Rawls’s analysis of social justice, leads us to feel contempt for institutions, practices, and attitudes that exacerbate and deepen these kinds of inequalities. Correspondingly, it motivates us to support institutions, practices, and

attitudes that help to prevent or correct these inequalities. Here we can see how a sense of justice differs from feelings of compassion, which often stem simply from seeing others in pain, regardless of the cause. A sense of justice, in contrast, tells us that something is wrong about situations in which individuals suffer as a result of circumstances they never had any control over: the moral arbitrariness of certain contingencies. It is not aroused by human suffering per se, but by moral contingencies that cause human suffering.

It will be helpful at this juncture to examine the historical circumstances Rawls has in mind as he formulates his account of a sense of justice. Modern liberal democracies reject the feudal idea that birth into a particular social class should determine a person’s opportunities. The first alternative to be embraced, best seen in the form of anti-discrimination legislation, was the principle of “careers open to talents,” or the idea that positions and offices should be awarded according to a person’s actual talents and skills, instead of traits such as class background, race, gender, sexual orientation, or family connections (TJ, 57ff). However, it is difficult for societies that have a history of class or caste discrimination, racism, or sexism to eliminate social practices that lead to the underdevelopment of talents, skills, and expectations, even after they have passed laws to eliminate institutional forms of discrimination. Accordingly, morally arbitrary social contingencies can be the source of especially deep and pervasive inequalities, even in societies where certain forms of discrimination are illegal.

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3I am indebted to Norman Daniels’ discussion of these difficulties in his “Rawls’s Complex Egalitarianism,” in The Cambridge Companion to Rawls, 249. Daniels uses public education in the U.S. to illustrate how the principle of “careers open to talents” leaves in place the strong effects of unfair practices and morally arbitrary social contingencies. He points out that in many places, “where de facto residential segregation and unequal political power lead to basic inequalities between the best suburban schools, serving rich white children, and the worst rural and urban schools, serving poor minority and white children . . . [and] schools end up replicating, not reducing, class and race inequalities” (250).
In addition to social contingencies tied to the particular circumstances into which one is born, such as class or race position, there are also natural contingencies that can determine our opportunities in life or at least shape our prospects, such as natural talents, skills, and abilities, which vary widely from person to person. Natural contingencies can help to offset social contingencies, or they can make them worse. For example, children born into economically disadvantaged families might have exceptional natural aptitudes in areas such as music or mathematics. When these children are given the opportunity to cultivate their natural talents and receive encouragement to do so, they may have access to opportunities that will help to counteract the disadvantages of their socio-economic starting place. However, other children might have learning disabilities that, combined with their disadvantageous socio-economic starting place, will at least severely limit their success in many if not most areas. Children born into families with a more advantageous socio-economic status tend to have greater access to educational resources and opportunities, which will likely affect the outcome of their natural talents or disabilities. Of course, not all natural or social contingencies begin at birth; adults are sometimes faced with sudden and debilitating changes in their circumstances caused by illnesses, accidents, natural disasters, or other things beyond their control. The point is that the combined results of natural and social contingencies are not things we choose or deserve; which family one is born into and the talents or disabilities one has can be seen as social and natural lotteries.

This observation is what arouses a sense of justice, leading us to say that it is unjust to leave the victims of these contingencies to fend for themselves. We want to say there is something unfair about the fact that people are pushed to the fringes of society by
no choice of their own, and we think that a good society would do something to help its members if they are so placed. This sentiment lies at the heart of a sense of justice. An important thing to recognize about Rawls’s account here is that it is heavily dependent on the view that it is important for humans to be able to make choices about their lives. A sort of arbitrariness is what many of the situations we call unjust or unfair have in common. It was by no choice of their own that these individuals are in their present position, and this is what causes us to say that it is unfair for them to suffer. Again, we can see how a sense of justice is distinguishable from feelings such as compassion and sympathy that we might feel for anyone who is marginalized or suffering. Although people who have a highly developed sense of justice often are compassionate, benevolent and humane, and although instances that arouse a person’s sense of justice also sometimes create opportunities to act benevolently and humanely, we should be clear on the difference between these ideas. Benevolence and humaneness describe caring attitudes, actions, and people, whereas a sense of justice describes a person’s ability to perceive what is fair or unfair.

The third question I would like to consider with respect to Rawls’s account is why a sense of justice is an important capacity for members of society to have. Rawls thinks that a sense of justice, when it is cultivated and developed properly, results in the realization that we are bound to others in an important way. It causes us to feel a sense of responsibility to and for our fellow members of society, and so it prevents us from walking away when others are being marginalized and harmed in circumstances that are unfair. But on Rawls’s account of social justice, a sense of justice not only tells us it is wrong that certain people suffer as a result of the deep and pervasive inequalities that
affect their chances in life; it is also what tells us it is wrong for us not to do anything about it. As a result, a properly cultivated sense of justice moves citizens to sacrifice some of the things that they have in order to help those individuals who are the victims of these injustices. It also motivates them to fulfill their societal obligations in order to avoid putting others into marginalized positions. A sense of justice causes members of society to take offense at certain states of affairs, and it motivates them to act in certain ways as a result.

On Rawls’s view, a sense of justice is seen clearly in citizens’ understanding of what society’s institutions should do. Part of having a sense of justice is supporting the idea that a society owes something to those who are suffering from morally arbitrary contingencies. On this view, a society’s institutions should work to ensure that its members have choices and opportunities in life, so they will not simply be determined by their circumstances. A sense of justice keeps us from ignoring the inequalities in people’s prospects that arise from natural and social contingencies. It also motivates us to work towards establishing and maintaining institutions that will help people in these kinds of situations.

Like Rawls, the Analects maintains that humans have a basic capacity to sense or perceive that something is wrong about certain situations, and that people can hone and cultivate this moral sense. One of the important differences between a sense of justice as Rawls understands it and the moral sense discussed in the Analects is that while Rawls confines his discussion to social justice, the Analects discusses a moral sense that guides humans in a wide range of situations.⁴ In fact, the best way to understand the

⁴This difference marks the fact that Rawls focuses strictly on political concerns, whereas the Analects does not.
development of a moral sense in the *Analects* is through the development of a set of virtues. The unity among these virtues is seen in Kongzi’s conception of the Way, and in some of his remarks about Ren ("humaneness"), which also indicate that he thinks humans have an internal moral sense. For example, Kongzi says that the key to achieving Ren lies within (12.1), and that if one desires it, one will find that “it is right here” (7.30). It is clear that on the view found in the *Analects*, cultivated persons are guided by an internal moral sense, regardless of whether this moral sense is the result of a cultivated innate capacity for morality or the product of the transformation of one’s original nature. Kongzi tells us that cultivated individuals “always move in the direction of what is right” (12.10), taking rightness (yi 義) as their substance (15.18), thinking about what is right and relying on their moral sense even in the midst of the distractions of the world (4.16, 14.12).

Although cultivated individuals rely on their sense of rightness to guide them in a broad range of situations, some of the situations that are used to describe the importance of one’s moral sense involve what are properly called the judicial virtues. In these passages, a person with a cultivated moral sense is a person with a highly developed sense of fairness. They do not base their actions on slander or accusations, but rather judge situations based on what is right (12.6). Although they do not anticipate betrayal or expect untrustworthiness, they are still the first to perceive it (14.31). In addition to their perceptiveness and fair-mindedness, these individuals are also resolute, decisive, and straightforward, but they are not too quick to speak or act, and are reticent at just the right times (13.27). Repeatedly, Kongzi describes individuals who are able to judge situations

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5I will discuss this issue further with respect to the *Analects*, *Mengzi*, *Xunzi*, and Rawls later in this chapter.
fairly, examining people for themselves rather than simply believing what others say
about them or what people say about themselves (15.28, 15.23). They judge situations
based on their sense of what is right, as opposed to personal grudges or biases (4.10,
15.22). These passages, among others, show that the moral sense described in the
*Analects* includes a sense of right and wrong when it comes to scenarios we would
describe as unfair or unjust. Cultivated persons have a sense of justice: they feel or
perceive what is fair, and this moral sense leads them to act fairly toward other members
of society.

In the *Analects*, fairness is a part of the Way, and a sense of justice is one of the
cultivated capacities that helps individuals to act in accordance with the Way. I want to
focus on two discussions that clearly show the importance of having a sense of justice in
the *Analects*. First, the *Analects* says in a number of places that a good society helps
those who are marginalized; it is not simply the responsibility of individual families to
take care of their own members. Rather, society itself is viewed as a kind of family, and
the ruler has special obligations as the head of that family to make sure his people are
cared for. For example, in 12.9, the people under Duke Ai’s rulership are suffering from
a natural contingency—a poor harvest—and Master You expresses his disapproval of the
fact that Duke Ai is taxing them heavily while complaining that his own needs are not
being met. This passage addresses a fundamental injustice—heavily taxing those who
are suffering as a result of circumstances beyond their control. According to the *Analects*,
a cultivated person should immediately recognize that there is something wrong with this
situation, like Master You does. Further, for a ruler to respond by reducing the taxes on
people suffering from natural contingencies is a basic matter of justice. Of course, we
can praise such a ruler for exemplifying a number of other virtues, but a sense of justice is one of the capacities he has shown through his actions.

The *Analects* also presents an account of how a sense of justice motivates individuals to work toward establishing and preserving shared standards and practices that are dedicated to fairness. In 6.4 Kongzi says the *junzi* 君子 ("exemplary person") provides for the needy but does not help the rich to become richer, and in 16.1 Kongzi tells us that the good ruler is concerned about unequal distribution. These passages show a concern with making sure everyone is provided for, and they even provide some specific ways in which economic inequalities should be addressed. In *Analects* 4.5 Kongzi says, “Wealth and social eminence are things that all people desire, and yet unless they are acquired in the proper way I will not abide them. Poverty and disgrace are things that all people hate, and yet unless they are avoided in the proper way I will not despise them.” This passage clearly shows that Kongzi understands both that there are different reasons why people fail to achieve a certain economic status, and that the nature of these reasons is morally significant. Kongzi goes on to say that the *junzi* always accords with *Ren* ("humaneness"), even in times of urgency or distress. Here, as with several of the passages we have examined above, it seems that acting in accordance with a sense of justice is one part of what it means to accord with *Ren*.

The second discussion that shows the importance of having a sense of justice concerns the importance of taking responsibility for one’s actions, attempts, and omissions. In the *Analects*, a sense of justice indicates that it is wrong for people to suffer the consequences of circumstances beyond their control, but it also indicates that it is important for people to recognize the aspects of their lives that they do have control
over. This emphasis is a natural outgrowth of a concern with moral self-cultivation. Accordingly, the *Analects* discusses instances where individuals are reduced to poverty or are otherwise rejected as a result of their own moral failings. Kongzi praises the leader of the Bo clan for accepting his punishment of poverty without resentment (14.10), indicating that it is appropriate for this man to accept a low position in society as a result of his criminal activity. Kongzi’s behavior toward his students is also illuminating on this matter. He rejects students like Zai Wo and Ran Qiu for choosing not to cultivate themselves (5.10, 6.12), and in Ran Qiu’s case, the Master’s rejection of him is tied to a matter of social justice. In 11.17 Kongzi says, “The head of the Ji Family is wealthier than even the Duke of Zhou ever was, and yet Ran Qiu collects taxes on his behalf to further increase his already excessive wealth. Ran Qiu is no disciple of mine. If you disciples were to sound the drums and attack him, I would not disapprove.” In contrast, Kongzi praises Yan Hui for never complaining about the hardship he endured being poor (6.11).

In these and other passages, Kongzi makes it clear that he thinks individuals are fully capable of cultivating themselves, regardless of their economic circumstances. It is not that he does not realize that things are harder for the poor; it is clear that part of his praise for Yan Hui is tied to the fact that he knows things *were* harder for Hui. This is an interesting view in part because it shows that Kongzi does not regard one’s socio-economic status as something that determines a person’s future, and this represents a contrast to Rawls, who at least thinks that individuals *can* be determined by their position

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6See 6.4 for another example of Ran Qiu’s apparent lack of a sense of justice.

