

## Two Senses of Justice: Confucianism, Rawls, and Comparative Political Philosophy

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**Abstract** This paper argues that a comparative study of the idea of a sense of justice in the work of John Rawls and the early Chinese philosopher Kongzi is mutually beneficial to our understanding of the thought of both figures. It also aims to provide an example of the relevance of moral psychology for basic questions in political philosophy. The paper offers an analysis of Rawls's account of a sense of justice and its place within his theory of justice, focusing on the features of this capacity and how it develops. It then provides an account of the sense of justice in Kongzi's thought as it is seen in the *Analects*. Finally, it shows how examining the similarities and differences between the two accounts can deepen our understanding of both views, as well as our appreciation for the importance of understanding how a sense of justice develops.

**Keywords** Comparative philosophy · Confucianism · Kongzi · Rawls · Sense of justice

Over the past two decades, a number of studies comparing Chinese and Western views of political philosophy have painted a picture of radically different approaches and theories. Some authors argue that while modern liberal Western theories are focused on rights, justice, equality, and freedom, Chinese Confucians are largely unconcerned with the received topics of Western political philosophy (see Fan 2003, Hall and Ames 1999, Peerenboom 1990, and Rosemont 1988, 1991, and 2004). They also tend to argue that, while the assumption of atomistic individualism represents a fatal flaw in liberal theory, the Confucian view offers us a superior alternative partly because it takes seriously the view that family and community relationships constitute our identity. These studies have helped to highlight the way that philosophical traditions can provide insight into different cultural and historical concerns, as well as the need to take seriously the role of the family in the basic structure of society. However, some of these studies have neglected the diversity of views represented in both the Confucian and Western liberal traditions. They also tend to

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leave those who do not think the liberal tradition is fatally flawed wondering what can be gained from comparative studies of Chinese and Western sources.

In this article I aim to show that there is much more to be said about political philosophy in the Confucian and Western liberal traditions, especially when it comes to moral psychology and the development of political virtues. I argue that a comparative study of the idea of a sense of justice in the work of John Rawls and the Confucian *Analects* is mutually beneficial to our understanding of these two sources, and to our understanding of the importance of moral psychology in political philosophy. In the first section, I discuss Rawls's account of a sense of justice and its place within his theory of justice, focusing on the features of this capacity and how it develops. In the second section, I offer an account of the sense of justice in the *Analects*. In the third section, I examine a number of revealing similarities and differences between these two accounts and show how a comparative study can lead us to appreciate certain features of both views, in addition to helping us to more fully understand the importance of the capacity for a sense of justice. I do not aim to show that it would be impossible to appreciate these things without comparing the Confucian and Rawlsian accounts, but rather that we *do* appreciate them as a result of a careful comparative study. This article shows how comparative studies can deepen our understanding of particular philosophers, traditions, or ideas, and also how Confucian thought can make a contribution to the study of political philosophy more generally.

## 1 The Sense of Justice in Rawls

One area of Rawls's work that has received relatively little attention in the literature is his account of moral psychology. The idea of a "sense of justice" is at the heart of this account; according to Rawls it is the primary source of our motivation to act in accordance with principles of justice.<sup>1</sup> However, Rawls carefully notes that a sense of justice is more than simply being able to follow the rules (Rawls 1958: 61). It is the ability to feel or perceive what is fair, and as a result it provides us with "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" (Rawls 1993: 302).<sup>2</sup> A sense of justice leads one to realize that members of a society need fair terms of cooperation, and it expresses the willingness, if not the desire, to act in relation to others on terms everyone can endorse publicly (Rawls 1993: 19).

Rawls's earliest formulation of the idea of a sense of justice is in the 1963 essay, "The Sense of Justice," which explores Rousseau's claim that "the sense of justice is a true sentiment of the heart enlightened by reason, the natural outcome of our primitive

<sup>1</sup> The idea of a sense of justice remains an integral part Rawls's work despite certain developments and changes in other areas. In his final work, Rawls says he would not make any substantial changes to the moral psychology he articulated in his early work (Rawls 2001: 196). Rawls's papers are reprinted in Freeman 1999.

<sup>2</sup> Cf. Rawls 1999: 10–19 (pars. 3–4) and Rawls 2001: 19. A sense of justice is one of two moral powers Rawls accords to citizens in a fair system of cooperation. The second moral power is the capacity to have, revise, and pursue a conception of the good (Rawls 2001: 19). Rawls also discusses the "companion powers" of reason, inference, and judgment, which are required for the exercise of a sense of justice (24). The two moral powers and these companion powers are, Rawls says, the "minimum essentials to be a fully cooperative member of society" (170).

affections” (Rawls 1963: 96).<sup>3</sup> In this essay, Rawls seeks to answer some questions about the capacity for a sense of justice, including what accounts for people doing what justice requires. At bottom, a sense of justice is a feeling or sense of right and wrong, but more specifically it is a sense of 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. A sense of justice is also the source of our feelings of sympathy for those who are the victims of circumstances that we would call unjust. I will have more to say about these circumstances in a moment, but for now we should note that a sense of justice causes us to perceive, feel, and react in certain ways to certain kinds of situations. This is why Rawls 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...with natural attitudes such as mutual trust and affection” (Rawls 1963: 96).<sup>4</sup>

Although a sense of justice leads us to value fairness generally, Rawls’s analysis focuses on circumstances in which individuals are marginalized as a result of circumstances beyond their control, and which dramatically shape their life-prospects. People are born into particular families and thus begin their lives in social positions they have not chosen. 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 is particularly concerned that the basic structure of society can perpetuate these circumstances, when it should help correct them. Rawls observes that “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” (Rawls 2001: 55). Rawls has three kinds of contingencies in mind here: (1) one’s social class of origin (the class into which one is born and develops before the age of reason); (2) one’s native endowments (as opposed to one’s realized endowments) and the opportunities one has to develop them due to one’s social class of origin; (3) one’s good or ill fortune, or good or bad luck over the course of life. The latter includes how one is affected by illness and accident, or by periods of involuntary unemployment and regional economic decline (Rawls 2001: 55). Rawls notes that these contingencies are the source of 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” (Rawls 1999: 7).

