Countering the present trend in the discourse on justice wherein human reason is perceived and marginalized as an embarrassment to justice and the trend to reject the concept of formal justice, this paper argues that there is formal justice and the essence of justice is setting things right and setting righteousness to stand straight. By this token, justice means the rule of reason, not the rule of power and desire, and the ethics of justice differs fundamentally from the ethics of care/benevolence. The popular assumption that justice as the rule of reason is incompatible with the idea of justice as accommodating diversity is unjustified. The paper joins the present discourse on justice from a historical perspective. It examines the historical Confucian and neo-Confucian concept of justice in a way of its dialogues with other Western concepts of justice such as Plato’s concept of justice.

A PHILOSOPHICAL embarrassment exists surprisingly in the discourse on justice in the West today. As Richard Bernstein observes: traditionally, "The call to 'Reason' elicited association with autonomy, freedom, justice, equality, happiness and peace"; however, presently, the concept of reason, "often evokes the images of domination, oppression, patriarchy, sterility, violence, totality and totalitarianism and even error." (Bernstein, 1992, 32). The cause for the embarrassment is complex. It involves the fear for totalitarianism, the resistance to the claim of the absolute, the awareness of cultural diversity and the concern about the possibility of any unified reason. Recently, as the rising of care ethics indicates, there is an anxiety of the alleged heartlessness of justice in terms of reason (Engster, 2007). We would not have much itch to scratch if the matter here were merely that we should see that principles of substantive justice are reasonable. However, at stake whether we can talk meaningfully about formal justice, or whether we should follow Frank Lovett’s advice to retreat to ‘developing substantive accounts of justice’ only (Lovett, 2004, 79). This brings about three questions: (1) Has justice its own formal essence and substance?; (2) Is the rule of reason part of the essence and substance of formal justice?; (3) If justice implies the rule of reason, does the rule of reason allow diversity and difference? I will use the handle of the history of the idea of justice in Confucian and neo-Confucian philosophies to pick up the questions here.

For example, John Rawls defines justice as fairness. Fairness can be considered to be a kind of formal essence of justice. The concept of formal essence is intended to indicate here that what we look for here is not merely a kind of operational rules of justice, or substantive claims of justice by civic laws.
1. The Essence of Justice

There is a familiar Western story of justice: the aspiration for justice is the aspiration to set things right. The root of the Greek word "dikaiosyne" (justice) is "dike", which means rightness, lawfulness and good. Plato’s concept of justice reflects this Grecian root. In The Republic, Plato brilliantly associated the idea of justice as setting things right with the concepts of rationalization and the rule of reason. In his view, justice is the rational order, which when it is embodied in a normal society prescribes that in a society, each social class does its part and not interfere in the business of other classes: the guardian class rules, the auxiliary class assists and the mass works. In other words, according to Plato, justice is a rational order in which a social class exists and functions rationally as it ought to be and cooperates with others; it is a rational order in which the rational and wisdom rules while desires and forces are ruled.

There is a similar story of justice in traditional Chinese philosophy too: the aspiration for justice is the aspiration to set things right. Traditional Chinese philosophers, especially Confucian and neo-Confucian philosophers, share the core insight of Plato’s concept of justice. The Chinese counterpart of the English word "justice" is "zhengyi". One meaning of "zheng" is setting things right and rectifying things. "Yi" means righteousness, truth, fitness, or the right principle. Thus, the term "zhengyi" connotes setting things right and setting righteousness to stand straight. The Confucian philosopher Dong Zhongshu (BC 179–104) said: "zheng qi yi, bu mou qi li" (setting righteousness straight, instead of advancing selfish interests) (Tang & Zhang, 1999, 118). Though the word "zhengyi" was first used by Xunzi (BC 313–238), the Chinese story of justice as setting things right can be traced back to Confucius (BC 551–479) who first spoke of political justice as setting things right in a period of time of radical social changes and chaos. Confucius said, "To govern is to zheng (to rectify or set things right)." (Confucius, 1996, 12.17). That is, the duty of government consists of setting things right. Especially, for Confucius, zheng (setting things right) involves two tasks: (1) making each social institution, social relationship and practice to be what it ought to be—that is, its substance and value redeem its name; Confucius dubbed this as zhengming (rectifying the name); The Analects

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2 Noteworthy here, in various Chinese classical texts, the phrase "zheng yi" also connotes the correct meaning, the essential meaning, or the deepest truth.

