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TRYING TO DO JUSTICE TO THE CONCEPT
OF JUSTICE IN CONFUCIAN ETHICS¹

In his dealings with things under heaven *chün-tzu*^b (the noble man)² is not invariably for or against anything. He just does what is *yi*^a (just, appropriate)

—Confucius, the *Analects* (4.10)³

I. INTRODUCTION

“That is not it at all. That is not what I meant, at all.” We often hear people saying this in everyday dialogues and conversations. This is a way for one to protest others’s misinterpretations of her/his views. Very often, one may also add, “You are not doing justice to what I said, at all.” What this means seems to be the following: You are not doing *justice* to what I said if you do not render the *correct meaning* (*cheng-yi*^f) to what I said, because you are rendering something that is not mine to me, you are being *insensitive* to the particular and unique meaning of what I said. This use of the word “justice” indicates that hermeneutic issues are ethical ones.

This paper was originally presented at a panel on “Confucian views of justice” at an American Philosophical Association meeting. I was supposed to read a paper, written in English, on Confucian views of *justice*. Under such conditions, I have been especially on the alert against any possible *injustice* I might do to Confucian ethics. One seems to have a special duty to be just when one writes on the concept of justice. Hence the title “Trying to do justice to the concepts of justice in Confucian

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ethics.”⁴ To regard hermeneutic issues as ethical ones is also a Confucian tradition. When a great Confucian scholar *Chiao Hsün*^g wrote a commentary on the *Mencius*, he entitled it *Meng-tzu cheng-yi*^h which could be translated as “The correct meaning of the *Mencius*.” Interestingly enough, *cheng-yi*^f originally means “upright and just”. That is, at least, how the early Confucian *Hsün Tzu*ⁱ used it.⁵

Therefore, I have to take seriously the following objection: One may immediately object to this paper by saying that the moment I write down the title, I have already done injustice (or violence) to Confucian ethics; when I utter the *English* words “the concept of justice in Confucian ethics,” which imply that Confucian ethics do have a concept that can be expressed by the English word “justice”, I am imposing a *modern Western* concept on Confucius, Mencius and their followers in ancient China. The injustice I have done to them is double, because they are neither modern nor Western. To put this objection in one sentence, it is impossible for me to do justice to the concept of justice in Confucian ethics if I write in a *language* that is not Confucians’s *language*.

Let me first clarify what is really going on in this objection. As we shall know at the end of this paper, this objection cannot be fully responded to here. In the one-sentence version of the objection the term “language” is actually used in two ways and thus can mean two things:

- i) a particular ordinary language like Chinese or English; let me call it the “linguistic sense” of the term “language”;
- ii) a particular set of categories and concepts (when Thomas Kuhn says that Einstein and Newton speak two different “languages,” he does not mean that the former speaks in German and the latter in English) let me call this its “conceptual sense”. Very often, when people use the term *language* in its conceptual sense, they put it into quotation marks (so one native English speaker may say

to another native English speaker: we can't understand each other; it's as if we are speaking in two "languages.")

Accordingly, there are actually two things going on in the objection. The first is the objection that a Western language (English) is not appropriate in the Chinese context. However, it does not particularly have to do with Confucians; it applies to the case where one talks about Taoism in English, or, about Aristotle in French, etc. The second objection is that the set of Western categories and concepts – the concept of justice being part of it – is not appropriate to apply to Confucian ideas. Thus there are actually two objections.

In section II, I shall try to clear up some conceptual confusions that are involved in both objections and introduce a crucial distinction between concept and conception. (Notice that I use "concept," not "conception," in the title of this paper). In section III, I shall propose a working formulation of the *concept* of justice, which shows how the term "just" is used and what it is like to have a concept of justice, more specifically, what it is like if it is the case that there is the concept of justice in Confucian ethics. Section IV is a textual analysis which shows how, in the *Analects* and the *Mencius*, the term *yi*^a is used in the way described in the working formulation of the concept of justice. That is to say, we can indeed find the concept of justice in Confucian ethics. However, it will also be shown that the Confucian understanding of the concept is a very particular one.

I shall come back to the objections in section V. It is about the very possibility of doing justice to the concept of justice in Confucian ethics while writing in English. Interestingly enough, what surprised even myself is that the justice of 'trying to do *justice*' turned out to be the same kind of justice of "the concepts of *justice* in Confucian ethics." Therefore, this paper becomes an attempt to treat the concept of justice in Confucian ethics in a Confucian manner, or in a manner that is *just* in its Confucian sense.

II. SOME CONFUSIONS AND THE DISTINCTION BETWEEN CONCEPT AND CONCEPTION

Almost everyone who ever talks about the issue of justice in Confucian ethics in English has been keenly aware of, and often overwhelmed by, two obvious “facts” about the differences between Confucian language and Western language both in its linguistic and conceptual sense. The first “fact” is actually about its linguistic difference, the second conceptual difference. In this section, I want to say a few words about some possible confusions involved in interpreting these two facts.

Let me start with the first one. Thomas H.C. Lee begins his article “The Idea of Social Justice in Ancient China” by saying that “One of the most important characteristics of Chinese social philosophy is its conspicuous lack of *one word* [my emphasis] that we can readily translate as ‘justice.’”⁶ R.P. Peerenboom also claims: “There is not even *a term* [my emphasis] for ‘justice’ in the classical lexicon of Confucius.”⁷ He also dismisses what he calls “the most likely candidate,” the Chinese character *yi*^a, by saying that it “has been translated in terms associated with justice – righteousness, duty, principle, obligation – though never, to my knowledge, consistently as justice. Moreover, David Hall and Roger Ames have argued quite convincingly that such Western-influenced language is inappropriate in the Confucian context.”⁸

I would like to make two remarks about this linguistic fact. The first one is that we cannot presuppose that there must be *one* word or term in Chinese that corresponds to the English word “justice.” There might be a complex relationship between the English word “justice” and a set of Chinese words, not just one Chinese word. Or, if there is a corresponding relationship between “justice” and a Chinese word, it may be that only some uses of this Chinese word, not necessarily the other uses of the word, can be said to mean “justice.” As I shall show later, this applies to the Chinese word *yi*^a. In fact, the reluctance of translating *yi*^a as justice also has to do with the extremely diverse uses of “*yi*^a” in Confucian ethics. I shall say more about this later. Here let me just say that, from

the *linguistic* fact that there is no *one* word that can be readily translated as justice, it is a fallacy to draw the conclusion that there is no *concept* of justice in China.⁹ The conclusion one can draw is simply that there is no such neat word-to-word correspondence between Chinese and Western thought. We may not expect that complex concepts such as justice would be like concepts such as “water” or “table,” which usually can have a neat word-to-word translation in another language.