On Rawls’s account, a sense of justice tells us there is something wrong—or more specifically, something *unfair*—when individuals are victims of these kinds of contingencies. Here, Rawls describes a basic and deep moral sense that is part of our humanity. It is tied to our ability to feel sympathy and concern for others, and accompanied by the sense that something must be done to rectify the situation, which is one reason why he speaks of citizens being “moved” by a sense of justice. Those with a strong sense of justice will not hesitate to say that it is right—or *fair*—to give a child born into a poor family compensations to offset the disadvantages she will suffer from as a result of her circumstances. A sense of justice is the sense that everyone deserves a chance, and that it is wrong to let certain individuals wither away because of circumstances over which they

<sup>3</sup> For Rousseau’s view, see Rousseau 1979: 211–53.

<sup>4</sup> Rawls maintains that “the sense of justice is the normal outgrowth of natural human attitudes” (Rawls 1999: 429). See his discussion of “The Connection Between Moral and Natural Attitudes” (Rawls 1999: 425–429).

had no control. From the beginning of his work on a sense of justice, Rawls maintains that the capacity for a sense of justice is something that all healthy, normally raised human beings possess.<sup>5</sup> 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. (Rawls 1963: 114)

What Rawls seems to mean by “the intellectual performances required to have a sense of justice” are the sorts of responses and abilities he discusses in his account of how a sense of justice develops: responding in kind to the love and affection of one’s parents, imagining how it would feel to be in the position of someone who is substantially less fortunate than oneself, and feeling guilt when one fails to act in ways that reflect one’s ties to other members of one’s family, community, and society. Although he maintains that the capacity for a sense of justice is something all humans “originally possess” and that it is the result of “a certain natural development,” Rawls does not say that all humans originally possess a fully developed sense of justice, nor does he say that the development of a sense of justice is inevitable (Rawls 1963: 97). For Rawls a sense of justice is a capacity that must be cultivated and honed, and this process can only occur under certain conditions and circumstances.<sup>6</sup>

Rawls’s psychological construction of how a sense of justice develops consists of three stages representing the development of three kinds of guilt feelings.<sup>7</sup> He argues that in the first stage, a child’s sense of justice is nurtured through the development of “authority guilt” in parent–child relationships.<sup>8</sup> Children love, trust, and have faith in their parents, and these natural attitudes are normally not misplaced. They come to recognize the love their parents have for them, and respond in kind (Rawls 1963: 101). If they love and trust their parents,

<sup>5</sup> Rawls’s claim is a *generic* and not strictly a *universal* claim. In this respect his claim resembles *Mengzi’s* 孟子 (known to some Westerners as “Mencius”) 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 Ivanhoe 2002a: 222–3.

<sup>6</sup> As we will see later, Rawls seems to maintain that citizens must be raised under just institutions to properly develop a sense of justice, which creates some difficulty in accounting for the initial emergence of just institutions unless the capacity for a sense of justice is interpreted as an active and visible tendency toward justice.

<sup>7</sup> 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* (Rawls 2001: 196). The only change Rawls makes to this account of how a sense of justice develops 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 this essay, I will refer to the terms he uses in his original essay for the sake of consistency.

<sup>8</sup> Rawls acknowledges the influence of Piaget, 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. See Piaget 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” (Rawls 2001: 19). Rawls clearly bases his account of a sense of justice on Piaget’s work, but the crucial distinction seems to be that he is not offering a psychological conception of the person, only drawing on a psychological account of the development of a particular moral capacity.

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.<sup>9</sup> In time, children impose these standards on themselves and judge themselves accordingly (Rawls 1963: 102). They then manifest what Rawls calls authority guilt when they violate the general precepts or particular injunctions that their parents expect them to obey. A sense of justice is first cultivated through this initial feeling of accountability to others, which clearly shows the extent to which the capacity for a sense of justice is bound up in one's relationships with others. Rawls points out the centrality of relationships to a sense of justice when he notes that 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" (Rawls 1963: 101). On this view, a sense of justice never develops unless it is nurtured in the context of loving relationships that encourage caring and trust.

The second stage in Rawls's psychological construction is "association guilt," which stems from community relationships, including ties of friendship and mutual trust. Rawls emphasizes the importance of role-specific duties and the ability to consider the needs of others at this stage: "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" (Rawls 1999: 412). Given the personal ties between members of the group against the background of a scheme of cooperation, persons who fail to do their part in group activities 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 apologize to others in the group. The absence of these actions "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 1963: 103). Association guilt reflects an understanding of what it means to be a participant in a community, and is a mark of the further development of one's sense of justice.

The third stage in Rawls's psychological construction concerns cases where "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" (Rawls 1963: 105). One feels "principle guilt" upon violating particular institutions, like principles of justice, which one has accepted. Rawls 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 (Rawls 1963: 105).

<sup>9</sup> Rawls notes 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" (Rawls 1999: 405). 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 enjoy and make explicit its underlying principles as time goes on" (Rawls 1999: 407).

Rawls says we can identify a fully developed sense of justice in one's acceptance of just institutions, and in one's willingness to work for (or at least not to oppose) the setting up and reforming of institutions according to the requirements of justice. He notes, "Guilt feelings associated 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" (Rawls 1963: 105). When people accept just institutions, they become partly responsible for acting in accord with the standards or principles of those institutions. Individuals feel *guilt* when they violate these principles because their original acceptance of them indicated their understanding that others are hurt by breaches of these principles (Rawls 1963: 105–6).

It is important to see why principle guilt represents the third stage in Rawls's account of how people develop a sense of justice. Rawls writes that principle guilt is "guilt proper" because it is "a complete moral feeling" whereas the two previous forms of guilt were not (Rawls 1963: 106). What Rawls means by a "complete moral feeling" is that the feeling would be strong enough to move one to interact with others in certain ways in the absence of a special relationship with them. When one experiences principle guilt, one feels guilty for having harmed others even when they are strangers. 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.<sup>10</sup> An individual who experiences principle guilt has shown an appreciation for the fact that violating the principles of justice harms others.<sup>11</sup> 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. We can see, then, how critical Rawls's account of a sense of justice is to his theory of justice, because it shows how and why citizens come to be committed to the principles of justice.

We have seen that for Rawls a sense of justice is the ability to feel or perceive what is fair. It motivates us to act *from*, and not just in accordance with, principles of justice that address the effects of social, natural, and fortuitous contingencies—circumstances over which people have no control, but which social institutions can counteract. A sense of justice is tied to the natural moral feelings of sympathy and concern for others, and although humans initially possess a sense of justice, it is still in need of cultivation. Under the proper circumstances, this cultivation occurs within individual families and communi-

<sup>10</sup> This sort of view is reminiscent of how the Moists 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 Moists thought we should *only* have principle guilt. Their conception of the good is exhausted by their conception of justice. It seems clear that the Moists misinterpret the Confucian position as it is expressed in the *Analects*. As the next section of this article shows, 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 highly cultivated individuals are those who have a highly developed sense of respect and care for the well-being of *all* members of society. Later Moists seem to endorse the idea that the disinterested sense of justice grows out of a more limited version—an idea that Rawls shares. (For this view, see the discussion with Yizhi 夷之 in *Mengzi* 3A5.)

