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Confucianism and Democracy: Four Models of Compatibility

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Abstract

In recent years, Philosophy Departments at universities in China and worldwide have experienced a renaissance in discussion on Confucian thought. As the country draws from indigenous traditions, rather than leaning completely on the importation of Western liberalism and Marxism, Confucianism has critical implications for politics, ethics, and law in modern China. At the same time, democracy never left the conversation. Democratic concepts cannot be ignored and must be disposed of, acknowledged, or incorporated. The relationship between Confucianism and democracy has been described by various authors as one of conflict, critique, compatibility, and hybridity. In this article, we examine a compatibility model, in which compatibility between Confucianism and democracy can be divided into four types: soft, hard, coexistence, and integration. We examine compatibility by examining “what is compatible” and “how compatibility can be achieved” so as to design speculative models for what a contemporary Confucian government would look like. Our focus is mainly political philosophy in order to explain the effect of cross-pollination of Confucian and democratic thought on political society.

Keywords

Confucianism – comparative philosophy – compatibility models – democracy – political

1 Introduction

A wide range of contemporary thinkers have sought an alternative approach to socialism and Western-style liberalism, drawing from China's indigenous resources to address current social, legal, political, and moral controversies. One attempt is the tradition dubbed the New Confucianism [*xin rujia* 新儒家], a label that includes philosophers such as Mou Zongsan 牟宗三 [1909-1995], Xu Fuguan 徐復觀 [1903-1982], and Tang Junyi 唐君毅 [1909-1978] and cannot be boiled down to any one set of philosophical precepts.¹ Many contemporary scholars in China and abroad have also re-examined Confucianism, ranging from the rather conventional thought of Xia Yong 夏勇, which can be described as Confucian-inflected liberalism, to the audacious thought of Jiang Qing 蔣慶, which seeks to reintroduce Confucian values at the foundation of Chinese society.²

Scholars such as Bai Tongdong 白彤東, Daniel Bell, He Baogang 何包鋼, Huang Yong 黃勇, Jiang Qing, and Xia Yong have proved to be influential in Philosophy Departments in China and worldwide.³ Nevertheless, the influence of Western concepts such as democracy and the rule of law cannot be ignored: once the bell is rung, it cannot be unringed. Thus, even the unconventional Jiang Qing imagines a Chinese legislature with three chambers, one elected by the people, one filled by the cultural elite, and one selected and consisting of Confucian scholars.⁴ For all its unconventionality, the model still reflects a tricameral legislature, each possessing the ability to present checks and balances over the other two. Western legal and political concepts cannot be ignored and must be disposed of, accommodated, or incorporated.

Confucianism has gained an influential following among contemporary Chinese philosophers, yet the democratic tradition remains an inextricable

1 John Makeham, ed., *New Confucianism: A Critical Examination* (New York: Palgrave, 2003), 1-2; Teemu Ruskola, *Legal Orientalism* (Cambridge: Harvard University Press, 2013), 227.

2 Ruskola, *Legal Orientalism*, 227.

3 Bai Tongdong, *Against Political Equality: The Confucian Case* (Princeton: Princeton University Press, 2020); Daniel Bell, *China Model: Political Meritocracy and the Limits of Liberal Democracy* (Princeton: Princeton University Press, 2015); He Baogang, "Four Models of the Relationship between Confucianism and Democracy," in *Contemporary Chinese Political Thought*, ed. Fred Dallmayr and Tingyang Zhao (Lexington: University Press of Kentucky, 2012); Huang Yong, *Contemporary Virtue Ethics: Contributions from Ancient Confucianism* (Shanghai: Oriental Publishing Center, 2019); Jiang Qing, *A Confucian Constitutional Order: How China's Ancient Past Can Shape Its Political Future*, ed. Daniel Bell and Fan Ruiping (Princeton: Princeton University Press, 2012); Xia Yong, *The Philosophy of Civil Rights in the Context of China* (Leiden: Martinus Nijhoff, 2011).

4 Jiang, *A Confucian Constitutional Order*.

part of the conversation. The emergent work on these two subjects has naturally led to an examination of their compatibility. He Baogang, for example, describes the relationship between Confucianism and democracy in terms of four models: the first in which they are in conflict, the second in which they are compatible, the third involving a hybrid, and the fourth critical.⁵ This essay is concerned with compatibility. However, the proposition that Confucianism and democracy are compatible is a broad claim, and the goal of this article is to clarify it.

Confucianism is inherently difficult to define. Confucius never wrote a systematic treatise, nor did he employ a systematic methodology or define the central concepts that he used.⁶ It is an expansive philosophy that covers a wide range of philosophical themes and has meant different things at different times over China's long history. For our purposes, we refer to political interpretations gleaned from pre-Qin [before 221 BCE] Confucianism, such as the *Analects* [*Lunyu* 論語], *Mencius* [*Mengzi* 孟子], and *Xunzi* 荀子. This definition is challenging as Confucius was primarily concerned with the morality of people in constructing a political system. Nevertheless, we create a working conception of political Confucianism designed to achieve the moral goals of Confucian philosophy.

We begin by identifying four models that describe the compatibility of Confucianism and democracy: soft compatibility, hard compatibility, compatibility based on coexistence, and compatibility based on integration. We then discuss the distinctions between these models by asking: "What is compatible?" and "How can compatibility be achieved?"