The second remark I want to make is about Peerenboom’s claim that, since “justice” is a part of “Western-influenced language,” it thus cannot be a proper translation of *yi*^a. Two senses are packed in the term “language”; from the fact that two people speak two different languages in its *linguistic* sense, we cannot immediately infer that they must speak two different “languages” in its *conceptual* sense. One cannot say that Chinese-speaking people *must* think differently from English-speaking people. It may turn out that they do think differently; it may also turn out that they do not. Or, it may turn out that neither is the case – that is, a detailed study may show that they think *sometimes* differently and *sometimes* (e.g., when it comes to the concept of justice) similarly. This seems to be a conclusion that is hard to swallow for philosophers who always love the modal term “always” but never “sometimes”. However, one should not expect to draw neat and systematic conclusions if she tries to do justice to the particular. As we shall see, this is the spirit of Confucian conception of justice. I shall say more about this in the last section.

The second “fact”, which almost everyone emphasizes, is that in traditional Confucian ethics there is no modern liberal *conception* of justice in terms of equal liberties and inalienable individual rights. Liberals in today’s China have put the blame on traditional Confucian ethics for the absence of the conception of individual right in modern China. However, this absence is not a unique feature that only ancient Confucian ethics has. Aristotle’s ethics does not have the modern conception of equal liberties and rights, either. Liberalism is a quite recent phenomenon even in the West.¹⁰

In discussions concerning justice and societies of the past, a question has often been asked.

(q1) Can we say that *ancient Confucianism* or *ancient Confucian China*, is unjust in its modern liberal sense?

This is a very complicated issue. I can't go into it here. I would simply say that this question should not be confused with the following question concerning a present society.

(q2) Can we say that *today's China*, given that it can be called a Confucian country,¹¹ is unjust in its modern liberal sense?

The first question is about "ancient China", the second "today's China." A lot of arguments for the idea that one cannot apply the conceptions of equal liberties and rights to today's China are based on the confusion of these two questions. What those arguments actually establish is simply that we should say no to the first question; since the two questions are confused, people can be easily misled to believe that it has been argued that we should say no to the second question as well.¹² So let me make it clear that the following argument regarding a relativistic view of ancient Confucian China is about ancient Confucian China and cannot be applied to today's China, even if it can still be called a Confucian country.

I want to call attention to the fact that one can say no to the first question and say yes to the second at the same time. That one can do so is due to the following two crucial differences between ancient China and today's China.

- i) In today's China, the idea of liberty and right is, of course, not yet totally institutionalized; it has, nevertheless, become part of the political-legal culture of the nation.¹³ To a certain degree, it has become a (potential)

overlapping consensus, by appealing to which civil disobedience can even be justified in today's China.¹⁴

All these cannot apply to ancient China.

- ii) Today's China is not a homogeneously Confucianist country, even if one still wants to call it a Confucian nation (however, if that could be done, then, in a similar way, one can also say that the pluralistic society of the U.S. is a Christian nation). It seems safe to say that in today's China Confucianism, as a revival tradition, is not the dominant political-legal culture as it used to be in ancient China; it has to compete with other conceptions of good life, including liberalism.

I am aware that these two observations are controversial. However, here what I really need for my argument regarding a relativistic view of ancient Confucian China is a weaker claim, which is the following: it was *historically impossible* for Confucius to have a modern liberal conception of justice in terms of liberties and rights, whereas such a modern liberal conception has become a *historical possibility* in today's China.¹⁵ It seems to be a widely shared intuition that it is not just (fair) to require Confucius or Aristotle to have a modern liberal conception of justice, which was historically unavailable to them. If one thinks historically, as Hegel does, one will see that it takes time (history) for ethical ideas to become possible and actual. And, accordingly, a criticism of an age for not living up to an ideal will remain an empty and impotent "moral" criticism until the ideal, on which the criticism is based, becomes historically possible. One does not have to accept Hegel's whole controversial philosophy of history to see this point. Bernard Williams, who has criticized Hegel's redemptive conception of history,¹⁶ also shares this intuition. He says,

One can define a relativistic view of justice. There is some pressure, if one thinks historically at all, to see modern conceptions of social justice, in terms of equal rights, for instance, as simply not applying to hierarchical societies of the past. The obvious fact that those societies would not satisfy the conditions I quoted from Rawls in chapter 5 seems relevant neither to those societies nor to the merits of Rawls's criteria as proposed for modern societies.¹⁷

The two conditions Williams quoted from Rawls are the famous fundamental principles of justice in terms of equal liberties and rights, which, as Rawls says, characterize the liberal *conception* of justice.

Notice the term being used here is "conception," not "concept." Rawls makes a very important distinction between conception and concept. the concept of justice is about the basic terms of people's association, people may disagree about which specific principle of justice should define the basic terms of their association – i.e. they may have disagreement about the *conception* of justice, but they each have a concept of justice, which is abstract and vague sufficiently to command widespread assent so that it "would act, in public argument as well as private rumination, as a kind of plateau on which further thought and argument are built."¹⁸ As Rawls puts it, "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... [its] different conceptions have in common."¹⁹ So we can say that liberals and utilitarians have a different *conception* of justice, but the same *concept* of justice.

The ancient Confucian society, a hierarchical society of the past, clearly does not have these two principles of justice, which specify the liberal conception of justice. There is then some pressure not to apply the modern liberal *conception* of justice to ancient China. Under this pressure of relativistic view of justice, one might be easily tempted to conclude that ancient Confucian China does not even have a *concept* of justice. I shall call someone a "radical relativist" if she believes that

hierarchical societies of the past, such as ancient China, do not even have a *concept* of justice.

It seems clear that, if we want to see whether Confucians have a *concept* of justice, the concept of justice we should define has to be sufficiently empty, broad and abstract. That is to say, this concept of justice should be formulated not in terms of particular ideas such as equal rights, which can only be found in a modern liberal *conception* of justice; it should be a concept that is shared by all the particular conceptions of justice, including the very peculiar modern liberal conception of justice.

III. WHAT IS IT LIKE TO HAVE A CONCEPT OF JUSTICE?

In the passage I quoted from Williams in the last section, he argues that there is some truth in a relativistic view of justice and hence there is some pressure to see the “modern conception of justice in terms of equal rights” as simply not applying to hierarchical societies of the past. However he also argues that the concept of social justice is “a special case in relation to relativism” and that “Justice and injustice are certainly ethical notions and arguably can be applied to past societies as a whole, even when we understand a good deal about them.”²⁰ Notice that here what can be applied to past societies is not the “modern conception of justice in terms of equal rights,” but “justice as ethical notions.” I read what he says as meaning that, although the modern *conception* of justice in terms of equal rights does not apply to societies of the past, the *concept* of justice seems to be a non-relatively shared one. That is to say, Williams is not a radical relativist. This is especially obvious from what he immediately says right after the passage I quoted in the last section.