7Kongzi says in 4.9: “A scholar-official who has set his heart upon the Way, but who is still ashamed of having shabby clothing or meager rations, is not worth engaging in discussion.”
in society. The *Analects* does not accept poverty as an excuse for moral failure. As Kongzi indicates in 14.43, and as we will see later in this chapter, Kongzi thinks a lack of filiality is the primary reason why most individuals become a burden on society, because filiality is the foundation of morality. Interestingly, both Rawls and the *Analects* maintain that it is important to work for greater economic equality, which for both of them means providing assistance to the poor and not the wealthy. But Rawls focuses strictly on the fact that a sense of justice leads us to address those aspects of our lives that we cannot control, while Kongzi also discusses the fact that a sense of justice leads us to address those aspects of our lives that we can control. Even in the case of the leader of the Bo clan, Kongzi sees that he had a choice in how he responded to his punishment, which is why he notes that Bo accepted his punishment willingly and that this is not an easy thing to do. A sense of justice, for Kongzi, helps us to see that it is just for people to be pushed to the fringes of their communities when they intentionally violate the rules in serious ways. The leader of the Bo clan deserves his punishment because he acted freely, and he remains free to respond to his punishment in whatever way he chooses.

In general, Kongzi is much more optimistic than Rawls about the degree of control people have over their lives as a result of their capacity for self-cultivation. Although Kongzi thinks families and societies have obligations to their members, and he expresses an understanding of social justice that addresses a number of the same concerns Rawls addresses. The *Analects* makes it clear that Kongzi does not excuse individuals who do not do their part to cultivate themselves.⁸ According to Kongzi’s view, it is both

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⁸The extent to which Rawls shares this view is unclear. Clearly Rawls distinguishes between individuals suffering as a result of natural and social contingencies, as opposed to circumstances they had control over. However, Rawls thinks natural and social contingencies can determine a person’s circumstances, at least to some degree, and prevent them from being able to cultivate themselves. He
the case that people are affected by natural and social contingencies and that they can choose to cultivate themselves even in the midst of the most difficult circumstances. In the Analects, a sense of justice leads us both to recognize the need to respond humanely to those who are affected by moral contingencies and the importance of holding people responsible for the choices they make.

It seems clear that Rawls and the Analects each describe a sense of justice that has three central features. First, a sense of justice is a moral sense or feeling that something is wrong about a certain range of situations. All humans originally possess it and have the capacity to cultivate and develop it. Second, this moral sense is aroused in situations that are fair or unfair, including situations in which people are harmed by morally arbitrary contingencies and those circumstances in which they harm themselves through their own choices. Here we can see two different understandings of justice: justice as fairness and justice as desert. While Rawls is concerned strictly with the former, we find examples of both in the Analects. The third feature of a sense of justice is that when it is properly cultivated, it motivates people to work for the good of other members of society and results in the establishment of just institutions. A sense of justice causes us to identify with one another, and the feelings that result from this identification are sufficient to motivate individuals to abide by certain terms of cooperation that will result in the rectification of injustices and that will also help to preserve just conditions.

We have now seen the basic shared idea in Rawls and the Analects concerning a sense of justice that moves individuals to cooperate with other members of society in

seems to think that individuals are not to blame in these situations, whereas the Analects maintains that individuals are to blame if they fail to cultivate themselves, which seems to mark an important difference between the two views.
ways that are considered fair by all. However, the shared understanding of a sense of justice in each case is situated in a larger account of human societies. Whereas Rawls’s account is based on liberal ideas such as the view that each person has the same claim to a fully adequate scheme of equal basic liberties, the view found in the Analects is rooted in a moral self-cultivationist perspective that is devoted to helping individuals embody a set of virtues over the course of their lives. The most pervasive difference between these accounts is the fact that the Confucian understanding of a sense of justice is but one part of a larger ethical account found in the Analects, while the Rawlsian analysis of a sense of justice is designed to show how a political conception of justice, as opposed to a conception of justice that is derived from a comprehensive moral doctrine, is possible. This speaks to the different philosophical projects that are undertaken in the Analects and in Rawls. While Rawls is outlining principles of justice that could be affirmed by citizens in a modern liberal democracy who are committed to a diverse range of religious, philosophical, and moral doctrines, Kongzi is outlining and defending one particular view of what human societies should look like. Additionally, Rawls is only addressing the principles of justice by which a modern liberal democracy’s institutions are to operate, whereas Kongzi is outlining an entire way of life that includes certain kinds of religious rituals and family relationships, in addition to matters of fair distribution among people from very different economic circumstances.

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9One difference that emerges from this fact is that the Analects is primarily therapeutic, while Rawls’s work is primarily theoretic and technical. That is, one of Kongzi’s goals is to improve his students’ character by teaching them about the Way, whereas Rawls’s primary aims are theoretical and technical in that he focuses on what justice is and how the basic structure of society should be arranged. However, Rawls also seems to hope that his analysis will move people to act in certain ways, and Kongzi does discuss what things like Ren are, as well as the basic structure of society.
One of the well-known changes in Rawls’s work between *A Theory of Justice* and *Political Liberalism* was Rawls’s self-conscious attempt to move away from providing a comprehensive theory of justice. Rawls writes that the dualism between the point of view of the political conception of justice and the many comprehensive points of view “originates in the special nature of democratic political culture as marked by reasonable pluralism” (PL, xxiii). In other words, it does not originate in philosophy but rather as a result of a particular set of historical and cultural circumstances. Rawls says that according to his view, the fact of reasonable pluralism is a product of “the different problems of political philosophy in the modern as compared with the ancient world” (PL, xxiii). He conjectures that when moral philosophy began with figures like Socrates,

... ancient religion was a civic religion of public social practice, of civic festivals and public celebrations. Moreover, this civic religious culture was not based on a sacred work like the Bible, or the Koran, or the Vedas of Hinduism. The Greeks celebrated Homer and the Homeric poems were a basic part of their education, but the Iliad and the Odyssey were never sacred texts. As long as one participated in the expected way and recognized the proprieties, the details of what one believed were not of great importance. It was a matter of doing the done thing and being a trustworthy member of society, always ready to carry out one’s civic duties as a good citizen—to serve on juries or to row in the fleet in war—when called upon to do so (PL, xxiii).

The ideas of immortality and eternal salvation did not have a central place in classical Greek culture, and Greek moral philosophy began with the historical and cultural context of a civic religion of a *polis*, which contained no idea of the highest good that served as an alternative to that expressed by the Homeric gods and heroes. In rejecting the Homeric ideals, Greek philosophy had to work out for itself ideas of the highest good. Rawls notes that Greek moral philosophy “was not based on religion, much less on revelation, as civic religion was neither a guide nor a rival to it. Its focus
was the idea of the highest good as an attractive ideal, as the reasonable pursuit of our true happiness . . . .” (PL, xxiv).

Against this background, Rawls points out the enormous consequences of the Reformation in the sixteenth century, the subsequent development of the modern state, and the development of modern science in the seventeenth century. The Reformation alone fragmented the religious unity of the Middle Ages and led to religious pluralism. Medieval Christianity was an authoritarian religion of salvation, doctrines, and priests. It was also an expansionist religion of conversion, which in turn led to intolerance (PL, xxv). The question that emerged was, “How is society even possible between those of different faiths? What can conceivably be the basis of religious tolerance” (PL, xxvi)? Rawls’s discussion of these matters is important because he acknowledges that the fact of reasonable pluralism is the product of certain historical developments in Western philosophy and religion. He is not attempting to impose his account of a political conception of justice on all societies, nor is he even suggesting that it would be a viable option for all societies. Rawls does, however, maintain that to think “that social unity and concord requires agreement on a general and comprehensive religious, philosophical, or moral doctrine” is to accept intolerance as a condition of social order and stability (PL, xxvii). As Rawls points out, “The weakening of that belief helps to clear the way for liberal institutions” (xxvii). Hence, we have the problem of political liberalism, which serves as Rawls’s central question in his later work: “How is it possible that there may exist over time a stable and just society of free and equal citizens profoundly divided by reasonable religious, philosophical, and moral doctrines” (xxvii).
This review of the historical circumstances surrounding Rawls’s work makes it clear that there are deep and important differences between both the nature and content of the accounts of human societies found in Rawls and the *Analects*. One of the most important of these is the fact that Rawls clearly does not intend his account of how justice is achieved in a pluralistic society to apply to the sort of societies found in the ancient world in either Greece or China. However, my study concerns a *sense* of justice—the moral sense on which Rawls and the *Analects* ground the claim that all humans have the capacity to understand and act in accordance with principles or standards that are designed to help to establish and maintain social justice. My comparative project then does not concern the specific nature of those principles, but rather the capacity and motivation humans have to abide by them.

A more interesting area of contrast between Rawls and the *Analects* concerns the way in which a sense of justice is developed and extended to the whole of society. According to Rawls, a sense of justice must first and foremost be cultivated within each individual family and then within individual communities. Only after these initial stages of cultivation is one able to fully develop a sense of justice that extends to members of society that are not a part of one’s family or immediate community. This view represents an area of agreement with the *Analects*, which maintains that one’s capacity to be a good member of society spreads outward from filial relationships with one’s parents to one’s relationships with elders in the community, and finally to one’s posture toward other members of society.\(^{10}\) According to the *Analects*, however, in addition to each member of society developing certain capacities and virtues, it is also necessary to have an

\(^{10}\)See *Analects* 1.2, 1.6, and 2.21.
exemplary ruler. A sense of justice first must be cultivated in parent-child relationships, then in the community, finally extending to one’s behavior toward other members of society, but the *Analects* also maintains that societies must have virtuous rulers who care for the members of their societies.

The understanding of the relationship between *de* 德 ("Virtue") and rulership that we examined in Chapter Four is not a part of the cultivation of a sense of justice in Rawls. As we have seen, the idea that the most virtuous individuals should rule is at the heart of the emergence of the civil service examination system, which allows one’s moral character and scholarly abilities to determine one’s share of wealth and power. On this view, it is understood that the ruler and other officials will be wealthier than others, and this is seen as proper and fair because these individuals are the most virtuous. According to the *Analects*, if a virtuous ruler is in charge, then the fact that the ruler is wealthier than the people will not be a problem because virtuous rulers are not satisfied until their people are all provided for. The *Analects* tells us that good rulers do not even worry about meeting their own needs until their people have all been taken care of. So, a part of choosing the most virtuous rulers and allowing them to have the greatest share of the wealth and power is the fact that if they *are* virtuous rulers, they will not simply hoard their wealth and disregard the needs of the people. Rather, they will ensure that food and other forms of wealth are fairly distributed so that everyone’s needs are met.

Rawls’s model is an obvious contrast to this kind of view because it depends on just institutions—as opposed to virtuous leaders—to ensure things like fair distribution. Thus, on Rawls’s view, “when everyone follows the publicly recognized rules of cooperation, and honors the claims the rules specify, the particular distribution of goods
that result are acceptable as just (or at least as not unjust) whatever these distributions turn out to be” (JF, 50). Institutions are what keep property and wealth “evenly enough shared over time to preserve the fair value of the political liberties and fair equality of opportunity over generations. They do this by laws regulating bequest and inheritance of property, and other devices such as taxes, to prevent excessive concentrations of private power” (JF, 51). This view depends heavily on each individual having a cultivated sense of justice, meaning that they are properly motivated to establish and sustain these institutions.

It is important to note a couple of things here. First, Rawls’s view works to prevent excessive concentrations of private power and relies on institutions and the citizens who support them to establish and preserve justice, whereas the view seen in the Analects obviously accords the ruler a great deal of power and relies on him to use it humanely. But this dichotomy is not as sharp as it may appear on first blush. The Analects clearly presents a view where institutions, which include practices such as taxation as well as other laws and policies, are a part of governance. Although Kongzi says that an ideal society would not need certain kinds of institutions (2.3), it is not the case that he simply favors a powerful ruler instead of institutions for establishing justice. Rather, Kongzi maintains that the standards and principles represented by the rites should be used to order society, and he maintains that members of society should adhere to these standards (4.13). 11 Similarly, Rawls does not deny that a society needs strong leaders to guide the formation, revision, and preservation of its institutions. Indeed, he affirms the view that some individuals are more qualified than others for leadership positions, and

11Later in this chapter I will specifically address the extent to which the rites may be considered basic institutions, on Rawls’s definition.
that what makes them qualified are certain excellences of character, many of which are also a part of what makes for a virtuous ruler on the account provided by the *Analects*.