<sup>11</sup> 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 resembles Kant's view that it is easiest to tell that a person has moral motivations when they do not *feel* like doing the right thing, specifically when "all sympathy with the fate of others" has been extinguished (see Kant 1997: 11–12 [4:398–4:399]). The deep and important difference between Rawls and Kant here is that Rawls sees one's emotions as an indicator of moral development and thinks they play a crucial role in developing the ability to act morally toward those with whom one does not have a close relationship. This understanding of moral development reflects the Humean side of Rawls.

ties, and then in one's posture toward other members of society and the principles of justice that aim to address moral contingencies.

## 2 The Sense of Justice in the *Analects*

The *Analects*, too, maintains that the capacity to feel or perceive what is fair is a basic capacity that humans can and should cultivate. One of many important differences between the Rawlsian sense of justice and the moral sense discussed in the *Analects* is that while Rawls offers a theoretical account of social justice and the role that a sense of justice plays within it, the *Analects* describes a moral sense that guides humans in a wide range of situations. In fact, the best way to understand the development of a sense of justice in the *Analects* is through the development of a set of virtues, especially those that concern the capacity to judge a situation fairly, to understand the situations of others sympathetically, and to feel accountable to and responsible for other members of society.<sup>12</sup>

It is important to understand that although the Confucian tradition heavily emphasizes the priority of familial relationships in moral development and human flourishing, this does not mean that one's responsibilities to other members of society are non-existent or lack force. One of the basic claims we find in the *Analects* is that filiality (*xiao* 孝) and other virtues that are initially cultivated within the context of the family should also affect one's relationships with and feelings toward other members of society (see, for example, *Analects* 1.2). Kongzi says in *Analects* 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* 仁 ("humane")."<sup>13</sup> First, Kongzi mentions filiality at home, second, respect for elders in the community, and third, care for others who are not in one's immediate circle of family, friends, and acquaintances. In his commentary, ZHU Xi 朱熹 notes that the connotations here are of caring widely, as in the rush or overflow of water.<sup>14</sup> Individuals who cultivate filiality and respect in their relationships with their parents and elders are also likely to develop a strong sense of accountability to and responsibility for other members of society. The *Analects* makes it clear that a sense of responsibility to those beyond one's own family and community is a part of being *Ren* ("humane"), the highly cultivated state that represents the perfection of human character.<sup>15</sup> Indeed, in 6.30, Kongzi says that someone with the capacity to "broadly extend benevolence to the common people and give assistance to the multitudes" is surely a sage.

<sup>12</sup> In this article I will use "Kongzi" to refer to the author of the *Analects* (*Lunyu* 論語), even though he is not the source of all the ideas found in it. In general, I believe the received text of the *Analects* presents a reasonably unified and consistent vision for human societies, one which helps to distinguish the "school of Kongzi" from the later work of Mengzi and Xunzi. In this article, though, I focus on textual evidence for the claim that a unified and coherent view of a sense of justice is seen throughout the *Analects*.

<sup>13</sup> Translations from the *Analects* are my own unless otherwise noted.

<sup>14</sup> James Legge follows ZHU Xi's reading and translates this line as "He should overflow in love to all." Legge translates *ai* 愛 as "love," but I translate it as "care" in order to reflect the intended sense of sympathetic and caring feelings and actions, as opposed to the emotion of love. See Legge 1971: 140.

<sup>15</sup> In the *Analects*, Kongzi primarily uses *Ren* 仁 to refer to the complete mastery of all virtues. At this highly cultivated stage, when one embodies the sum total of virtuous qualities, a person is considered fully human. For later thinkers like Mengzi, and in some places in the *Analects*, *Ren* is understood as the virtue of benevolence.

Although some of the attitudes and dispositions that constitute a sense of justice are explicitly tied to the ideal of *Ren*, a number of other aspects of a sense of justice are explicated in relation to other ideas in the *Analects*. In fact, the importance of feeling a connection with other members of society is extended more specifically to questions of justice and fairness in passages that describe the concerns and attitudes of exemplary rulers. These passages clearly reflect an interest in some basic questions of social justice. In *Analects* 16.1, Kongzi says that good rulers “are not concerned [so much] about poverty, but about unequal distribution. If wealth is equally distributed (*jun* 均), there should be no poverty...and if your people are content, there should be no instability.” This passage indicates how society should be ordered with respect to questions of fair distribution, and Kongzi exhibits confidence that everyone can be provided for, so long as the ruler addresses the source of the problem, which concerns questions of fair distribution and not simply the poverty that is symptomatic of distributive injustice. This set of concerns is also seen in *Analects* 4.5, where Kongzi emphasizes the moral significance of the different ways in which people acquire wealth or avoid poverty:

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* 君子 (“exemplary person”) 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.<sup>16</sup>

These remarks resonate with Kongzi’s remarks about unequal distribution in *Analects* 16.1, communicating a sense of fair distribution. If one person becomes wealthy or manages to avoid poverty but causes others to suffer as a result, there is nothing to celebrate; poverty must be eliminated in the right way in order to be an end worth having. In these passages, it seems clear that people are expected to exercise a sense of justice. Cultivated persons are concerned that wealth is fairly distributed and never acquired to the detriment of others. In this passage it is again evident that having a sense of justice is seen as part of what it means to be *Ren* (“humane”), and it is also one of the capacities exemplified by the *junzi*—those moral exemplars who embody the Confucian Way.<sup>17</sup> In *Analects* 6.4, this view is reinforced when Kongzi says that the *junzi* “provides for the needy but does not help the rich to become richer.” This passage shows that an exemplary person does not apply a blanket standard of equal distribution, but takes into consideration the circumstances that already exist. The *junzi* (“exemplary person”) distinguishes between those members of society who are in need and those who are not, and works to provide for them based on this information. All these passages point toward the importance of having a strong sense of justice.

<sup>16</sup> Adapted from Slingerland 2003: 31.

<sup>17</sup> The term *junzi* 君子 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 the achievement of those who are most highly cultivated in the Confucian virtues and who serve as moral exemplars. I follow Roger Ames and Henry Rosemont, Jr. in emphasizing the latter sense of the term with the gloss “exemplary person,” although it is often translated as “gentleman.” See Ames and Rosemont 1998.