Yet there are strong pressures for the justice or injustice of past societies not merely to evaporate in the relativism of distance. Even if we refuse to apply to them determinately modern ideas, *some conceptions of justice were used in those*

societies themselves [my emphasis] and it is not a pun or a linguistic error to call them that.²¹

However, the issue is not as simple as it sounds. How does one know that the proposition that “some conceptions of justice were used in those societies themselves” is true? The truth of this proposition is exactly what a radical relativist denies. Especially in the cases where the past society had a different language, how do we know that some concept of justice was used in that society? It seems that we cannot know it unless we have already translated a certain word in that language as “justice” or “just.” Then that would be begging the question. For what a radical relativist denies is exactly the possibility of translating any word in that language as “justice” or “just.”

Let us consider two possible cases. 1) the past society was an English-speaking one, ii) the past society was ancient China. Let us further suppose the past society we are concerned with is medieval England, and we find the following sentence written by Shakespeare in 1601. “He was my Friend, faithful, and just to me.” A Radical relativist could insist that, although Shakespeare spoke the same language (English) as we do today, it is only the same language in its linguistic sense, he actually spoke a different “language” in its conceptual sense. He has a totally different set of concepts and categories. A radical relativist may say that “We and Shakespeare do not even share the same concept of justice.” In this case, Williams could indeed argue convincingly against this radical relativism by saying that

(E) It is not a pun or a linguistic error to call the concept, which is expressed by the word “just” Shakespeare used, a concept of justice.

However when we move to the second case where the past society is ancient China, it seems that Williams’s strategy wouldn’t work. For it cannot convince anyone by saying that

- (C) It is not a pun or a linguistic error to call the concept of justice used in ancient China “the concept of justice.”

It will be tautological to call the concept of *x* used in society *y* “the concept of *x*.” A radical relativist will not be convinced by this. The statement (C) has already presupposed that there is the concept of justice in ancient China, which is exactly what we want to prove and a radical relativist denies. That is to say, we cannot refute radical relativism at such an abstract level. We have to do a detailed study of how certain words in ancient Chinese are used, and how they are used in what kinds of practices and contexts (e.g., in the practice of accepting gifts). If, through this study, we can manage to show that there are uses, at least some uses, of a certain word – let us call it ‘*c*’ – in ancient Chinese which are similar to the uses of “just” then, we can say,

- (C) It is not a pun or a linguistic error to call the concept, which is expressed by the word ‘*c*’ in ancient Chinese, a concept of justice.

More specifically, in order to show that the Chinese character “*c*” expresses the concept of justice, one has to show that the word “*c*” is used – at least sometimes – in the same way the word “just” is used as defined by a formulation of the concept of justice. This is what I am going to do in the next section. And, the word “*c*” will turn out to be the character “*yi*^a” which expresses one of the central concepts in Confucian ethics.

Notice that it does not require that the word “*yi*^a” always behaves like the word “just”. The fact that *sometimes* it behaves like “just” is enough for proving that there is a concept of justice in ancient China. A parallel case might be helpful here. The Greek term *dikaios*, as Gregory Vlastos observes, could be used to cover all social conduct which is morally right and its sense is thus much broader than “just.”²² Most scholars have translated it as “just.” So does Vlastos. For it is enough

that some of its uses are similar to the uses of “just.” This is also how Rawls argues that his concept of justice can be said to “tally with tradition,” by tradition he means Aristotle’s concept of justice, which is expressed by the Greek term *dikaios* or *dikaiosynē*.²³

Before we move to the next section, where we will figure out the condition under which Confucius and Mencius would use *yi*^a, the last tool we need is a formulation of the concept of justice, which shows under what condition we will use the term “just.” Then we will be able to compare this condition with the condition under which Confucius and Mencius use the word “*yi*^a”. I would like to propose two formulations of a working concept of justice and I shall show that the second one is appropriate for our purpose in this paper.

The first one is a modified formulation that is found in Rawls’s later work *Political Liberalism*, which is different in many respects from his early work *A Theory of Justice*. However, the distinction between concept and conception is still there; he says in *Political Liberalism*,

This pair [of concept and conception] is distinguished as they were in *Theory*, pp. 5f. Roughly, the concept is the meaning of a term, while a particular conception includes as well the principles required to apply it. ... People can agree on the meaning of the concept of justice and still be at odds, since they affirm different principles and standards for deciding those matters.”²⁴

What he means by “those matters” is, as he puts it, to make “distinctions between persons in assigning *basic rights* and duties, ...[And to establish] proper balance between competing claims” (ibid, my emphasis). This formulation is not broadly framed, because it is still formulated in terms of basic rights which can only be found in the modern liberal *conception* of justice. Nevertheless, I think, Rawls’s concept of justice need not be so narrowly defined. What is being assigned need not be “basic rights and duties;” let us modify it by replacing them by “things,” which can be

a variety of things, such as wealth and rank, profits, a wife,²⁵ respect, honor, and so on.

Another problem with Rawls's concept is that it seems to presuppose the existence of a nationstate or the "basic structure" of a nation-state because he sometimes also says that the concept of justice is about the basic terms in which citizens of a nation-state design their basic structure. Formulated in this way, the concept of justice would apply only to the basic structure, not to actions and persons. But we need a concept of justice that can apply to basic structures (or institutions) *and* actions and persons as well.²⁶

The second formulation, which is the one I am going to use in this paper, is from H.L.A.Hart. In fact, Rawls borrows the distinction between concept/conception from Hart.²⁷ But it seems that he does not notice that Hart's formulation is a broader one. According to Hart, "justice is traditionally thought of as maintaining or restoring a balance or proportion, and its leading precept is often formulated as 'Treat like cases alike'; though we need to add to the latter 'and treat different cases differently.'" And this "traditional precept" is a "concept" of justice, not a "conception" of justice. Hart says,

[T]hough 'Treat like cases alike and different cases differently' is a central element in the idea of justice, it is by itself incomplete and, until supplemented, cannot afford any determinate guide to conduct. This is so because any set of human beings [or situations]²⁸ will resemble each other in some respects and differ from each other in others and, until it is established what resemblance and differences are relevant, 'Treat like cases alike' must remain an empty form.²⁹

We can ask whether a *person* treats like cases alike and different cases differently, or whether an *action* is conducted in such a way that like cases are treated alike and different cases differently. Formulated in this way, the concept of justice can apply to actions, persons, etc, not just to the

basic structure of a society.