Focusing strictly on Rawls’s concern with just institutions and the *Analects*’ insistence on virtuous rulers also neglects the emphasis both of these views place on the role played by members of society in achieving a just and humane society. According to the *Analects*, there should be a general improvement in people’s moral character as a result of having a virtuous ruler, and a part of what this means is that people will act in accordance with certain standards, including those specified by the rites, as well as the laws and policies that have been put into place by good rulers. For Rawls, citizens with an effective sense of justice must take an active role in the institutions that are designed to establish and maintain justice, and this means that some citizens will assume positions that allow them considerably more influence than others. So long as these offices are open to all, however, Rawls does not consider the power associated with them to be problematic.

So although Rawls’s view depends on establishing just institutions, and also on the commitment that individual citizens make to those institutions, whereas the Confucian view depends more on having a virtuous leader and on the influence of his *de* 德 (“Virtue”) on the people, there are important similarities between these accounts as well. On both views, individuals cultivate a sense of justice in the context of the family and community, and without this foundation they are unlikely to develop into good members of society. This is perhaps the most important and substantive area of agreement between these two views: a good society can never be achieved unless its members care about one another’s well-being and feel a responsibility for one another’s
welfare. Ultimately, according to both Rawls and the *Analects*, parents are responsible for helping their children to cultivate a sense of justice. Parents are responsible for helping their children come to see how others are harmed by injustices, and for helping them learn how to avoid perpetuating social injustice. This foundation leads citizens, on Rawls’s view, to endorse principles of justice that “make it likely that economic and social inequalities contribute in an effective way to the general good or, more exactly, to the benefit of the least-advantaged members of society” (JF, 52). The posture that members of society take toward one another based on a highly cultivated sense of justice is also a part of what leads members of society in the *Analects* to support rulers who advocate policies of equal distribution, and who do not make the rich richer, but who instead work to help poor.

Now that we have in view these two accounts of how a sense of justice functions in a society, we can ask what difficulties might emerge within each model. For the Confucian view, there is the question of how to ensure that the most virtuous people—and not just members of the elite class or especially intelligent or well-educated individuals—become rulers and officials. The examination system attempted to systematize this process, and it underwent a continual process of revision, expansion, and reorganization throughout its existence both in order to address the privileged access that members of elite and educated classes had to official positions, and in order to find more effective ways of selecting virtuous leaders. Although it is possible to measure one’s knowledge of the Confucian classics, the Confucians realized that there is more to moral character and being a virtuous leader than this dimension of learning. In addition to the challenge of determining who the most virtuous individuals are, there is the matter of
defending the view that de 德 (“Virtue”) actually works in the way the Analects says it does, namely that virtuous people have an attractive power and a profound influence on those around them. The Confucian account of achieving a society that embodies the Way—a society that is just, among other things—depends partly on members of society developing a sense of justice, but it also depends on this account of the ruler’s impact being accurate.

For Rawls, one of the most serious lingering questions is how just institutions are established in order to provide the kind of background justice he envisions. Rawls’s account of moral psychology and how a sense of justice develops is compelling, namely that “given certain assumptions specifying a reasonable human psychology and the normal conditions of human life, those who grow up under just basic institutions—institutions that justice as fairness itself enjoins—acquire a reasoned and informed allegiance to those institutions sufficient to render them stable” (JF, 185). However, the question that remains is how just basic institutions are established in the first place, if citizens must grow up under them in order for their sense of justice to be fully developed, and in order to render their just institutions stable. Here Rawls faces “Xunzi’s Dilemma,” which I mentioned briefly in Chapter Three: If citizens must grow up under just basic institutions in order to fully develop a sense of justice, then where do just institutions come from in the first place? An illustration of this problem can be further seen in Rawls’s remark that

. . . the basic structure is arranged to include the requisite institutions of background justice so that citizens have available to them the general all-purpose means to train and educate their basic capabilities, and a fair opportunity to make good use of them, provided their capabilities lie within the normal range. It is left to citizens as free and equal persons, secure in their basic rights and liberties and able to take charge of their
own life, to avail themselves of the opportunities guaranteed to all on a fair basis (JF, 171).

Another difficulty with Rawls’s account is seen in his subsequent claim that “those with a greater capacity for the judicial virtues have, other things equal, a greater chance of holding positions of authority with the responsibilities that call for the exercise of those virtues” (JF, 171). Here we see some important areas of resonance with the Analects: on Rawls’s view, too, the most virtuous person deserves the position of authority. In the example Rawls discusses here, we can see how it is the case that we would like to have Supreme Court justices who exemplify the judicial virtues. We think it is right that someone who has a highly cultivated sense of fairness and good judgment should be the person who takes a position on the high court. The problem, however, is the fact that in our current system, only a narrow range of candidates will have a realistic chance at serving on the Supreme Court. This is not necessarily because they are the most highly skilled judges, but because they are the candidates who have the right pedigrees, including Ivy League degrees and clerkships with the right justices. It is well and good to say that once just institutions are in place and functioning properly, it is up to each citizen to “take charge of their own life” and “avail themselves of the opportunities guaranteed to all on a fair basis.” But Rawls has already stressed to us the degree to which individuals can be determined by the social and natural contingencies that are a part of their lives, and the way in which social practices continue to perpetuate the problem of these inequalities even after institutions become just. There is a tension here between Rawls’s initial claims about the problems posed by moral contingencies, and the self-cultivationist language he uses to describe the capacities human beings have. On the
one hand, he indicates that people are often determined by their circumstances, while on the other, he clearly thinks that people have the capacity to cultivate their moral powers.\textsuperscript{12}

Given Rawls’s account of the way in which moral contingencies often determine the course of human lives, his claim that anyone can “avail themselves of the opportunities guaranteed to all on a fair basis” leaves us wondering how we get to the place where opportunities are guaranteed to all on a fair basis. Is it realistic to think that a society can attain this ideal? Here we see another important area of resonance between Rawls and the Analects: both accounts are ideal theories. Rawls continually reminds his readers of this fact:

We ask in effect what a perfectly just, or nearly just, constitutional regime might be like, and whether it may come about and be made stable under the circumstances of justice, and so under realistic, though reasonably favorable, conditions. In this way, justice as fairness is realistically utopian: it probes the limits of the realistically practicable, that is, how far in our world (given its laws and tendencies) a democratic regime can attain complete realization of its appropriate political values—democratic perfection, if you like (JF, 13).

In the Analects, Kongzi wonders at times whether he will ever see the Way put into practice (4.8, 5.27). It is clear at many junctures that his account may be considered an ideal theory. For example, Analects 4.5 says that the junzi 君子 (“exemplary person”) does not go against Ren 仁 (“humaneness”) even for the amount of time required to finish a meal, or in times of urgency or distress. In Analects 4.6 Kongzi goes on to say that he has never met a person who truly loved Ren and hated a lack of Ren: “Is there a person who can, for the space of a single day, simply devote his efforts to Ren? I have never met anyone whose strength was insufficient for this task. Perhaps such a person exists, but I

\textsuperscript{12}In the next section of this chapter, I will return to this tension in Rawls and discuss some ways of resolving it.
have yet to meet him.” So although Kongzi articulates his vision of the Way in practice, he is aware that his own society is far from embodying it.

As a result of the fact that both the *Analects* and Rawls present ideal theories, both accounts face the question of how an ideal theory can serve as a realistic guide when at times it seems wholly unattainable. As we have seen, Rawls maintains that his theory is “realistically utopian” (JF, 13). He also says that studying the ideal theory should “provide some guidance in thinking about nonideal theory, and so about difficult cases of how to deal with existing injustices. It should also help to clarify the goal of reform and to identify which wrongs are more grievous and hence more urgent to correct” (JF, 13). So on Rawls’s view, this vision of society is attainable, but he does not deny that it calls for a great deal of reform.\(^{13}\)

The *Analects* confronts the question of how an ideal theory can serve as a realistic guide by praising those who struggle with the difficult task of self-cultivation, keeping the ideal vision of the Way in mind, while admonishing those who simply give up because they think their strength is insufficient for attaining the Way. When Ran Qiu says in 6.12 that he delights in the Way but his strength is insufficient to follow it, Kongzi objects to his response, saying “Someone whose strength is genuinely insufficient collapses somewhere along the Way. As for you, you deliberately draw the line.” He points out that Ran Qiu does not even try to follow the Way, which once again makes him a contrast to Yan Hui, who as Kongzi notes in 6.7 did not stray from Ren for three months at a time. Kongzi’s remarks about Ran Qiu and Yan Hui provide a sense of what his response might be to someone who objected that the Way is simply unattainable. As

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\(^{13}\)Rawls is likely influenced by Kant on this point. For Kant, “ought implies can” does not minimize the difficulty of achieving a certain end.
a self-cultivationist, Kongzi thinks our task is to pursue the Way even when we doubt that we, or the societies we live in, will ever succeed in following it perfectly. That is not to say, however, that Kongzi thinks the Way is unattainable, for he clearly believes that there have been past societies who succeeded in following the Way. Like Rawls, he thinks we must use the ideal theory—and the model provided by past societies who followed the Way—to take steps toward improving ourselves and our societies. This is why Kongzi compares the task of self-cultivation to building a mountain: “. . . if I stop even one basketful of earth short of completion, then I have stopped completely. It might also be compared to the task of leveling ground: even if I have only dumped a single basketful of earth, at least I am moving forward” (9.19).

The response of both Rawls and the Analects to someone who has difficulty believing that their accounts are attainable is that ideal theories tell us a lot about the steps we need to take toward improving our societies; they provide a good starting place for a long and arduous journey and they serve as a guide throughout that journey. Both Rawls and the Analects maintain that the reason why their accounts are ultimately achievable is that human beings can cultivate their moral capacities, and these capacities enable them to feel for and think about their fellow human beings in humane and compassionate ways. On both views, humans have the capacity for a sense of justice, among other capacities, and their ability to refine and cultivate that capacity is one of the most important sources of a stable society for Rawls, and a society that pursues the Way in the Analects.

Comparative studies can help us to understand ideas like a sense of justice because we have the opportunity to examine the way it is understood within very
different frameworks, and thus comparative work enables us to learn more about the way an idea like a sense of justice works in relation to other important ideas, practices, and institutions. The next two sections of this chapter focus on how this comparative study can help us to understand and evaluate the two views under study and thus how it makes a contribution to the larger body of knowledge within the discipline and practice of philosophy through the comparative process.

II. Justice and Self-Cultivation in Rawls

An important shared feature of a sense of justice in Rawls and the Analects is the idea that, as Rawls puts it, people “would lack certain essential elements of humanity” if they did not have a sense of justice. In the Analects, Ren is the fullest realization of one’s capacities as a human being, and as passages like 4.5 and 6.30 make clear, Kongzi sees having a sense of justice as part of being Ren (“humane”). In both Rawls and the Analects, having a sense of justice is something that makes us human. We have seen that both Rawls and the Analects maintain that a sense of justice is initially cultivated in the context of parent-child relationships, and then in one’s relationships with other elders and friends in one’s community. These are the contexts that lay the ground for a fully developed sense of justice that shapes one’s responses to other members of society.

In Chapter Three I highlighted the self-cultivationist dimension of Rawls’s account, and I believe this is the most important feature of Rawls’s work that is brought to the forefront by a comparative study with the Analects. In this section, I explore the question of why it is important to understand this dimension of Rawls’s work, that is, what we gain by examining this theme in Rawls, and in what ways a self-cultivationist

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analysis deepens our understanding of the strengths and weaknesses of Rawls’s account. In Chapter Three I argued that studying this side of Rawls’s work helps to highlight the resources in Rawls’s work that offer a defense against some of the criticisms raised by communitarian and feminist critics. In this chapter, I argue that the self-cultivationist dimension of Rawls’s work can serve as a resource for interpreting Rawls’s account in a way that will allow him to meet the challenge posed by Xunzi’s Dilemma and resolve the tension between his claim that moral contingencies can determine the course of human lives and the claim that all humans have the capacity to cultivate their moral powers. In the course of my argument I will highlight some dimensions of Mengzi’s account of human nature that resonate with some of Rawls’s remarks and that might be used to augment his account, in the same way that Mengzi’s account expanded upon and helped to defend Kongzi’s view.