2 Four Models of Relationships between Confucianism and Democracy

In his article, "Four Models of the Relationship between Confucianism and Democracy," He Baogang describes the relationship between Confucianism and democracy in terms of four models: a model of conflict, a model of critique, a model of compatibility, and a hybrid model. The model of conflict addresses the problems between Confucianism and democracy, arguing that they have different origins: the first has agricultural origins whereas the second grew out of industrial society. This model is represented by Samuel Huntington

⁵ He, "Four Models."

⁶ Steven Greer and Tiong Piow Lim, "Confucianism: Natural Law Chinese Style?" *Ratio Juris* 11, no. 1 (1998): 80.

[1927-2008], who claimed that whereas democracy in a Confucian society is not necessarily impossible, Confucian democracy might be “a contradiction in terms.”⁷ The model of conflict usually favors democracy over Confucianism, placing heavy emphasis on the negative aspects of Confucianism in contradistinction to democracy. Similarly, the model of critique also finds democracy is inconsistent with Confucianism. Instead of judging Confucianism from a democratic perspective, this model emphasizes the difficulties in democratic societies and attempts to address them by appealing to classical Confucian tradition. These two models can be seen as having a presumption of incompatibility.

However, the model based on compatibility suggests that elements of Confucianism and democracy might be compatible, whereas the hybrid model holds that the elements from both traditions can be combined to create a hybrid political system.⁸ These two models can be seen as having a presumption of compatibility.

This article is primarily concerned with the compatibility model. To provide a deeper analysis of how Confucianism and democracy might be compatible, we design four models that describe the compatibility of Confucianism and democracy: soft compatibility, hard compatibility, compatibility based on coexistence, and compatibility based on integration. The first two models distinguish *what* is compatible between Confucianism and democracy and therefore are concerned with which elements, aspects, or institutions of the two traditions are compared. The second two models distinguish *how* Confucianism and democracy can be compatible and therefore are concerned with what a system of government that combines the elements and aspects of the two systems would look like and how these different elements could work together.

We look first at the *what* question to examine soft and hard compatibility and then the *how* question to examine compatibility based on coexistence and compatibility based on integration.

3 The *What* Question: What Is Compatible?

Whether two or more things are “compatible” assumes a comparison of them and whether they can coexist. But *what* are those “things”? What do we

7 Samuel P. Huntington, *The Third Wave: Democratization in the Late Twentieth Century* (Norman: University of Oklahoma Press, 1993), 310.

8 He, “Four Models.”

compare when we examine the compatibility of Confucianism and democracy? This is the *what* question.

We designed two models related to the what questions: soft and hard compatibility. Hard compatibility primarily examines institutions while soft compatibility compares the similarities in the abstract ideas between the two traditions.⁹ Further, since the formation of an institution is usually grounded in or embodies certain abstract ideas or values, the following discussion is primarily focused on soft compatibility.

As He expresses it, soft compatibility is like “color matching,” meaning that it compares elements on one side to counterparts on the other side.¹⁰ This section focus on two elements of democracy that are arguably found in Confucianism: the legitimacy of political power and political equality.

3.1 *The Legitimacy of Political Power*

Minben 民本 can be translated as “people are the foundation (or root) of the nation.” This classical Confucian concept is sometimes cited to show similarities between Confucianism and democracy.¹¹ A passage in the *Mencius*, for example, implies a similar idea: “The people are the most important element of the nation; the spirits of the land and grain are next; the sovereign is the lightest.”¹² This quotation shows that Mencius [372-289 BCE] considers people as having the highest importance in society while placing the ruler as having the lowest. Another passage seems to be even more relevant to the legitimacy of political power: “Heaven sees according as my people see; Heaven hears according as my people hear.”¹³ When discussing the conditions for the transfer of political power, Mencius suggests that new rulers ultimately need to be accepted by the people. As Xu Keqian 徐克謙 argues, these passages imply that the preference for people justifies the legitimacy of political power, and this is consistent with how democracy views the origins of political power.¹⁴

However, David Elstein challenges this by claiming that when this form of Confucian thought is described as “democratic,” it sets too low a bar to be

9 He, “Four Models,” 23. While he does not describe it as “hard,” He Baogang’s “institutional structural approach” is comparable with “hard compatibility.”

10 He, “Four Models,” 138.

11 Viren Murthy, “The Democratic Potential of Confucian Minben Thought,” *Asian Philosophy* 10 (2000).

12 James Legge, trans., *The Works of Mencius* (Oxford: Clarendon Press, 1985), retrieved August 21, 2020, from Sturgeon, <http://ctext.org/mengzi/jin-xin-ii>.