I also want to express this formulation in a different version, which will be proved to be more useful in the next section. Hart's version is the following:

(J) To be just is to treat like cases alike and different cases differently.

One may also say that those like cases form a "kind" (the Chinese character: *lei^m*) and that different cases belong to different "kinds" therefore, (J) can also be expressed as follows:

(J) To be just is to treat cases that belong to the same kind alike and cases that belong to different kinds differently.

Obviously, this is a *concept* of justice, because it remains an empty form until it is established, by a particular *conception* of justice, which could be a system of classifications telling us specifically what cases form the same kind (*lei^m*) and what cases belong to different kinds.

In the next section, I am going to show that the concept expressed by the term *yi^a* in Confucian ethics is a concept of justice. More specific, in order to prove this, what we need to find is the following:

(Y) To be *yi^a* is to treat like cases alike and different cases differently.

Or to formulated in terms of kinds (*lei^m*),

(Y') To be *yi^a* is to treat cases that belong to the same kind (*lei^m*) alike and cases that belong to different kinds differently.

IV. TEXTUAL ANALYSIS:
HOW YI^a IS USED IN CONFUCIUS
AND MENCIUS

The character *yi*^a occurs twenty-four times in the *Analects*, one hundred and eight times in the *Mencius*. Its uses are diverse. Ch'en Ta-ch'iⁿ a contemporary scholar of Confucianism, once in a paper classified the uses of *yi*^a in the *Mencius* into four kinds: 1) self-regarding morality 2) others-regarding morality; 3) norms of values; 4) principles of human affairs. In a book published later, he criticized himself for making a farfetched classification of the uses of *yi*^a. In the end he has given up this classification. What he later did was to put together similar uses of the word in the text without imposing his own classification system. What came out was an amazing classification: a) *yi*^a of respecting the elderly and obeying the elder brothers, b) *yi*^a between the ruler and the ministers; c) *yi*^a that has to do with taking and giving; d) *yi*^a of the heart/mind of shame, e) *yi* that is said to be the human path or way f) *yi*^a that conflicts with profits, g) *yi*^a that is said to be internal; h) *yi*^a that is said to be common *yi*^a of the world.³⁰ And this list can go on and on.

What should we make out of this? How should we explain such a bizarre classification? How is it possible to use one word to cover so many different uses? Fortunately, here we do not need to answer these questions. It may be that there is a common thread underlying all these diverse uses; or the uses have no thread running through but only a "family resemblance," or, another interpretation is that Mencius's use of the word is simply another particular case of the "oriental way of thinking and classifying" which is always exotically chaotic and incoherent.³¹ As I said earlier, for my purpose in this paper, it would be sufficient if I can show that *some* uses of *yi*^a satisfy the formulation (Y) or (Y)'. Therefore, I will just focus on one group of uses of *yi*^a that has to do with taking, having or accepting things (group c) above.³²

Confucius says that one of the three characteristics of a complete person is that the complete person thinks about *yi*^a at the moment of

having profit (14.12). At two places, Confucius says that a *chün-tzu*^b would think about *yi*^a at the moment of gaining something (19.1 and 16.10). In the *Analects* and the *Mencius*, the objects that can be taken, gained and accepted could be a variety of things:

wealth and rank (7.16, 4.5), profit (14.12), a state (7A:34), the tyrant of a state (3B:5), the office of minister (5A.8), a wife (6B.1), food (6B:1) a present of a hundred *yi* of gold of superior quality (2B:3), the Empire (3B:4), a basketful of rice (3B:4).

Let *g* be any one of the things listed above. In all the above cases, Confucius and Mencius claim that one should always ask “Is it *yi*^a to take (gain, accept) *g*?”³³

If we say that, for Confucius and Mencius, *yi*^a is the *principle* for taking, gaining and accepting things, we have to qualify it by adding a lot of warnings.³⁴ One of them is the following: the principle” of *yi*^a does not have the form of what I shall call “strictly universal principle.” Here are some examples of strictly universal principles:

- (U₁) It is *always* just or right to take *g*. (Or, ‘*Always* take *g*.’)
 (U₂) It is *always* just or right not to take *g*.
 (Or, ‘*Always* do not take *g*.’)

I shall call someone a “strict universalist” if she believes that a principle of justice must take the form of a strictly universal principle – i.e., a principle of justice can only take either the form (U₁) or the form (U₂). For a strict universalist, one cannot say, “It is just (or right) *at time t* to take *g*.” For it does not make sense to say that something is just (right) *at one particular time*; it is either always right or always wrong – this is the strictly universal “grammar” of the term “just” or “right”. That is to say, for strict universalism, a principle of justice cannot have the following form:

- (P) It is sometimes right or just, and sometimes not, to take *g*.
I shall call those “particularists” who think that the principle of justice should take the form of (P)

Let us assume someone accepts a gift or present at time t_1 and refuses a present at time t_2 . For a strict universalist, if she is just to accept a present at t_1 then, she must be unjust at t_2 . All the cases of gift-taking, regardless of what a particular circumstance a case is in, form one homogeneous kind, and all cases of gift-taking thus must be treated alike. One only has two options: i) either to accept all the gifts, regardless of who offers, when they are offered, in what manner they are offered, what particular situation one is in; or, ii) to refuse all the gifts, regardless of who offers, when they are offered, in what manner they are offered, what particular situation one is in. Accordingly, strict universalism can also be expressed as follows,

- (U)' All cases of gift-taking form one homogeneous kind and should be treated alike.

That is to say, for a strict universalist, a principle of justice cannot have the following form:

- (P)' Some cases of gift-taking form a kind, and some cases of gift-taking form a different kind. The cases belonging to the same kind should be treated alike and the cases belonging to a different kind should be treated differently.

Notice that both strict universalism (U)' and particularism (P)' share the idea that cases belonging to the same kind should be treated alike and cases belonging to different kinds should be treated differently. That is to say, they share the same concept of justice. But since they have totally different particular ideas about what cases belong to which kind, they have

different conceptions of justice.