3 Here, to "zheng" something is not the same as to ritualize something, even though to ritualize something can be a vehicle or instrument to "zheng" something.
reads: "Duke Chi Jin asked (Confucius) about government. Confucius answered, 'a ruler redeems the name of the ruler; a minister, the name of a minister; a father, the name of father; and a son, the name of son'." (Confucius, 1996, 12.11); (2) it is to make righteousness to stand straight; thus, for Confucius, practicing justice (righteousness) would "amplify the dao" in a normal society (Confucius, 1996, 16.11). Zhengming sets things right in a twofold sense: (a) it brings truth and reality to symbol and name and (b) it brings a rational order to society.

Living at the dawn of China’s unification as a nation from warring states, Xunzi loyally developed Confucius’s view and explicitly put forth the concept "zhengyi (justice)" for the first time in Chinese philosophy, asserting "zhengyi wei zhi xing (setting righteousness to stand straight is what morality is about)." (Xunzi, 1998, 403). In this statement, Xunzi also made "zhengyi (justice)" not only as political concept, but also a moral concept. Meanwhile, Xunzi echoed Confucius’s view that setting things right in a normal society presupposed zhengming (rectifying names). He said: "When names are rectified, we can make clear distinctions among things. When we can make clear distinctions among things, fundamental principles are set straight." (Xunzi, 1998, 403). The "fundamental principles" of names refer to those that define righteousness and fitness of things.

Asserting that zhengming meant rectifying the principle or the truth of thing, Xunzi associated justice with truth. He is the first Chinese philosopher to do so and to advance the view that justice is grounded in objective truth and principle. Thus, in Xunzi, while justice meant setting things right and setting righteousness to stand straight, zhengming established standards of right and wrong, of truth and falsity, and of good and evil.

Neo-Confucians including the Cheng brothers (1032–1085, 1033–1107), Zhang Zai (1020–1077), Zhu Xi (1130–1200) and Wang Yangming (1472–1528) continued the concept that justice means setting things right and setting righteousness to stand straight. They also developed the idea that the principle of righteousness is one of the five standing principles of the universal reason, or "Tianli (the reason of the heaven)." As Zhu Xi said, "Righteousness means the propriety of things"; and "righteousness means propriety in terms of the universal reason, tian li." (Tang & Zhang, 1999, 176). Tianli (the reason of the universe) is the natural law. To say justice is a precept of tianli is to say that justice is a precept of the natural law. By this token, the neo-Confucian concept of justice is essentially a concept of justice in terms of natural law. That is, justice as setting things right means justice as setting things right in accordance with the natural law; justice as setting righteousness straight
as justice as setting natural law as the standard and norm of human conducts and basic social institutions.

In short, from the idea of zheng (rectifying), through the metaphor of zhengming (rectifying names), to the concept of zhengyi (justice) and, finally, the association of zhengyi (justice) and tianli (the reason of the universe), the story of the traditional Confucian and neo-Confucian views on justice is an enduring story of the evolution of the concept of justice as setting things right and setting righteousness to stand straight. Admittedly, this concept may suffer some vagueness and broadness and in different contexts, righteousness may mean different things. However, what we need to define here is formal justice, not substantive justice. In addition, the price that the Confucian and neo-Confucian concept of justice pays for its vagueness and broadness brings two immediate dividends.