13 Legge, trans., *The Works of Mencius*, <https://ctext.org/mengzi/wan-zhang-i>.

14 Xu Keqian, “Early Confucian Principles: The Potential Theoretic Foundation of Democracy in Modern China,” *Asian Philosophy* 16 (2006): 137-40.

called “democracy.”¹⁵ For Mencius, whether the people accept a ruler is based on their satisfaction with the ruler’s handling of government affairs after ascension to a position of power.¹⁶ This test is too passive for Elstein. Although he recognizes it as necessary for democracy, it cannot be sufficient because of the absence of the essential feature of democracy: popular sovereignty, a concept based on social contract theory and generally understood as viewing “the people as the rulers” of the country and that political power essentially originates with the people.¹⁷

A response to Elstein must distinguish between two separate but interconnected concepts: moral rights and legal rights. In general, legal rights are rights that are protected in legal statutes and codes whereas moral rights are sometimes understood as “moral claims,” which are not necessarily supported in the law.¹⁸ Critics claim that Confucianism does not respect moral rights because Confucian societies do not legally protect those rights. One such critic, John C. H. Wu 吳經熊 [1899-1986], states that Confucianism’s focus on moral character lacks the concrete protections provided by legal systems.¹⁹ Many of the moral rights valued by democracies are protected by certain institutions, such as suffrage, the rule of law, and party systems, institutions that Confucian systems lack.²⁰ This line of reasoning assumes that if a moral right is not protected as a legal right, then it is not valued by a society. It does not necessarily follow, however, that Confucianism does not value moral rights simply because it has not enshrined such rights as in the law.

This is because Confucianism places less emphasis on the creation of legal institutions to protect moral rights, emphasizing instead the moral cultivation of individuals and preparing them to exercise these rights. One such right is political participation. Confucianism encourages political participation, however, it limits participation to the *junzi* 君子, Confucius’s vision of the ideal man, often translated into English as an “exemplary person.”²¹ Political participation by *junzi* is encouraged, as their role as advisers would be helpful

15 David Elstein, “Why Early Confucianism Cannot Generate Democracy,” *Dao: A Journal of Comparative Philosophy* 9 (2010): 426, 435.

16 Legge, trans., *The Works of Mencius*, <https://ctext.org/mengzi/wan-zhang-i>.

17 Elstein, “Why Early Confucianism Cannot,” 435.

18 Andrew Fagan, “Human Rights,” in *Internet Encyclopedia of Philosophy*, <http://www.iep.utm.edu/hum-rts/#SH3a/>.

19 John C. H. Wu, “The Struggle between Government of Laws and Government of Men in the History of China,” *China Law Review* 5 (1932): 68.

20 He, “Four Models,” 183.

21 Roger T. Ames and Henry Rosemont, Jr., trans., *The Analects of Confucius: A Philosophical Translation* (New York: Ballantine Books, 1999).

to political leaders.²² It should be noted that a *junzi* is not born but, rather, is made, cultivated through moral education. The Confucian vision seeks to spread moral education to individuals, regardless of social class, though it is unlikely that this goal was achieved in Confucius's time.²³ It is difficult to imagine what a modern conception of *junzi* would look like. Some argue that it would be more expansive, including individuals of different social classes as well as women, though this is still a controversial interpretation among New Confucianists.²⁴

Thus, it is possible that Confucianism also acknowledges the moral rights that democracy advocates, but because of the historical limitations of legal and political development, these rights are not legally protected. Confucianism values the ability of *anyone* to become a *junzi* and, therefore, participate politically, rather than sharing democracy's emphasis on universal political participation. Confucianism has not failed to recognize the right to political participation, which it values as a moral right, though it does not seek to enshrine it as a legal right. There is an observable overlap between Confucianism and democracy over this moral right.

The second challenge posited by Elstein is that the Confucian and democratic systems appeal to very different, and in his view irreconcilable, assumptions about the degree of public trust in rulers as well as the differing systemic views of majority rule. Elstein argues that Confucianism expects the ruler to be capable and virtuous. In comparison, democracy places much less confidence in the ruler, appealing to popular sovereignty to avoid the abuse of political power.²⁵ Elstein acknowledges Mencius's emphasis that the opinions of high ministers alone are not enough. As the *Mencius* states: "When all the people say, 'This is a man of talents and virtue,' examine the case, and when you find that the man is such, employ him."²⁶ Some scholars argue that this passage contains some democratic elements, but Elstein comes to the opposite conclusion. He emphasizes that because rulers need to investigate cases and

22 Karyn Lai, *Learning from Chinese Philosophies: Ethics of Interdependent and Contextualised Self* (Abingdon-on-Thames: Routledge, 2013). Lai refers to *Analects* 19:10 to illustrate this point.

23 Soor-hoon Tan, "A Confucian Response to Rorty's Postmodern Bourgeois Liberal Idea of Community," in *Rorty, Pragmatism, and Confucianism*, ed. Yong Huang (Albany: SUNY Press, 2009), 171.

24 Derek Hird, "In League with Gentlemen: Junzi Masculinity and the Chinese Nation in Cultural Nationalist Discourses," *Asia Pacific Perspectives* 15 (2017): 16.