An idea related to these discussions is *yi* 義 (“rightness”).<sup>18</sup> *Yi* is frequently paired with the opposing vice of excessive concern for profit (*li* 利) or material wealth, which helps to show that even in an ethical tradition that is context-sensitive, some things are always considered wrong.<sup>19</sup> In *Analects* 4.16, Kongzi says, “The *junzi* is conversant with rightness (*yi*) whereas the petty person is conversant with profit.” In 14.12 and in 16.10, he says that when cultivated persons see an opportunity for profit or gain, they think of rightness, which indicates that at least in some instances, a sense of rightness helps to prevent people from becoming excessively concerned with material wealth. It can keep them from acting on the temptation to take more than they need or are entitled to. In these passages, rightness involves a lack of greed and a sense of fairness, seen in one’s appreciation for the idea that one should not take more than one needs out of consideration for the needs of others. Although this sense of rightness does not concern fairness in the sense of a disposition to adhere to the law or in regard to distribution and retribution, it certainly concerns a sense of fairness that would be likely to shape one’s views about the kinds of laws or standards society should have, as well as one’s willingness to adhere to them.

A number of passages in the *Analects* specifically concern the ability to take a wider view and exercise good judgment out of a sense of accountability to other members of society. In *Analects* 4.10, for example, being dedicated to rightness is contrasted with being partial and holding grudges: “In the world, the *junzi* (“exemplary person”) is not for or against anything. What is right—*this* is what he accords with.” This passage resonates with the passages above, where rightness indicates an appreciation for what is fair to others. An appreciation for fairness is not however exclusively associated with rightness (*yi*); it is described in a variety of different discussions. Kongzi says in *Analects* 2.14 that the *junzi* associates openly with others (*zhou* 周) and is not partial (*bu bi* 不比), whereas the petty person is partial. This passage again shows that the capacity to judge situations without allowing one’s personal biases or grudges to interfere is highly valued in the *Analects*. The HE Yan 何晏 commentary on this passage emphasizes the close connection between the virtues of conscientiousness (*zhong* 忠), trustworthiness (*xin* 信) and associating openly with others (*zhou* 周) (He 1981: 4). Literally, “associating openly” implies taking a wider view and keeping the public good in mind, as opposed to remaining narrowly focused on one’s immediate personal concerns.

In *Analects* 4.11 Kongzi says, “The *junzi* (“exemplary person”) cherishes *de* 德 (“Virtue”), whereas the petty person cherishes [his] land. The *junzi* cherishes [the fairness associated with] punishments, whereas the petty person cherishes exemptions.”<sup>20</sup> 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 (Zhu 1985: 170). In addition to caring about fair distribution, cultivated persons care about fair trials and punishments, and they are aware that these institutions must be administered by officials who do not forgive transgressions because they owe someone a favor. Here we see an appreciation for the role of just institutions in maintaining a stable and harmonious society, as well as the idea 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

<sup>18</sup> Like many terms in classical Chinese, the semantic range of *yi* is quite broad, and the translation needs to be augmented with a sense that emerges from familiarity with a variety of more specific usages.

<sup>19</sup> This aspect of Confucian thought resembles Aristotle’s view.

<sup>20</sup> Ames and Rosemont translate this last line thus, “Exemplary persons cherish fairness; petty persons cherish the thought of gain,” noting that *xing* 刑 (“punishments”) carries the sense of the fairness that is associated with just punishments. See Ames and Rosemont: 91.

grudges. The *Analects* stresses the importance of being fair even when one's judgment goes against the view of the majority: "When the multitudes hate a person, you must examine them and judge them for yourself. The same holds true for someone whom the multitudes love" (*Analects* 15.28, adapted from Slingerland: 185).

As the textual evidence I have presented above shows, there is a concern with the capacity to feel or perceive what is fair in the *Analects*. This concern is seen in a wide range of discussions, including the fair distribution of wealth, the need to address the problem of poverty and provide assistance to those in need, the importance of doing what is right instead of what will result in profit or material gain, the problems of partiality and corruption, the capacity to take a wider view and judge situations in a fair and balanced way, and one's appreciation for the institutions that help to preserve a stable society, such as the administration of punishments for criminals. One might still doubt though that these different discussions are all an expression of the capacity for a sense of justice, maintaining instead that they are simply expressions of individual Confucian virtues or ideas. It is my view, however, that one of the ways in which these different discussions are unified is that they all concern the source of our attitudes and responsibilities toward other members of society, specifically respect to questions of fairness. In all of these discussions, the capacity to feel or perceive what is fair and respond accordingly is considered part of what it means to possess certain Confucian virtues. To neglect this sense of justice would be to neglect an important moral capacity that is in play in many different places in the *Analects*.<sup>21</sup> It is certainly not the case that a sense of justice is the only important capacity or idea that is at work in these passages, or even that it is the most important one. I only intend to show that it is one of the many important capacities that cultivated persons exemplify in the *Analects*.

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. 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 for their sons, and sons cover for their fathers. 'Uprightness' is to be found in this" (Adapted from Slingerland: 147). There are several ways of understanding this passage, but it will suffice to note that this story does not necessarily undermine the view that developing a sense of justice is an important part of self-cultivation in the *Analects*. Instead, it shows that legal justice is considered secondary to parental loyalty, or filial piety, which is certainly compatible with the view that Kongzi has an appreciation for a sense of justice. 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. Additionally, it is significant that Kongzi and the Duke of She seem to share a *common sense of justice*: they both know that stealing a

<sup>21</sup> One reason why this capacity might easily be overlooked is that it is not tied to a single term. There are a number of important ideas in the *Analects* that are like this. For example, although there is a well-developed account of self-cultivation in the text, there is not a single term that consistently designates this idea. Only one passage in the *Analects* (14.42) contains a term that means "self-cultivation" (*xiu ji* 脩己), but the concept of self-cultivation is clearly described through discussions of ideas such as Virtue (*de* 德), the *junzi*, and terms such as learning (*xue* 學), reflecting (*si* 思), examining (*xing* 省), and practicing (*xi* 習). It is my contention that the idea of a sense of justice represents a similar case.

sheep is wrong. What they disagree about is how sons should respond when their fathers commit this offense.<sup>22</sup>