First, it accounts for the Latin word ‘justice’ as lawfulness, the French word “justice” as respect for human rights and dignity, the English word ‘justice’ as reward and punishment as deserved, and the Arabic word ‘justice’ as harmony, and so on. These words all connote justice as setting things right. It brings what are common between the Confucian view on one side and the views of Plato and Aristotle on the other side. It further explains Rawls’s concept of justice as fairness without making his mistake. Indeed, it can explain most of the mainstream concepts of justice in Western philosophy.

Second, the concept of justice as setting things right brings home that the essence of justice is righteousness in terms of reason. We treasure many values today, e.g. justice, benevolence, liberty, equality, and happiness, to list only a few. Each value has its essence. Thus, for example, the essence of benevolence is care for human suffering and burden. The essence of liberty is sovereignty and autonomy. The essence of justice is setting things right. Thus, in Confucianism and neo-Confucianism, righteousness differs from humanity, propriety and wisdom, though importantly connected with the latter three.

2. Justice, Power and Desire

To talk about setting things right and setting righteousness to stand straight is to talk about the rule of reason. Justice as setting things right and setting righteousness to stand straight implies repelling the sabotage of power, force and desires. The word “sabotage” is deliberately used here to indicate that powers, forces and desires are blind and, in themselves, they do not, and cannot, set things right and set righteousness straight.
In *The Republic*, Socrates rejected Thrasyboxas’ concept that justice is the rule of power or justice means obedience to the will of the stronger. Socrates argued that the will and the rule of the stronger could be wrong and it was not even the stronger or ruler’s interests to obey his rule when he was wrong. This amounts to saying that force or power itself is blind and cannot see what is right and what is good; accordingly, forces and desires cannot be the guiding force for us to set things right and what forces and desires will cannot be the ‘righteousness’ that we should set straight in human affairs.

Confucius rejected what Socrates rejected too. *The Analects* tells us: "Duke Ji Kangzi consulted Confucius about government and asked, 'How about I kill all those who violate the Dao and promote those who follow the Dao?' Confucius answered: 'You do not need to kill people in administrating the affairs of the state. If you do the good, then ordinary people will follow the example to do the good’" (Confucius, 1996, 12.19). In the dialogue, Confucius not only rejected the idea that justice was a principle of force, but also spoke of justice as a principle of righteousness opposed to the maxims of interests and desires. Elsewhere, he said: "When one is in a situation to advance personal interests, one should think of righteousness." (Confucius, 1996, 14.12; 4.16). In Confucius’ view, desires and interests were irrational and blind and, therefore, they should be guided, instead of guiding. Admittedly, Confucius never evoked the concept of reason or something equivalent to Plato’s "the rational". However, the righteousness and interest/desire dichotomy that he developed indicated clearly that he implicitly defined justice as the rule of reason.

Mencius (BC372–BC289) is the first Chinese philosopher to employ explicitly the term "reason" together with righteousness. He said: "What is common of all human minds? It is reason. It is justice . . . . Reason and righteousness please my mind as meats please my palate." (Mencius, 1996, 6A7). He evoked the idea of justice to reject the rules of force, passion, selfish interests, or personal will. In 1A1–4 of Mencius, when King Liang Hui asked Mencius for advice about how to advance personal interests, Mencius answered: the principles of government were humanity and righteousness, not interests and desires. The king then claimed that he could not be a good ruler because he had too many personal desires (e.g. sexual desires). Mencius responded: one could still be a good, just king if one governed by reason while having desires. In other words, for Mencius, having desires is not the problem. Being ruled by desires is the problem.