25 Elstein, "Why Early Confucianism Cannot," 435, 441.

26 Legge, trans., *The Works of Mencius*, <https://ctext.org/mengzi/liang-hui-wang-ii>.

evaluate the candidates themselves, even after approval by all the people, it is the ruler's judgment, not the people's judgment, that is decisive.²⁷

Another passage, from the *Analects*, seems to take an even more negative view of majority rule. In this passage, Confucius tells his student Zilu 子路 [542-480 BCE] that an observer cannot conclude that a person is good even if he is praised by everyone in his community and, similarly, cannot conclude that he is bad even if he is hated by everyone in that community.²⁸ However, while the passage implies distrust of the majority's opinions, it is not necessarily inconsistent with democracy. Rather, it suggests that, from the Confucian perspective, democracy is justified by its intrinsic values. If democracy is justified only by the intrinsic values embodied in it, it does not need to assume that the majority always makes the best choice. Observers should never conflate democracy with simple majoritarianism. Most democratic countries seek to enforce systems to curb the total power of the majority from the danger of mob rule. Still others seek the development of a system of "deliberative democracy," which seeks to foster public contribution to the government without simple reliance on majority rule.²⁹ Thus, democracy does not suppose that the majority will always make the best decision. Instead, democrats may find common ground with Confucius in concluding that further investigation is needed to evaluate and judge a person even after he has gained approval from the community. Therefore, the passage above is not necessarily incompatible with democracy.

This discussion shows an underlying presumption that Confucians would see democracy as giving too much power to the majority. By contrast, democrats see Confucian systems as giving too much power to elites. Democrats also describe modern democracies as having introduced republican systems of government designed to curb the tyranny of the majority. The intent of this section is to simply point out that both Confucianism and democracy respect the will of the public, both the majority and the minority, to some extent in making decisions.

It is important to reiterate that this section focuses on whether abstract concepts in Confucianism and democracy can fit into a soft compatibility model. Our scope would be exceeded by posing the *what* questions on how a Confucian *junzi* could coexist with the ideas of universal suffrage and majority

27 Elstein, "Why Early Confucianism Cannot," 437.

28 Legge, trans., *Analects, The Chinese Classics: Vol. 1* (1861), retrieved August 21, 2020, from Sturgeon, <http://ctext.org/analects/zi-lu/>.

29 Thomas Christiano, "Argument for Democratic Equality," in *Philosophy and Democracy: An Anthology*, ed. Thomas Christiano (Oxford: Oxford University Press, 2003).

rule or whether a model could incorporate both systems. Many contemporary Confucian scholars have attempted to harmonize these traditions in thought experiments, conceptualizing a multichamber legislature, with one chamber based on universal suffrage and the other(s) based on meritocratic elitism.³⁰ Examples of speculative models that adopt elements from both traditions are given in our discussion of the *how* question. Our purpose in this section is specifically to acknowledge the shared moral rights in Confucianism and democracy, specifically the moral right to political participation. The question of *who* gets to participate politically is a larger topic that draws on differing views on political equality. This distinction is further clarified below.

3.2 *Political Equality*

Another element of democracy that is thought to contradict Confucianism is the concept of political equality. Xu Keqian claims that the passage that “all men may be Yaos and Shuns,”³¹ referring to two legendary rulers, implies that Confucianism has a sense of an equal right to political participation similar to that of democracy.³²

However, Elstein challenges this interpretation, noting Mencius’ division of labor.³³ Mencius distinguishes between “great men” [*da ren* 大人] and “small men” [*xiao ren* 小人], referring to the rulers and the ruled, respectively. As Mencius states:

Some labor with their minds, and some labor with their strength. Those who labor with their minds govern others; those who labor with their strength are governed by others. Those who are governed by others support them; those who govern others are supported by them. This is a principle universally recognized.³⁴

Bai Tongdong discusses two reasons for the distinction between “great” and “small” men. First, people are not equally capable of realizing their potential for being wise and virtuous. Mencius believes that this is unavoidable. Second, this distinction is practically important because the division of labor is

30 Bai Tongdong, “A Confucian Version of Hybrid Regime,” *Prajñā Vihāra* 13 (2012); Jiang, *Confucian Constitutional Order*.

31 Legge, trans., *The Works of Mencius*, <https://ctext.org/mengzi/gaozi-ii/>.

32 Xu, “Early Confucian Principles,” 148.

33 Elstein, “Why Early Confucianism Cannot,” 437.

34 Legge, trans., *The Works of Mencius*, <https://ctext.org/mengzi/teng-wen-gong-i/>.

necessary for society to function.³⁵ Elstein argues that although Confucianism acknowledges that people have equal potential at the beginning to become Yaos or Shuns, equal potential does not translate into equal political participation. Rather, the degree of realization of this potential determines the degree of political participation.³⁶ Thus, the difference between “equal potential” and “equal political rights” presents a conflict between Confucianism and democracy.

But the question of *who* gets to participate politically is also a debatable concept in systems that apply universal suffrage. Suffrage, or the vote, is the most common form of political participation. The extent of suffrage, however, has historically been limited and extended through political and legal change. In the United States, for example, suffrage was initially limited to landowning men. Later, states abolished the landowner requirement.³⁷ The Fifteenth Amendment to the United States Constitution expanded suffrage to men regardless of race. The Nineteenth Amendment expanded suffrage to women. The Twenty-Sixth Amendment lowered the voting age to eighteen. Whereas the narrative of suffrage is one of expanding the right to vote to more people over time, the right to political participation is still, essentially, exclusionary.

Today, many restrictions remain concerning who can vote and run for office, but most of them are viewed by most people as reasonable or even taken for granted. For example, in the United States, only an adult may vote, specifying that individuals must be over the age of eighteen. Second, only a citizen may vote, which necessarily excludes noncitizens, barring them from participating politically in the country where they live. Third, democratic countries, particularly federal republics such as the United States, place residency requirements on people who seek to vote or run for office and age requirements for certain political offices. Some states even suspend the voting rights of citizens who are felons and some extend that suspension to include the period after they have completed their sentence.³⁸ Thus, the right to participate politically is not bestowed at birth—it must be acquired, by turning a certain age, being naturalized as a citizen, residing in a place for a certain amount of time, and, in the case of eligibility for a very few offices (e.g., president), being born in the country, rather than naturalized.