As with a number of other ideas in the *Analects*, Kongzi's own behavior illustrates the importance of the capacity for a sense of justice. In *Analects* 5.1, where we are told that Kongzi gave his daughter in marriage to GONGYE Chang 公冶長, a man who had been wrongly imprisoned for a crime: "The Master said of GONGYE Chang, 'He is marriageable. Although he was once imprisoned as a criminal, he was in fact innocent of any crime'" (trans. in Slingerland: 39). 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 in ancient China. At times, criminals were even marked physically when they were found guilty, sometimes in the form of tattoos. In such circumstances, one who was wrongly convicted could not simply be "cleared" and go on to live as he previously did. By accepting someone who was wrongly imprisoned as his son-in-law, Kongzi makes a powerful statement about the priority of justice over social stigmas. Kongzi is surely aware that his daughter, and eventually his grandchildren, may be stigmatized. However, he values GONGYE Chang's innocence and the justice that is exemplified in his being cleared and going on with his life *over and above* the difficulties it may cause his family. This passage makes it clear that Kongzi cares more about GONGYE Chang being treated fairly than social stigmas.<sup>23</sup>

One of the things that should lead us to see that these passages describe a cultivated moral sense is the kind of *perceptiveness* that repeatedly surfaces. In *Analects* 14.31, Kongzi says, "Not anticipating betrayal, nor expecting untrustworthiness, yet still being the first to perceive it—this is a worthy person indeed" (trans. in Slingerland: 166). A cultivated person is able to see people and situations for what they are; they are perceptive but do not allow preconceived ideas or biases to interfere with their assessment of things. In *Analects* 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: 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.

Discussions of *shu* 恕 ("sympathetic understanding," "reciprocity") also highlight the capacity to feel for and respond to those who are situated differently from oneself based on a cultivated moral sense. A person who exemplifies *shu* regularly employs the principle of reversibility, imagining herself in the position of others as a way of sympathetically understanding and responding to them. In *Analects* 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

<sup>22</sup> There is much more to be said about this passage, particularly in relation to some of the issues raised by the commentarial tradition. See also Mengzi 7A35, 5A2 on the relationship between filial piety and justice.

<sup>23</sup> Another question to consider is whether Kongzi's decision is fair to his daughter. His actions in selecting his daughter's spouse rest on what most of us would regard as a cultural practice that is unfair to women. On the other hand, it seems clear that Kongzi's decision about his daughter's spouse is not based on the desire for increased social status or wealth, but rather on the sort of man who will make a good husband and father. This attentiveness to the moral character of his future son-in-law is to the advantage of Kongzi's daughter and reflects a concern for her well-being. At the same time, it is important to acknowledge that the social stigma attached to her husband may make her life much more difficult than it might have otherwise been. Thanks to Bonnie Mann for conversation on this point.

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.” The teaching that one should not do to others what she does not want done to herself is repeated in *Analects* 5.12, and 15.24. Kongzi uses it to define *shu*. This idea is important for understanding a sense of justice in the *Analects* because it reflects an awareness of the fact that we are not always initially inclined to feel for the plights of those who are far removed from ourselves. However, Kongzi thinks all people possess the capacity to imagine themselves in the position of others and make a fair assessment of situations as a result. Part of the process of moral self-cultivation is exercising this capacity regularly so that we become more inclined to feel for others in this way.

In the *Analects*, a sense of justice is one of several important capacities that emerge in the development of a set of virtues. It is seen most clearly in the capacity to perceive and judge situations fairly, to understand the situations of others sympathetically, and to feel accountable to and responsible for other members of society. A sense of justice is not exclusively subsumed under or tied to one single concept in the *Analects*, because as I have shown, it is at work in a number of different discussions, including those concerning the acquisition and distribution of wealth, the need to help the poor, the importance of doing what is right (*yi*) instead of what is profitable, the ability to take a wider view and consider the needs of those outside of one’s family and community, and one’s appreciation for the importance of legal justice. All of these things are among the concerns of the *junzi* (“exemplary person”), and developing the capacity to see and appreciate them is an important part of Confucian moral self-cultivation.

### 3 Two Senses of Justice Compared

According to the two views we have examined, humans have a basic capacity to feel or perceive what is fair, and this capacity is the source of our feelings of sympathy and indignation in situations we normally regard as unjust or unfair. For both Rawls and Kongzi, humans have a natural tendency to develop a sense of justice, but it still needs to be cultivated. Clearly, the account of a sense of justice emerges in the midst of very different philosophical projects in these two sources. Rawls is concerned with 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, on the other hand, offers an account of a way of life that includes certain kinds of virtues, religious rituals, and family relationships, in addition to an approach to matters of fair distribution among people from very different economic circumstances. Kongzi’s understanding of a sense of justice is one part of a larger ethical account found in the *Analects*, while Rawls’s analysis of a sense of justice is designed to show how a political conception of justice is possible. Rawls’s analysis concerns *social* justice, and so he focuses on how a sense of justice makes it possible for social institutions to address moral contingencies. In contrast, the *Analects* describes a wide range of situations in which a sense of justice plays an important role. Kongzi discusses the importance of fair-mindedness and good judgment, fair trials and punishments, and the need to address things like fair distribution. These discussions are all part of a larger account of what it means to be a *junzi* (“exemplary person”) and what it means to be *Ren* (“humane”).

A critical difference in the overall aims of these two sources is that while Kongzi’s goal is strongly therapeutic in that he aims to improve his students’ character by teaching them about the Way, Rawls’s primary aim is theoretical, that is, to explain what justice is and

how the basic structure of society should be arranged. However, as we will see, a comparative study can help us to more fully understand these features of both accounts. Kongzi's emphasis on self-cultivation, which is at the heart of his therapeutic program, can help us to recognize and appreciate some of the more therapeutic aspects of Rawls's account, while Rawls's theoretical account of a sense of justice helps us to better understand certain features of Kongzi's view by making explicit a number of things that are only implicit in the *Analects*.

It is important not to minimize the fact that the *Analects* does not offer a theoretical articulation of the concept of justice, but that does not mean that the text does not express a basic understanding of the concept of justice. Indeed, this is precisely where Rawls's account can provide some assistance. In his explication of what social justice is, Rawls makes an important distinction between the basic *concept* of justice and a *conception* or theory of justice, showing that it is possible to express an understanding of the basic concept of justice without having or expressing a fully developed theory of justice. According to Rawls, the idea that a society should, through its institutions, have standards for assigning privileges, advantages, and obligations to different members of society, expresses a basic understanding of the concept of justice.<sup>24</sup> In contrast, fully developed conceptions or theories of justice outline principles that establish what those standards are, but clearly, one can have a basic understanding of justice without developing principles of justice. There are a number of institutions in the *Analects* that assume the basic role of justice, including legally recognized forms of property, policies for the distribution of food and wealth, and taxation. However, the family and the rites (*li* 禮) play an especially critical role in addressing these things.<sup>25</sup> In the family we see an emphasis placed on the obligations that the virtue of filiality specifies for children in relation to their parents and more generally the privileges given to elders. These and many other obligations and privileges are further specified by the rites. Rawls's distinction is helpful in understanding these aspects of Kongzi's view because it shows how there might be a clear sense of justice without there being an interest in a theory of justice, or even in a theoretical articulation of the concept of justice or a sense of justice.

