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Sungkyunkwan University, (03063) 404, 600th Anniversary Hall

25-2, Sungkyungwan-ro, Jongno-gu, Seoul, South Korea

Website: jcpc.skku.edu; E-mail: jcpc@skku.edu; Tel: +82-2-760-0788

Scholar's Corner: Confucianism in and for the Modern World

Philosophical Systematicity and Its Implications for Confucian and Comparative Philosophy

Justin Tiwald*

I. Philosophical Systematicity

As someone who often works on philosophical issues in old texts, I have learned to read for something I call *philosophical systematicity*. It is difficult to say what this is, precisely. The rough idea is that it is the cognitive state or disposition of having (1) stable and at least somewhat generalizable views about some particular philosophical issue and (2) some sense of the implications of those views for other issues. It is easier to illuminate philosophical systematicity by pointing to some examples and reliable indicators of it. Some present-day philosophers of language exhibit philosophical systematicity in their treatment of truth. If you ask this sort of philosopher whether she thinks propositions are true in virtue of corresponding to facts, or of cohering with certain other propositions, or of having some sort of pragmatic value or social acceptability, chances are good that she will have views about this question, views that she can describe in their general contours. Perhaps she will endorse a particular theory of truth. In that case we should expect her to have a relatively coherent account of truth, one that is largely consistent with her views about knowledge and mental representation. But even if she does not endorse a theory of truth, she will be far more mindful of the implications of her views on truth (ambivalent or otherwise) for other issues, and that mindfulness will

* Justin Tiwald is a Professor of Philosophy at San Francisco State University. E-mail: jtiwald@sfsu.edu

make her more inclined to respond to some remarks than others. So when someone suggests in passing that there is no point in debating matters of taste, she will be more inclined to agree, disagree, or fine-tune that suggestion depending on her particular views about truth. Perhaps she will not be mindful of her views on truth in every context. Maybe when talking about a piece of music that she particularly loves, she forgets herself and uses language that is not consistent with those views (all philosophers forget themselves now and then). But still, she lives in a community of inquiry that holds her accountable for her views on truth, so we can expect that her views will be more systematic than ordinary people's views tend to be.

Philosophical systematicity is not a necessary condition for good or fruitful philosophical work. There are thinkers that put forward provocative arguments or lines of thought but do not worry much about how much they hang together with other views. Still, as a general rule of thumb, you are far more likely to find good philosophy on a particular topic where the thinker who produced it had thought about it in a philosophically systematic way. Systematic philosophical thinking is much less likely to arrive at obviously mistaken or indefensible positions, as the thinker has likely had to defend and fine-tune her views in response to major objections or worries. For this reason, among others, systematic philosophical thinking on a particular issue is much more likely to produce subtle or nuanced accounts and arguments, ones that are sensitive to the demands of good living and coherent thinking in many different areas of inquiry. Moreover, having some systematic philosophical views about some topic is part of what it means to "have a philosophy of" that topic. So, whether or not we can find the right kind of systematicity will have implications for questions like, "Did Kongzi (Confucius) have a philosophy about the process-like nature of existence?" or "Did Kant have a philosophy of family relationships?"

II. Philosophical Systematicity in Historical Confucianism

Here is an observation about the philosophical study of Confucianism: there is a good deal of interpretive work that presupposes philosophical

systematicity where there is little evidence for it. To my knowledge, almost none of the influential Confucian thinkers worried much about how one can derive values from facts alone. Some may have advanced philosophical theories or worldviews that are somewhat friendlier to present-day naturalism, but none asked whether their views posited the existence of entities that could be confirmed by the natural sciences. If an interpreter takes some poetic license with the *Analects* or the *Mengzi* (*Mencius*), she might find some passages that hint at or presuppose a pragmatic theory of truth or a process metaphysics, but there are also many passages that assume a claim is true by virtue of correspondence, and many that treat substances as unproblematic metaphysical entities. In any case, there are no reliable indicators of systematic philosophical thinking about these issues. In the classical Confucian tradition, one does not find debates about whether all things that exist (or all the important ones) must exist in a process-like or substance-like manner. There is no Confucian in the autochthonous tradition that saw it as a deep problem to explain whether values as such can be derived entirely from facts alone.

Of course, it might be the case that Mengzi entertained the idea that all existence is process-like, but there is no strong evidence for this, and in any case, finding one or two passages that could be plausibly interpreted as evidence for a process metaphysics in the *Mengzi* is a far cry from showing that Mengzi developed *philosophically systematic* views on this issue. What would count as evidence of philosophical systematicity regarding process metaphysics are things like this: a textual record showing that Mengzi and his interlocutors had debates about the process-like or substance-like nature of existing things or existence itself, historical accounts that show that educated people of his time were expected to have views about this matter, or some technical terms or jargon that help to distinguish process-like existence from substance-like existence. In the absence of this sort of evidence, I would be loath to attribute either a process metaphysics or a substance metaphysics to Mengzi.

A good example of a topic on which Mengzi did have philosophically systematic views is the ethics of special relationships—e.g. to parents, children, siblings, spouses, and close friends. Evidence for this abounds.

By Mengzi's time, Confucians had long been defending the distinctive value and ethical significance of these relationships. As the famous "Upright Gong" (*Zhi Gong* 直躬) discussion in the *Analects* suggests, they understood that some of the feelings and obligations necessary to maintain good parent-child relationships could only be preserved at the cost of some duties to obey political authorities, and they accepted (perhaps embraced) that controversial implication (*Analects* 13.18). When the Mohists made a point of disagreeing with Confucians about the importance of special relationships, they developed an entire doctrine, "impartial caring" (*jian'ai* 兼愛), which quite arguably became the centerpiece of Mohist ethics and one of the two or three biggest points of contention with Confucians.¹ In the *Mengzi*, we see Mengzi engaging in a proxy debate with the Mohist Yi Zhi about impartial caring, one that suggests that both proponents and critics of impartial caring had developed nuanced positions and arguments about it (*Mengzi* 3A.5). Mengzi also shows signs of thinking systematically about the special demands of different kinds of relationships, highlighting different virtues or values that are particularly salient for purposes of realizing and maintaining each sort of relationship—e.g., love or familial affection (*qin* 親) is most important for parent-child relationships whereas trust or trustworthiness (*xin* 信) is most important for friendships (*Mengzi* 3A.4).

The works of the influential Confucians are brimming with philosophical systematicity, but it is striking how little of the present-day scholarship is focused on the issues about which they had systematic philosophical views. As I read Xunzi, one of his great projects is to develop and defend the authority of ethical experts steeped in a time-tested tradition, according to which non-experts defer to the better judgment of recognized experts in the tradition, in multiple ways that are relatively circumscribed by considerations of social and epistemic authority, domains of knowledge, and the demands of good teaching and learning (Hutton forthcoming; Stalnaker 2020; Tiwald 2012). Insofar as Xunzi is concerned with epistemology, he seems most interested

¹ Mozi, chaps. 14–16.

in certain epistemic virtues and the sources of epistemic failure, and to describe the epistemic virtues he borrows three terms—emptiness (*xu* 虛), singlemindedness (*yi* 壹), and stillness (*jing* 靜)—that resonate with usages also found in early Daoist texts.² The Cheng brothers and Zhu Xi 朱熹 (1130-1200) arguably have nothing to say about deriving values as such from facts alone, but they developed a vast technical apparatus to account for little-noticed subtleties in moral psychology and the acquisition of moral knowledge, and at least seven centuries of subsequent neo-Confucian philosophers followed their lead.³ They took an interest in and developed special terms for different kinds of empathy or sympathy (Tiwald 2020). They argued about how best to understand the feelings of unity or oneness with others in humane virtue (Ivanhoe 2018). They wrote and talked extensively about all of the ways in which certain virtues can entail or require the instantiation of other virtues (one neo-Confucian philosopher, Chen Chun 陳淳 [1159-1223], tried to catalog the different ways).⁴ And the neo-Confucians participated in a sprawling, unparalleled, centuries-long debate about the particular ways in which virtuous people acquire moral knowledge and become acquainted with its content or objects. Yes, they also cared somewhat about the downsides of testimonial and experiential knowledge, and about the elusive relationship between *qi* (vital stuff that occupies space and time) and *li* (metaphysical patterns or principles that account for order).⁵ In these latter two issues, twentieth- and twenty-first-century philosophers rightly see opportunities to ask some of their familiar questions of the neo-Confucian texts. But it is striking how much work there is to do even to have something like a basic grasp of their views on the issues mentioned above, about which the neo-Confucians did so much systematic philosophical work.

² *Xunzi*, chap. 21; see Stalnaker (2003).

³ See Angle and Tiwald (2017), Cheng and Cheng (1981), Zhu Xi (1986, 2019).

⁴ See Chen (1983, *juan* 1) and Ch'en (1986, *juan* 1).

⁵ See Zuo (2019), Ng (2021), and Angle and Tiwald (2017).

III. Implications for Scholarship on Confucian Philosophy

Given what I have said so far, it might be tempting to read this as a polemic against certain kinds of ahistorical scholarship on Confucianism, such as work on Mengzi's anti-essentialism or process metaphysics, or Zhu Xi's response to the fact-value distinction, or Confucian theories of human and individual rights. In fact, that is not my intention at all. Just as philosophy survived and thrived in the medieval European period by developing Jewish, Christian, and Islamic answers to philosophical questions that predated them, so too do Confucian innovations and adaptations help philosophy to survive and thrive in this global era. I think there are many instances in which it is useful to ask, for example, whether a process or substance metaphysics would be more compatible with Mengzi's other views, or what Mengzi might have said about the nature of existence after reading Aristotle and Whitehead, or what Kongzi might have said about rights after reading Locke or Mill.

But I still think that the presence or absence of philosophically systematic thought about a particular topic should have major implications for how we conduct our scholarship. I do not think it is right or particularly helpful to speak about fictional entities like Mengzi's process metaphysics as though they actually existed. Furthermore, because there is no fact of the matter about Mengzi's views on the relevant issues in metaphysics, papers and books on Mengzi's process metaphysics are primarily constructive, not primarily historical or exegetical, and for many reasons it behooves both the scholar and her readers to be aware that the project is primarily constructive.

Another reason to be mindful is that evidence of philosophical systematicity gives us much more license to speculate about the implicit arguments or deep structure of thought that a philosopher might be presupposing. For example, in one memorable but laconic argument, Mengzi suggests that someone who practices impartial caring is, in effect, "without a father" and thus lives like an animal rather than a human being (*Mengzi* 3B.9). We do not know exactly what he meant by this, but I am comfortable piecing together a subtle and largely implicit view about the nature of relationships and their special role in being

human, knowing that the “without a father” argument arises from a lifetime of debate with Mohists and interlocutors informed by Mohist arguments, and that he seemed to think that there is some special significance in having a human nature and yet failing to retain human qualities (*Mengzi* 2A.6, 3A.4, 6A.8). By contrast, I am not comfortable inferring that Mengzi has a process conception of *xing* 性 (nature, natural dispositions) from the fact that some other passages decline to characterize things in terms of essences (which is characteristic of Aristotelian substance-metaphysical accounts of natural kinds).⁶ And even if we did have direct evidence for a process conception of *xing*, there is vanishingly little reason to think that there were deep, systematic reasons for preferring a process conception to a substance conception. According to my sense of good, basic exegetical principles, speculation about Mengzi’s deep reasons for rejecting impartial caring will be disputable but nevertheless vastly better warranted than speculation about Mengzi’s deep reasons for preferring a process conception of *xing*.