35 Bai Tongdong, *China: The Political Philosophy of the Middle Kingdom* (London: Zed Books, 2012), 67-70.

36 Elstein, “Why Early Confucianism Cannot,” 438.

37 Stanley L. Engerman and Kenneth L. Sokoloff, “The Evolution of Suffrage Institutions in the New World,” *Journal of Economic History* 65 (2005).

38 Nora Demleitner, “Felon Disenfranchisement,” *University of Memphis Law Review* 49 (2019).

Both systems set a bar for individual political participation. In a Confucian system, political participation would require an individual to receive moral education in virtue, whereas, in a democratic system, it requires an individual who is a citizen to attain the age of eighteen. Although both Confucianism and democracy encourage political participation, neither allows universal participation. The difference between the systems, then, consists of who can participate and whether the restrictions on individual participation in each system are justified. Those living in democracies might argue that Confucianism is designed simply to exclude most people from political participation in the name of good governance. Confucians might respond that moral education and development are necessary for political participation and that accusations that Confucian systems are designed to exclude political enemies are too cynical. Rather, Confucianism encourages all people to participate politically by giving them the opportunity to cultivate their potential for virtue.

To fill the gap, compatibility must, therefore, address the problem of what to do with people who cannot or do not develop their ethical potential. Should such people still have the right to participate politically? Confucians would argue “no,” saying that, for the purposes of good governance, only those who have realized their potential for virtue should be able to participate in something as important as state affairs. Despite everyone’s equal potential for virtue, only those who have cultivated it should participate politically.

A similar challenge can be raised with respect to democracy. Most democratic systems operate under the assumption of political equality, but what does the phrase “all men (and women) are created equal” mean? Certainly, it implies generally equal human rights, such as the prohibition of slavery. However, whether it is sufficient as a basis of political equality in a democracy is another question.³⁹

The response to this question depends on the theory chosen to substantiate that “all men (and women) are created equal,” as there are also pervasive disagreements on the interpretation of “equality” in the Western tradition.⁴⁰ For example, let us suppose that all people are created with equal rationality. This proposition immediately raises many questions as to the content and criteria of such rationality and whether this type of rationality is cultivated through nurture or comes from nature. If rationality is cultivated through nurture, then one must ask: “at what point are people’s rationality cultivated to

39 Bruce A. Hunt, Jr., “Locke on Equality,” *Political Research Quarterly* 69 (2016): 547.

40 Louis Henkin discusses the different conceptions of equality in the American tradition with the broader view inherent in international human rights (“Rights: American and Human,” *Columbia Law Review* 79 [1979]).

the point that they are ready for political participation?" In this case, democratic equality would require rational cultivation for political participation. If this were limited to an individual's potential for rationality, then why exclude children, felons, and noncitizens with legal residency from participation? It could also be argued that rationality is acquired naturally, but this is essentially a dignity argument. An assumption that political equality refers to equal dignity acknowledges that respect for people's equal dignity requires that they are permitted political participation. Again, why in that case do we exclude children, felons, and noncitizens with legal residency? This is because even if all people are bestowed with equal dignity, there is still a need for cultivation or development. Those in democracies acknowledge that children lack the knowledge and experience for political participation. Felons are excluded from participating either as punishment or because of the need for remedial development before the person can participate politically, though this is controversial. Noncitizens with legal residency are excluded because they are not considered to have sufficient "skin in the game" in matters of state and need to go through the naturalization process, which often requires civic education. Thus, development and cultivation are necessary before a person can participate politically.

In this section, we pose the *what* question, meaning what is being compared between Confucianism and democracy. We discussed the abstract concepts of political participation and political equality. Confucians and democrats agree that individuals should be encouraged to participate politically. This abstract concept is shared, though the traditions differ on who should be allowed to participate politically. At first glance, this leads to the assumption that the two systems have differing views of political equality, as a Confucian system would limit who can participate whereas democracy takes a more expansive view.

However, this assumption does not give the full picture. We argued that Confucianism and democracy both acknowledge a type of equality among all people. Confucianism argues that people have equal potential for moral education, whose realization entitles them to participate politically. The view in democracy is that people have political equality, but education and development are necessary for a person to participate politically. The bar for Confucianism is high, requiring moral development, and low for democracy, requiring civic education, yet both systems acknowledge the need for some limitations on political participation. Although the matter of degree differs, we see that Confucianism and democracy both acknowledge a realizable potential equality among people. Therefore, we can say that the two traditions have some soft compatibility.

4 The *How* Question: “How” Can Compatibility Be Achieved?

In the previous section, we discussed the *what* question, which asked “what” was being compared between Confucianism and democracy, focusing on the soft compatibility model, which seeks to find common ground in some abstract concepts held by both the Confucian and democratic traditions. That section did not go into much detail about the institution-centric hard compatibility model. This is because institutions are country specific, influenced by historical traditions and contemporary societal needs which are often rationalized post-hoc to fit within their overarching philosophical tradition. Hard compatibility further seeks to find compatibility not only between Confucian and democratic institutions but also between abstract ideas from one tradition and the institutions in the other. This distinction is important in this section because we examine speculative models of contemporary Confucian philosophers that combine Confucian and democratic elements, not only by comparing abstract ideas in the two systems but also by introducing Confucian concepts into democratic institutions.