First I want to address a serious concern that emerges with any attempt to associate Rawls’s account with a theory of human nature, namely the fact that Rawls explicitly denies that his account includes a theory of human nature. Rawls writes that although political liberalism differs from comprehensive liberalism because it does not take a general position on certain questions, it does affirm a certain range of answers to those questions with respect to a political conception of justice for a constitutional democratic regime. In this respect Rawls says his account resonates with Hume and Kant (PL, xxix). The three basic questions of moral epistemology and psychology that Rawls is talking about here are the following: (1) Is the knowledge or awareness of how we are to act directly accessible only to some, or is it accessible to every person who is normally reasonable and conscientious? (2) Is the moral order required of us derived from an
external source, say from an order of values in God’s intellect, or does it arise in some way from human nature itself (either from reason or feeling or from a union of both), together with the requirements of our living together in society? (3) Must we be persuaded or compelled to bring ourselves in line with the requirements of our duties and obligations by some external motivation, say, by divine sanctions or by those of the state; or are we so constituted that we have in our nature sufficient motives to lead us to act as we ought without the need of external threats and inducements?

Rawls writes that political liberalism affirms the second alternative in each of these cases: it sees the moral order as arising “in some way from human nature itself, as reason or as feeling, and from the conditions of our life in society” (PL, xxix). It also sees the knowledge or awareness of how we are to act as “directly accessible to every person who is normally reasonable and conscientious.” Finally, it sees human beings as constituted so that “we have in our nature sufficient motives to lead us to act as we ought without the need of external sanctions, at least in the form of rewards and punishments imposed by God or the state.” So although Rawls says that political liberalism “does not take a general position on the three questions above” because it leaves them to be answered in different ways by different comprehensive views, he maintains that “political liberalism does affirm the second alternative in each case with respect to a political conception of justice for a constitutional democratic regime” (PL, xxix).

How are we to interpret Rawls’s remarks here? This is something of a challenge, as Rawls denies that political liberalism takes a general position on these three questions while still maintaining that it affirms the second alternative in each case with respect to a political conception of justice for a constitutional democratic regime. How is it possible
for political liberalism to avoid taking a general position and yet affirm one of the two possible answers to each question? I suspect that what Rawls means is that political liberalism does not endorse a fully developed *theory* of human nature, however, it does consider certain *kinds* of answers to questions about human nature to be correct. Specifically, one must believe that most citizens have the resources to act justly. Here we see clearly Rawls’s acknowledgement that his account is dependent on the idea that humans have a basic moral sense by virtue of being human.

Rawls writes that all humans originally possess the capacity to develop a sense of justice. But as we have seen, there is some question about what Rawls means by “capacity” here: do humans have an initial *tendency* to develop a sense of justice, or do they simply have the *ability* to develop it? That is, does Rawls think humans have initial, observable, active tendencies toward a sense of justice, or does he only think they have a latent or hidden capacity for a sense of justice? Although Rawls says he is discussing “the abilities we find latent in our nature,” he sometimes indicates that he takes a stronger view of how active and visible this capacity is initially (TJ, 375-6). For example, consider his account of how the capacity for a sense of justice is observable from an early age in a child’s response to her parents. In this discussion, Rawls does not seem to be describing a hidden moral sense that must undergo certain forms of cultivation before it is noticeable in humans, but rather a moral sense that is already observable and active from the earliest stages of childhood. Thus, Rawls’s account does not always appear to be entirely consistent with his claim that a sense of justice is a *latent* part of our nature.

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In order to understand why this question is important, and in order to better understand the difference between an observable, active moral sense and a latent one, I would like to turn to the discussion of this subject in the Confucian tradition. The debate between Mengzi and Xunzi concerning the subject of human nature, specifically concerning the question of what moral capacities humans have simply by virtue of being human, provides a clear picture of what is at stake in the distinction between latent and observable, active moral capacities. Mengzi was the first Confucian thinker to explicitly discuss the relationship between human nature and self-cultivation, maintaining that self-cultivation is a process of developing our original inclinations toward goodness.\footnote{For studies of Mengzi’s theory of human nature, see A.C. Graham, “The Background of the Mencian Theory of Human Nature,” reprinted in Studies in Chinese Philosophy and Philosophical Literature (Albany, NY: SUNY Press, 1990), 7-66, and D.C. Lau, “Theories of Human Nature in Mengzi and Xunzi,” reprinted in Kline and Ivanhoe, Virtue, Nature, and Moral Agency in the Xunzi. For more general studies of Mengzi’s moral philosophy, see David S. Nivison, The Ways of Confucianism (Chicago, IL: Open Court Press, 1996); Kwong-loi Shun, Mencius and Early Chinese Thought (Stanford, CA: Stanford University Press, 1997), and Philip J. Ivanhoe, Ethics in the Confucian Tradition: The Thought of Mengzi and Wang Yangming, Second Edition (Indianapolis, IN: Hackett Publishing Company, 2002).}

According to Mengzi, all human beings are born with four observable, active moral senses or “sprouts” (\textit{duan} 端) that are already in their initial stages of development. He uses the metaphor of sprouts to express and develop this idea by describing how these four moral senses, if properly nourished and protected from harm, eventually grow into Ren 仁 (“humaneness”), rightness (\textit{yi} 義), propriety (\textit{li} 礼), and wisdom (\textit{zhi} 智).\footnote{Mengzi 2A6 and 6A6. One could also interpret Mengzi as saying that there is one moral sense that manifests itself in four different ways. For this interpretation, see Liu Xiusheng, Mencius, Hume, and the Foundations of Ethics (Burlington, VT: Ashgate Publishing, 2003).} The \textit{Mengzi} says, “People having these four sprouts is like their having four limbs. To have these four sprouts but say of oneself that one is unable to be virtuous is to steal from
oneself. . . . In general, having these four sprouts within oneself, if one knows to fill them all out, it will be like a fire starting up, a spring breaking through!“18

Mengzi’s choice of a metaphor here is telling. As Ivanhoe points out, “. . . like sprouts, our moral sense is a visible and active, not hidden or latent, part of the self.”19 Ivanhoe notes that in order for Mengzi’s program of self-cultivation to work, people must already possess an active and visible moral capacity that can be developed.20 In support of the claim that all humans have moral sprouts, Mengzi offers examples of people with visible and active moral tendencies. Mengzi argues that human moral capacities are rooted in the xin 心 (“heart-mind”), which contains cognitive and affective faculties, including the four moral “sprouts,” as well as volitional abilities.21 Because the moral sprouts reside in the xin, humans use their moral sense when they think and reflect about things: “The function of the mind is to reflect. When it reflects, it gets things right; if it does not reflect, it cannot get things right.”22

So, according to the Mengzi, all human beings are the same in having an active, visible moral sense, and those who use it, “follow their greater part.” He further expounds on this claim with the parable of the barley sprouts: “The soil is the same and the time of planting is also the same. They grow rapidly, and by the time of summer


19Ivanhoe notes that Mengzi uses a number of different terms for “sprout” throughout the text, including meng 萌, nie 糬 (“buds”), and miao 苗 (“sprouts of grain”). He does not however use the word for “seed,” which would have illustrated a tendency that is hidden, unlike the active, visible moral senses Mengzi envisions (Ivanhoe, Confucian Moral Self Cultivation, 18; 25 n. 16).

20Ibid., 25 n. 17.

21Ibid., 19.

solstice they have all ripened. Although there are some differences, these are due to the richness in the soil, and to unevenness in the rain and in human effort.”

Mengzi emphasizes that everyone starts out with moral sprouts, and while some aspects of the sprouts’ environment are the same, others are different. In the parable of Ox Mountain, we learn that although the trees on the mountain were once beautiful, they were not protected from a variety of harms. Similarly, moral sprouts need a safe and nourishing environment in order to flourish. Mengzi notes that in the case of Ox Mountain, “. . . it was not that there were no sprouts or shoots growing there. But oxen and sheep then came and grazed on them. Hence, it was as if it were barren.” He tells us in the parable of the man from Song, who tugged on his shoots of grain in an effort to make them grow more quickly and inadvertently uprooted them, that humans must neither neglect their moral sense nor try to force it to grow. These passages show clearly that Mengzi did not think humans were born with fully developed moral capacities, rather, they were born with an initial inclination toward goodness. Mengzi stresses that we can see these moral capacities in action simply by observing human behavior. But although one’s moral “sprouts” are visible and active right from the start, they are in need of considerable encouragement and growth in order for one to develop into a moral person.

Although Xunzi and Mengzi agree on many aspects of moral self-cultivation, including the qualities of the cultivated person, Xunzi does not agree with Mengzi’s claim that humans are initially inclined toward goodness. As a result of this view, he also does not think the process of self-cultivation is simply a matter of providing the proper

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23 Mengzi 6A7, trans. Van Norden, in Readings in Classical Chinese Philosophy, 144.

24 Mengzi 6A8, Ibid, 145.
conditions for growth and development. According to the Xunzian account of human nature and self-cultivation, persons become moral not as the result of original inclinations toward morality, but because of how teachers and traditions shape them. Humans are morally blind at birth, led only by their physical desires, which lead inevitably to destruction and harm.25 Accordingly, humans must be stamped with the shape of morality. Ivanhoe points to the difference between Mengzi’s “developmental model” of moral self-cultivation, evident in Mengzi’s claim that we must develop the moral “sprouts” we are born with, and Xunzi’s “re-formation model,” which is expressed in his metaphors for humans: warped boards that are re-formed with steam and pressure to fit the Confucian design.26 Xunzi writes, “Through steaming and bending, you can make wood straight as a plumb line into a wheel. And after its curve conforms to the compass, even when parched under the sun it will not become straight again, because the steaming and bending have made it a certain way.”27

Xunzi maintains that rituals and social obligations “are produced from the deliberate effort of the sage; they are not produced from people’s nature. Thus, when the potter mixes clay and makes vessels, the vessels are produced from the deliberate efforts of the craftsman; they are not produced from people’s nature.”28 He goes on to say,

The sage accumulates reflections and deliberates and practices deliberate efforts and reasoned activities in order to produce ritual and standards of righteousness and to establish proper models and measures. So, ritual and standards of righteousness and

26 Ibid., 29-32. See especially the beginning of Chapter One of the *Xunzi*.
28 Ibid., 286.
proper models and measures are produced from the deliberate efforts of the sage; they are not produced from people’s nature.29

As Ivanhoe points out, Xunzi sees morality itself as artificial.30 He does not think human beings have active, visible tendencies toward morality. They are not guided by an innate moral sense. Rather, through a long and arduous process of self-cultivation they acquire moral capacities and the ability to judge situations properly. Xunzi thinks humans acquire a sensibility they never had before instead of developing a moral sense they are born with. Xunzi makes a point of disagreeing with Mengzi’s claim that si 思 (“reflection”) is the key to allowing our moral sense to lead us. Rather, Xunzi says, “I once spent the whole day in si 思 ‘reflection,’ but it wasn’t as good as a moment’s worth of xue 學 ‘learning.’”31 Mengzi’s and Xunzi’s remarks on reflection and learning should remind us of the fact that they both consider themselves interpreters of the Analects and Kongzi’s account of moral self-cultivation.32

For our purposes what is especially interesting about Xunzi’s account is that he still maintains that human beings have the capacity for morality, because they have the capacity to cultivate themselves. We can see here how Mengzi and Xunzi mean very different things when they say that humans have the capacity for morality. For Xunzi, this capacity is hidden or latent, and it only becomes visible after a great deal of training.

29Ibid.

30Ivanhoe, Confucian Moral Self Cultivation, 33.