A final implication does have something to do with what sort of topics are worth studying in historical Confucian philosophy. One of the arguments for reading old texts from longstanding, philosophically rich, but previously marginalized traditions appeals to the value of considering different conceptual possibilities or lines of argument, especially where those possibilities and arguments come pre-vetted and pre-refined by many centuries of debate. To be sure, this appeal to difference does not provide the only justification for reading historical Confucian philosophy, but insofar as the argument does have some purchase, it is mostly an argument for reading the Confucians on topics that they thought about in a systematic way, not so much an argument for reading them on topics that just happen to interest us. If this sort of difference really is a value worth pursuing, that’s probably because when philosophers engage in wholesale speculation about another person’s views or reasons, they cannot help but import and revisit many of the assumptions that come most naturally to them, so that their speculative reconstruction ends up being much more about them or the

⁶ As does Roger Ames in, for example, Ames (1991 and 2002).

philosophers that they are most familiar with than about the person whose different worldview they are trying to understand. And the record of scholarly work on Mengzi's process metaphysics or Zhu Xi's solution to the fact-value problem bear this out—often, such scholarship ends up reproducing Dewey, Rorty, or twentieth-century metaethics rather than something truly and interestingly different. In contrast, I do not think we have even begun to appreciate the astonishing alterity of traditional Confucian sources on the issues in moral agency and epistemology, which were the beating heart of so much systematic philosophical thinking in Confucianism.

IV. Conclusion

I have made a number of controversial claims. It is controversial, I suppose, that there are certain aforementioned issues about which the Confucians did not have systematic philosophical views (such as the fact-value problem or process metaphysics), and other issues about which they clearly did. Someday soon, I think, this will not be so controversial, but for now there will be scholars who dispute it. Another set of controversies concerns how we should conduct and represent our own research where there is no evidence of philosophical systematicity. I have proposed some general rules of thumb, but I do not expect to see a great deal of consensus about those in the near or even more distant future. Still, it is useful to be aware of the challenges raised here. If nothing else, I hope that more awareness of them will encourage scholars of Confucian philosophy to read somewhat more deliberately for evidence of systematic philosophical thinking. Generally speaking, if you see debate about an issue, or see students or correspondents pressing a philosopher on an issue, or see technical distinctions or terms of art forming around an issue, that is good reason to think that there will be a certain richness and sophistication of philosophical views and arguments to be found by doing close readings of the texts on that issue. In many other cases, I think, what we find is not so much the fruit of close readings but of our own inventiveness as interpreters.

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On This Topic

Confucian Meritocracy and Tongdong Bai's *Against Political Equality*

Guest edited by Bradford Cokelet*

In his provocative book, *Against Political Equality*, Tongdong Bai challenges widespread western assumptions about the value of democratic egalitarian political structures and practices and proposes a creative Confucian alternative—a Confucian “mixed-regime” that melds Confucian meritocratic ideas with Western liberal ones. His discussions of concrete proposals for governmental structures, his creative cross-cultural philosophic arguments, and his sensitivity to domestic and international political issues yield an ambitious political vision that promises to challenge both liberals and meritocrats, east and west, and that bridges the divide between ideal and non-ideal theory. The book is primed to invigorate cross-cultural debates in philosophy and political science that are intellectually and practically relevant.

This special issue brings together four incisive critics who press Bai to develop and defend his views while situating them in cross-cultural philosophic context. The papers will be of use to scholars studying Bai's impressive book, but they will also be of interest to anyone who is thinking about the value of democratic egalitarianism, the nature and appeal of meritocracy, or how to understand and defend human rights in a cross-cultural context. The issue as a whole, including Bai's response, provides us with an excellent example of charitable but critical cross-cultural philosophic dialogue and are offered to inspire and enrich further work in the same vein.

* Bradford Cokelet is an Associate Professor in the Department of Philosophy at the University of Kansas. E-mail: bradcokelet@gmail.com

How East Meets West: Justice and Consequences in Confucian Meritocracy

Thomas Mulligan*

Abstract

“Meritocracy” has historically been understood in two ways. The first is as an approach to governance. On this understanding, we seek to put meritorious (somehow defined) people into public office for the benefit of society. This understanding has its roots in Confucius, its scope is political offices, and its justification is consequentialist. The second understanding of “meritocracy” is as a theory of justice. We distribute in accordance with merit in order to give people the things that they deserve, as justice demands. This understanding has its roots in Aristotle, its scope is social goods broadly, and its justification is deontological. In this article, I discuss the differences—especially the conceptual differences—between these two, *prima facie* distinct, meritocratic traditions. I also argue that despite their differences, Eastern Meritocracy and Western Meritocracy are harmonious. In Section I of the article, I introduce the two meritocratic traditions through, in part, a highly abbreviated history of talk about “merit” and “meritocracy” in Chinese and Western philosophy. In Section II, I discuss a number of conceptual issues and partition meritocratic theories in accordance with their scopes and normative justifications. I also discuss two scenarios. In one scenario, Eastern Meritocracy appears to deliver the right result and Western Meritocracy, the wrong result. In the other scenario, vice versa. Finally, in Section III, I argue that Eastern Meritocracy and Western Meritocracy are each special cases of a single, compelling notion of “meritocracy.”

Keywords: meritocracy, Confucianism, moral concepts, justice, Tongdong Bai

* Thomas Mulligan is a Visiting Scholar at Georgetown University. E-mail: thomas.mulligan@georgetown.edu

** I thank Dan Bell for a helpful conversation on matters discussed in this article, as well as anonymous reviewers for the *Journal of Confucian Philosophy and Culture*, who provided useful suggestions.

I have been asked to say a few words about Tongdong Bai's fine new book, *Against Political Equality: The Confucian Case*. I am happy to do so, although I shall take the opportunity to address an issue related to meritocracy broadly. It arises for Bai's meritocratic political theory, but it is by no means limited to it. This will, therefore, not be an in-depth critique of Bai's book. As far as that is concerned, I will simply say that I recommend it.

"Meritocracy" has historically been understood in two ways. The first way is as an approach to governance. Under this understanding, we seek to put meritorious (somehow defined) people into public office. This may be done by, for example, instituting civil service examinations of the sort that arose in ancient China.¹ (The best contemporary analogue of the Imperial Examinations is probably India's public service examinations, which control entry into the All India Services. Here in the United States, similar examinations are widely used to place people into mid- and low-level municipal offices.)

For reasons we will discuss in more detail, I'll refer to this understanding of "meritocracy"—meritocracy as an approach to governance—as "Eastern Meritocracy." Its justification is simple: We would get better political outcomes—more prosperity, more sensible policies, etc.—if we selected our leaders on the basis of merit. It is a consequentialist justification.

"Meritocracy" has been understood in a second way. This is as an approach to distributive justice. This understanding rarely concerns itself with politics specifically, but speaks to the competitions over scarce social goods, like (non-political) jobs and income, which we all encounter.

On this understanding, we do not give the job at the widget factory to the most meritorious applicant because he will produce the most widgets (although he might). We give the job to him because *he deserves it on the basis of his merit*. This is a deontological—not a consequentialist—justification. I shall refer to meritocracy so understood as "Western Meritocracy."

¹ See Elman (2000, 2013).

The purpose of this article is to elucidate this distinction and explore related conceptual issues. In particular, I will argue that although their scopes and justifications are different, Eastern Meritocracy and Western Meritocracy may not be as theoretically distinct as they appear. Perhaps they are, in a sense, each special cases of a single, compelling notion of “meritocracy.”

This article is organized as follows. In Section I, I explain this distinction between Eastern Meritocracy and Western Meritocracy in more detail through, in part, a highly abbreviated history of talk about “merit” and “meritocracy” in Chinese and Western philosophy. Section II clarifies the conceptual issues at play. In Section III, I argue for an understanding of meritocracy which harmonizes the two extant, *prima facie* incompatible, ideals.

I. Meritocracy in the East and the West

Bai’s political theory follows in the Confucian tradition which has seen a resurgence in recent years.² I call it, somewhat obscurely, a “political theory” because it is unclear to me exactly how Bai envisions this work.

Compare Rawls’s (1971) *A Theory of Justice*. It is just that: a theory of justice. If you do x, y, and z (to wit: equal liberties; fair equality of opportunity; the Difference Principle), then you will have a just society according to Rawls. But Bai, and the other neo-Confucians, do not view their theories in those terms. For Eastern meritocrats, the argument simply seems to be that we would get better governance if we replaced contemporary democratic practice with a Confucian-inspired alternative. Bai’s political theory is one such alternative.

Contemplating contemporary governance and how to improve it are of course eminently sensible things to do. But do keep in mind that for Bai and Eastern meritocrats generally, *that* is the goal. Notably, *justice* has nothing to do with things.

We may therefore say that the *scope* of Eastern Meritocracy is political offices. Bai does not concern himself with, for example, how

² E.g., Bell (2015), Chan (2014), and Qing (2013).

universities ought to distribute their scarce professorships. And its *justification* is consequentialist: We want to put meritorious people into political office because that will produce the best results (or at least better results than contemporary democracy produces).

Bai offers plenty of textual support, from the *Analects* and the *Mencius*, for his theory being a faithful take on ancient Confucian thought.³ I shall not recapitulate it here. Let me add, though, that it is certainly faithful to Mohist thought. The Mohists sought to “elevate the worthy” into political offices on explicitly consequentialist grounds. For example, the Mohist argument for equal opportunity “does not rest on the individualist view that, other things being equal, people intrinsically deserve to be treated similarly. The argument is rather that the utility of the state and society is promoted by employing the most qualified candidates, without regard for their social background” (Fraser 2020).

Perhaps surprisingly, Plato is best interpreted as an Eastern meritocrat. The philosopher-kings of the *Republic* rule because they possess the proper character and skill for doing so. It is “proper” because it can be put to the benefit of the people. If left to the democratic process, the “ship of state” (*Republic* 488a-89c) might run aground. For the sailors—the democratically-elected leaders—don’t know how to navigate and are always squabbling. But a “true captain” will get the ship to its destination safely.

In the *Statesman*, Plato hits a technocratic note which harmonizes with neo-Confucianism when he says that “rulers are not men making a show of political cleverness but men really possessed of scientific understanding of the art of government” (293c).

Things are different for Western meritocrats. Our goal is to establish a just society. Politics are one important part of social life, but they are only a part. We also want to ensure the just distribution of other, more quotidian, social goods, like jobs and income.

Further, we tend not to care about consequences for their own sake. It may well be (and I think is) the case that Western Meritocracy produces excellent consequences. But that is only a happy side-effect

³ For a dissenting view, see Jin (2021).

of adherence to a deontological rule. It has nothing to do with justice. Justice, rather, is about ensuring that people get the things that they deserve. The most meritorious widget-maker deserves the job at the widget factory on the basis of his merit. If he does not get that job because of his race, or gender, or appearance, or other feature irrelevant from the point-of-view of merit, that is an injustice.