This section addresses the *how* question, which asks “how” Confucianism and democracy can be compatible. Compatibilists often take two approaches in reconciling Confucian and democratic elements into a single political system. One model is compatibility based on coexistence. This model includes elements from Confucianism and democracy coexisting in one society or one political system. The other model is one of integration, which not only has Confucian and democratic elements coexisting but also interprets them as influencing each other and becoming integrated to form a new political system.

We examine the speculative models of other contemporary Confucian thinkers who have suggested new political models for China. We argue that these models are either coexistence models, which allow China to claim both indigenous and imported political concepts, or integration models, which propose an entirely new political system.

4.1 *Compatibility Based on Coexistence*

In this section, we examine two interpretations of coexistence compatibility between Confucianism and democracy, one example of which is the “hybrid” vision proposed by Daniel Bell and Bai Tongdong. For example, Bell proposed that one solution for avoiding problems generated from a merely democratic or meritocratic political system is a compromise: a bicameral legislature composed of a lower house and an upper house. The lower house would be democratically elected, whereas the members of the upper house, which he

calls the Sage's Academy [*Xianshi yuan* 賢士院], would be selected through competitive exams to test knowledge on a broad variety of topics, including politics, economics, literature, and philosophy.⁴¹

Bai Tongdong proposed a similar hybrid model, which he calls Confu-China. Bai incorporates Bell's two chambers, which he calls the house of the people and the house of the experienced, however, in his vision, individual voters are more involved in local communities, mainly with popular elections to local governments.⁴²

Bell and Bai both envision combinations with the Confucian elements and the democratic elements coexisting in a single political system. However, it would be unfair to regard the hybrid proposal as a perfect example of the coexistence model as only part of it embodies this notion. For instance, Bai's Confu-China acknowledges the importance of the rule of law and argues that it should be based on morality.⁴³

Another interpretation of the coexistence model splits democracy and Confucianism into two separate spheres: the public sphere and the private sphere. For instance, in the public sphere, citizens would be equals and share equal rights to political participation. However, private decision making should be guided by the hierarchical Confucian tradition. This model is familiar in Western democratic countries today, as it is similar to nonjudicial religious arbitration. One example is when a couple decides to have their marriage solemnized by religious law. A court enforces private decisions, typically in marriage and family law, made by private arbitration organizations, many of which apply halacha (Jewish law), sharia (Islamic law), and canon law (Christian law).⁴⁴

Of course, whether we should draw a distinct line and whether it is possible to draw such a line to separate the public and private spheres are separate questions. For example, Bai claims that Confucianism emphasizes interactions between private and public spheres, as many private moral virtues may also be properly applied to the public sphere and virtues needed in the public sphere

41 Daniel Bell, *Beyond Liberal Democracy* (Princeton: Princeton University Press, 2006), 165-67.

42 Bai Tongdong, "A Confucian Version of Hybrid Regime: How Does It Work, and Why Is It Superior?" in *The East Asian Challenge for Democracy: Political Meritocracy in Comparative Perspective*, ed. Daniel Bell and Chenyang Li (Cambridge: Cambridge University Press, 2013); Bai, *Against Political Equality*, 123-33.

43 Bai Tongdong, "The Analects and Forms of Governance," in *Dao Companion to the Analects*, ed. Amy Olberding (Heidelberg: Springer Netherlands, 2013), 300-305.

44 Michael J. Broyde, *Sharia Tribunals, Rabbinical Courts, and Christian Panels: Religious Arbitration in America and the West* (Oxford: Oxford University Press, 2017).

must be cultivated in private life.⁴⁵ However, other scholars argue that the distinction between the two spheres must be maintained. Robert Calhoun, for example, claims that an explicit and effective distinction between the state and the community is needed.⁴⁶ John Locke acknowledges the public and private spheres in his work when he argues that, even though some of our rights are relinquished to establish a government, the rights we retain are not relinquished and should not be hindered by the government.⁴⁷

The coexistence model is a form of compatibility that essentially maintains a form of government that incorporates some elements of Confucianism. Bell's and Bai's models maintain the republican form of government, including a bicameral legislature. The crux of the argument, therefore, is the creation of one house based on democratic principles and another on Confucian principles. Nevertheless, the guiding superstructure is a Western-influenced republican model. Thus, the coexistence model represents a form of "hard compatibility," to introduce Confucian ideas into democratic institutions in the hope of bolstering democracy through checks and balances of the democratic elements with meritocratic, Confucian elements. Indeed, the "sphere sovereignty" model reflects this conception even more, by maintaining a totally democratic position and carving out a place for Confucianism in private dispute resolution, in much the same way as modern countries have attempted to carve a place for religious decision making within a secular, democratic system. This includes procedures such as religious arbitration in alternative dispute resolution. However, its application remains controversial.⁴⁸