I now want to show that the debate between Ch'en Chen^F and Mencius in 2B:3 is actually a debate between a strict universalist and a particularist. Ch'en Chen^F, according to Chao Ch'i^S, is one of Mencius's disciples.³⁵ He seems to be a strict universalist. He somehow believes that the principle of accepting gifts should be either "Always accept gifts" or "Always do not accept gifts." He once asks Mencius: The other day in Ch'i you refused to accept a present of a hundred *yi* of gold from the King, but in Sung you accepted a present of seventy *yi* in Hsüeh you likewise accepted fifty *yi*. And, Ch'en Cen^F objects to Mencius's actions by saying that,

If your refusing the gift in the first case was right, your accepting in the latter cases must be wrong; on the other hand, if your accepting in the latter case was right, your refusing in the first case must be wrong. You cannot escape one or the other of these two alternatives. (2B:3)

To put his point in other words: You have treated cases of gift-taking differently; you should have had one single universal way to treat all cases of gift-taking. For either it is always right to accept gifts or it is always wrong to accept gifts. One only has these two alternatives, there cannot be a third alternative, which is that it is sometimes right and sometimes wrong to accept gifts. And, this is exactly what Mencius denies in his answer to Ch'en Chen^F

In 2B:3, Mencius is recorded as replying to Ch'en Chen^F in the following way. He says, "Both my refusal and acceptance were right." Then he goes on to give his explanations about how the latter two cases are similar and hence are treated alike and how the first case is different from the two cases and hence is rightly (justly) treated in a way different from the two cases. What he does is to treat similar like cases alike, and different cases differently. Mencius, like Confucius, has no absolute *yes* or absolute *no* (*wu-ko-wu-pu-ko*^U) regarding what is to be done

(18.18). He is not invariably for or against anything he does what is appropriate. Mencius can be perfectly characterized by Confucius's following saying, "*chün-tzu*^b is not invariably for or against anything. He just does what is *yi*^a." (4.10) So it seems that *yi*^a does satisfy the formulation (Y).³⁶

When Mencius left Ch'i, on the way Ch'ung Yü^v, a disciple, asked,^u Master, you look somewhat unhappy. I heard from you the other day the principle that "*Chün-tzu*^b reproaches neither Heaven nor man." Mencius answered, "This is one time (*shih*^w); that was another time (*shih*^w)" (2B:13). The concrete applications of the Confucian general principle "*Chün-tzu*^b reproaches neither Heaven nor man" thus vary from time to time.

In fact, Mencius calls Confucius 'the sage of *shih*^w' (the sage whose actions are timely) (5B:1). By this, Mencius means that "He was the sort of man who, when it was proper to hasten his departure, hastened his departure, when it was proper to delay it, delayed it when it was proper to remain in the state, remained in the state, when it was proper to take office, took office, all according to circumstances" (5B:1, also see 2A:2).

Let me end this section with one of my favorite anecdotes in the *Analects*, which is another good example to illustrate the Confucian concept of *yi*^a. Confucius was once being asked by two of his disciples the same question: "Should one immediately put into practice what one has learned?" The Master gave totally different answers. To student Tzu-lu, it was "As your father and elder brothers are still alive, you are hardly in a position to put immediately into practice what you have learned." To another student Jan Yu, the answer was simply "Yes. One should." When the master was asked why his answers were different, he replied, "Jan Yu holds himself back. It is for this reason that I tried to urge him on. Tzu-lu has the energy of two men. It is for this reason that I tried to hold him back" (11.22).

What the anecdote shows is that Confucius is extremely sensitive to the richness and complexity of the particular. He cultivates people who have different particular characters in different ways. He refuses to insist

on absoluteness, refuses to be inflexible (see 9.4). For Confucius, *chün-tzu*^b must have the sensibility to the particular, to the richness and complexity of the particular. The above anecdote is a perfect example to illustrate what exactly Confucius means in the passage I cited as a motto for this paper (4.10). Confucius is not generally (abstractly) for the general rule “Put into practice immediately what one has learned”; nor is he generally (abstractly) against the general rule. His sensibility to the particular makes him distrust any of this kind of general rules. In certain concrete situations he is “concretely” for it and in certain situations “concretely” against it; it all depends on particular situations. For Confucius no general rule can cover each and every unique particular case. If someone invariably sticks to a general rule, he does not have *yi*^a. Therefore, *yi*^a is not only a sensibility; it also has to be a capacity for judging what is appropriate to do in particular situations. As Chung-ying Cheng puts it, “A man of *yi*^a, therefore, must be a man of creative insights who is able to make appropriate moral judgements in particular situations, judgements which will preserve the totality of goodness and justice.”³⁷

V. TRYING TO DO JUSTICE TO THE PARTICULAR

Now let me turn to the particular issue concerning the possibility of doing justice to the concept of justice in Confucian ethics I mentioned in the introduction. Armed with the Confucian spirit of justice, I think that we may be able to try to do justice to this particular issue and give a Confucian justification for what we have been doing in this paper.

The same issue will arise if I were to write a paper on some other topics, say, “the concept of *God* in Confucian ethics,” or “the concept of *individual rights* in Confucian ethics,” etc. The list can be endless. So it seems that the question “Can we do justice to the concept of *justice* in Confucian ethics?” is just a *particular* case of a *general* question of “Can we even *talk about* Confucian ethics in English without doing injustice to it” or “Can we talk about one culture (or language) in terms of cate-

gories of another different culture (or language) without doing injustice to it." One may thus be tempted to say that we should first solve the general question, which has to do with translation, interpretation, language and cultural relativism, and then apply it to our particular case concerning the concept of justice.

However, from Confucius, we have learned not to "cling to any generality that is independent of concrete reality."³⁸ With the help from Confucius, we should try to resist the temptation to see the whole issue in this way. Confucius and Mencius help us to see that this approach does not do justice to the particular. For it rules out the possibility that all the particular cases, like the gifts offered to Mencius, might not form a homogeneous kind; and, therefore, each of them requires a different treatment. As Confucians have insisted, there might be no abstract generality that can cover each and every particular case. What one can say about "the concept of individual rights in Confucian ethics" may not apply to "the concept of justice in Confucian ethics."

Nevertheless, it is not easy to resist the temptation. One may be attracted to the following approach: one starts with a general theory of language and interpretation, claiming that two languages, in general, can never be translated into each other without doing injustice (or violence) to each of them. The second step is to apply this general theory to the particular case of the English term "justice," concluding that one can never do justice to the concept of justice in *Chinese* ethics if one talks about it in *English*. To utter the English sentence "I am doing justice to the concept of justice in Confucian ethics," according to this general view of language, would be a performative contradiction. I have argued elsewhere that this general view of language is problematic, so I will not address the issue here.³⁹ In fact, I do not even need to determine whether this general view is correct. Whether it is correct is irrelevant here. The point is not about the general view itself, but rather, about the approach of solving our problem by regarding it as a particular case of a general view.