The intellectual progenitor of Western meritocracy, and desert-based theories of justice broadly, is Aristotle. Although one certainly finds forward-looking considerations in his political thought,⁴ Aristotle endorses, most extensively and most famously, a backwards-looking, meritocratic view of justice. It is found in both the *Politics* and the *Nicomachean Ethics*. Indeed, Aristotle regarded the truth of meritocratic justice as plain: “All men agree that what is just in distribution must be according to merit” (*NE* 1131a).⁵

Aristotle’s view of the moral importance of merit—namely, as the ground for just distribution—was in fact anticipated by Plato in the *Laws* (and thus the extent to which Plato is “really” an Eastern meritocrat is debatable):

By distributing more to what is greater and smaller amounts to what is lesser, it gives due measure to each according to their nature: this includes greater honors always to those who are greater as regards virtue, and what is fitting—in due proportion—to those who are just the opposite as regards virtue and education. Presumably this is just what constitutes for us political justice. (757c)

After Aristotle, meritocratic justice, and desert broadly, largely lay dormant as a topic of intellectual inquiry (in comparison to, e.g., the topic of *equality*). Although, desert was invoked, if implicitly, by Kant (in, e.g., the *Metaphysics of Morals*), Leibniz (“On the Ultimate Origination of Things”), Sidgwick (*The Methods of Ethics*), G. E. Moore (1903),⁶ and W. D. Ross (1930).

⁴ As discussed by, e.g., Waldron (1995).

⁵ See Keyt (1991) for a discussion of Aristotle’s views on distributive justice.

⁶ Maybe; see Sher (1987).

Similarly, merit has rarely been discussed explicitly in contemporary Western philosophy.⁷ Now, desert has arisen as an approach to justice, although almost always as part of a *pluralistic* theory—that is, a theory that admits other principles of justice, like *equality* and *need*, alongside desert.⁸

In terms of explicit defenses of meritocracy, David Miller (1996) gives “two cheers” (out of three) to the ideal.⁹ I have argued (Mulligan 2018) that justice is a matter of establishing equal opportunity and judging people strictly on their merits, and nothing more.¹⁰

Although there is significant variation in Western meritocratic theories, there are important commonalities too. And those commonalities are the subject of this article, and distinguish these theories from their Eastern meritocratic counterparts. Most importantly, Western meritocratic theories are (1) concerned with the just distribution of social goods, where “social goods” is broadly construed, and (2) grounded in the idea that people should get the things that they deserve—a deontological justification.

II. Conceptual Clarifications

The first thing to get clear on is the *scope* of meritocracy. Clearly, meritocracy has to do with selecting people—that is, with deciding who should receive a scarce social good, like a job. But which social goods, exactly, are we talking about? There are endless ways we might delimit the scope of meritocracy. We might say, for example, that athletic contests ought to be judged on the basis of merit—but every other distributive context should follow some other rule(s).

⁷ For a discussion of this curious fact, see Pojman (1997).

⁸ See, e.g., Schmitz (2006) and Walzer (1983).

⁹ His qualified defense of Western Meritocracy is later incorporated into—indeed, reprinted in—his pluralistic account of justice, Miller (1999).

¹⁰ I also wish to draw the reader’s attention to Feldman (2016) and Dwyer (2020). Feldman advances a desertist theory of justice in which *need* serves as the desert basis—not merit. It is hard to characterize his theory as meritocratic. Dwyer offers desert-based, plausibly meritocratic arguments, to be incorporated into a pluralistic theory of justice.

In fact, two possibilities have dominated the literature. The first takes the maximal scope; that is, it says that all social goods should be awarded on the basis of merit. The second says that only a proper subset of social goods should be awarded on the basis of merit; namely, political offices. In this article, I shall briefly address a third, complementary possibility—that all social goods *except political offices* should be awarded on the basis of merit.

The second conceptual issue concerns meritocracy's *normative justification*. We consider the three main possibilities: consequentialism, deontology, and virtue ethics.

We may, therefore, partition meritocracy thus:

		Scope		
		Social goods generally	Political offices only	All social goods except political offices
Justification:	Consequentialism	Daniels (1978); Swift and Marshall (1997)	“Eastern Meritocracy” (e.g. Confucius; Mencius; the Mohists; Bai [2020], Bell [2015], Chan [2014], Qing [2013]; much of Plato; most of the contemporary literature on “epistocracy” ¹¹)	see §III (n24)
	Deontology	“Western Meritocracy” (e.g. Aristotle; Plato in the <i>Laws</i> ; Miller [1996], Mulligan [2018])	Brennan (2011)	
		Virtue Ethics	unexplored	

Let me say a few things about this table. First, it is not complete; I offer particular citations as examples and not in an attempt to be exhaustive.

¹¹ A term coined by Estlund (2003).

Second, I regard the idea of justifying meritocracy—whatever its scope—on virtue ethical grounds as almost entirely unexplored. At the same time, this is a very natural thing to do. After all, a meritorious person is someone who has cultivated relevant virtues to a high degree. Hicham El Guerrouj, who ran the world's fastest mile (3:43, in 1999), was a meritorious middle-distance runner. He was meritorious because he was *athletic*, *dedicated* to his sport, *resilient* in the face of challenge and defeat, and so on. Developing a theory of meritocracy that rests on virtue ethical grounds is, I think, a very promising project for a philosopher to take on.

Third, some philosophers, such as Norman Daniels (1978), offer arguments for meritocracy (not necessarily endorsing them) which speak explicitly to the distribution of jobs.¹² But this seems to be a rhetorical, not a philosophical, choice; these arguments apply just as well to social goods generally (including, e.g., income), so I think it is fair to put them in the first column of the table. The crucial point is that these arguments do not specifically address politics, but rather concern themselves with the social goods that are the focus of the distributive justice debate.

As discussed in Section I, “Eastern Meritocracy” and “Western Meritocracy” are dominant. But there are two other options which have arisen, occasionally, in the literature. They are represented in the upper-left and center of the table. I’ll say a little about them.

One might, first, support the distribution of social goods broadly on the basis of merit, but deny that this is because of concerns about desert or adherence to another deontological rule. One might reason, instead, along consequentialist lines.

As Daniels puts it, “claims of merit, in the restricted sense of that term relevant to meritocracies, are derived from considerations of efficiency or productivity and will not support stronger notions of desert” (1978, 207).

Adam Swift and Gordon Marshall think the same:

¹² See Dobos (2016) for an overview of arguments which have been given for meritocratic hiring.

A meritocratic allocation of individuals to occupations can be justified on the grounds that a society in which people are doing what they are best able to do will be optimally productive, but a meritocratic allocation of rewards to individuals can not be justified on the grounds that such an allocation gives people what they deserve. (1997, 44)

A second possibility is to attend only to political offices, and seek to fill them on the basis of merit for deontological reasons. Jason Brennan (2011) argues, for example, that citizens have “a right to a competent electorate.” Respecting this right requires a meritocratic form of governance, in which “incompetent or morally unreasonable” people are not allowed to vote.¹³ This indirectly affects the distribution of political offices if we assume, as is plausible, that the class of incompetent/morally unreasonable people is correlated with certain candidates. Brennan does not claim that incompetent/morally unreasonable people should be excluded from weighing in on, say, academic hiring. His concern is solely the distribution of political offices.

As an aside, one might agree with Brennan about the incompetence and moral unreasonableness of the electorate but reach the opposite conclusion: that these facts call for democracy, not epistocracy. H. L. Mencken suggests as much when he says that “democracy is the theory that the common people know what they want, and deserve to get it good and hard” (1916, 19).

One last conceptual point. As noted in Section I, Bai’s theory, and Eastern meritocratic theories generally, are not put in terms of “justice.” They are best characterized as “political theories” or “theories of good governance.” One might wonder, then, if rather than talking about “scope” (i.e. social goods generally v. political offices) we should concern ourselves with meritocracy as a theory of justice *versus* meritocracy as a “political theory.”

But consider the first column of the table. Western meritocratic theories (center-left entry) are theories of justice. But consequentialist

¹³ Although the normative bases for his epistocratic arguments are somewhat unclear, Brennan’s later work (e.g. 2016) is in the spirit of Eastern Meritocracy (i.e. seemingly justified on consequentialist grounds).

theories (upper-left entry) do not view themselves that way. Daniels, for example, says that he “want[s] to leave it an open question how a meritocrat would respond to a claim that justice demanded . . . that someone not selected by the PJAP [Daniels’s meritocratic rule] nevertheless be given a particular job” (1978, 209–11). Such a remark implies that Daniels does not view the meritocratic approach he discusses as coextensive with justice.

Swift and Marshall discuss this explicitly. They argue, as noted, that meritocracy may be justified on grounds of efficiency (i.e. consequentialist grounds). They go on to say that this approach *might not* conflict with justice, if, in particular, this maximizes the social product enjoyed by the least-advantaged (*a la* Rawls 1971). That is an argument that justice is instrumentally promoted by meritocratic distribution. It is not an argument that justice *is* meritocracy.

Let’s close this section by considering two cases in which Eastern Meritocracy and Western Meritocracy diverge in their moral prescriptions. In the first case, Western Meritocracy seems to render the correct moral result; in the second case, Eastern Meritocracy does.

Case one. Suppose that we have a white applicant and a black applicant for a job at the widget factory. The white applicant can produce 9 widgets per day, and the black applicant can produce 10. The black applicant, it seems reasonable to say, is more meritorious than the white applicant.¹⁴ However, this factory is filled with racists, and so if he is hired, the black applicant’s productivity will be reduced to 8.¹⁵

The Eastern meritocrat would choose the white applicant over the black applicant. Why? You get better consequences that way (9 widgets/day rather than 8). But the Western, deontological meritocrat would hire the black applicant as a matter of justice. The reason? The black applicant is more meritorious than the white applicant, and so deserves the job. To my ear, at least, that better accords with the concepts of *merit* and *meritocracy*.

¹⁴ I discuss conceptual complexities of cases like these in Mulligan manuscript.

¹⁵ This is a case of “taste discrimination.” See Becker (1957). Related problems have arisen in the philosophical literature, usually in discussions of so-called “reaction qualifications.” See, e.g., Wertheimer (1983).

Here Bai will object that the behavior described violates equal opportunity, and thus is unacceptable to Eastern meritocrats. But recall the justification for equal opportunity for the Eastern meritocrat (Section I): It is, unsurprisingly, consequentialist. Equal opportunity ensures that the very best citizens are able to attain public offices, regardless of their family circumstances and other arbitrary features, to the benefit of the people. And this is generally true, and a very good reason to establish equal opportunity.¹⁶

But what about those rare cases in which it is *not* true? Suppose we live in a world in which equal opportunity policies have been implemented, in an optimal way, for the good consequences they produce. But yet we come across a case, like the aforementioned one, in which racial discrimination *would*, contingently, lead to better outcomes. The arguments of which Eastern meritocrats avail themselves require that we engage in that discriminatory behavior. Or, at least, the Eastern meritocrat must give nuance to his theory (perhaps adopting some form of rule-utilitarianism?) which it currently lacks.

For the Western meritocrat, things are simple. You do not discriminate on the basis of race, period. Most of the time, adhering to this rule promotes good outcomes. But sometimes it doesn't. In those cases, it is still unjust to discriminate on the basis of race.