31Xunzi, 249, translation modified.

32Analects 2.15 says, “Learning without reflection is a waste. Reflection without learning is a danger,” while in 15.30 Kongzi says he once engaged in reflection for an entire day without eating and an entire night without sleeping, “…but it did no good. It would have been better for me to have spent that time in learning.”
and hard work, while for Mengzi it is visible and active from the start, needing only the proper environment and cultivation in order to grow. The question then is which view Rawls is closer to when he discusses the capacity for a sense of justice. Is the capacity for a sense of justice a hidden moral potential, or is it a visible and active tendency toward morality? One way of determining the answer to this question is by looking at the sort of language Rawls uses in describing the cultivation of a sense of justice.

In *Theory* Rawls says that the success of a child’s development of a sense of justice depends on precepts that “appeal to his original inclinations” (TJ par. 70, p. 408). Rawls provides a three-stage account of how a sense of justice develops that gives us a picture of a moral sense being drawn out and extended initially within the context of parent-child relationships, and then cultivated in relationships with family and friends. Finally, it is cultivated and expressed in one’s relationships with fellow citizens. We can understand this as a process of learning to see oneself and understand one’s different roles and obligations—first, as a son or daughter, next, as a sister or brother, niece or nephew, friend, and student, and finally, the role of a citizen to other citizens. Each role has responsibilities and obligations tied to it, and one’s understanding of those responsibilities as well as one’s motivation to fulfill them is tied to one’s sense of justice—the feelings one has toward others by virtue of their common membership in a family, community, or society. Rawls talks about one’s ability to relate to others as something which *spreads outward*, a dynamic movement that occurs when one’s moral development is on track. This description is very close to Mengzi’s account of how moral sprouts develop. In 2A6, as we saw earlier, the Mengzi says that “if one knows to broaden and fill them all out, it will be like a fire starting up, a spring breaking through!”
Mengzi also says that moral development proceeds by nourishing (7A1) and extending (7A15) one’s natural moral impulses.

Rawls writes that a sense of justice needs to be “properly trained and exercised.” A just society “trains and educates” one’s sense of justice (JF, 171). Throughout his analysis, Rawls uses a list of self-cultivationist terms to describe how a sense of justice must be “trained,” “exercised,” “educated,” “encouraged,” “sustained,” “formed,” and “nurtured.” It seems clear that Rawls is closer to Mengzi than Xunzi in thinking that a sense of justice is an original inclination toward morality that all humans are born with, and which develops under the proper circumstances and in the proper environment. None of the words he uses to describe the cultivation of a sense of justice resonate with Xunzi’s harsh metaphors of re-forming a difficult substance or uncovering a hidden, dormant capacity.

Interestingly, the points of resonance between Rawls’s account and Mengzi’s account extend further than their basic accounts of human nature and self-cultivation. We have seen that Rawls postulates “the Aristotelian Principle,” according to which “human beings enjoy the exercise of their realized capacities (their innate or trained abilities), and this enjoyment increases the more the capacity is realized, or the greater its complexity” (TJ par. 65, p. 374). Here Rawls follows Aristotle’s view that various kinds of pleasure and enjoyment arise when we exercise our faculties, but we should recall that Rawls also postulates a “companion effect” of the Aristotelian Principle, namely the fact that as we witness the exercise of well-trained abilities by others, “these displays are enjoyed by us and arouse a desire that we should be able to do the same things ourselves” (TJ par. 65, pp. 375-6).
This account represents a deep and interesting area of agreement with Mengzi, who maintains that reflecting on good conduct produces a special feeling of joy that reinforces our moral sense and gives us moral courage. Mengzi says that if we delight in our moral sprouts, “... then they grow. If they grow then how can they be stopped? If they cannot be stopped, then without realizing it one’s feet begin to step in time to them and one’s hands dance according to their rhythms.”\(^{33}\) The joy that is produced by performing good actions or seeing others perform good actions, and by reflecting on those actions, produces “flood-like qi 氣” or energy, which then nourishes our moral sprouts and promotes moral growth. According to Mengzi, when our moral sprouts are nourished, we are able to perform more difficult moral tasks than before; our moral character is strengthened. Mengzi writes that flood-like qi is

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\ldots\text{supremely great and supremely unyielding. If one cultivates it with uprightness and does not harm it, it will fill up the space between Heaven and earth. It is a qi that unites righteousness with the Way. Without these, it starves. It is produced by accumulated righteousness. It cannot be obtained by a seizure of righteousness. If some of one’s actions leave one’s heart unsatisfied, it will starve.}\]^{34}

The two areas of agreement I wish to focus on here are, first, the idea that using one’s moral sense to do good actions produces a kind of joy that leads to moral development, and second, the idea that seeing the moral conduct of others also produces joy that furthers our own moral motivation. On Rawls’s view, living in a just society is critical for one’s development of a sense of justice because one sees just institutions at work and wishes to take part in them. Actions that accord with principles of justice help to strengthen one’s sense of justice. According to the companion effect of the


\(^{34}\)Mengzi 2A2, trans. Van Norden, in *Readings in Classical Chinese Philosophy*, 123.
Aristotelian Principle, the more cases one sees of justice at work, the more one’s sense of justice grows and develops, and the more one wishes to stand up to instances of injustice. One’s sense of justice becomes a meter that not only indicates that something is wrong, but also helps to motivate one to act. On Mengzi’s view, actions that accord with the Way produce a special kind of joy, which in turn produces *qi* that nourishes the moral sprouts of those who perform the actions *and* those who witness them. What is especially important about Mengzi’s account is that one must have the proper emotional comportment to accompany one’s actions. Experiencing the joy of moral thoughts and actions causes our native moral sense to grow, strengthening our moral character. An important part of this process is seeing others perform good actions, because our moral feelings are reinforced and extended when we witness moral exemplars in action.

These similarities between Rawls’s and Mengzi’s accounts are important because they show that there are good reasons for interpreting his claims about a sense of justice in Mengzian as opposed to Xunzian terms. It seems clear that Rawls’s description of the initial capacity for a sense of justice is more Mengzian than Xunzian in the sense that he describes a tendency in human beings that is active and observable from the earliest stages. This view allows Rawls to avoid Xunzi’s Dilemma, because on a Mengzian view, it is clear that background justice is a natural outgrowth of the basic human capacity for a sense of justice. If we interpret him as making a Mengzian kind of claim, namely that humans have an initial tendency to develop a sense of justice—as opposed to merely having a latent capacity for a sense of justice that is only visible after one’s nature is reformed and cultivated—then Rawls can account for the initial emergence of the just institutions that shape and cultivate citizens’ sense of justice.
In addition to helping Rawls avoid Xunzi’s Dilemma, a more Mengzian interpretation also helps to resolve the tension that initially emerged between Rawls’s claim that humans can be determined by moral contingencies and his claim that they have the capacity for self-cultivation. On a Mengzian view, it is both the case that one’s environment plays a critical role in one’s chances in life and that one has extraordinary capacities for self-cultivation. In order to understand Rawls’s claim that all humans are able to exercise and train their sense of justice—despite the fact that they may suffer from a variety of contingencies and that a society has a responsibility to try to address those inequalities—we must assume that their initial resources are sufficiently strong to allow them to overcome certain deficiencies in their environment. Here we can see how the Confucian account provided in the *Analects*, where a sense of justice is connected both to one’s realization that societies have a responsibility to address the disadvantages people have no control over *and* to hold individuals responsible for the things they do have control over, presents an account of justice that balances the concerns of moral arbitrariness with the importance of self-cultivation.

This observation brings us back to the question of why it is important to understand the self-cultivationist dimension of Rawls’s work, and what we gain by examining this theme in Rawls. One response, seen here, is that it helps us to better understand the strengths and weaknesses of his view. A comparative study such as this can also help us to understand his general account more completely and accurately by showing how important Rawls’s self-cultivationist account is for the rest of his work. As we saw earlier in this chapter, one of the most serious objections one might raise to Rawls’s account and to the Confucian account is that they present ideal theories in which
members of society all cooperate well and are willing to make sacrifices for one another. As a result, their accounts at times appear to simply describe something that seems unattainable. However, the self-cultivationist dimensions of each account show exactly how their ideal societies are to be attained, and this is one reason why it is important to understand this aspect of their views.

Both Rawls and the Confucian tradition devote a considerable amount of attention to moral psychology, and specifically to the question of why and how members of a society who do not even know one another are motivated to make sacrifices for each other. As we have seen, both Rawls and Mengzi maintain that this capacity originates with the moral inclinations that all human beings are born with. But Rawls and Mengzi also maintain that this ability, even though it is active and visible in human beings at the earliest stages, must be cultivated and developed. It must be drawn out and extended over the course of a person’s life as they form different kinds of relationships. For Rawls this amounts to a three-stage process of self-cultivation within the family, community, and society. In the Mengzi and in Analects, it begins with the virtue of filial piety in the context of parent-child relationships, and continues to grow in the development of virtues like rightness and humaneness, as well as filiality, in one’s relationships with other elders and family members. These virtues lead one to feel for and interact with other members of society in ways that are characterized by a spirit of fairness and reciprocity, among other things.

Perhaps most importantly, uncovering the self-cultivationist dimensions of Rawls shows how self-cultivationist approaches to morality can take many different forms. Although self-cultivation has primarily been discussed in relation to Confucian ethics and
other virtue theories, it is an important part of the ethical writings of many philosophers, even those who, like Rawls, are usually associated with deontological theories. Highlighting the self-cultivationist side of Rawls’s work and showing how it contributes to an understanding of the project Rawls is engaged in can help to show Western ethicists how important self-cultivation is for a wide range of ethical approaches. This is one way in which comparative studies can help philosophers to recognize areas within their own field that are in need of study. Using the framework of self-cultivation, we can more fruitfully understand how human beings become good citizens, which shows why philosophers should study moral self-cultivation. It also commends the study of Chinese philosophy to Western ethicists, because Confucian philosophers are responsible for the most sophisticated accounts of moral self-cultivation in the history of philosophy. Thus, an understanding of the various models of self-cultivation found in Confucianism will assist Western ethicists in uncovering and developing these dimensions of Western moral philosophy.

III. Political Philosophy in the Analects

Now that we have seen the contribution comparative studies of this sort can make to an understanding of Rawls’s work, it is time to examine the way in which this study contributes to an understanding of the Analects. In this section, I will address three main areas: the avoidance of arbitrariness, the relationship between the right and the good, and the importance of the judicial virtues.

Earlier in this dissertation, we examined the fact that for Rawls, in order to have the concept of justice, a society’s institutions only need to reflect two basic beliefs: (1) arbitrary distinctions between people should not determine what privileges and
obligations they have as members of society, and (2) there should be a standard for determining who should enjoy the advantages of social life, and under what conditions. *Conceptions* of justice contain principles that explicitly address these two issues.

Accordingly, a society can articulate an appreciation for the concept of justice without having a fully formed conception of justice. This is important for our purposes because in order to have a sense of justice, one must clearly have a concept of justice. My discussion of what constitutes a sense of justice makes this clear, because in all of those cases where one exhibits a sense of justice, one senses that something is wrong about those cases where distinctions between persons have been determined arbitrarily. It is to these kinds of circumstances that we refer when we say that something is unfair.

Similarly, when we say that something is fair, we refer to circumstances that have *not* been determined arbitrarily. This lack of arbitrariness is one of the central features of fairness. One with a sense of justice, as we have seen, thinks that those who are suffering by no choice of their own—arbitrarily—should be helped in some way. In other words, they deserve certain privileges, and other members of society have certain obligations to them. Thus it is clear how a sense of justice implies an understanding of the concept of justice.

In the *Analects*, an understanding of the concept of justice is implied in the discussions of the role a sense of justice plays in a humane and harmoniously functioning society. According to Kongzi’s vision of society, privileges and obligations should not be assigned arbitrarily, rather, there should be standards for determining who enjoys advantages under what conditions. Many of these standards have to do with age and relationship, but the *Analects* also indicates that one’s economic status and perhaps more
importantly, one’s Virtue, should play a role in the assigning of privileges and obligations. For example, 6.4 says that cultivated persons provide for the needy but do not help the rich to become richer. This passage invokes a non-arbitrary distinction between those who are in need and those who are not. Further, it indicates that individuals with Virtue should play a critical role in the distribution of privileges. This is just one of many places where the *Analects* clearly expresses the idea that privileges and obligations should not be assigned arbitrarily.