4.2 *Compatibility Based on Integration*

Some scholars who have explored the compatibility of Confucianism and democracy have sought to ground some typical elements of democracy in Confucianism, claiming that it can offer an alternate explanation for democratic institutions or even be used to infuse democracy with more meaning.⁴⁹

Xu Keqian, for example, presents two approaches for reconciling Confucianism with individual freedom. Xu, influenced by Mencius, argues

45 Bai, "The Analects and Forms of Governance," 307.

46 Robert L. Calhoun, "Democracy and Natural Law," *American Journal of Jurisprudence* 5 (1960).

47 Patrick J. Connolly, "John Locke," in *Internet Encyclopedia of Philosophy*, <https://www.iep.utm.edu/locke/#SH4a/>.

48 For further examination of the challenges of legal pluralism, see Joshua T. Carback, "On Sharia in American Family Law: Confronting the Dangers of Legal Pluralism," *International Journal of the Jurisprudence of the Family* 7 (2016): 165.

49 Xu, "Early Confucian Principles," 137.

that the Confucian theory that “human nature is good” endorses the notion that “every person has equal potential for good,” which can be used as a reason for a form of democracy. A view of equal human goodness can serve as a rationale for majority rule, as it would be unreasonable to exclude anyone from political participation. Thus, all people by nature are entitled to freedom of speech and the freedom to choose their way of life because of their “good native endowment and good original heart.”⁵⁰ Xu’s argument in favor of Confucian freedom implies a teleological sense of freedom. In Xu’s interpretation of Mencius, people have a right to freedom because of their good nature or natural tendency to make good decisions. Xu’s claim, however, may be too strong. While Mencius did recognize people’s inherently good nature, he also noted the importance of satisfying material needs and good moral education in influencing people’s informed decisions.⁵¹ Here, “making a good or right decision,” either private or public, seems to be the final goal, with freedom being merely a tool justified by the good tendency to finally achieve this goal. In other words, if a good tendency gets distorted from the goal and people’s free choices do not lean to the “good decision,” then, in Xu’s view, the people should no longer have freedom. Xu’s view is limited by his conception of equal human goodness deriving from the Confucian theory developed by Mencius. Other Confucians would criticize this way of thinking as a “Confucian theory,” as many other Confucian thinkers, such as Xunzi [313-238 BCE], disagree with Mencius’s claim that human nature is good, arguing, instead, that human nature is evil. Nevertheless, Xu presents a theory that reconciles Confucianism and individual freedom within a general Confucian tradition.

Li Chenyang 李晨陽 argues that Confucianism is compatible with a form of civil liberties through the concept of “choosing,” a view of freedom implied from the discussion of choosing in the pre-Qin Confucian classics.⁵²

50 Xu, “Early Confucian Principles,” 141.

51 Mencius notes the necessity of the satisfaction of physical needs for the moral development of common people: “If they have a certain livelihood, they will have a fixed heart; if they have not a certain livelihood, they have not a fixed heart. If they have not a fixed heart, there is nothing which they will not do in the way of self-abandonment, of moral deflection, of depravity, and of wild license” (Legge, trans., *The Works of Mencius*, <https://ctext.org/mengzi/teng-wen-gong-i/>).

Mencius also notes that moral education is important for individuals to be able to make informed decisions: “But men possess a moral nature; and if they are well fed, warmly clad, and comfortably lodged, without being taught at the same time, they become almost like the beasts” (Legge, trans., *The Works of Mencius*, <https://ctext.org/mengzi/teng-wen-gong-i/>).

52 Li Chenyang, “The Confucian Conception of Freedom,” *Philosophy East & West* 54, no. 4 (2014).

Li describes two different kinds of freedom, which he calls the “thin notion” and the “thick notion.” The thin notion refers to the potentiality of choice or a choice among available options, such as choosing where one lives and how one acts. A thick notion, by contrast, focuses on the realization of that potentiality, that is, making an actual choice.⁵³ As Li states, realized freedom is manifested when a person chooses the good,⁵⁴ as is said in the *Doctrine of the Mean* [*Zhongyong* 中庸]: “the authentic person chooses the good and holds firmly onto it.”⁵⁵ According to Li:

From the Confucian perspective, choosing the good is liberating and fulfilling. It enables and empowers the individual who so chooses. It is freer than abstract freedom, the potential of which has to be realized with competence, knowledge, and adequate conditions. Choosing the good is fundamental to the good life. Only in choosing the good can one build a good, coherent life. Choosing the good, however, is not detached from personal daily activities. When done appropriately, good choices in everyday life, such as choosing a good health insurance plan, contribute to the overall goal of the good life.⁵⁶

Li concludes that if the main goal of Confucianism is “to achieve human freedom as choosing the good,” then a Confucian political system should develop social institutions in which people can make such a choice and achieve the goal of making good choices.⁵⁷ Li writes that the “Confucian ideal of freedom has to be achieved in the context of human society.”⁵⁸ Li’s view thus provides another way in which Confucianism gives democratic concepts meaning while also acknowledging the instrumental need for civil liberties, in order for people to meaningfully achieve the aspirational moral goals of Confucianism.