Note that the example can be turned around. These days, it is often claimed that incorporating an applicant's race into hiring decisions can lead to better outcomes, by "diversifying" the workforce. Goldman Sachs, for example, says that "attracting and developing a diverse workforce is essential to help our firm advance sustainable economic growth and financial opportunity."¹⁷ I do not know if Bai would regard such behavior as acceptable, but I do not. Even if Goldman could make more money by attending to applicants' race, in order to promote diversity, it

¹⁶ See Bénabou (2000) for a discussion of the efficiency benefits of equal opportunity. As he puts it, "the analysis generally validates the common intuition that meritocracy, appropriately defined, is desirable not only on grounds of fairness but also on grounds of efficiency" (319).

¹⁷ <https://www.goldmansachs.com/media-relations/press-releases/current/update-on-inclusion-and-diversity.html>, retrieved 28 November 2020.

is categorically unjust to do so.¹⁸ You might deserve a job at Goldman on the basis of your skill as a trader. You don't deserve it, even on part, on the basis of your race.

Case two. Consider the famous case of "Upright Gong," from the *Analects*:¹⁹

The Duke of She informed Confucius, saying, "Among us here there are those [e.g. Gong] who may be styled upright in their conduct. If their father have stolen a sheep, they will bear witness to the fact." Confucius said, "Among us, in our part of the country, those who are upright are different from this. The father conceals the misconduct of the son, and the son conceals the misconduct of the father. Uprightness is to be found in this." (13.18)

Now we must be a little imprecise. The Upright Gong case involves criminal justice, not distributive justice, and Eastern Meritocracy and Western Meritocracy as defined do not speak to that. But nothing important turns on this imprecision, and the case well-illustrates the core conceptual point of this article.

The common sentiment, I think, is that Confucius and "Eastern meritocrats" (now defined imprecisely) are right.²⁰ And I agree that they are. It is *upright* to protect one's family member, concealing his crime from the authorities—even if you know him to be guilty.

The "Western meritocrat," on the other hand, who seeks to judge people solely on their merits, would seem to reach the wrong result. After all, a common target of Western meritocrats is nepotism, which is similar to the preferential treatment Gong affords his father. And, after all, the father is guilty: Doesn't he deserve to be punished?

This question will be fully answered in the next section. But to preview my conclusions: Yes, the father deserves to be punished. It is

¹⁸ I also think that "diversity-based hiring" like this is immoral all-things-considered (Section III).

¹⁹ 葉公語孔子曰，吾黨有直躬者，其父攘羊，而子證之。孔子曰，吾黨之直者異於是，父爲子隱，子爲父隱，直在其中矣。 I adopt Legge's (1861, 134) translation here.

²⁰ See Huang (2017) for an analysis of Upright Gong and a survey of recent literature on it.

unjust for Gong to conceal his father's crime.²¹

Observe, though, that that does not explicitly conflict with what Confucius says. For his claim is that it is *upright* for Gong to protect his father—not that it is *just* for him to do so. As I would put it, it's *morally right all-things-considered* for Gong to protect his father, even though it's unjust for him to protect his father. While this might sound strange, it's conceptually possible, and, I shall now argue, completely correct.

III. How East Meets West

The differences between Eastern Meritocracy and Western Meritocracy are stark. But I was nevertheless struck, when reading Bai's book, by the similarities which the two approaches share. Consider, for example, how two luminaries—one from each tradition—reject equal treatment. First, Mencius: "That things are unequal is a matter of fact. . . . If you rank them the same, it will bring confusion to the world. If a roughly finished shoe sells at the same price as a finely finished one, who would make the latter? . . . How can one govern a state in this way?" (3A.4).²²

And now, John Stuart Mill's objection to equal treatment (made, of course, millennia later):

If it is asserted that all persons ought to be equal in every description of right recognised by society, I answer, not until all are equal in worth as human beings. It is the fact, that one person is *not* as good as another; and it is reversing all the rules of rational conduct, to attempt to raise a political fabric on a supposition which is at variance with fact. (1859, 23)

As a second example of overlap, Bai notes that:

[The] Confucian position aligns with the idea of a welfare state and opposes the libertarian position on government. On the other hand,

²¹ Now, we are assuming that the law itself is just. If, say, the punishment for theft were death, then it would not be unjust to conceal the crime.

²² I adopt Bai's (103) translation here.

Confucians also favor a free market-style policy, which aligns them with the libertarian position and not with those who support the idea of a welfare state. Their position then offers an interesting comparison and contrast to both today's Left and Right with regard to economic policies. (37)

The same is true of Western Meritocracies. My meritocratic theory of justice, for example, has two main elements: (i) equal opportunity and (ii) distribution strictly on the basis of merit. The Left is attracted to the redistribution and public spending (on, e.g., education) necessary to establish equal opportunity, but it resists merit-based distribution (wanting instead to promote "diversity", e.g.) Roughly put, the American Left supports (i) but opposes (ii). The Right endorses the commitment to merit, but fails to appreciate how family wealth, nepotism, and other violations of equal opportunity affect distributive outcomes. The American Right, roughly, supports (ii) but opposes (i). To paraphrase Bai, Western Meritocracy offers an interesting comparison and contrast to the two dominant partisan positions here in the United States.

Given the similarities, one might conjecture that these two different traditions, and *prima facie* different theories, converge upon a single ideal. I think that they do. In order to explain how, let me introduce—without motivation for the moment—the following "ticking time-bomb" thought experiment:²³ A terrorist has hidden a nuclear bomb in a city. The terrorist refuses to say where it is. We torture him, but he remains recalcitrant. We also have in custody the terrorist's innocent, 12-year-old daughter. We are confident that, if we torture her in front of him, he will reveal the bomb's location. Is it morally permissible, perhaps even required, to torture this innocent girl?

Many people would say "yes." Indeed, if you make the consequences of inaction bad enough, nearly everyone (everyone save hard-core Kantians) would accede to the act. After all, if you refuse to torture this innocent girl then thousands of innocent children will die. Put differently, as the consequences of some moral decision get more and more severe, they will, at some point, control it. But note that *at no point*

²³ I discuss the meta-ethical and conceptual issues raised in this section in more detail in Mulligan (2018).

do we feel that what we are doing is “just.” It remains deeply *unjust* to torture the girl, even when we think that it is morally permissible, even obligatory.

Morality and justice are not coextensive. It follows from this fact that even a perfectly just system might from time to time demand something that is, all things considered, morally unsatisfying. It also follows that, in some cases, the right thing to do, all things considered, is something unjust.

As I have touched on in this article, good consequences and justice rarely diverge under a meritocratic system. Hiring-based-on-merit generally leads to the best outcomes (most output, greatest utility, etc.) Consequence-maximizing hiring usually means merit-based hiring. Equal opportunity, to give citizens what they deserve, has important efficiency benefits (see n16). Promoting good social outcomes requires equal opportunity.

When consequences and justice *do* diverge in the actual world, that divergence tends to be modest. If you hire the most meritorious widget-maker under a circumstance of taste discrimination (Section II), you do indeed get fewer widgets. But you get only a few fewer. And they are, after all, only widgets.

Political offices are different. They are different from the other 99 percent of social goods in the distributive justice debate (e.g. jobs at the widget factory, professorships, income) because of the power which their holders wield, and the profound consequences that flow from political decision-making. When it comes to political offices, we may more frequently find ourselves in the unhappy position of having to distribute unjustly in the name of morality at its broadest, which includes attention to consequences.

For example, suppose we have two candidates for president, *A* and *B*. Candidate *A* is more meritorious than *B*—smarter, soberer, a harder worker, and so on. Yet *A* is irrationally hated by a foreign leader. If *A* is elected a bad war will result. If *B* is elected, peace will prevail. We ask: Who deserves to be president? What would the *just* result be? I answer: *A*. He is more meritorious than *B*, and so he deserves the job. Yet if we ask: Who *should* be president? The answer is plausibly *B*. In the name of world peace, we ought to distribute this office unjustly.

If we apply these meta-ethical considerations to the distinctions drawn in this article, we arrive at a view which is consonant with both Eastern and Western Meritocracy. First: Justice is a matter of giving people what they deserve on the basis of their merit. Justice is not a pluralistic concept: It is a matter of desert, and only desert.

In this respect, the Western meritocrat has things right, conceptually. At the same time, the Eastern meritocrat isn't wrong, because he makes no claims about justice or injustice. He answers only the broad question, *how should we fill political offices?* There is no incompatibility.

Second, in one particular context—namely, filling political offices—the Eastern meritocrat is on to something when he argues that these should be filled in order to produce the best consequences, and for that reason they should generally be filled on the basis of merit. For the reasons just given, the political context is especially consequences-sensitive. At the same time, the Western meritocrat isn't wrong. He only claims that filling a political office on some basis other than merit is *unjust*, not that it is morally wrong all-things-considered.²⁴

Now, I do not mean to suggest that political offices should always be filled by attention to consequences, and all other jobs on the basis of merit categorically in order to give applicants what they deserve. Indeed, that is wrong, not least because some political offices do *not* have much power (some are merely ceremonial). So even if there were a consequences/justice collision, it would be minor. In such cases, justice controls (see below). I am merely trying to *explain* why the two intellectual traditions evolved as they have, and suggest a route for their theoretical unification.

Because the scope of Eastern Meritocracy has historically been political offices, the Eastern meritocrat has focused on the good consequences of meritocracy when developing his theory. Because his

²⁴ If we consider the possibility, raised in Section II, of a theory of meritocracy whose scope is all social goods except for political offices, we would expect it to be strongly deontological. For the class of social goods most consequence-sensitive—viz. political offices—is absent. Still, one can imagine cases in which, say, the distribution of an executive position in a major company encounters the same consequences/justice trade-off. So the arguments of this section straightforwardly would hold for a meritocratic theory falling within the rightmost column of the table.

theory has had the side-effect of giving people what they deserve, he has (generally correctly) regarded it as just, and thus felt holistically satisfied by it.

We Western meritocrats, on the other hand, have concerned ourselves mainly with jobs and income. We have focused on justice in the distribution of these things, and implicitly assumed (generally correctly) that our distributive rule will produce good consequences. Again, this has been holistically satisfying.

This meta-ethical account coheres with empirical research on how people think about distributive morality. As James Konow puts it:

Efficiency [i.e. consequences] and needs exist as distributional goods distinct from justice, whereas accountability [i.e. desert] represents the distinguishing feature of justice. . . . Although substantial evidence has been presented in the foregoing sections that efficiency [consequences] and needs impact and sometimes even dominate experiential justice, some readers view certain scenarios featuring those principles as being rather “forced” to think of in justice terms, to which I respond: “Precisely!” They lack the specific sense of justice, and this intuition adds support, I believe, to the contention that accountability [desert] is specific justice, indeed that *accountability [desert] is the quintessence of justice*. (2001, 156-57)

The empirical research (which I survey in Mulligan 2018, 42-62) suggests that when people think about distributive justice, we think about desert, and only desert. Yet when we think about distributive morality at its broadest, we think about (i) justice/desert; (ii) “efficiency” (i.e. good consequences); and (iii) need (in the sense of lifting people about a minimum distributional floor, *a la* Frankfurt 1987).