Another seductive approach is similar in this regard; the difference

is just that the first step is to decide whether cultural relativism, another general theory, is correct. If it is correct, by application, we automatically know the answer is “no” to our particular question “Can we talk about the concept of justice in Confucian ethics in Western-influenced language? ”

In the 1970s and 80s, there had been a debate about relativism in the English-speaking world.⁴⁰ It is a vice of the debate that it often remained at the abstract level. People argued whether relativism in general is true or false by appealing to some more general theory of language or theory of understanding (or theory of practice). One can often find discussions conducted in the following abstract way: one assumes two cultures or languages, A and B, and then, based on some general theory of culture or language, one proceeds to draw the conclusion that A and B are radically different (or similar). Confucius and Mencius, had they known this, would wonder how one can ever know, in such a general way, whether two such abstract things are alike or radically different. In this kind of discussion, a possibility, which particularists are very sensitive to but strict universalists are not even aware of, was ruled out *a priori*. The possibility is the following: perhaps two concrete cultures, say, ancient Chinese and ancient Greek are very much alike, whereas ancient Chinese and modern Western cultures are radically different. And, these have to be determined by detailed studies of the two cultures involved. No one in the debate addressed the question at a concrete level, or dealt with any particular cultures or particular concepts in particular cultures. It is their belief that after they get the answer at the general level by philosophical speculation, they can just apply it to the particular cases.

However, it should be the other way around. We should not start with the general questions, but rather, with the particular cultures and particular concepts.⁴¹ We must try to do justice to the particular and treat different cases differently. Whenever someone talks about cultural relativism, ask him/her “With respect to which particular cultures? ” “With respect to which particular concept? ” What follows then should be detailed analysis and comparison of the particular concepts of these

two concrete cultures. This step is unavoidable. Justice requires it.⁴²

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NOTES

1. This is a much revised version of a paper presented at a panel, organized by International Society of Chinese Philosophy, on "Confucian Views of Justice" at the Eastern Division Meeting, American Philosophical Association (Atlanta, December 28, 1996). I am very grateful to my commentator Prof. Chung-ying Cheng for this very helpful comments, which called my attention to the diversity of uses of the term *yi*^a in Confucius and Mencius, which led me to revise the paper. I hope Prof. Cheng will agree for the better. I have also benefitted from comments by participants at the meeting thanks especially to Deborah Achtenberg, Xunwu Chen, Lik Kuen Tong. I am particularly grateful for Prof. Kwong-loi Shun for taking the time to read the early version presented at APA; his comments and critique have helped me to realize that the part on the relation between Confucian justice and self was not satisfactory. I do not include that part in this version of the paper. I am indebted to Prof. Richard Bernstein for teaching me the importance and, perhaps, more importantly, the elusiveness, of *phronesis* as sensibility to the particular, in a seminar on Gadamer's hermeneutics. I am also grateful to Ann Dobbs for a conversation with her on Pascal's view on the impossibility of justice, which inspired me to further revise the paper. Thanks, finally, to D.D Sun, without whose support, advice, and sense of justice I would not have finished this paper
2. The Chinese term *chün-tzu*^b has been translated as "the gentleman" "the virtuous man." These patriarchal terms are closer to the actual meaning. Grammatically speaking, the Chinese characters themselves do not have gender, but it is clear that by *chün-tzu*^b Confucius meant male officials and gentlemen. However, like Aristotle's views of justice, Confucian views of justice can still be useful today. Therefore, I also often try to include women

in my translations by using terms like “person”; it is not designed to cover up Confucians’ injustice to women. Deborah Achtenberg has convincingly argued that feminist ethics can find resources in Aristotle, who is, as she puts it, “a paradigmatically sexist thinker,” see her “Aristotelian resources for feminist thinking,” in *Feminism and Ancient Philosophy*, ed. Julie K. Ward (New York: Routledge, 1996) pp. 95-117. Similar arguments can be made with regard to Confucianism and feminist thinking. It is doing justice to Confucianism if we are sensitive to its potential uses and possible developments.

3. All quotations from the *Analects* are to book and passage numbers in *Lun-yü i-chu*^c, tr. *Yang Po-chün*^d (Beijing: *Chung-hua shu-chü*, 1980). For example, (7.3) means ‘Book 7 Passage 3.’ I have consulted English translations by D.C. Lau, James Legge and Arthur Waley. All quotations from the *Mencius* are to book and passage numbers (with book numbers 1A-7B substituted for number 1-14) in *Meng-tzu i-chu*^e, tr. *Yang Po-chün*^d (Beijing: *Chung-hua shu-chü*, 1984) For example, (2B: 3) means “Book 2 Passage 3.” I have consulted English translations by D.C. Lau, James Legge. Since the references from the *Analects* and the *Mencius* have different forms, the former having the form (7.3) the latter (2B:3), I will not indicate the *Analects* or the *Mencius* each time.
4. In this paper I shall only focus on the primary texts, the *Analects* and the *Mencius*.
5. We find “*cheng*^g” and “*yi*^a” in the *Analects* and the *Mencius*, but not “*cheng-yi*^f.” *Hsün Tzu*ⁱ is probably the first one who put the two characters together, for example, in chapter 13 “On the way of Ministers,” *Hsün Tzu*ⁱ says, “A tradition expresses my point: ‘One should follow the Way and not follow the lord.’ Thus, if ministers who are upright and just (*cheng-yi*^f) are given positions, then partiality will not characterize the court.” *Hsün-tzu*ⁱ (13/19-20). All references are to chapter and line number in the HY ed. I use John Knoblock’s three volume translation, *Xunzi: A Translation and Study of the Complete Works*, vol. II (Stanford: Stanford University Press, 1990), p. 200.
6. “The Idea of Social justice in Ancient China,” in *Social justice in the Ancient World*, ed. K.D. Irani and Morris Silver (Westport: Greenwood Press, 1995), p. 125.

7. "Confucian Justice: Achieving a Humane Society," *International Philosophical Quarterly*, Vol. XXX, No. 1, March 1990, p. 17.
8. "Confucian justice," p. 17. However, Heiner Roetz, a German sinologist, has translated *yi*^a consistently as justice, see Heiner Roetz, *Confucian Ethics of the Axial Age* (Albany: State University of New York Press, 1993). But the book was published after Peerenboom's 1990 paper from which this passage was cited. Nevertheless, in his excellent three volume translation of Xunzi (*Hsün Tzu*ⁱ), John Knoblock has consistently translated *yi*^a as justice or social justice. The first volume was published in 1988. see *Xunzi: A Translation and Study of the Complete Works*, vol. I (Stanford: Stanford University Press, 1988). Peerenboom notices that *yi*^a in *Hsün Tzu*ⁱ has been often translated as justice. But he insists that justice may very well be the most appropriate translation of *yi*^a for *Hsün Tzu*ⁱ, but not for Confucius. The question, as he says, then becomes what this tells us about the difference between the philosophy of *Hsün Tzu*ⁱ and that of Confucius (*ibid.*, p. 17). I shall deal with this question elsewhere. Here let me just say that we have to make the distinction between concept and conception, which I'll introduce soon, it may be a fact that *Hsün Tzu*ⁱ and Confucius have different *conceptions* of *yi*^a (the difference between their philosophies), but this fact should not be confused with a different claim that they do not even share the same *concept* of *yi*^a. As I said, I shall deal with the question about the difference between *Hsün Tzu*ⁱ's and Confucius's *conceptions* of justice elsewhere.
9. Both Lee and Peerenboom carefully avoid drawing such a conclusion. After the passages I cited above, they immediately add, respectively, "Practically all discussions that have bearing on the issue of justice or social justice are found in the Chinese articulations on a moral philosophy of political or social order" (Lee, p. 126), and, "This is not to say that Confucius was not concerned with issues which fall under the rubric of justice understood in a broad sense" (Peerenboom, p. 17)
10. As Amartya Sen puts it, "it is not even clear to me that Confucius is entirely more authoritarian than Plato or St. Augustine. It is true, of course, that many – though not all – of the exponents of justice or tolerance or freedom in Asian classical literature tended to restrict the domain of concern to some