According to Rawls, however, a society’s *institutions* should reflect a concern with addressing arbitrariness if its members have a sense of social justice. By institutions Rawls means public systems of rules that define offices and positions, and the rights, duties, powers, and immunities associated with those offices. Rawls says, “These rules specify certain forms of action as permissible, others as forbidden; and they provide for certain penalties and defenses, and so on, when violations occur. As examples of institutions, or more generally social practices, we may think of games and rituals, trials and parliaments, markets and systems of property” (TJ, par. 10, pp. 47-8). Those who take part in institutions know what the rules demand of them and of others, because as Rawls points out, “The basic structure is the background social framework within which the activities of associations and individuals take place” (JF, 10). We should notice that Rawls’s definition of political and social institutions is sufficiently broad to include a wide range of practices and organizations. In fact, Rawls says that his characterization of the basic structure “does not provide a sharp definition, or criterion, from which we can tell what social arrangements, or aspects thereof, belong to it” (JF, 12).
There are a number of institutions that play an important role in the basic structure of society in the *Analects*. Examples include legally recognized forms of property, seen in the case of Upright Gong and the stolen sheep, policies for the distribution of food and wealth, seen in 16.1, and taxation, seen in 12.9. But there are two other institutions in the *Analects* that play an especially critical role in addressing issues of arbitrariness and the advantages associated with social justice: the family and the rites. Rawls writes that the family in some form belongs to the basic structure of society,

... the reason being that one of its essential roles is to establish the orderly production and reproduction of society and of its culture from one generation to the next.... Essential to the role of the family is the arrangement in a reasonable and effective way of the raising and caring for children, ensuring their moral development and education into the wider culture. Citizens must have a sense of justice and the political virtues that support just political institutions (JF, 162-3).

Here Rawls acknowledges the central concern of this study: the critical role that the family plays in the development of a sense of justice. Although Rawls defines the family broadly enough to accommodate many different kinds of families, he says that one of the defining features of the family is the critical role played by elders, writing that “as children we grow up in a small intimate group in which elders (normally our parents) have a certain moral and social authority” (JF, 163). We can say then that intergenerational relationships are a defining feature of the family as a basic institution, for Rawls.

The family is one of the primary institutions we see at work in the *Analects*. In the context of the family we see an emphasis placed on non-arbitrary distinctions in the obligations that the virtue of filiality (*xiao*) specifies for children in relation to their parents and other elders. The *Analects* also specifies what advantages parents and elders are to receive under certain conditions, from giving them precedence when serving wine
and food (2.8) and not traveling far from one’s parents (4.19), to serving them in accordance with the rites while they are alive, burying them in accordance with the rites after they have passed away, and sacrificing to them in accordance with the rites when they are gone (2.5).

Clearly, the rites (li 礼) are also an important consideration when it comes to the basic structure of society in the Analects, and although some might expect Rawls to exclude rituals from his definition of basic institutions, in fact Rawls notes that rituals can serve as institutions because they can involve in some way the allocation of certain kinds of privileges and obligations. Accordingly, he says that rituals sometimes, in some systems, “assume the role of justice” (TJ, 50). The Analects offers a good illustration of such a system, because as we have already seen, the idea of li 礼 includes more than the standard examples of rituals as they are understood in our culture. One of the many functions of the rites is to ensure that privileges, obligations, and advantages are not arbitrary. In the Analects, the rites provide public standards to which all members of society adhere, and these standards specify which individuals are to enjoy certain privileges and when they are bound by obligations to others. Some of these standards concern matters of etiquette, while others concern matters of religious reverence. Still others describe practices that give us an account of non-arbitrary privileges and obligations that bind members of society. In these cases, we see a basic institution of society assuming the role of justice in that it assigns privileges and obligations in a non-arbitrary fashion. Some of these privileges and obligations specify inequalities in certain relationships and situations, while others specify the need for equal treatment of different individuals despite their place in society. For example, Analects 10.18 describes
Kongzi’s fulfillment of his ritual duty as a minister to taste the food of his lord before giving it to him to eat, which clearly specifies one of the obligations of a minister and one of the privileges of a lord. The rites specify certain inequalities in this case; one enjoys a privilege or fulfills an obligation depending on his position. On the other hand, in 10.25, Kongzi acts in accordance with the rites by bowing down and grasping the crossbar of his chariot when he passes someone dressed for a funeral, “even when the mourner is a lowly peddler.” This passage specifies a rite that accords all mourners equal respect, specifying a non-arbitrary privilege assigned to those in mourning. Those who are not in mourning are obligated to observe this rite with respect to everyone who is in mourning, regardless of their rank or position in society.

Now I do not mean to say that the Analects articulates a conception of justice, that is, explicit principles for determining precisely who is to receive certain benefits under certain conditions. This is why Rawls’s discussion of social justice is especially helpful for examining the concern with social justice in the Analects: he distinguishes between a conception, which lays down principles of justice, and the basic concept of social justice. His account then allows us to see that the Analects clearly reflects an understanding of the concept of justice and a sense of justice, without having a fully developed theory of justice. However, it is worth noting that the Analects sometimes comes close to articulating principles of justice. The clearest example of this is 16.1, where Kongzi advocates a policy of equal distribution. It is important to see that despite the remarkable differences between their overall aims, both Rawls and the Analects exhibit a concern with political philosophy in general and social justice in particular. They both maintain—amidst many other claims—that parent-child relationships provide the
foundation for the cultivation of a sense of justice, and that a sense of justice provides the foundation for a stable and harmonious society. According to Rawls, justice conduces to stability, while for Kongzi justice conduces to harmony. However, it is worth noting that harmony is one reliable way to achieve stability.

I now want to turn to the second area where I think a comparative study with Rawls’s account helps us to learn more about political philosophy in the Analects. The distinction between the right and the good, and the idea that one must be prior to the other in all accounts of morality, emerges in response to the difference between deontological and utilitarian ethics in Western philosophy. It is a distinctive historical fixture in the development of Western ethics, and it is strongly associated with the view that there are two basic kinds of ethical theories. It is also a dichotomy that in many ways excludes the insights of virtue ethics, and this is one of the reasons why we should be cautious about attributing the priority of either the right or the good to classical Confucian ethics. Virtue ethical views, which take a wide variety of forms, all have in common the fact that they evaluate virtues and vices, which are seen as stable dispositions to feel and act in certain ways, as the primary way of understanding whether actions are right or wrong, and whether lives are good or bad. The Confucian tradition focuses on an assessment of moral character instead of the rightness of individual actions or the value of the consequences of actions, and as a result Confucian ethics has more in common with virtue ethics than the various forms of either deontology or utilitarianism.

As virtue ethics has become an increasingly significant force in contemporary ethics, philosophers have begun to realize that certain approaches and dichotomies that were previously viewed as central to ethical inquiry are not, in fact, necessary or even
helpful. These discussions in virtue ethics and moral psychology may in part account for the fact that Rawls makes some additional remarks about the right and the good in his later work. His remarks can either be seen as clarifications or revisions of his earlier position, but in any event they make it clear that his position is more complex than it appears to be in his early work. As we saw in Chapter Three, Rawls’s work offers an alternative to utilitarian accounts of justice that define the good independently from the right and define the right as maximizing the good. According to the classical version of utilitarianism this means that society is just when its major institutions are arranged so as to achieve the greatest net balance of satisfaction summed over all the individuals who belong to it (TJ, 20). On the principle of average utility, society is just when its major institutions are arranged so that society maximizes not the total but the average utility (TJ, 140). Despite these differences, classical and average forms of utilitarianism often have similar consequences. For example, according to both views, if a radically inegalitarian distribution will result in the greatest satisfaction, then the inequality of the distribution is no reason to avoid it. According to this view of justice, it is legitimate to ask some people to make sacrifices in order to achieve greater advantages for others, because the greater gains that some members of society will experience are believed to outweigh the losses of others. Here, the good is seen as prior to the right.

As we have seen, Rawls rejects this view, maintaining to the contrary that “Justice denies that the loss of freedom for some is made right by a greater good shared by others” (TJ par. 6, pp. 24-5). Rawls’s principles of justice require social institutions to be arranged in such a way as to protect the capacity of each person to lead a life of their own choosing, according to their own conception of the good. But Rawls’s commitment to
the priority of the right means that there are certain boundaries on what can count as the good and what forms of character are considered morally worthy. Certain kinds of circumstances, even if they appear to achieve a good end, are not considered acceptable because of the sacrifices that are made in the process. Additionally, the priority of the right does not allow for the good of some individuals to be sacrificed in order to achieve the good of others. So we can see that the priority of the right is opposed to the idea that the good of the majority necessarily justifies sacrificing some citizens’ good. As Rawls puts it, “The principles of right, and so of justice, put limits on which satisfactions have value; they impose restrictions on what are reasonable conceptions of one’s good” (TJ, 27).

In Rawls’s later work, he writes that the priority of the right does not imply that only thin or instrumental ideas of the good are a part of his conception of justice. Rather, he says, “. . . the right and the good are complementary; any conception of justice, including a political conception, needs both” (JF, 140). What Rawls’s view can help us to understand is that when we talk about the priority of the right over the good, this does not mean that the good is unimportant. The priority of the right over the good simply means that ideas of the good must meet certain deontological requirements.

Rawls’s view can help us to understand why it would be wrong to say that the good is considered prior to the right in the Analects. There are many places where Kongzi indicates that it is unacceptable for good ends to be attained at the expense of certain individuals or values. In 4.5 Kongzi says, “Poverty and disgrace are things that all people hate, and yet unless they are avoided in the proper way I will not despise them.” In 8.7 he says that the junzi does what is right even when he knows the Way will
not be achieved. In these passages, Kongzi indicates that doing the right thing and going about things in the right way is, at least in some cases, more important than achieving certain ends. In 16.1 Kongzi says that good rulers are not focused on the problems of poverty, scarcity, and instability, but rather on avoiding those things in the proper way: through equal distribution, creating harmony in the state or house, and making the people content. Interestingly, Kongzi offers the latter not as ends, but rather as the right way of achieving certain ends. In these and other places, Kongzi shows that he is not simply concerned with achieving good ends, but rather with achieving them in the right way. Furthermore, he indicates clearly in 4.5 that unless those ends are achieved in the right way, he does not consider them to be worth achieving at all.

Accordingly, it seems clear that in the *Analects*, the good must meet certain requirements. But I want to resist saying that the right is prior to the good in the *Analects* because as I think Rawls’s later remarks make clear, this apparatus for carving up moral theories may not be the most helpful one. In Rawls’s early work, he speaks more freely of the priority of the right without specifying that the right and the good are *both* required for any conception of justice. And on his later view, he indicates that the right partly constitutes the good, which seems to be closer to the view we find in the *Analects*, where the Way constitutes both the right and the good. It is both the Confucian account of human flourishing and the way in which it is achieved. Here we do not see the sharp separation between the right and the good or the requirement that one must be prior to the other, and this view is a distinctive feature of virtue ethics. In the case of individual virtues, fairness serves as a helpful illustration. According to the view outlined above,
playing fairly is partly constitutive of what makes winning valuable. If one wins unfairly, one cannot enjoy victory fully.\textsuperscript{35}

Now Rawls’s view and the utilitarian view both maintain that the justice of any particular assignment of benefits depends on the justice of the larger distribution of benefits in a society. In other words, even though Rawls defends the view that the right is prior to the good, whereas the utilitarian maintains that the good is prior to the right, they both agree that the life prospects of different people are inevitably interrelated by virtue of their shared participation in certain institutions. Accordingly, they both acknowledge that the benefits given to one person have morally relevant implications for others; it is not possible to assess the justice of an assignment of benefits to any one person without considering the larger distributive context of that assignment.\textsuperscript{36} This view would certainly be compatible with the account found in the \textit{Analects}.