Note that we do not accord each part of the moral triad equal weight: Justice/giving people what they deserve is the most important thing, followed by attending to people’s needs, followed by attention to consequences.^{25,26} Although Mill was not, of course, a desertist about

²⁵ “Even the ostensibly innocuous Pareto Principle [an extremely plausible consequentialist principle] loses support when it conflicts with accountability [i.e. desert]” (Konow 2001, 148).

²⁶ Cf. Lippert-Rasmussen (2009), who, in considering a taste discrimination-like case, con-

justice, he seems to have appreciated this conceptual point, regarding justice as “the chief part, and incomparably the most sacred and binding part, of all morality” (1861, 670).

Although our concern has been distributive justice, analogous arguments may hold in other contexts. The Upright Gong case, for example, plausibly pits justice against at least one other moral principle—namely, *filial piety*.²⁷ It is plausible that filial piety is the more important of the two. As a result, the right thing to do, from the point-of-view of morality at its broadest, is to protect one’s father.²⁸

What is the upshot of this, somewhat abstract, discussion? To begin with, all of us attracted to the idea of meritocracy should follow Western meritocrats in taking the maximal scope for our arguments. Meritocratic arguments are compelling across distributive contexts (and perhaps others), and the more general a theory is, the more convincing. We should, again following the Western meritocrat, put justice—understood as giving people what they deserve on the basis of their merit—at the forefront of our arguments. This should remain so across distributive contexts, including political offices. Justice is the most important aspect of morality. Because just distribution is in accordance with merit, we usually promote good consequences by giving meritorious people the goods that they deserve.

At the same time, we should be attentive, as Eastern Meritocracy suggests, to the possibility that we might have to distribute a good unjustly, which is to say *not* on the basis of merit, for extreme consequentialist reasons. As the Eastern meritocrat has implicitly pointed out, this is most likely to be true in the political sphere.

cedes that “when sufficient amounts of welfare are at stake, all things considered, it may be immoral to disregard qualifications rooted in immoral [e.g. racist] reactions” (419n17). See also Alexander (1992–1993).

²⁷ It is possible that the justice/desert—consequences—need triad holds in the criminal context as it does in the distributive context. If that is so, then we care about filial piety not for its own sake but because it produces good consequences.

²⁸ The criminal context presents complexities which do not arise in the distributive context (and doubtless *vice versa*) and which I do not consider here. Also, the case can be manipulated such that the *wrong thing to do* (from the point-of-view of morality at its broadest) is to protect one’s father. Suppose, for example, that one’s father did not steal a sheep but killed a man, and that he is preparing to commit other murders. In that case, it is both (i) unjust to protect him and (ii) wrong all-things-considered.

There is no deep incompatibility between Eastern Meritocracy and Western Meritocracy. There is only a difference in focus and history, and a need for some conceptual care.

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Natural Aristocracy, Instrumentalism, Equality and Excellence

Steven Wall*

Abstract

Tongdong Bai's *Against Political Equality* presents an interpretation of Confucian political morality, a critique of political equality and an argument in support of a form of meritocratic instrumentalism for politics. This paper sympathetically engages with Bai's discussion. It grants, but does not itself defend, his rejection of political equality. It distinguishes basic moral equality from the ideal of social equality, suggesting that Bai's view is compatible with the former, but not with the latter. It then distinguishes two understandings of political meritocracy: meritocratic instrumentalism and natural aristocracy. It clarifies natural aristocracy and presents a case for accepting it over meritocratic instrumentalism. Unlike the proponent of meritocratic instrumentalism, the proponent of natural aristocracy holds that those who are most fit to rule have a claim to rule over and above the instrumental advantages that their rule would secure. And, unlike the proponent of meritocratic instrumentalism, the proponent of natural aristocracy contends that relational values in politics have a role to play in the justification of political decision-making arrangements. Key to the discussion throughout is the challenge that the ideal of social equality poses to any defense of political meritocracy. The paper contends that natural aristocracy is better positioned to respond to this challenge than meritocratic instrumentalism. The paper concludes by relating natural aristocracy to the liberal idea of a social union of social unions and to Michael Walzer's ideal of complex equality.

Keywords: political equality, natural aristocracy, meritocracy, excellence, fittingness, complex equality

* Steven Wall is Professor of Philosophy at the University of Arizona. E-mail: spwall@aol.com

Much mainstream western political theory affirms both political equality and liberal neutrality. Citizens should have an equal say in politics, but politics should not be concerned with promoting excellence or helping citizens to lead good lives. Bai's Confucian view as expressed in his 2020 work *Against Political Equality*—henceforth simply the “BC view”¹—rejects both of these commitments. Under the hybrid regime that it recommends, aristocratic elements of political rule are introduced to counteract democratic elements and the state promotes virtue. This view thus exhibits a pleasing symmetry. Citizens are not equally competent at political self-rule. Hence, it is appropriate for some of them to have greater political say than others. Correspondingly, citizens are not equally competent at managing their own lives. Hence, it is appropriate for the state, insofar as it is competently directed, to take measures to help citizens make better choices about their own lives and to instill respect for excellence (Bai 2020, 278-79).²

The symmetry I have described as pleasing, and which I here explore sympathetically, will not be found to be pleasing by everyone, to be sure. Some will object that the BC view is inconsistent with *basic moral equality*; roughly, the claim that each person is of equal moral worth. It is important to recognize that this objection is mistaken. Recognizing that people differ in their capacities to govern, whether others or themselves, does not imply that they are of unequal moral worth. Basic moral equality, whether it is true or not, need not contradict the BC view. However, downstream from basic moral equality lies another kind of equality that has attracted much interest of late. It is the kind of equality manifested in a society when its members “relate to one another on a footing of equality” (Scheffler 2002, 17-18). Following others, I will call this *social equality*. The BC view cannot be reconciled with social equality, for it affirms hierarchies that are constitutively inconsistent with its realization.

¹ Whether Bai correctly interprets the Confucian tradition is not my concern here. By referring to his view as the “BC view,” I seek to avoid assessing its fidelity to this tradition.

² “The virtues a liberal state needs to and should promote have to be “thicker” than what the liberal value of neutrality or even a later Rawlsian would endorse.” As will become clear, I think the BC view should support state support for excellence in a wide range of spheres of social life.

This paper seeks to show that social equality presents an important challenge to the BC view and then suggests a way by which the challenge might be met. The discussion proceeds as follows. First, I explain the ideal of social equality in a little more detail and show how it is compromised by Bai's rejection of political equality. Next, I distinguish two views of political meritocracy that contrast with political equality. Respectively, these views are meritocratic instrumentalism, which Bai embraces and defends, and natural aristocracy, which is a competitor to both political equality and meritocratic instrumentalism. Finally, I present a preliminary case for natural aristocracy. I do so by clarifying the view and responding briefly to a couple of important objections to it. My brief for natural aristocracy is (mainly) conditional. If one is persuaded by Bai's arguments to reject political equality, then there is a case for embracing natural aristocracy over meritocratic instrumentalism, since the former secures the benefits of the latter while also providing resources for responding to the challenge presented by the ideal of social equality. I conclude with a discussion of the relation between natural aristocracy and the promotion of virtue and excellence by the state, thereby returning to the pleasing symmetry in the BC view.

I. Social Equality

When social equality is realized among a group of persons, the relevant parties relate to, and interact with, one another as equals. Social equality is not the only relational ideal, however. Indeed, as we will see, natural aristocracy can be defended in part because it instantiates a non-egalitarian relational ideal. How then should we understand the value of a relational ideal, whether egalitarian or non-egalitarian?

Two possibilities can and should be distinguished. A relational ideal could be an ideal of the good. Its realization among a group of persons, on this understanding, would be good for those persons, enriching their lives and furthering their flourishing. By contrast, a relational ideal could be an ideal of the right. The realization of the ideal among a group of persons, on this understanding, would be required if they were to treat one another as they ought to treat them. Of course, a

relational ideal might be thought to be both an ideal of the good and an ideal of the right. Here I will assume that it is at least an ideal of the right. So understood, a relational ideal is a matter of people relating to one another in a way that is appropriate, or as I shall say, *fitting*, given their status and competence. The ideal of social equality holds that the members of a society treat one another in a way that is fitting if and only if they relate to one another as equals.

Fitting relations in general are structured in a way that is responsive to the status and competence of the relating parties. Presumably, it can be appropriate for some to have greater say or greater authority than others in a given domain in virtue of their status or competence. A teacher in virtue of his expertise has greater say over what goes on in his classroom than his students. There is hierarchy in the teacher/student relationship, but it is, or can be, one that is fitting. Likewise, it can be inappropriate for some to have greater say than others in a given domain if they do not possess the attributes that would justify their superior position. The hierarchy in a racial caste system is unfitting.

Those committed to social equality need not reject all social hierarchies. Social equality does not require that all have an equal say in every domain of life. But contemporary proponents of social equality all reject the political inequality that is part of the BC view. Social equality without political equality, on this standard understanding, is not a possibility. Those who accept the standard understanding of social equality are often referred to as relational egalitarians. For them, the members of a society should come together as equal citizens in the political forum, where they determine their shared fate. As Elizabeth Anderson, herself an influential proponent of relational egalitarianism, has emphasized, there is an intimate link between social equality and democratic governance.

Egalitarians seek a social order in which persons stand in relations of equality. They seek to live together in a democratic community, as opposed to a hierarchical one. Democracy is here understood as collective self-determination by means of open discussion among equals, in accordance with rules acceptable to all. To stand as an equal before others in discussion means that one is entitled to participate, that others recognize an obligation to listen respectfully and respond

to one's arguments, that no one need bow and scrape before others or represent themselves as inferior to others as a condition of having their claim heard. (Anderson 1999, 313)

Hard questions confront the relational egalitarian. Since not every distinction in rank or merit offends the ideal of social equality, why are some hierarchies, such as those in the political domain, and not others objectionable? If some hierarchies are eliminated, won't others assume greater significance? And how exactly are we to understand the deceptively simple sounding idea of giving all an equal say in politics?³ But while these questions are hard, the ideal of social equality, and the ideal of political equality that is taken to be an integral and necessary component of it, have resonated with many. A defense of the BC view would do well to respond to the general challenge it presents.

One might try to reconcile the BC view with social equality by appealing to a principle of equal opportunity. Bai claims that the hierarchy endorsed on the BC view is not "immobile" or fixed, but open to all (86). If all citizens have an equal opportunity to become deserving of a greater share of political influence, then political inequality is underwritten by a form of political equality. And, it might be urged, this latter form of political equality—equality of opportunity to exercise unequal political say—is the kind of political equality that is necessary, or at least sufficient, for social equality. This reply misses the force of what the proponent of social equality has in mind, however. The proponent of social equality maintains that there is an important kind of value realized by social relationships in which the parties relate as equals in their daily lives and in an on-going manner. The realization of this value cannot be secured by giving every citizen an equal shot at being on top.⁴ Not equal chances to rule unequally over others, but equal rule with others is what is called for, if social equality is to be achieved.⁵

³ For a penetrating critique of the idea of equal political say, see Dworkin (2000).

⁴ For a concise articulation of this thought, see Miller (2015).