To be sure, the *Analects* does not offer an account of justice as a disposition to accord with the law and fairness, nor is it primarily concerned with the issues of distribution and retribution. One of the things that a comparative study of these two accounts shows is that a sense of justice is often at work in many other situations, in addition to those cases of institutional justice that Rawls focuses on. The *Analects* describes a number of situations in which a sense of justice serves an important purpose, including those cases where others

<sup>24</sup> Rawls maintains that 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 (Rawls 1999: 5). *Conceptions* of justice contain principles that explicitly address these two issues.

<sup>25</sup> Rawls notes that as social institutions, rituals sometimes "assume the role of justice" (Rawls 1999: 47–50). He also maintains 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.... [E]ssential 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" (Rawls 2001: 162–3). For Susan Moller Okin's influential criticisms of this aspect of Rawls's view, see Okin 1989.

take more than their fair share or pass judgment on others as a result of biases or social stigmas. It also discusses the kinds of cases Rawls is most interested in, namely cases of unfair distribution and the need to provide special assistance to certain members of society. However, while the *Analects* broadens our understanding of the different situations in which a sense of justice is important, Rawls offers an account of what a sense of justice is, by providing a detailed theoretical discussion of a sense of justice as the source of our feelings of sympathy and indignation in situations that are unfair. His discussion shows that a sense of justice is a distinctive moral capacity in its own right, and he presents a compelling case for the possibility that it is a part of our nature as humans (Rawls 1963: 96).

Rawls raises an important question by claiming that all people naturally possess a “capacity” for a sense of justice. At times, he indicates that humans have an observable, active tendency toward developing a sense of justice, which is extended and reinforced in the proper environment. His remarks about young children exhibiting the beginnings of a sense of justice in their relationships with their parents reflect this sort of view. However, he also says that a sense of justice must be “acquired,” and when discussing its development at one point he refers to “the abilities that we find latent in our nature” (Rawls 1963: 105; Cf. Rawls 1999: 375–6). Now because latent capacities are not observable and only begin to develop under certain circumstances, we are left with the question of exactly what kind of natural capacity Rawls thinks we have.

In order to clarify what is at stake in the distinction between latent moral capacities and observable, active moral tendencies, I would like to turn to the two philosophers who first discussed this issue in the classical Confucian tradition, before returning to an analysis of Rawls’s view. Interestingly, both Mengzi and Xunzi 荀子 saw themselves as in some sense interpreting and defending Kongzi’s view, and many if not most of their remarks on self-cultivation seek to build upon the view found in the *Analects*.<sup>26</sup> However, their competing accounts of human nature serve as a new foundation on which to ground Kongzi’s view. 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.<sup>27</sup> According to Mengzi, all humans are born with four observable, active moral senses or “sprouts” 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 (*yi* 義), propriety (*li* 禮), and

<sup>26</sup> One example is seen in their respective remarks about *Analects* 2.15, where Kongzi says, “Study (*xue* 學) without reflection (*si* 思) is a waste. Reflection without study is a danger.” According to Mengzi, the moral “sprouts” we are born with reside in the *xin* 心 (“heart–mind”), which is the seat of cognitive, affective, and volitional capacities, and so the key to allowing our moral sense to guide us is reflection (*si*): “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” (Mengzi 6A15, trans. Ivanhoe 2000: 20). Xunzi makes a point of disagreeing with Mengzi’s claim: “I once spent the whole day in reflection, but it wasn’t as good as a moment’s worth of study” (adapted from *Xunzi*, trans. Hutton 2001: 249). Xunzi seems to be drawing on *Analects* 15.30, in which Kongzi says that 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 study.” For translations of these passages, see Ivanhoe and Van Norden 2001.

<sup>27</sup> For studies of Mengzi’s theory of human nature, see Graham 2002 and Lau 2000. For general studies of Mengzi’s moral philosophy, see Nivison 1996, Shun 1997, and Ivanhoe 2002b.

wisdom (*zhi* 智) (*Mengzi* 2A6 and 6A6).<sup>28</sup> Mengzi's choice of metaphor here is telling. As Philip J. Ivanhoe has pointed out, "like sprouts, our moral sense is a *visible and active*, not *hidden or latent*, part of the self."<sup>29</sup> 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 (Ivanhoe 2000: 25 n. 17).

In support of the claim that all humans have moral sprouts, Mengzi offers examples of people with visible and active moral tendencies. Mengzi emphasizes that everyone starts out with moral sprouts, but certain aspects of their environment are different, and some of them fail to develop. According to Mengzi, this failure resembles the failure of sprouts to flourish "due to [differences in] the richness in the soil, and to unevenness in the rain and in human effort" (*Mengzi* 6A7, Van Norden 2001: 144). All humans have these observable moral tendencies when they begin their lives, but they need a safe, nourishing environment and proper effort in order to flourish. In the parable of Ox Mountain, Mengzi says, "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" (*Mengzi* 6A8, Van Norden 2001: 145). So although humans are born with an inclination toward goodness, Mengzi does not think their initial moral capacities will necessarily develop properly. Like fragile sprouts, they need considerable nourishment, growth, and protection in order to develop into the virtues of a cultivated person.

Although Mengzi and Xunzi agree on many aspects of moral self-cultivation, including the qualities of the cultivated person, Xunzi disagrees with Mengzi's claim that self-cultivation is primarily a matter of providing the proper conditions for growth and development of moral "sprouts." According to Xunzi, humans are morally blind at birth, led only by their physical desires, which lead inevitably to destruction and harm (Ivanhoe 2000: 32). Accordingly, Xunzi maintains that humans must be stamped with the shape of morality, and they become moral only as a result of how teachers and traditions shape them. 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 tendencies 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 (Ivanhoe 2000: 29–32; See especially the beginning of Chapter One of the *Xunzi*). 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" (Hutton 2001: 248). For Xunzi, humans *acquire* a sensibility they never had instead of *developing* a moral sense they are born with.