people, excluding others, but that is also true of the ancient West. Aristotle's exclusion of women and slaves does not make his works on freedom and justice irrelevant to the present-day world. We have to see the origin and exposition of ideas in terms of their factored components.' ("Humanity and Citizenship" in *For Love of Country: Debating the Limits of Patriotism*, ed. Joshua Cohen (Boston: Beacon Press, 1996), p. 118).

11. The sentence "today's China can be called a Confucian country" is a controversial statement. I am not making *that* statement here; what I am making here is a different, conditional one: *Given* that today's China can be called a Confucian country.
12. Governmental spokesmen of several Asian countries such as China and Singapore – for example, in the Vienna conference of 1993, to dispute the relevance of human rights in Asia – often make such arguments based on the confusion.
13. This fact is often overlooked or underestimated by Westerners. Here I shall only mention two examples, one being extremely well-known and one being unknown (especially to outsiders). Let me start with the latter. Since 1988 there has been a "rights-based law movement" in mainland China. It started with a debate on "What is the basis of law: rights or duty?" at the First National Conference on Basic Legal Categories held in June 1988. Since then (and even after 1989), there have been many articles focusing on the issue published in magazines and newspapers. The movement criticizes China's "state-based" "duty-based" conception of law and its tendency to "one-sidedly emphasize duty." One of the major spokespersons of the movement says that "individual rights are the basis and goal of the existence of other rights" and that "only a government that takes citizens' rights seriously can have people's trust, respect, and obedience to the law. Only a rights-based theory of law can satisfy this need." This movement is not just an intellectual movement. It is a reflection of the change of contemporary political-legal culture and popular culture in today's China. It also prepared the atmosphere for the 1989 Pro-democratic movement, which is, of course, a much well-known example.
14. I have given an argument for this claim in a paper in Chinese: "Rawls's Theory of Civil Disobedience and its Chinese version," *Zhe-xue ping-lun*^k

- (China Philosophical Review), vol. 1, no. 1, (Beijing: Zhong-guo-she-hui-ke-xue Publish House, 1993). (This journal is the first independent philosophy journal in China since 1949.) Also see He Huaihong's "On the translation of 'civil disobedience': a reply to Xiao Yang's critique," *Zhong-guo-shu-ping*¹ (China Book Review), No. 2, 1994. This journal is published in Hong Kong but is also distributed in mainland China.
15. I have given a more detailed argument for this claim in "Hegel's theory of the state and civil disobedience," a paper presented in Prof. Agnes Heller's seminar on Hegel's *Philosophy of Right* at the New School for Social Research in 1994. The basic idea is that, since the modern liberal conception of justice, and that of citizenship, have become historically possible, and even actual in Hegel's sense, in today's China, civil disobedience can thus be justified.
 16. See his *Shame and Necessity*, (Berkeley: University of California Press, 1993); see, for example, p. 166.
 17. *Ethics and the Limits of Philosophy*, (Cambridge: Harvard University Press, 1985), p. 165. Also see his essay "The Truth in relativism" in *Moral Luck*, (Cambridge: Cambridge University Press, 1981), pp. 132-143.
 18. These words are Ronald Dworkin's, *Law's Empire*, (Cambridge: Harvard University Press, 1986), p. 70. He also gives a more articulated account of the distinction, see especially pp. 46-53, 70-76.
 19. *A Theory of Justice*, (Cambridge: Harvard University Press, 1971), p. 5.
 20. *Ethics and the Limits of Philosophy*, p. 165.
 21. *Ethics and the Limits of Philosophy*, pp. 165-6.
 22. Gregory Vlastos, "Justice and Happiness in the *Republic*"; *Plato: A Collection of Critical Essays*, vol. II, ed. Gregory Vlastos (Notre Dame: University of Notre Dame Press, 1978), p. 66.
 23. *A Theory of Justice*, pp. 10-11.
 24. *Political Liberalism*, paperback, (New York: Columbia University Press, 1996). p. 14, n. 15.
 25. I intentionally include "a wife," so this formulation of the concept of justice will be broad enough to be also shared by a sexist conception of justice; see (6B:1) in the *Mencius*.
 26. Nevertheless, it seems that Rawls would agree that a concept of justice need

not have these features. At one point, he says that Aristotle's definition of justice is framed to apply to actions and persons, whereas the definition of justice he adopts "is designed to apply directly to the most important case, the justice of the basic structure." But, right after this, he says, "There is no conflict with the traditional notion." The term "notion" here obviously means "concept." To put it in other words, Rawls and Aristotle share the same concept or notion of justice; see *A Theory of Justice*, p. 11. I shall not use the modified formulation of Rawls in this paper. However, it will be a very useful one when we want to know what Aristotle or Confucius would say about the basic structure of a society and whether their views of justice are comparable with liberalism.

27. Rawls acknowledges this, see *A Theory of Justice*, p. 5.
28. "Cases" do not have to be limited to "human beings", so I add "situations" to make the concept a really broad one.
29. *The Concept of Law*, (Oxford: Oxford University Press, 1961), p. 155.
30. *Meng-tzu tai-chieh-lu*^o (Taipei: T'ai-wan shang-wu yin-shu-kuan, 1980), pp. 47-68.
31. For those who believe in the last option, this classification very likely would remind them of a passage in Jorge Luis Borges, which later has become well-known since Michel Foucault started his book *The Order of Things* with this passage and claimed that his book first arose out of it. This passage quotes a certain Chinese encyclopedia in which it is written that animals are classified into: a) belonging to the Emperor, b) embalmed, c) tame, d) sucking pigs, e) sirens, f) fabulous, g) stray dogs, h) included in the present classification, i) frenzied, j) innumerable, k) drawn with a very fine camelhair brush, l) *et cetera*, m) having just broken the water pitcher, n) that from a long way off look like flies. Like other things about China Borges "describes" in his short stories, this one is also his invention. Foucault wants to use this exotic invention of classic China for purposes that have to do with challenging Western classifications. This raises complicated issues, such as, whether it is doing justice to classic China when the invention in its name is being used as means for ends other than furthering better and more balanced understandings of classic China. But I can't go into these issues here.