⁵ Doubtless the issue here is a good deal more complicated than these brief remarks suggest. Proponents of social equality need to find a place for personal responsibility and for fair opportunity in their articulation of the ideal. But the gist of what is said here is broadly accurate.

II. Two Understandings of Political Meritocracy

Social equality presents a challenge to the BC view, or so I have claimed. But how serious is this challenge? There is a tendency in political philosophy to avoid trade-offs. If X and Y are both attractive ideals, and if there is no in principle obstacle to their joint achievement, then the political philosopher is tempted to say that in the good society both X and Y would be realized. He may be right; but the pressing question may not be “how do we realize both ideals,” but rather “how do we, in our circumstances, go forward when the pursuit of X predictably will set back the pursuit of Y.”

I rehearse this point here, since it bears on the issue of what the proponent of the BC view should say in response to the challenge pressed by the social egalitarian. He might be tempted to say that, while social equality is a genuine ideal, it is not the only thing worth caring about. If, for example, a political order could do better at securing important human rights by departing from social equality, then it should do so.⁶ Instrumentalists about political rule are often in this position. They recommend elitist or inegalitarian political decision-making procedures or devices to the extent that these would lead to better political outcomes, all things considered, over time.⁷ (Instrumentalists reject the idea that procedural considerations, such as giving all citizens an equal say, has value itself.) But a critic can counter that a better political arrangement than that favored by instrumentalism would do just as well at securing these political outcomes, while also realizing equality in the process of doing so. The critic of instrumentalism may be right that such an arrangement would be better if it could be achieved. But the issue remains of what to do when realizing equality in the political process comes at the expense of securing better political outcomes, all things considered.

Is the BC view an instrumentalist view? Bai tells us that it represents a middle way between hierarchy and equality. He proposes the following

⁶ This was Mill's view; and it may also have been Rawls's view.

⁷ For an influential contemporary statement of political instrumentalism, see Arneson (1993). See also Wall (2007).

guideline: “how much democratic participation depends upon how likely the participants are able to make sound decisions that are based on public interests” (71). And, he claims, in modern democracies “many citizens are not capable of making sound judgments on many political matters” (70). Hence, there is a need to put in place decision making procedures that “prevent incompetent citizens from having too much of a voice in political matters” (70). All of this sounds instrumentalist. Accordingly, Bai might agree that the best arrangement would be one in which all the citizens were able to make sound political decisions on equal footing, but doubt that such an arrangement is a realistic prospect for China and other societies. This response would come with a price. The political arrangements favored by the BC view are second-best, a concession in light of the trade-offs that need to be made. Alternatively, Bai might argue that the political domain is not one in which relational goods are appropriately pursued. The political relation should be understood to be a thoroughly instrumental relationship.

Viewing the political relation as thoroughly instrumental will seem unattractive to many. We have reason to care about both the reliability of the political process (roughly, how good it is at producing good outcomes over time) and how citizens relate to one another within the political process. To this extent, the relational egalitarian has a point. But there is another way the BC view can be conceptualized, one that does not construe the political relation as thoroughly instrumental. On this understanding, meritocracy is a form of natural aristocracy. Meritocratic instrumentalism and natural aristocracy are seldom distinguished, and they often point in the same direction, but they are different views. I want to propose that if the BC view is understood as embracing natural aristocracy, as opposed to meritocratic instrumentalism, then it will be better positioned to respond in a satisfying way to the challenge presented by the social egalitarian. On the proposal I am advancing, the BC view does not reject the idea that there is relational value to be realized in political life. It does not cede the terrain to the social egalitarian. Instead, natural aristocracy is presented as itself instantiating a valuable set of political relations.

III. Natural Aristocracy

Natural aristocracy is an underexplored view in contemporary political theory. As several commentators on Aristotle have noted, the view appears to be endorsed by Aristotle in his discussion of kingship in Book III of *The Politics*.⁸ Equal citizens, Aristotle claims, should rule one another in turns. Among equals, the ideal of equality should obtain in politics. But matters are different when someone clearly has a greater ability to rule well than others. Here competence and virtue ground a claim to have a greater political say than others. Indeed, it would be wrong, Aristotle claims, to subject a person of eminent virtue to equal rule with others. Banning him from the city would be preferable to leaving him to rule on equal terms with them. (We can speculate that Aristotle would have continued to think this even if it were known that letting the person of eminent virtue participate on equal terms with others would have instrumental benefits for the rule of the city.)

To appreciate the difference between meritocratic instrumentalism and natural aristocracy, it will be helpful to recall Plato's parable of the ship.⁹ Plato tells us that the sailor with a valid claim to steer the ship is the one with the competence to do so. This is the person who has mastered the art of navigation—the true navigator. But what exactly grounds his claim to steer the ship? Things are likely to go well for those on the ship if he takes the helm. There are consequences to incompetent navigation. The instrumentalist rests his case here. But it might also be said that the true navigator has a claim to steer the ship because it is fitting for him to do so. Generally speaking, it is fitting for those with the competence to do a task well to be assigned the task.

Imagine now the following scenario. In addition to the true navigator, there is another sailor on the ship, who, in fact, will steer it just as successfully as the true navigator. The second sailor, however, will do so without understanding or skill. He is like the novice archer who hits the bullseye by luck. A proponent of instrumentalism, who was aware of

⁸ See McKerlie (2001), Arneson (2016, with a discussion of McKerlie's paper at 167-68), and Mulgan (1987).

⁹ See Plato (1974, 145-46).

the relevant facts about the two sailors involved, would be indifferent as to which of them should steer the ship. Not so for the proponent of the fittingness claim. He would maintain that the true navigator alone has the valid claim to steer the ship. For it is fitting that those with the competence to perform a task well should perform it rather than those who are incompetent at the task, but lucky in its execution.¹⁰

The fittingness claim requires more analysis than I can give it here. But a few remarks are in order. Fittingness is a species of desert.¹¹ Applied to political rule, the object of the fittingness claim is political power or authority, and the basis or ground of the claim is the capacity and motivation to rule well. To borrow an analogy from Aristotle, we can compare the distribution of political power to that of a musical instrument. For example, we can ask, if a flute must be given to someone, to whom should it be given?¹² A natural answer is that the flute should be given to the person who has the greatest ability to play it well.

Now suppose that there are two candidates for receiving the flute. The first candidate, who is a good flute player, will use the flute to benefit his political community more than the second candidate, who is an excellent flute player, but more reclusive. If we think the flute should be given to the first candidate, then we will think that this is true in virtue of an instrumental claim. Giving the flute to him will do the most good for the political community. By contrast, if we think that the second candidate has the stronger claim to the flute, then we will think this is true in virtue of a fittingness claim. There is a natural fit between the good that is to be distributed, in this case the flute, and the ground for the distributive claim, in this case superior flute-playing ability.

¹⁰ For my purposes, it is not important to interpret Plato's views. But, given Plato's conviction that knowledge has more value than true belief, he might concur that it is better for the ship to be navigated knowledgeably than for it to be done well, but fortuitously.

¹¹ Sidgwick (1981, 350) uses the language of "fitness" to mark the claim of the competent, the qualified, or the cultivated to be given a resource that they will use better than others. He claims that "fitness", so understood, is often confused with desert. By contrast, Feinberg (1970, 77) holds that fitness for a job in virtue of present ability and future promise is a species of desert. I side here with Feinberg, but nothing of substance turns on this classificatory issue.

¹² See Aristotle (1988, 69).

We may think, of course, that both the merit-based instrumental claim and the fittingness claim are valid. If we think this, then we will need to decide which claim takes precedence in this example. A happier situation would result if the person with the superior ability to play the flute well was also the one who will use the flute to benefit his community the most. In this happier situation, both claims can be honored.

In articulating the fittingness claim, I have spoken of competence, or the capacity to perform a task well. With flute playing, the competence in question is a fairly straightforward matter. But competence with regard to political rule is more complex and more open to challenge. Competence to rule has different dimensions. Simplifying greatly, we can (following Bai) single out two dimensions: cognitive and motivational. Cognitive competence is the skill that is exercised in identifying what is for the common good of one's society.¹³ Motivational competence is the disposition to care appropriately—and to the appropriate degree—about the common good of one's society and to have this concern have appropriate effect on one's decision-making and actions regarding the politics of one's society. We can add to this a third dimension, a competence that can be termed "executive." Executive competence involves the tact, savvy, resourcefulness and perhaps cunning to advance one's political ends effectively.

How might competent political rulers be identified and empowered to rule? The complexity of the relevant competence with its disparate dimensions, cognitive, motivational and executive, makes this a daunting task. Bai discusses some of the relevant issues here, which include how to develop and implement an appropriate selection mechanism to identify those with a claim to greater political say, how to design institutions that effectively enable the competent to have a greater say, and how to secure legitimacy (in the sociological sense) for meritocratic institutions. But even if these institutional and sociological challenges could be met, there are deeper objections to meritocratic rule in

¹³ Competent political rule concerns inter-societal relations as well (as Bai's discussion in chapters 7 and 8 of *Against Political Equality* indicates), but here I am simplifying.

general, and natural aristocracy in particular. Two of them seem particularly pressing.

First, the competence involved in political rule must be developed under social conditions. Those with the most competence to rule in any actual society might not be those who are most “naturally” fit to rule in that society. For given the education and training they received, those who by nature are less fit to rule might be the most competent to rule now, and those who by nature were most fit to rule, given their education and training, might not be competent to do so now. We can ask, do those who are now most fit to rule have a claim to rule, or do those who would have been most fit to rule, under ideal conditions, have the claim? The term ‘natural aristocracy’ suggests that natural ability grounds the claim to rule, but, of course, the relationship between natural talent and the realization of that talent in any social setting is complex and difficult to determine. Critics of natural aristocracy can object that the observed differences in the competence to rule reflect differential access to the education, training and opportunities to develop that competence. If the critics are right, then a society that was committed to distributing political power in accord with competence to rule could aim to establish the social conditions that enable all citizens to develop an equal competence to rule. In this way, an initial commitment to natural aristocracy might lead one to favor politically egalitarian arrangements. Call this the development objection.

Second, natural aristocrats are those with the capacities to rule well and so there is a non-accidental connection between their rule and rule that would be favored on instrumentalist grounds. But the strength of this non-accidental connection can be and has been challenged. Consider the body of research that supports what is sometimes called the “diversity-trumps-ability-thesis.”¹⁴ According to this thesis, by increasing the diversity of a decision-making body, we improve its reliability in reaching good decisions, even if the increased diversity lowers the average competence of those participating in the decision-making body. Sometimes the friends of political equality try to leverage

¹⁴ See Page (2007) and Landemore (2020).

the diversity-trumps-ability-thesis to reject all meritocratic proposals for political rule. If they are right about this, then the game is up for natural aristocracy. Mere difference of perspective is not a mark of competence. Call this the diversity objection.

A full response to these objections is not possible here, but a few remarks can be made. The development objection has force against those who have the greatest competence to rule, but have acquired that competence under conditions that are not conducive to the development of the capacities of those with the most natural ability to rule. It has no force against a regime of natural aristocracy that has emerged from optimal conditions of development, however. Proponents of natural aristocracy should not be complacent about how the requisite competence to rule gets developed, but they need not abandon their view because actual social conditions of development have not been ideal.