Mencius’ rejection of the rules of force and desire was captured in his daring claim, "In *The Spring and Autumn Annals*, there was no just war."
(Mencius, 1996, 7B3). For him, all wars in the period of The Spring and Autumn Annals in ancient China were unjust because they were manifestations of the sabotage of blind forces, desires and interests. Furthermore, Mencius’ following example also expresses his view that justice implies a rejection of the sabotage of force and interest:

Suppose you would manage to get something to eat if you took the food from your elder brother by twisting his arm, but would not get it if you did not. Would you twist his arm? Again, suppose you will get a wife if you climbed over the wall of your neighbor on the east side and dragged away the daughter of the house by force, but would not if you did not. Would you drag her away by force? (Mencius, 1996, 6B1)

It is one’s interest to get the food by force or get a bride by force, but it is of great injustice to do so. Forces and desires lead us to become crooked.

Xunzi associated the origin of justice to ancient sage-kings’ motivation to constrain human desires and wills with norms and standards of propriety and acceptability. In his view, justice is a product of the sage-kings’ aspiration to bring normativity to a society, rejecting the rule of desire and force. Xunzi said: "We all are born with desires. To satisfy our desires, we pursue things. When we pursue things without constraint and measurements, conflicts exist. Conflicts cause chaos. The sage-kings disliked chaos (caused by our pursuit of our desires). They therefore establish norms of propriety and righteousness constrain (us)’ (Xunzi, 1998, 339). He thus claimed, "Justice is reason."(Xunzi, 1998, 444).

Correspondingly, with regard to government, Xunzi advocated explicitly persuasion, the rule of law and guidance of reason over force, power, oppression and domination. He argued: "One becomes a true ruler by practicing righteousness and a leader by being trustworthy. Conversely, one cannot remain as a ruler if he is a manipulator who relies on power (and force)." (Xunzi, 1998, 181). Xunzi thus drew a distinction between a good ruler and a bad one: a good ruler was a gong zheng (fair, impartial) ruler; a bad one ruled with desires, passions, self-will and force.

Xunzi claimed that in a normal society, "gong yi sheng si yu (public justice triumphs over personal desires and lusts)." (Xunzi, 1998, 313). Unlike Mencius’, Xunzi’s view on desire is ambivalent. On the one hand, he said, "people’s having or having no (personal) desires . . . is not the cause of stability or chaos of a nation."(Xunzi, 1998, 407). On the other hand, he claimed that original human nature was bad (evil) because it consisted of desires. Mencius and Xunzi shared one common point: justice meant regulation of desires by the rule of reason.
Their view set eventually the stage for the radical rejection of human desires by Neo-Confucian philosophers such as the Cheng brothers, Zhangzhai, Zhuxi and Wang Yangming. For neo-Confucian philosophers, justice means the rule of the universal reason, which implies a total rejection of desires (yu), in the words of the Cheng brothers, setting things right involves preserving the universal reason or tianli and eliminating human desires (ren yu) ("chun tianli, qi ren yu").

Indeed, from [the book] Mencius and [the book] Xunzi, through the Confucian classic The Great Learning, the works of neo-Confucian masters Zhou Dunyi, Zhang Zai and the Cheng brothers, to the works of Zhu Xi and Wang Yangming, one conspicuous feature of the development of the Confucian concept of justice (righteousness) is that the evolution of the concept of justice is a consistent story of defining justice as the rule of an objective, impartial and moral reason (cf. Feng, 1997, 234). The story is driven by two Confucian questions. First, will a normal society be better off or worse off by operating with a set of common norms and standards of right and wrong, fair and unfair, and good and evil so far as achieving justice is concerned? Second, are the standards of reason not better candidates for those common norms and standards of right and wrong, fair and unfair, and good and evil?

Mencius said, "Even if you have the keen eyes of Li Lou and the skill of Kung-shun Tzu, you cannot draw squares or circles without a carpenter’s square or a pair of compasses. Even if you have the acute ears of Shi Kuang, you cannot adjust the pitch of the five musical notes correctly without the six pipes." (Mencius, 1996, 4A1). In other words, we cannot set things right without applying standards, but we cannot just apply any standards at will if our purpose is to set things right. Instead, we ought to apply only standards that bring intelligibility, integrity and acceptability.