32. For a detailed analysis of the other uses of yi^a , such as those that have to do with the sense of honor and shame, and that have to do with yi^a as being internal, see Kwong-loi Shun, *Mencius and Early Chinese Thought* (Stanford: Stanford University Press, 1997). There is a tension between yi^a as being internal and yi^a as being just to the particular. It is almost impossible to hold these two uses together. I shall try to show how Mencius does it elsewhere.
33. Except in 3B:4 and 4.5, where Mencius and Confucius do not use yi^a but tao^P instead. What they ask is: "Is it in accordance with tao^P (the way or principle) to take g ?" However, tao^P and yi^a are tightly related and probably refer to the same thing. In 7.16 and 4.5, Confucius uses yi^a and tao^P in a similar way: each (yi^a in 7.16 and tao^P in 4.5) is said to be a principle according to which one determines whether one should take or gain wealth and rank. More importantly, for Mencius and Confucius, the metaphor for yi^a is always tao^P ("the way" or "path") see 5A:7, 4A:10, 6A:11, 7A:33, 4B:2. In fact, with regard to Mencius's saying in 4B:2, "[The great man] walks in the great tao^P of the world," Chu Hsi^q makes the following comment: "The great tao^P is yi^a ."
34. Here I follow Chung-ying Cheng ("On yi^a as a universal principle of specific application in Confucian morality," in his *New Dimensions of Confucianism and Neo-Confucian Philosophy*, Albany: State University of New York Press, 1991, pp. 233-45), and David L. Hall and Roger T. Ames (*Thinking Through Confucius*, Albany: State University of New York Press, 1987, pp. 101-2). However, I think that Hall and Ames have gone too far in saying that we should not use the term "*principle of yi^a* " at all; their reason is the following: "More often than not, this entails the assumption, tacit or explicit, that such principles are transcendently grounded" (p. 101). But, as the phrase "more often than not" also indicates, to use the term "principle" does not necessarily entail the assumption, just like the term "justice" does not necessarily entail the conception of equal rights.
35. From the nature of confrontation between him and Mencius in other passages (7B:23 we may also include 2B:10 and 5B:14, if we agree with Chao Ch'i^s that Ch'en Tzu^t in these two passages is Ch'en Chen^r), I suspect that he is probably not Mencius's disciple. Especially, judged from his position, very

- likely he is a Mohist. Or, if he is a disciple, he is, at least, influenced by Mohism's universalism regarding the principle of *yi*^a; also see my next note.
36. Here I do not have space to show that it also satisfies another version of (Y), i.e., (Y) which is formulated in terms of *lei*^m (see my section III above). In fact, it is not difficult to show that this is the case. In 3B:10 and 5B 4, Mencius himself speaks of *yi*^a in terms of *lei*^m. The way to understand these passages is that we must take seriously the fact that the debate recorded in these passages is a debate between Mencius and Mohists and that they use the logical term *lei*^m in the way it is used in Mohist logical texts, which is available to us. This is crucial, because Mencius does not leave us any logical text, although he appears to be very good at it. It seems that *lei*^m is a logical term commonly used by Mohists, Mencius and other earlier thinkers (e.g., *Hsün Tzu*¹). This paper is part of a larger project which will show that the *Mencius* as a whole can be better understood within the framework sketched in this paper. Some very difficult passages, such as 3B:10, 5B:4, 2B:8, 7B:2, 1B:8, 3B:5, etc. in the *Mencius* can be better interpreted. The project also shows that *yi*^a is used in the way sketched here in other early Chinese texts.
 37. *New Dimensions of Confucian and Neo-Confucian Philosophy* (Albany: State University of New York Press, 1991), p. 236.
 38. *New Dimensions of Confucian and Neo-Confucian Philosophy*, pp. 236-7.
 39. Derrida seems to be endorsing such a general view, for a critique of it, see my paper "Justice and Interpretation: A Wittgensteinian critique of Derrida's Force of Law", which was presented in Prof. Albrecht Wellmer and Prof. Ruth Sonderegger's seminar "Toward a critique of Hermeneutic reason" at the New School for Social Research in 1995. Derrida's essay was first published in *Cardozo Law Review*, vol. 11, 1990. It was reprinted in *Deconstruction and the Possibility of Justice*, ed. Drucilla Cornell, Michel Rosenfeld and David Gray Carlson (New York: Routledge, 1992).
 40. Some of the important papers on the issue can be found in *Rationality and Relativism*, ed. Martin Hollis and Steven Lukes (Oxford: Blackwell, 1982). There are also quite a few books on the issue the literature is massive.
 41. I owe this point to Prof. Richard Bernstein. I am also grateful to him for encouraging me to explore the issue in Confucian ethics. As he pointed out

to me in an unforgettable conversation, the debate about relativism has to move to the particular level; and, furthermore, every move is predictable or has already been made at the abstract level.

42. However, I am also aware that these claims are still abstract. The slogan "Do justice to the particular," like all the other slogans such as "Putting immediately into practice what one has learned," is just another general, abstract and empty rule. The slogan can push people to the opposite of what it says. It can negate itself and be carried to extreme – that is, an abstract relativism, which, for example, may claim that Chinese culture, as a particular, is totally different from Western culture and cannot be characterized by any Western categories. What David Nivison says about the virtue of "moderation" or the "mean" also applies to the virtue of "justice" or "sensitivity to the particular". 'It would seem that if we give the notion of the mean any positive content, we can imagine a situation in which it negates itself, at a higher (or lower) level: even moderation can be carried to extremes.' ("Replies and Comments," in *Chinese Language, Thought, and Culture: Nivison and his Critics*, ed. Philip J. Ivanhoe, Chicago: Open Court, 1996, p. 291).

CHINESE GLOSSARY

| | | | |
|---|------|---|-------|
| a | 義 | m | 類 |
| b | 君子 | n | 陳大齊 |
| c | 論語譯註 | o | 孟子待解錄 |
| d | 楊伯峻 | p | 道 |
| e | 孟子譯註 | q | 朱熹 |
| f | 正義 | r | 陳臻 |
| g | 焦循 | s | 趙岐 |
| h | 孟子正義 | t | 陳子 |
| i | 荀子 | u | 無可無不可 |
| j | 正 | v | 充虞 |
| k | 哲學評論 | w | 時 |
| l | 中國書評 | | |