The diversity objection to natural aristocracy cuts deeper. It also challenges meritocratic instrumentalism. However, in all likelihood, the diversity-trumps-ability thesis is an overstatement of an important truth. Good decision making in politics requires a diversity of perspective. This fact provides a measure of support for including a democratic component in a political decision-making arrangement. The hybrid regime of the BC view is sensitive to both competence to rule and diversity of perspective. The meritocratic component of the hybrid regime responds well to the competence desiderata, while the democratic component responds well to the diversity of perspective desiderata.

Would a hybrid regime containing both aristocratic and democratic elements contradict the fittingness claim? It would not for the following reason. The fittingness claim holds that those who are most competent to rule have a claim to have a greater say in politics than others, and this can be secured while ensuring that all have some say in politics. Mill's scheme of plural votes (Mill 1861, 476) after all, was advanced in tandem with the idea that all adults, subject to a few qualifications, should be included in the political decision-making process. For Mill, all citizens have a claim to participate, but the competent citizens have a claim to have a greater say. The friend of natural aristocracy can concur

with this judgment.¹⁵

Perhaps the hybrid regime would not maximally honor the claims of those who were fit to rule, but it would honor their claims nonetheless. When compared to the decision-making process that gives all citizens an equal say, it would acknowledge and reflect the truth, if it is a truth, of the fittingness claim. That, I think, provides sufficient basis for the proponent of natural aristocracy to make his case for meritocratic rule. He makes his case not in the first instance by pointing to the good consequences in terms of political outcomes of meritocratic rule, although, as I have explained, the fact that these good consequences would be forthcoming is an important part of his case. He starts instead with the thought that the political realm is a realm to which the fittingness claim applies. Ruling well and doing so with skill is a form of excellence that a political society should acknowledge and celebrate. To acknowledge and celebrate this form of excellence adequately, a society may need to build it into the institutional structure of the decision-making process by ensuring that those who are fit to rule have greater say.¹⁶

Doing so would have consequences for the character of the political relationship. And the character of the political relationship itself has value. On this matter, the natural aristocrat and the social egalitarian are in agreement. The natural aristocrat holds that we must honor excellence in the political domain as we typically do, and should do, in other domains. Generally speaking, honoring excellence conditions a valuable mode of social interaction in which relevant differences are acknowledged and given their due. The social egalitarian will object that honoring excellence in politics introduces rank and hierarchy that makes it impossible for citizens to relate to one another as equals in other

¹⁵ Bai offers some further reasons for including a democratic component in the political decision-making arrangement. Participation in politics may satisfy the needs of citizens to engage in politics (68), give them an opportunity to express their satisfaction or dissatisfaction with how they are being ruled (89), and engender various instrumental benefits (89).

¹⁶ Strictly speaking, it is not necessary to build it into the institutional structure. In principle, a fully democratic representative regime could select those who were most fit to rule to govern them. However unlikely their compatibility in practice, natural aristocracy and political equality are not logically incompatible.

ways. That is an important concern. We will return to it in a moment. Here the point is simply that the natural aristocrat has an advantage over the instrumentalist in responding to the social egalitarian insofar as he or she presents an alternative positive vision of the value of the political relationship itself. By contrast, the instrumentalist must either deny that how citizens relate to one another in politics has intrinsic significance itself, or that if it has intrinsic significance, then the value in question is appropriately sacrificed for the sake of producing better political outcomes.

IV. Complex Inequality

Proponents of natural aristocracy value excellence and excellence conflicts with equality. It does not have to be so. We can imagine worlds in which all are excellent and equally excellent at everything they do. But these imaginary worlds imagine away the real and important differences between people, and the fact that some have more competence to do some things than others. Rather than lamenting this inequality, we can celebrate it. Drawing on von Humboldt's ideal of a social union of social unions, Rawls powerfully expresses this optimistic view of human difference and inequality.

The potentialities of each individual are greater than those he can hope to realize; and they fall far short of the powers among men generally. Thus everyone must select which of his abilities and possible interests he wishes to encourage; he must plan their training and exercise, and schedule their pursuit in an orderly way. Different persons with similar or complementary capacities may cooperate so to speak in realizing their common or matching nature. When men are secure in the enjoyment of the exercise of their own powers, they are disposed to appreciate the perfections of others, especially when their several excellences have an agreed place in a form of life the aims of which all accept. (Rawls 1971, 523)

Proponents of social equality could accept that excellence should be celebrated in all the different spheres of life for reasons along the lines

that Rawls adumbrates in this passage, but then insist that politics is different. They could say that in order to be social equals, we must be political equals, even if we are not equal in other ways and in other social domains. Political equality, on this view, is the foundation for social equality, and its realization is necessary if non-political forms of hierarchy are to be acceptable.

The proponent of natural aristocracy rejects this view. Excellence has a claim in politics, he must hold, as well as in other domains. We honor excellence in politics by giving those with greater competence a greater say. But a pressing worry remains. Even if politics is not a domain where all should be on equal footing, there are other social domains in which people should interact on these terms. Further, in non-political social domains, those with greater political competence have no claim in virtue of their political competence to favored treatment. And the worry in question is that political inequality will predictably engender spillover effects into these other domains, thereby damaging social interaction in them. In short, those who are marked as natural aristocrats will be viewed as superiors in social life quite generally. The objectionable bowing and scraping before others that Anderson invokes in the passage quoted from her above will be a predictable consequence of giving some a greater political say than others.

This is indeed a serious concern. Establishing differences of rank in politics might invariably generate social snobbery of this sort. But perhaps not. In closing I want to sketch a reply to this worry, one that no doubt requires a good deal more defense than I will give it here. The reply, in its own way, seeks to bridge the divide between the natural aristocrat and the social egalitarian.

The key to the reply is the thought that the support and celebration of excellence in other domains of social life could serve as a counterforce to the deleterious spillover effects of acknowledging the claims of natural aristocracy in politics. The thought here is a variant on the liberal idea that diverse rankings of value in a society can bolster the self-respect and social standing of its members. To paraphrase Nozick (1974), the most promising way for a society to avoid widespread feelings of social superiority and inferiority is not to try to eliminate recognized differences in merit but to have no common social ranking

of attributes of excellence (245).¹⁷ Rather than establishing a single or dominant society-wide scale, a wide plurality of rankings should be encouraged.¹⁸ If excellence is honored widely outside of politics, then the excellence honored within politics should be less consequential in its impact on the general social standing of citizens.

Honor and rank, on the reply I am advancing, need not be the enemy of a certain kind of equal social standing among citizens, but if the claims of excellence in politics are to be given their due, they need to be tempered by the claims of excellence in other spheres of social life. My thought here has clear affinities with Michael Walzer's (1983) ideal of complex equality. Walzer argued that we can relate as equals in a society when no type of inequality dominates our interactions. His version of social equality does not require the elimination of hierarchy within each sphere of social life, but rather excludes the dominance of any one type of inequality over the others.

Walzer is not a strict political egalitarian. He holds that inequality in political influence is appropriate, but it must arise only from differences in citizens' persuasive abilities when each is given an equal vote and democratic debate is not distorted by money. The proponent of natural aristocracy cannot accept this understanding of unequal political influence. The mere ability to persuade others, while relevant to political rule, is not itself a form of excellence in politics. But the proponent of natural aristocracy can accept the background structural idea behind Walzer's view; namely, that inequalities within different spheres of social life are compatible with equal standing across spheres so long as no form of inequality, whether political or not, dominates the others. Natural aristocracy can be viewed as an integral component of a condition of complex inequality. To secure this condition, the hybrid regime in the BC view likely will need to support excellence in the public culture, abjuring a posture of neutrality between the excellent

¹⁷ Nozick is discussing differences in self-esteem rather than attitudes of social superiority and inferiority, but his point applies here as well.

¹⁸ It might be said that politics is the one social union that includes all citizens and thus should express their deeper equality in some meaningful way. But this can be done in a hybrid regime, where the protection of equal (non) political rights and the administration of equal justice under the law could express the requisite message.

and the base. Support for excellence being vital for valuable social relations across the different domains of social life must not be left to the unregulated cultural marketplace, but should be actively supported by the state.¹⁹ If this is right, then we have come back to the pleasing symmetry in Bai's defense of the BC view.

¹⁹ I do not deny that it is possible that an unregulated and unsubsidized cultural marketplace could adequately honor the claims of excellence in non-political domains. But I think this is unlikely to be the case in practice for reasons similar to those pressed by Hurka (1995).

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In Defense of Political Equality: On Bai Tongdong's *Against Political Equality*

Yarran Hominh*

Abstract

Bai Tongdong's *Against Political Equality* argues for Confucian meritocracy over a pure democracy of equals. His arguments draw on a multiple modernities comparison between the Spring and Autumn Warring States period in China and early modernity in the West, and rest on a Mencian conception of human nature according to which humans are equal in moral potential but not in moral actuality. I argue that there is a crucial disanalogy between this Chinese early modernity and Western early modernity: the role of capitalism. In a similarly comparativist and modernist spirit, drawing on B. R. Ambedkar and M. K. Gandhi, I argue that this disanalogy challenges both Bai's critique of democracy and his positive account. Bai's failure to take into account the role of capitalism in Western modernity raises a challenge to the explanatory power of his Mencian conception of human nature with regard to the failings of contemporary democracies, namely that capitalism fosters the relevant features of our moral psychology that cause those failings. Further, without that grounding assumption, Bai's arguments against democracy cut equally against his Confucian meritocracy. The disanalogy also creates challenges for his positive proposal. Bai, I argue, provides an ideal theory of Confucian meritocracy at the same time as he provides a non-ideal theory of democracy. But, taking into account the non-ideal cultural and moral psychological features of capitalism, Bai's Confucian meritocracy is likely to fall into an unjust and oligarchic hierarchy.

Keywords: Bai Tongdong, B. R. Ambedkar, M. K. Gandhi, equality, democracy, meritocracy, capitalism.

* Yarran Hominh is a Mellon Postdoctoral Fellow at the Leslie Center for the Humanities and Lecturer in Philosophy at Dartmouth College. E-mail: yarran.d.k.hominh@dartmouth.edu

Bai Tongdong's *Against Political Equality* is an erudite, thought-provoking, sensitive, and—in many of its details—persuasive response to the familiar conflict in modernity between liberty and equality. Bai, like many contemporary thinkers, is worried about the illiberal and damaging effects of an uneducated democracy of putative equals.¹ In the age of popularly elected authoritarians like Trump, Modi, Erdogan, Duterte, Orban, Kaczynski, Johnson, Bolsonaro, and so on, it is hard to maintain that there is nothing to worry about. Democratic political equality in the form of “one person, one vote” seems to have undermined important rights and political liberties and stood in the way of material improvement to the lives of many citizens of various countries around the world. Given those infringements on important liberties and quality of life, what is so important about democratic equality?

Bai argues that in order to protect liberalism (understood as constitutionalism, rights, and the rule of law) we must qualify democracy through instituting a Confucian meritocratic hierarchy to serve as a check and balance on the excesses of democracy. Democracy causes certain illiberal ills. Democracy causes these ills because human nature, at least by and large and under certain conditions, is unsuited to democracy. Since we can't change these facts about human nature, we must adapt our political institutions to them.