Now Mengzi and Xunzi both maintain that humans have the *capacity* for morality. For Xunzi, this claim means that human emotions, attitudes, and dispositions *can* be shaped and cultivated, but the capacity to be good is latent and only becomes apparent after a great deal of training and hard work. For Mengzi, however, this capacity is active and observable from the start, and simply needs a safe and nurturing environment in order to develop fully. In the end, though, Xunzi faces a serious difficulty that Mengzi does not, because Xunzi's view

<sup>28</sup> One could also interpret Mengzi as saying that there is one moral sense that manifests itself in four different ways. For an example of this view, see Liu 2003.

<sup>29</sup> Ivanhoe notes that although Mengzi uses a number of different terms for "sprout" in the text, he never uses the term for "seed," which would have illustrated a hidden tendency, as opposed to an active, visible one (Ivanhoe 2000: 18, 25 n. 16).

fails to account for the origin of morality. Unlike Mengzi, Xunzi cannot argue that the virtues of the sages and the rites they practiced are the products of natural moral sentiments, which results in “Xunzi’s Dilemma.”<sup>30</sup> Accordingly, one thing that a comparison with these Confucian accounts can help us to see is that if Rawls does not maintain that humans have an active, visible capacity for a sense of justice, then Rawls’s account suffers from the similar dilemma of how to account for the origin of justice. For Rawls, this dilemma takes the following form: if a sense of justice can only develop properly in an environment where “background justice” or just institutions exist, then how do just institutions emerge in the first place? They cannot emerge from a sense of justice if it is simply a latent capacity in need of a just society to be cultivated, for members of society then could not have a sense of justice prior to the emergence of just institutions. The only way to avoid this dilemma seems to be for Rawls to acknowledge and defend the claim that the capacity for a sense of justice is active and visible from the start.

In the Introduction to *Political Liberalism*, Rawls denies that his account takes “a general position” on certain traditional questions about human nature and the origins of morality. However, he maintains that political liberalism affirms a certain range of answers to these questions. 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,” and maintains that “the knowledge or awareness of how we are to act is directly accessible to every person who is normally reasonable and conscientious” (Rawls 1993: xxix). Rawls says that political liberalism also affirms the view 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” (Rawls 1993: xxix). Rawls’s view seems to be that although political liberalism does not endorse a fully developed *theory* of human nature, it does consider certain *kinds* of answers to questions about human nature to be correct. Here Rawls acknowledges that his account depends on the idea that most people have the resources to act justly by virtue of being human.

When Rawls describes the cultivation of a sense of justice, his remarks sometimes point toward a stronger view of what constitutes the initial capacity for a sense of justice. He notes that the presence of certain natural attachments “give rise to” the moral emotions tied to a sense of justice, and calls a sense of justice the “normal outgrowth” of natural human attitudes (Rawls 1999: 426, 429). Throughout his account, Rawls tells us that a sense of justice is “trained,” “exercised,” “educated,” “encouraged,” “sustained,” “formed,” and “nurtured.” He also says that the moral feelings that help to define a sense of justice are such an essential part of our humanity that “there is no way for us to avoid a liability to them without disfiguring ourselves” (1999: 428). None of these descriptions resonate with Xunzi’s harsh metaphors of re-forming a difficult substance, and this last remark—that the lack of a sense of justice indicates that a fundamental part of our nature as human beings has been *disfigured*—seems to incline toward a Mengzian view. Rawls’s language makes it clear that a sense of justice is not inculcated in the sense of being stamped upon a resistant and recalcitrant set of natural tendencies, and although it is not clear that he endorses a

<sup>30</sup> When Xunzi rejects Mengzi’s claim that humans have innate moral tendencies, he 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 moral tradition that is essential for our moral progress. Xunzi argues that morality comes from the accumulated wisdom of the sages over time, but he fails to offer an explanation of how the original sages could have possessed moral wisdom if they, like all humans, were morally blind. For more on “Xunzi’s Dilemma,” which was first pointed out by David S. Nivison, see Nivison 1996. This set of issues is further analyzed in Van Norden 2000, Wong 2000, and Kline 2000. All of these essays are reprinted in Kline and Ivanhoe 2000.

Mengzian view, some of his remarks about the cultivation of a sense of justice, when considered with his remarks about the kinds of answers he affirms to certain traditional questions about human nature and the origins of morality, are closer to certain aspects of Mengzi's view, as opposed to a more neutral view of our natural tendencies.

It is important to remember that, according to Rawls's own account of moral development, children typically have observable indications of a sense of justice, even though these indications may be primitive and require significant cultivation to develop into a strong sense of justice. There are a wide variety of examples that would serve as evidence for this view, many of them involving the behavior of young children. For example, if a teacher distributes coloring books and crayons to a group of young 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. In this case, the other children 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, try to comfort their classmate, or offer to share their book and crayons. Some children might begin to cry as a result of seeing another child in distress. 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 children recognize that something is wrong when someone is marginalized for no reason that relates to their actions, 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 with those situations we would call unfair or unjust.<sup>31</sup>

On this view, which inclines in a Mengzian direction, Rawls can account for the initial emergence of background justice. To be sure, Rawls maintains that a sense of justice requires cultivation, and a just society encourages its citizens to cultivate and exercise certain virtues, including "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" (Rawls 2001: 116). Here we see Rawls's communitarian side; as his psychological construction makes clear, the family and the community play the most critical role in the initial development of a sense of justice. A child's family in particular can fail her in a number of ways, 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" (Rawls 1999: 408). The process of cultivation must occur in the context of loving relationships, and it must appeal to our natural affection and sympathy for others.

Here we can see how studying Rawls's account of self-cultivation in comparison with the Confucian view highlights certain dimensions of Rawls's view that are often overlooked. In addition to the need to account for the origin of justice, which "Xunzi's Dilemma" calls to our attention, Kongzi's emphasis on the critical role of family relationships in the cultivation of the virtues draws our attention to Rawls's discussion of these matters, which often gets lost in critical analyses of his theory. It is not insignificant

<sup>31</sup> There is 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 psychological altruism, see Sober and Wilson 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 providing a detailed analysis of altruism throughout the animal kingdom.

that Rawls begins his account of moral psychology with the relationship between parents and children, and the role of natural affection and sympathy in the development of a sense of justice. 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.<sup>32</sup> It may be true that Rawls does not give enough attention to these matters, but these critiques would benefit from a heightened awareness of the attention Rawls *does* give to these areas, and the critical role they play in relation to a sense of justice and self-cultivation. As we have seen, Rawls 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.<sup>33</sup> In a well-ordered society, moral principles and standards engage citizens' affections, forming sentiments whose content cannot be described adequately without mentioning the principles of justice, for as Rawls says "the sense of justice is continuous with the love of mankind" (Rawls 1999: 417).<sup>34</sup>

An analysis of these issues also helps us to see the therapeutic side of Rawls's work. Although theoretical concerns are clearly at the forefront of Rawls's project, he also seems to hope that his analysis will move people to act in certain ways. In the *Analects*, Kongzi's therapeutic aim is seen most clearly in his program of self-cultivation, and although the self-cultivationist aspects of Rawls's work have received little attention, they are a critical part of his account of a sense of justice, and can help us to appreciate the therapeutic aims of his work. Understanding the theme of self-cultivation in Rawls is important because it shows that, despite what some critics say, he thinks the family and community, as well as the emotions, play a critical role in moral development. This is why he argues that a sense of justice is initially cultivated in the ways we feel and act in the context of familial and community relationships.