By this token, common norms and standards of right and wrong, fair and unfair, and good and evil are indispensable to a normal society because they will bring to a normal society: (1) intelligibility, (2) integrity and (3) acceptability of justice. Naturally, justice must have intelligibility, integrity and, therefore, communal acceptability. Without intelligibility, justice cannot be a value or norm for our social practice. Without integrity, there can be no true justice, for there can be no unified justice. Without acceptability, people will not accept what is counted as justice voluntarily. People will accept such unacceptable ‘justice’ either because they are forced to do so or misled to do so. Thus Mencius’ argument accords marvelously well with Jürgen Habermas’ demand for acceptability, not merely acceptance of a reasonable political concept of
justice in his celebrated debate with John Rawls on justice (see Habermas, 1995, 1998).

Now we arrive at the answer to the Confucian question of whether the standards of reason are better candidates for common standards of right and wrong, fair and unfair, and good and evil. Self-evidently, the question of which candidate is better is the question of which candidate can provide better intelligibility, integrity and acceptability or which candidate is stronger in these three counts. The standards of reason provide better intelligibility, integrity and communal acceptability. By contrast, ‘standards’ established by forces or desires provide poor intelligibility, integrity and acceptability, if they can provide any of such at all. This is why, when we appeal to forces or desires, we adjudicate conflicts in any other manner than oppression and repression. It is noteworthy that totalitarianism and oppression do not consist in our rejection of the wrong as wrong, unfair as unfair, and evil as evil; instead, they exist when, with assistance of forces, we reject as wrong what we cannot reasonably reject.

3. Benevolence, Feeling and Justice

Justice as the rule of reason can be seen further in its distinction from benevolence. In Confucian and neo-Confucian ethics, the five standing principles—humanity, righteousness, propriety, wisdom and trust—are importantly connected, but not identical with one another. In Confucianism and neo-Confucianism, the ethics of care and the ethics of justice differ fundamentally. On this point, Chenyang Li’s identification of Confucian ethics as care ethics, not ethics of righteousness, is suggestive but also significantly flawed (Li, 2002). Confucians and neo-Confucians emphasize both righteousness and care, distinguishing them clearly.

First, justice or righteousness is, and must be, essentially proportional. It is to give what is due. Thus, justice is featured by gong (fairness) and zhong zheng (centrality and being straight). Care disregards proportionality. Thus, for example, benevolence can be legitimately excessive or insufficient. So is piety. So is love (cf. Livant, 2003). Second, the obligation of righteousness is unconditional and the normative force of the duty of justice is compulsory. Thus, it is said, "yi wu fan gu (the duty of righteousness does not allow one to look around [before one carries it out])". In comparison, the requirement of care is conditional and the normative force of care is attractive. The duty of righteousness is rooted in our sensitivity of normativity. It is associated with our feeling of xiu wu (shame and dislike) (Mencius, 1996, 2A6,
The requirement of care is rooted in sentiment of commiseration—
in Mencius’ terminology, "bu ren zhi xin (the heart of inability to bear [seeing others suffering])". Third, the focus of justice is to set things right. The focus of care or benevolence is to release human suffering and burden.

Because of the above, in Confucianism, an unjust government is not necessarily that which imposes burden on people and thus brings about suffering to people, but that which imposes undue burden and thus brings about undue suffering. An unjust government is not that which cannot release the suffering of people, but that which creates undue suffering of people. Thus, for example, Confucius and Mencius explicitly rejected government of bao (excessively exploitative and oppressive) as unjust. Kongzi Jia Yu (Confucius’ Family Teaching) reads:

> When executive orders are not given on time and governmental rules are vague, this is called "zei" (wickedness). Taxing people excessively is called "bao" (oppression and repression). Not criticizing first and allowing people to have a chance to make correction before punishing them is called "nüde" (abusing). Unless these three evils are eliminated from governmental measures, these measures should not be allowed. (Wang, 1998, p. 2)

In the above, Confucius listed three kinds of injustice of governments: 
zei (wickedness), bao (excessive violence, oppression and exploitation), and nüde (abusing). Zei, bao, and nüde were unjust because they impose undue suffering and burden on people.