The increasing influence of virtue ethics may or may not have played a role in Rawls’s later remarks on the right and the good, but his discussion of the virtues in his later work resonates strongly with virtue ethical accounts. Rawls’s discussion of the judicial virtues represents the third area I would like to discuss in relation to the \textit{Analects}. He defines the judicial virtues as “excellences of the moral power of a sense of justice” (JF, 170). They are those virtues that specifically stem from a highly developed sense of justice, and according to Rawls they “involve intellect and imagination, the capacity to be impartial and to take a wider and more inclusive view, as well as a certain sensitivity to

\textsuperscript{35}An example of this sort of view is seen in book one of the \textit{Mengzi}. Mengzi argues to King Hui that if one achieves good ends but achieves them at the expense of others, then one will never enjoy them as much as one could.

\textsuperscript{36}Samuel Scheffler calls this a holistic view of distributive justice. See his “Rawls and Utilitarianism” in \textit{The Cambridge Companion to Rawls}, 445.
the concerns and circumstances of others” (170). The judicial virtues reflect one’s sense of justice, fairness, and the ability to maintain a balanced perspective when judging a situation.

In the history of Western studies of the *Analects*, the judicial virtues have been neglected for a variety of reasons, one of which is that they are typically discussed within the context of the larger account of the Way, in which ideas like Ren (仁, “humaneness”), Virtue (de 德), and filiality (xiao 孝) play a much more prominent role. To Western ethicists, the judicial virtues also may appear less interesting than concepts such as Ren because they are more familiar. Virtues like fair-mindedness might seem prosaic by comparison with some of the other ideas found in early Confucian thought. Another reason why the judicial virtues have been neglected in discussions of the *Analects* is that a number of scholars have observed that the *Analects* represents a different approach to organizing society than many contemporary Western approaches, and as a result have surmised that the *Analects* does not have much to contribute in the way of political philosophy. But although the *Analects* provides an account that is primarily ethical in nature, we should remember that Rawls’s own political liberalism is based on an account of moral development. Even Western philosophers like Rawls realize that moral and political philosophy are closely related, indeed, Rawls realizes that social and political institutions are built upon more basic moral institutions like the family and that they depend upon basic moral powers. So, it should not surprise us to find a discussion of the political virtues within ethical accounts, such as that found in the *Analects*.

Rawls explicitly outlines the way in which a well-developed sense of justice manifests itself in the judicial virtues. Rawls’s account, then, provides a model of how
the judicial virtues fit into a larger program of moral development and what capacities they involve. Examining Rawls’s view on these matters allows us to see why the judicial virtues are important and how they might hang together with a larger ethical account. As we saw earlier in this chapter, discussions of the judicial virtues are the primary way in which we can see that a sense of justice is an important idea in the *Analects*. In addition to the passages we have already examined in this chapter, the judicial virtues play an important role in the discussion of Virtue (*de* 道) and its relationship to effective rulership. In places like 2.14 we see that the *junzi* (“exemplary person”) embodies the judicial virtues by associating openly with others while keeping the public good in mind (*zhou* 周). As I noted above, Rawls says the judicial virtues deal with one’s ability to take a wider, more inclusive view and to be impartial when judging a situation. In the *Analects*, when the multitudes hate a person, the *junzi* examines and judges the case for himself (15.28). Rawls notes that the judicial virtues also involve using one’s intellect and imagination, and having sensitivity toward the circumstances of others. In the *Analects* we see an emphasis on these capacities in places like 19.19, which says that one should “proceed with sorrow and compassion” when uncovering the truth in a criminal case.

Clearly the *Analects*, like Rawls, assigns an important place to the judicial virtues in a stable society. In addition, both the *Analects* and Rawls maintain that those who exhibit these virtues in an exceptional way should hold positions of authority. The *Analects* tells us that the judicial virtues are among many virtues that good leaders embody. In fact, good leaders are able to order the people by providing a Virtuous example for them to follow, instead of using regulations and punishments (2.3). Virtuous
leaders carefully examine the words and demeanor of others and take the interests of their inferiors into account (12.20), they harmonize instead of merely agreeing (13.23), they do not anticipate betrayal or expect untrustworthiness but they are still the first to perceive it (14.31). Similarly, Rawls maintains that individuals with an exceptional sense of justice exhibit a greater capacity for the judicial virtues, thus giving them a greater chance of holding positions of authority that require the exercise of those virtues. One of the reasons why Rawls goes to such lengths to ensure that his sense of justice will allow all citizens, regardless of their economic or social position, to have a fair opportunity to hold public office is that he considers it important for the individuals who exemplify the virtues of a just society to have a hand in shaping just institutions. As we have seen, a society with just institutions is much more likely to produce members who have a strong sense of justice.

In this chapter I have endeavored to show that there are important resources in the Confucian Analects that are of interest to contemporary ethicists and political philosophers. I have also explored ways in which self-cultivationist approaches can offer a powerful tool for understanding and appreciating a variety of aspects of contemporary Western political philosophy. Additionally, by bringing Rawls and the Analects into dialogue, I have sketched a useful and compelling approach to comparative philosophy. Next, in my conclusion I turn to a more extensive discussion of the way in which this comparison contributes not only to our understanding of Rawls and the Analects, but also to our understanding of the capacity for a sense of justice and moral development more generally.
CHAPTER SIX

Conclusion

One of the original aims of this study was to show how comparative work can help philosophers to understand more fully and accurately the features of two or more views. This approach offers an alternative model to those who may see comparative philosophy as simply an opportunity to show how one philosophical position can serve as a corrective supplement to another, or as an enterprise concerned primarily with arguing for the superiority of one philosophical tradition over another. My comparative study of Rawls and the Analects examines and seeks to help us to understand important aspects of both of these accounts, as opposed to simply using one to highlight the weaknesses or strengths in the other. Accordingly, the fruits of this comparison lie on both sides.

By examining the way that a variety of concepts and themes function together to create a sense of justice, which in turn contributes to a larger account of a well-ordered and stable society in Rawls and a harmonious and humane society in the Analects, this study seeks to provide an accurate understanding of both of the views under study. This approach can help comparative philosophers avoid some of the interpretive problems that other methods sometimes exacerbate, and although no thematic approach can in itself prevent interpretive problems, a comparison of the way multiple concepts and themes function together—as opposed to the significance of a single term or concept—is helpful. This thematic approach generally makes it more difficult to support a one-dimensional
portrayal of a philosopher, or to portray themes and ideas in a way that neglects the philosophical and cultural contexts in which they are situated.

In order to meet the interpretive challenge of providing textual evidence for my interpretation of both Rawls and the Analects, I devote individual chapters to each of them before proceeding with my comparative discussion. Additionally, in an effort to avoid the procedural challenges I discussed in Chapter One, my comparative discussion includes an explicit discussion of the differences between Rawls’s view and the view found in the Analects. Importantly, my argument is that philosophers can learn from both the similarities between the account of a sense of justice in Rawls and the Analects, and from the many deep and important differences between these two accounts. Thus, my comparative study uses an examination of both similarities and differences as a way of coming to a better understanding of the ideas and views under study. Through this approach, which strives for a better understanding of a sense of justice in Rawls and the Analects by examining the similarities and differences between them, I hope I have provided an example of one kind of comparative study that meets at least some of the interpretive, thematic, and procedural challenges comparative philosophers face.

The central aim of this study was to show that certain aspects of the moral and political thought of Rawls and the Analects could be seen as expressions of the importance of the capacity for a sense of justice. Although the differences between the general views of society found in Rawls and the Analects are sometimes more striking than the similarities, it is important not to lose sight of what their accounts have in common. The fact that an account of a sense of justice is offered in these two very different philosophical contexts shows that thinkers of different times and places have
found such a sense to play a critical role in human moral development. This fact commends the study of a sense of justice to philosophers, who need to examine further the question of what moral senses we may have by virtue of our being human, and how they are developed.

My discussion of the nature and significance of a sense of justice should make clear not only how important this capacity is but also the variety of ethical and political theories in which it plays a critical role. Understanding a sense of justice and how it develops is important because, if Kongzi and Rawls are correct, then the value and success of a society partly depends on it. One of the challenges of providing assistance to members of a society who are marginalized by arbitrary contingencies is helping other members of society to understand that indeed these members of society are simply not able to correct the inequalities through their own hard work; they are unable to “pull themselves up by their bootstraps.” If members of society have a well-developed sense of justice, then this process is much easier because they have cultivated the disposition to feel for other members of society under certain circumstances, as well as the willingness if not the desire to make sacrifices for others in these kinds of circumstances.

While Rawls devotes the greatest share of his attention to the nature of just institutions that will help to address the inequalities that stem from natural and social contingencies, the Analects devotes the greatest share of its attention to the process of moral self-cultivation that members of society must engage in if they wish to achieve a harmonious, humane society—a society that embodies the Way. I have argued that cultivating a sense of justice is one part of what it means to follow the Way. Rawls’s discussion, as we have seen, contains self-cultivationist dimensions that are under-
developed and under-studied. The *Analects*, as we have seen, does not address in detail the kinds of institutions that individuals who have a well-developed sense of justice must work to establish and maintain. The fact that Rawls does not develop the self-cultivationist dimensions of his account further is in part a function of his desire to provide a political account of justice that is broad enough to appeal to a plurality of reasonable comprehensive doctrines. It also reflects his participation and training in Western moral philosophy, which historically has neglected this important part of ethical inquiry. Similarly, the fact that the *Analects* fails to discuss how political institutions might address natural and social contingencies is tied to the urgency of other concerns in early Chinese philosophy and culture, and to the way in which Kongzi viewed his own task. It seems clear that he sees himself as a moral teacher, as opposed to an official whose job is to design, establish, and maintain certain kinds of institutions, laws, or policies.

Perhaps the most striking point of resonance between Rawls and the *Analects* is their insistence that a sense of justice must be cultivated first and foremost within the context of parent-child relationships. Both Rawls and the *Analects* emphasize the importance of role-specific duties and the abilities one cultivates with respect to thinking about and considering the needs of others in the context of the family. It is in relationship with one’s parents that one begins to learn what it means to be a participant in a community, and to value one’s obligations to others. We would do well to heed the insights of Rawls and the *Analects* on this matter, particularly in discussions of political philosophy, where concerns about the role of parent-child relationships and the family have largely been relegated to the private realm. Scholars like Susan Moller Okin have
worked to bring discussions of the family into mainstream political philosophy, but even these discussions remain bound up with the accordance of rights to family members, and with little emphasis on the relationships between parents and children, the role these relationships play in moral development, and the subsequent impact they have on our political culture. Here, Rosemont’s criticism of the centrality of liberal rights-discourse can serve as a guiding voice in the conversation. Although Okin brings the subject of the family into the discussion, she remains focused on rights. However, as Rawls and the Analects both show, the family plays a critical role in moral development generally and in the development of the political virtues in particular, and this is the conversation we need to have with respect to the family in political philosophy. If citizens in our society do not tend to have a fully developed sense of justice, then on both Rawls’s view and the view presented in the Analects, the family is the place we must return to in an effort to address this problem.

Now there remain important differences between these two views, of course. One of the most significant differences is that Rawls is concerned primarily with establishing just political institutions, and with the role that just institutions have in shaping citizens’ sense of justice. The Analects, on the other hand, is more concerned with the development of a sense of justice as one of several moral capacities individuals must cultivate in a wide range of circumstances. Although both Rawls and the Analects acknowledge that institutions and moral character are important, their discussions move in very different directions on these matters. Kongzi explicitly rejects the view that political policies are a starting place for achieving the goal of a humane and

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harmoniously functioning society. Rawls, on the other hand, sees political principles of justice as one of the areas where a variety of reasonable comprehensive doctrines might achieve overlapping consensus, and as a result he sees it as a good starting place for achieving a just society.