At the beginning of this section, I focused on some important differences between the nature of Rawls's and Kongzi's views. Having now discussed some points of resonance between their two understandings of a sense of justice and the way in which a comparison helps us to recognize neglected aspects of each view, I would like to point out some important substantive differences between their views. One of the deepest and most important differences between Rawls's and Kongzi's understandings of a sense of justice is that Rawls's sense of justice is a sense of *social* justice, as Rawls is exclusively concerned with questions of social justice. In contrast, Kongzi's sense of justice concerns social justice, legal justice, and deliberative justice. The sense of justice in the *Analects*, then, is broader than Rawls's sense of social justice. A related point is that while Rawls's account of the expression of a sense of justice transcends the family after its initial cultivation in the first stage, in the *Analects* the family and virtues like filial piety continue to play a critical

<sup>32</sup> There is an ongoing body of feminist work criticizing liberal theory for its denigration of emotion. See, for example, Jaggard 1983: 28–47, Held 1993, and Friedman 1993.

<sup>33</sup> See Rawls 1997: 595–6. 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 Deigh 1996. For a defense of Rawls against Deigh's criticisms, see Kyte 1992.

<sup>34</sup> Some critics still maintain that the bonds of continuity in a society depend primarily on emotions or tradition as opposed to rationally justifiable principles, arguing that the two views are mutually exclusive. See Williams 1983 and Haldane 1996. I think these critics underestimate the role Rawls gives to the emotions, and this is something we can appreciate more easily when we compare Rawls's view with his Confucian predecessors.

role in the expression of a sense of justice, as the story of Upright Gong and the stolen sheep shows. This difference stems from Rawls's concern with social justice, in which one's ability to exercise a sense of justice in relation to strangers is most critical, whereas Kongzi's view, which includes legal and deliberative justice as well as social justice, requires the exercise of a sense of justice in relation to a wider circle of people.

The way in which Kongzi and Rawls understand the influential relationship between the family and the state also represents a remarkable area of contrast between their two senses of justice. Although both thinkers see the family, community, and society as playing critical roles in the development of a sense of justice, Rawls is ultimately concerned with the way in which a sense of justice leads us to endorse certain principles, which can in turn influence the background culture. Eventually, this background culture can influence individual families. In other words, Rawls is interested in social change that occurs in a "trickle-down" sort of way.<sup>35</sup> This view can be understood as an inversion of the Confucian view we find in the *Analects*, where the state takes the family as its model. In contrast with Rawls, Kongzi is interested in social change that begins at the level of family relationships, through the cultivation of certain moral capacities and virtues, and which has a grass-roots effect on the community, society, and the state (see *Analects* 1.2, 2.21). However, Kongzi's remarks on the influence of a good ruler's Virtue (*de*) indicate that social change can also occur from the top down, although not through the endorsement of certain principles of justice.<sup>36</sup> So, in the *Analects* the influential relationship between the family and the state moves in both directions, beginning at the grass-roots level and moving upward from individual families to the state *and* trickling down from Virtuous rulers to the people, while Rawls focuses strictly on the influence of principles of justice that are endorsed at the state level and eventually trickle down to affect individual families.

#### 4 Conclusion

It is important to see that, despite the remarkable differences between their accounts, both Rawls and Kongzi exhibit a concern with political philosophy in general and a sense of justice in particular. On both views, having a sense of justice is a part of what makes us human. Rawls says that without a sense of justice, people "would lack certain essential elements of humanity" (Rawls 1963: 96, Cf. Rawls 1999: 428). In the *Analects*, *Ren* 仁 is the fullest realization of one's capacities as a human being, and as a number of the passages we have examined make clear, Kongzi sees having a sense of justice as part of being *Ren* ("humane"). Rawls and Kongzi also maintain that parent-child relationships provide the foundation for cultivating a sense of justice, which in turn provides the foundation for a stable and harmonious society. Despite the laudable attempts of feminist ethicists to introduce discussions of the family into political philosophy, the role of the family in the achievement of a just society remains a tangential issue for many liberal theorists. Rawls

<sup>35</sup> Rawls says that political liberalism "does not regard the political and nonpolitical domains as two separate, disconnected spaces," and sees the basic structure of society as "a single social system, each part of which may influence the rest" (Rawls 1997: 598–599).

<sup>36</sup> In the *Analects*, Virtue (*de*) is a person's inherent power and natural effect on others, and it is especially prevalent in relation to the ideal of rulership. See *Analects* 2.1, 2.3, and 13.4 for examples of how the ruler with *de* attracts others, who are in turn profoundly influenced by his example and motivated to respond in kind. For more on this idea in ancient China, see Nivison 1996: 17–57, Ivanhoe 2000: ix–xvii, and Ivanhoe 1999.

did not consider it a tangential issue, and I hope this essay goes some way toward reintroducing Rawls's discussion as a reminder of its importance for liberal thought.

I also hope this essay begins to show that the Confucian tradition has much to contribute to our ongoing discussion of the relationship between the family and society. Confucian philosophers emphasized the importance of the virtue of filiality in family relationships more than other schools of thought, and they explicitly argued for the distinctive claim that filiality is the root of other ethical sensibilities, including the political virtues.<sup>37</sup> Accordingly, the Confucian tradition should serve as a resource for future discussions of the family in political philosophy. In addition, as we have seen, Confucianism places a great deal of emphasis on self-cultivation and has much to contribute to discussions of moral development and moral psychology. The importance of a sense of justice in the *Analects* is but one example of capacities that we can learn more about as a result of studying ancient Chinese and contemporary Western accounts comparatively.

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<sup>37</sup> For a helpful study of the virtue of filial piety, see Ivanhoe 2006.

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