Additionally, Xu believes that the Confucian ideal of the *junzi* embraces the sense of individual freedom. This is because a *junzi* is expected to have an independent personality, to act according to the Confucian moral concepts of *ren* 仁, which is often translated as “benevolence,” and *yi* 義, which is often translated as “rightness,” and to be responsible for his behavior. This requires him to

53 Li, “The Confucian Conception of Freedom,” 908-9.

54 Li, “The Confucian Conception of Freedom,” 909.

55 Chinese Text Project, <https://ctext.org/liji/zhong-yong/zhs?searchu=%E4%B8%AD%E5%BA%B8&searchmode=showall#result>. The translation of this text is by Li (“The Confucian Conception of Freedom,” 909).

56 Li, “Confucian Conception of Freedom,” 909.

57 Li, “Confucian Conception of Freedom,” 912.

58 Li, “Confucian Conception of Freedom,” 912.

exercise free will unaffected by external forces, such as financial difficulties and threatening forces. The emphasis on “independence” here seems to echo the spirit of “individual freedom” in the Western tradition.⁵⁹ Confucian freedom seems to have an existing moral standard, such as *ren* and *yi*, for considering a decision or action free. Thus, a person who advocates moral skepticism or hedonism is considered unfree. According to the Confucian standard, even if this person makes a decision after considering it seriously, rationally, and independently, that person fails to be free. Conversely, in the Western understanding of individual freedom, such a person would be seen as making a free choice by exercising his or her right to liberty.

Some scholars argue that human rights, in general, can also be justified within the Confucian tradition. For example, Daniel Bell distinguishes two kinds of human rights: core human rights and the “gray area” of human rights. Core human rights are universally acknowledged and include rights such as prohibitions against slavery, murder, and torture. The gray area of human rights, however, comprises social and economic rights related to family and criminal law.⁶⁰ Bell argues that societies other than those in the democratic West value these rights but they value them differently. Bell notes that the United States, for instance, might rank civil and political rights more highly than economic and social rights, whereas other countries might sacrifice the former in order to ensure the latter in the event of a conflict.⁶¹ Moreover, Bell argues that liberalism does not have to be the only moral foundation for justifying human rights. Instead of relying on abstract universalism regarding rights, justifications should, instead, “be made from the inside, from specific examples and argumentative strategies that East Asians themselves use in everyday moral and political debate.”⁶²

Compatibility between Confucianism and democracy faces a challenge when determining the ways in which the two traditions can be compatible. The coexistence model often tries to find a place for Confucianism within a democratic system, carving out space in the private sphere where Confucianism can be a basis for decision making, similar to the way in which Western legal

59 Xu, “Early Confucian Principles,” 141.

60 Bell, *Beyond Liberal Democracy*, 79.

61 Bell, *Beyond Liberal Democracy*, 61–62.

62 Bell, *Beyond Liberal Democracy*, 61; Daniel Bell, “Communitarianism,” in *Stanford Encyclopedia of Philosophy*, ed. Edward N. Zalta (2016). <https://plato.stanford.edu/archives/sum2016/entries/communitarianism/>

systems carve out a place for religious arbitration.⁶³ Coexistence models thus distinguish between democratic and Confucian spheres. The integration model, by contrast, seeks to empower democratic concepts by infusing them with Confucian meaning.

5 Conclusion

We identified four models of compatibility between Confucianism and democracy, which we believe will add clarity to the current conversation. Further, the purpose of this discussion was to examine the different ways in which Confucianism could be compatible with democracy, depending on *what* is being compared and *how* the abstract concepts and institutions in one tradition can be reconciled with those of the other. The final determination, however, is still up for discussion, so we refrain from making the bald assertion that Confucian and democracy are absolutely (or absolutely not) compatible. However, we conclude that Confucianism is not simply an abandoned artifact on the sliding scale of modernity, that compatibility is possible, and that a Confucian system can provide China with an alternative to Marxist or secular democratic models, based on indigenous resources with unique meaning.

Confucianism touches the “soul” of the legal and political subjects and is not simply an alternative to democratic forms of government; rather, it may be compatible with creating an original Chinese democratic theory. Confucianism is not just a relic, and, at the same time, democracy cannot be written off as an inappropriate Western import. The concepts and institutions of democracy remain important and inextricable from the conversation. Just as Confucianism is beginning to be taken seriously again, democratic forms of government remain influential.

The question of whether Confucianism and democracy are compatible is not easy to answer, but it is one that is not infrequently posed. Many communities have accepted certain abstract concepts in the democratic perspective yet still find secular democracy incomplete. This is not limited to Confucian societies but is also found in Muslim and even nominally Christian societies that seek to reconcile democratic ideals with their traditional values.⁶⁴ This con-

63 G. Marcus Cole, “Law and Order without Coercion,” *Journal of Private Enterprise* 22 (2007): 50; John Witte, Jr., “The Study of Law and Religion in the United States: An Interim Report,” *Ecclesiastical Law Journal* 14 (2012): 327-354.

64 See, e.g., Patrick Deneen, *Why Liberalism Failed* (New Haven: Yale University Press, 2018); Faisal Devji, *Islam after Liberalism* (London: Hurst, 2017).

versation is therefore not limited by the argument of incompatibility due to cultural differences between the East and the West. Indeed, the conversation in the West today presents with what could be described as “West-West” cultural differences in considering the compatibility of other systems of thought, religious or otherwise, with current conceptions of secular liberal democracy. Examination of that issue exceeds the scope of the paper, but it is well worth further investigation.

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