An important difference that emerges from the emphasis on political institutions as opposed to moral self-cultivation is that when it comes to the development of a sense of justice, Rawls continually talks in terms of class position. Rawls is interested in what causes us to feel in certain ways toward those who are the victims of arbitrary distinctions that cannot be justified by an appeal to merit or desert, including social contingencies such as one’s social class of origin, and the opportunities one has to develop these endowments based on one’s social class of origin, in addition to natural contingencies. Throughout Rawls’s discussion, he traces the development of one’s capacities, including one’s moral capacities, to one’s social class of origin, as opposed to the sort of family in which one is raised. Now Rawls discusses the critical role that parent-child relationships play in the development of good citizens, and without question, the kind of family one is born into is among the moral contingencies Rawls ultimately seeks to address. But it is generally the case that Rawls’s discussion could be enhanced by a deeper discussion of the kind of families we are born into.

Indeed, although Rawls is correct to point out the influence that one’s original class position can have on the course of one’s life, he does not have much to say about the influence that the family can have on the course of one’s life. In most of the cases Rawls describes, one’s class position and the kind of parent-child relationships that exist in one’s home are separate, though not unrelated, issues. For example, children who
begin their lives in favorable class positions are not necessarily raised in families who value the development of their native endowments of intelligence or other abilities. Individuals might generally be more or less likely to have opportunities to develop their abilities and overcome weaknesses or disabilities as a result of class position, but much of a child’s development ultimately rests in the hands of the family. Indeed, in many cases the most serious difficulties in an individual’s development arise not from class position, but from circumstances within the family. At the very least it seems clear that the differences between families play a significant role in determining the future possibilities of those who come from less advantageous class positions.

The Analects provides us with a philosophical model for discussing the critical role of the family in these matters. Kongzi frames the question of moral development in terms of the virtues one must cultivate in familial relationships in order to flourish as a human being, as opposed to framing the question primarily in terms of political matters like class position. However, that is not to say that class position is unimportant. The view found in the Analects could be deepened by a discussion of the way that natural and social contingencies such as class position affect the role of the family. Likewise, the kinds of moral contingencies Rawls addresses could be more richly discussed in the context of a more developed view of familial relationships. Although Rawls and the Analects both acknowledge the important role that parent-child relationships play in the development of a sense of justice, their diagnosis of the general problem in human societies differs in that the Analects remains focused on self-cultivation and the important place of virtues like filial piety, while Rawls focuses primarily on the way that political institutions can shape individuals’ sense of justice while addressing moral contingencies.
like class position. This is one area where the *Analects* can make a significant contribution to ongoing philosophical dialogues in political philosophy and ethics. As we saw in Chapter Five, this is one of many things that a comparative study of a sense of justice in Rawls and the *Analects* helps us to see. It is not that it would be impossible to appreciate these things without comparing the two accounts; my point is that we come to appreciate a variety of important features of a sense of justice, and of the two views under study, as a result of studying them comparatively.

The most important shared insight of Rawls and the *Analects* is that, in a meaningful sense, we stand on the shoulders of our parents as they cultivate, shape, and refine our sense of justice, alongside our other capacities as human beings. They are the ones who give us our first images of what we can and should be as members of families, communities, and societies, and it is in the context of our relationship with them that we begin to learn about justice and injustice. The importance of this insight points the way to a more robust understanding of a sense of justice, one in which both ancient Chinese and modern Western voices should be heard.
GLOSSARY OF CHINESE TERMS AND CONCEPTS

*dao* 道 (“Way”). One of the meanings of the early forms of this character was a path or road, but in the *Analects* it refers more generally to a way of doing something, a written or verbal account of this kind of way, and when used as a noun, the act of giving such an account. Depending upon the context, *dao* can be a way of doing something or it can refer to the right way. This latter use is the most significant use in the *Analects*, where the Way denotes the patterns and ways of life that constitute Heaven’s plan for human beings as it was revealed to the ancient sage-kings and to Kongzi. Accordingly, the Way reflects a deeper pattern within the universe and it is regarded as the most appropriate and proper way to be.

*de* 德 (“Virtue”). One of the early senses of this character was “Royal Virtue,” denoting the attractive power a king cultivates through his religious behavior and deportment. This power allows him to gain and maintain his rule. *De* retains this sense in its later meanings, designating both the power that a person or thing has on its environment as well as a person’s moral charisma, which is something any human being can cultivate. *De* is seen as something each individual has a native endowment of at birth, and it is something one either cultivates or squanders. Individuals with *de* have a remarkable attractive power and effect on those around them. The Daoist tradition has a related but distinctive sense of *de*.

*he* 和 (“harmony”). The highest cultural achievement in the *Analects* is the embodiment of the Way, and this includes the achievement of harmony in a community and society. The ultimate aim of and justification for moral self-cultivation, then, is the achievement of harmonious relationships between humans. Harmonious relationships between family members, achieved through the cultivation of virtues like filial piety, serve as the model for the ideal state, in which different families and communities should serve as parts of a harmoniously functioning whole.

*junzi* 君子 (“exemplary person” or “cultivated person”). Sometimes translated as “gentleman,” this term literally means “son of a lord,” and it was originally used to refer to individuals with a particular social status. In the *Analects*, however, Kongzi gives this term an ethical meaning, using it to designate ethical achievement. Being a *junzi*, for Kongzi, is not something that is bestowed by noble birth. It is an ethical achievement—the achievement of those who are most highly cultivated in the Confucian virtues and who serve as moral exemplars.

*li* 禮 (“rites,” “rituals,” or “ritual propriety”). This term, like many classical Chinese characters, has an especially broad semantic range. It is used to designate a set of traditional moral and religious practices, including what we would call rituals or rites, social customs, and rules of etiquette. However, when Kongzi refers to the *li* in the
Analects, he means a set of practices that constitute a \textit{unified} code of conduct. It is also sometimes used to refer to the virtue of ritual propriety that is associated with following the rites.

\textit{qi} 氣 (‘energy’). This term may have originally referred to the cloud that arose from sacrificial offerings during a ritual. Later, it came to refer to vapor and human breath, and in a general sense, \textit{qi} came to designate a kind of vital energy found throughout the universe and in the human body in various densities and levels of clarity or turbidity. Mengzi uses it to refer to \textit{hao ran zhi qi} 浩然之氣, the “flood-like energy” that nourishes a person’s moral sprouts and ultimately serves as a source of moral courage.

\textit{quanli} 權力 (‘rights’). Now used as the standard Chinese translation for “rights,” this term seems to have first been used in this sense in the mid-1860s, when W.A.P. Martin used it in his translation of Henry Wheaton’s \textit{Elements of International Law}. In the early years of Chinese rights discourse among Chinese intellectuals, the relationship between \textit{quanli} and rights was quite loose, according to Stephen Angle, who provides the most extensive study of this concept in the history of Chinese thought. See his \textit{Human Rights and Chinese Thought: A Cross Cultural Inquiry} and \textit{The Chinese Human Rights Reader: Documents and Commentary 1900-2000}.

\textit{Ren} 仁 (‘humaneness,” “humanity,” “benevolence’). In the \textit{Analects}, Kongzi uses \textit{Ren} to refer to the sum total of the virtues or the perfection of human character. It is at this highly cultivated stage that a person is fully human. For later thinkers like Mengzi, and in some places in the \textit{Analects}, \textit{Ren} is understood as the virtue of benevolence. A number of scholars have argued that the basic meaning of \textit{Ren} is “two people.” This view derives from the form of the character and the gloss provided by Xu Shen 許慎 in the \textit{Shuowen jiezi 說文解字}. However, in the recently excavated \textit{Guodian} 郭店 texts, \textit{Ren} is written with \textit{shen} 身 above \textit{xin} 心, which would seem to indicate that this argument is not as powerful as it might seem.

\textit{shu} 恕 (‘reciprocity,” “sympathetic understanding’). This concept is defined by the principle of reversibility in the \textit{Analects}. That is, the virtue of \textit{shu} lies in one’s ability to imagine what it might be like to be in another person’s place, and to sympathetically understand their situation. One with a sense of \textit{shu}, then, has a sense of reciprocity, and will not impose upon others what they would not desire in similar circumstances.

\textit{si} 思 (‘reflecting” or “concentrating”). This term designates the act of reflecting on or concentrating one’s attention on something. In the \textit{Analects} it is used to describe the process of self-cultivation, which involves an extensive process of reflecting on what one has learned, as well as on one’s own thoughts, feelings, and conduct, as well as the conduct of others.

\textit{Tian} 天 (‘Heaven,” “The Heavens”). \textit{Tian} has a range of meanings in classical Chinese thought. In the \textit{Mozi}, it is a very active agent in the human world and employs ghosts and spirits in order to ensure justice. In the \textit{Xunzi}, however, it designates the thoroughly
impersonal processes of nature. In the *Analects* and in the *Mengzi*, its meaning is somewhere in between these two. The early Confucians tend to ground their ethical claims by appealing to the authority of Heaven, and they clearly maintain that Heaven endows humans with an ethical nature and sometimes acts in the world. In the *Analects*, Kongzi maintains that Heaven is aware of what people do and what their intentions and desires are, and also that Heaven has a plan for humans (the Way). Kongzi works with the belief that Heaven has called him to help the world to realize this plan. His task, then, is to preserve, codify, and propagate the Way.

*xiao* 孝 ("filiality" or "filial piety"). Filiality is a deep-seated respect for parents, elders, and family members. Importantly, in the *Analects* it serves as the foundation for all of the other virtues, and if an individual does not cultivate filiality, their moral development will be stunted in serious and detrimental ways. The *Analects* specifies role-specific duties that are associated with filiality, including the duty to of remonstration, but the text also makes it clear that filiality concerns both one’s emotions and attitudes as well as one’s conduct. This is why *xiao* is sometimes translated as “filial love.” Filiality is a virtue, and those who cultivate it have the proper feelings and attitudes, as well as the proper sense of how to act.

*xin* 心 ("heart-mind"). This term refers to the psychological faculty of thinking, perceiving, feeling, desiring, and intending. It is also used to refer to the physical organ in the chest that we call the heart.

*xin* 信 (trustworthiness). In the *Analects*, *xin* describes those who are true to their word, and who follow through on what they say they are going to do. A cultivated person displays the virtue of trustworthiness in her interactions with different people, and is also able to perceive untrustworthiness in others.

*xing* 性 ("human nature"). For most classical Chinese philosophers, this term designates the characteristics of instances that show what kind of creature one is. In the *Analects*, this character only appears twice, but it seems clear that Kongzi has a view about human nature, even though it is not an explicitly developed theory, as it is in the works of Mengzi and Xunzi. At the very least, Kongzi maintains that the nature of humans is malleable and that individuals can be highly cultivated in terms of their moral capacities and dispositions.

*xue* 學 ("learning" or "study"). In the *Analects*, this term is used to describe the study of classical texts, and the practice of emulating and internalizing the wisdom and the ideal models of conduct that are exemplified in the classics. Learning also extends to observing and benefiting from the behavior of others in one’s daily interactions.

*yi* 義 ("rightness"). This term designates what is right or appropriate for a specific person or for persons in general. It also refers to the moral character of individuals who have a sense of rightness and who do what is right. Rightness is sometimes indexed to one’s social roles, but it seems clear that in the *Analects* there are some things that are always
right (or *bu yi* 不義 “not right”). A part of the semantic range of this character seems to be a sense of fairness.

*zhi* 直 (“uprightness,” “straightness”). In the *Analects*, this term designates a form of moral rectitude, and has the sense of both uprightness and straightforwardness. This is an important virtue for self-cultivationists like Kongzi, Mengzi, and Xunzi, who think that we have responsibilities toward certain individuals to help them recognize ways they can improve or cultivate themselves. It is usually considered a virtue, but in the Upright Gong passage (13.18) we see an example of the unity of the virtues and the view of moral development in the *Analects*. On Kongzi’s view, if one does not develop the virtue of filiality, then one will not be able to develop other virtues. Likewise, if one does not have a mastery of other virtues like fair-mindedness, one will not have a sense of uprightness.

*zhi* 智 (“wisdom”). This term usually refers to a virtue that manifests itself in one’s ability to judge a situation and anticipate the consequences of various actions. In the Analects, a person with wisdom has an understanding of the Way and is able to accurately perceive situations and people. As a result, they are able to act in ways that will further the Way and help to promote harmony between persons.


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