By the same token, for classical Confucian philosophers including Confucius and Mencius, an unjust person is not he who brings suffering or burden to others. Instead, it is he who brings undue burden and suffering to others. It is a person of huang (wasting), yin (excessiveness) and luan (disorder) who thus brings undue suffering and burden not only to himself or herself, but to those who are related to him and her and the community in which he or she lives.

Furthermore, an unjust government is not necessarily that which brings suffering and burden on people, but that which is unfair and partial in distribution of suffering and burden and in its care. An unjust government is one that is bu gong (unfairness and partiality). Thus, Mencius would advise King Liang Hui to care and tax his people fairly (Mencius, 1996, 1A1–4). The same is true of a person. An unjust person is a person of bu gong. In the end, we should avoid two extremes here: one extreme is to entertain the concept of some heartless justice. No true human justice is heartless and cruel. Another extreme is to identify
justice with benevolence, morality of justice with humanitarian morality and, importantly, care ethics.

4. Justice as Reason’s Answer to the Challenge of Context and Diversity

It is time for us now to address the allegation about totalitarianism, oppression and repression by justice as the rule of reason. This allegation has no truth so far as the Chinese story of justice is concerned. On the contrary, justice as the rule of reason emphasizes doing justice to contexts and diversity. As Chung-Ying Cheng observes: "[In Confucianism and neo-Confucian-ism] Yi can be understood as that which fits a situation and thus characterizes the situation. To act correctly and justly in a situation is, first of all, to realize the yi as the meaning of the situation, and then to see the relevant values and “oughtness” and thus the yi as righteousness with respect to the situation, and finally, to act appropriately in the situation’ (Cheng, 1997, 186–187).

In Confucianism and neo-Confucianism, the concept of the rule of reason implies the concept of doing justice to diversity and contexts because "li i fen chu", the principle is one, and its embodiments are diverse. Zhu Xi used the metaphor of moon to illustrate the idea of li i fen shu: there was only one moon (the moon) in the sky, but its lights are millions. This implies that the concept of justice as the rule of reason indicates that formal justice is embodied in different substantive justices in different contexts; or in the neo-Confucian idiom, the principle of formal justice is one, but concrete embodiments of formal justice are many or diverse.

The Chinese classic Guanzi reads: "One should not try to make a road of a thousand miles be exactly the same all the way as the same rope. One should not try to model ten thousand houses to be exactly the same. A great person focuses on righteousness in contexts, not on invariance of the precedence. Thus, only the wise can establish righteousness.” (Guanzi, 1996, 515). Justice as righteousness fits a situation and properly characterizes a situation. By the same token, different paradigms of justice in different cultural contexts exist and can be reasonably justified.

Indeed, true standards of justice as the rule of reason are responsive to and respecting fully contexts in which issues of justice arise and can be justified before critical examination and evaluation. Thus, they can bring us to truths in contexts. On the contrary, forces and desires are self-willed and blind. They cannot bring us closer to truths in contexts.

5. Conclusion
In conclusion, ours is a different age than that of ancient thinkers such as Confucius, Plato, Mencius, Xunxi, Aristotle and others. However, the human problems pertaining to justice that we face today call for essentially the same justice that those human problems of centuries and centuries of human history have been calling: justice as the rule of human reason. Once we take as the starting point the idea that the essence of justice is setting things right and setting righteousness to stand straight in human affairs, we recognize that only the rule of reason can bring about true justice to us and to the world. Once we understand the nature of the rule of reason, we see that the rule of reason not only allows diversity, but actually emphasizes flexibility and creativity in interpreting and applying the principles of justice in diverse contexts.

References


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