This is a common form of argument against democracy. Indeed, one might think it is the master argument against democracy. We find it in various forms and held with varying levels of sincerity and cynicism in various places. It is found in eighteenth- and nineteenth-century justifications for colonial rule, in arguments at the turn of the twentieth century for denying women the vote, in Walter Lippmann's powerful arguments in the 1920s for managerialism, in recent arguments for epistocracy, perhaps even in Plato's *Republic*. John Dewey puts it cleanly when he claims that every social philosophy implies a conception of human nature, and these anti-democrats are honorably open about their conception of human nature.²

¹ Cf. Brennan (2016), Caplan (2007), Mulligan (2015), Ancell (2017), and Tucker (2020).

² Dewey ([1939] 2008, 72): “Every social and political philosophy will be found upon examination to involve a certain view about the constitution of human nature: in itself and in its relation to physical nature.”

This is not to conflate Bai's use of this argument with any of the above, or to read him in light of any of those views. Indeed, Bai voices *the* argument with far less cynicism and far more respect for the worth of persons than most of the examples in the last paragraph. His use of the argument is particularly interesting for two reasons. The first is that Bai is no authoritarian. He wants to resist the hierarchist's push to authoritarianism, if anything, more strongly than he wants to resist democracy's race to the bottom. Bai uses the argument to ground meritocracy as a check on the excesses of democracy, as part of a larger package of mixed government, not to get rid of democracy wholesale. The second reason is that Bai's argument rests on a claim about multiple modernities and an analogy between those modernities. He cannot thus be said to be articulating a colonial Western conceit about the superiority of the West over the Rest. In fact, in making his multiple modernities claim, Bai is criticizing one form of that Western conceit, the idea that liberal democracy is the political telos of history to which all has been tending, and from which all is a falling away. There are other forms of political ordering, with concomitant conceptions of political virtue and political selfhood, that are occluded from view by an overly simple Whiggish history and that ought to receive attention, both on their own terms and for what capacity they have to speak to the problems we now face.

With this much, one can and should have no quibble. The problems of modernity ought to be addressed with the potentialities of modernities, and recovering those potentialities involves removing the theoretical blinkers that are placed on us by the kinds of conceits that Bai is concerned to criticize. Bai's methodological outlook is one with which I have the greatest sympathy, and I will say frankly at the outset that his cosmopolitan investigation into the potentials of early Confucian thought is exactly the kind of political philosophy of which there ought to be more.³

³ I have some regret that in this short piece I cannot do justice to the important moral psychology of compassion that Bai describes in the second half of his book, and the way in which that moral psychology might form the basis for a distinctive form of international political ordering. One aspect of Bai's book with which I am in full agreement is the connection he sees between a detailed moral psychology and political philosophy—

Yet I find myself unable to accept Bai's substantive arguments against democracy or his arguments for Confucian meritocracy, even as I see their force. I will argue that Bai's multiple modernities analogy does not take account of an important disanalogy between the SAWS⁴ modernization and the European modernization: the role of capitalism. Taking this disanalogy into account, I will argue, affects both Bai's diagnosis of the failures of democracy and his arguments for Confucian meritocracy. First, it provides an alternative explanation for the failures of democracy: that capitalism fosters expressions of human nature that undermine democracy, and thus that there is not a simple mismatch of human nature to democratic political organization. Second, failing to take capitalism into account means that Bai underestimates, I think, the pressures that face his proposal for a Confucian meritocracy. In short, capitalism will undermine the positive aspects of (even a Confucian) meritocracy, corrupting it like it corrupts democracy. So, without addressing capitalism, Confucian meritocracy will fare no better than the democracy Bai criticizes. In making these arguments, in the kind of cosmopolitan and comparativist spirit that animates Bai's book, I will draw on M. K. Gandhi and B. R. Ambedkar, two thinkers also concerned with the problems of modernity in a cosmopolitan vein.

I. Modernities, Capitalism, and the Western "End of History"

Bai's theoretical argument draws on a comparative analysis of China's early modernization—in the Zhou-Qin transition or Warring States period—with European early modernization. He uses this comparative analysis to argue, quite correctly in my view, against the complacent and imperialist apologetics of a standard Western modernization narrative on which the European process of modernization is definitive of "progress" and "history."⁵ His interest

just one example of the richness of his book.

⁴ SAWS is Bai's abbreviation for the Spring and Autumn and Warring States period, which ran from 770 BC to 221 BC. This is the period in which the philosophers he discusses lived and, he claims, was politically very similar to the situation in early modern Europe.

⁵ Compare also the modernist "flowering of reason" in South Asia after 1450 described by Jonardon Ganeri (2011), or the earlier, perhaps modernist, development of a conception of public reason in South Asia in the sixth century CE.

in criticizing this still commonly held view is twofold. First, it dethrones Western liberal democracy from its teleological perch at the “end of history,” thus opening up room for theorizing alternative systems of governance and alternative political philosophies. Second, it provides a justification for Bai’s use of early Confucian thought to address contemporary problems caused by European modernity. On Bai’s reading, they were, after all, speaking to similar issues of modernization. I am in deep sympathy with both Bai’s general theoretical claim about multiple modernities and the humanist and cosmopolitan impulse that underlies his comparative project.⁶ It is in this sympathetic and (hopefully) similarly humanist and cosmopolitan spirit that I say what follows.

Bai identifies several similarities between China’s modernization at the end of the Warring States period and European modernization. The most critical for his argument is the claim that essential to both transitions to early modernity was the collapse of feudal hierarchical orders and consequent instability and war.⁷ The central problem of both early modernities, for Bai, is thus the problem of governance: how to structure and govern societies in the breakdown of the previous feudal order with its traditions and set conceptions of human place and role. The different Confucian and Western answers given to this problem, Bai notes, both involve the development of some doctrine of equality and some doctrine of social mobility on the basis of merit. It is essential for Bai’s arguments that those answers can be rightly compared, precisely because they are responses to analogous historical situations.

I do not want to deny that there are important and relevant similarities here, nor that it is possible and theoretically revealing to perform Bai’s cosmopolitan comparison. What I want to insist on is a recognition of the pertinent and central features of European modernity that are

⁶ It will be sufficient for my purposes here to identify this broad similarity in spirit, perhaps characterizable by the methodological impulse to bring what are normally perceived as different traditions into conversation and dialogue, and to let this conversation challenge the different deeply held assumptions that we all have.

⁷ There are others that Bai partially references, including the development of Weberian-style state bureaucracies, speedy technological and scientific advancement, and the development of cultural technologies like nationalism.

not captured by Bai's level of description. These differences may not necessarily change the problem so described, but, at the least, they change the conditions under which that problem now must be addressed, and the resources that theorists have available to address that problem.

In European modernity, the problem of governance was not simply how to govern societies given the breakdown of feudalism. It was the question of governance given the breakdown of feudalism *partly because of and concomitant with the development and spread of an economic and industrial social order* that we now call capitalism.⁸ It was that economic order, and the patterns of global exploitation and domination that fueled and spread it, that drove the particular formation of Western political concepts that our present situation currently embodies.⁹ Bai's early Confucians, so far as I know, were not confronted by the rise of such an economic order.¹⁰ Here we have an important and relevant

⁸ Without getting into too much detail here, I think it is correct to say that this development of capitalism is distinct from the development of industrial society that Bai calls "modernity 2.0." I take it that Bai means by this term things like the increase in urbanization, in geographical mobility, and (at least somewhat) in social mobility that arose with the vast increase in industrialization, the rise of industrial capitalism, and the spread of the railway in the second half of the nineteenth century. If this is the right time frame to locate "modernity 2.0," then capitalism—understood as a system in which goods and services (including, importantly, human labor and land) are produced for profit through exchange—had developed at *the very latest* half a century, if not two-and-a-half or three centuries, earlier (hence why it makes sense to speak of "industrial" capitalism as against, for example, "agrarian" capitalism). See generally Wood (2002). See Hobsbawm (1977, 14): "[capitalism] had already achieved, as it were, its historical breakthrough on both the economic and politico-ideological fronts in the sixty years before 1848." This more or less standard historiography does admittedly gloss over the industrialization (and capitalization) of English agriculture *well* before 1789; see, e.g., Pinheiro (2020).

⁹ This is of course not to say that this capitalist development was in some sense historically necessary (in some Marxist fashion) nor to say that these concepts cannot be re-imagined in ways that overcome this developmental baggage.

¹⁰ Now, it may be that the analogy between the pre-Qin transition and early modern Europe still holds *strictly*, if one holds the developments that I have briefly described here to be developments in late and not early Western modernity. This can be granted and my fundamental point still stand. Even if the analogy is strict, our responses to the present problems that the world faces cannot rest on a historical and conceptual foundation set by early modernity, if early modernity does not include capitalist development. For that development is now central to our problems and cannot be ignored.

difference—though not the only one—between the two modernities.¹¹

Even if Bai's early Confucians were faced with something like the beginnings of this economic order, that historical fact would mandate a methodological demand to pay attention to our present economic order. Any *present* humanist cosmopolitan project that looks, as Bai's does, to decenter forms of Western ideological hegemony must involve, in my view, attention to the material and spiritual and conceptual effects of this capitalist development that the world has now undergone. And Bai does not do so sufficiently.¹²

Take, just as one example of a contemporary humanist project that does pay such attention, Gandhi's proposal for Indian independence in *Hind Swaraj*. Gandhi contended that Indian independence would not require certain standard Western political responses (constitutionalized rights, legal protections for and enshrinements of pluralism, or a strict unified nationalism), to certain features of Western modernity (secularism, a certain form of individualism coupled with urbanization, the idea of the nation, a certain scientific thrall to technology and a detached, objectivist and objectifying, epistemology) precisely because India at the turn of the twentieth century had not yet gone through the capitalist "stage" of modernization that gives rise to these features. That is, Gandhi also recognizes an analogy between a non-Western

¹¹ There are other disanalogies that may be of general theoretical interest and of relevance to Bai's arguments. For example, competition among states in the SAWS was competition *for* a shared purpose of reunification under a single imperial state. The question was who was to rule, and the existence of separate states was thought temporary and not a new continuing circumstance of politics. One might argue that the general issue of equality among people requires first the idea of equality between states, thus putting Bai's central analogy at risk. I thank an anonymous reviewer for making this timely point.

¹² I take myself here to be making a particular example of a general point that Bai himself correctly makes: the historicist point that while some problems remain roughly the same between "antiquity" and "modernity," others are expressed in a different form and others newly arise. (Bai notes that it would be wrongheaded to analyze the modern economy without taking account of modern finance, for example.) I think it is equally wrongheaded to analyze modern politics without taking account of the modern economy. Bai makes some gestures towards this embedded political economic analysis in his reference to the role of corporations in comprising his "sixth fact" (See Bai 2020, 67). But the analysis does not go deep enough. I address Bai's "sixth fact" in more detail in what follows.

modernization (India at the turn of the twentieth century) and European early modernization. But he is sensitive to the deeper metaphysical and epistemological, let us say spiritual, features of modernization that arise from capitalist development and that require avoiding (in Gandhi's case) or resisting (in ours).¹³

II. Capitalism, Human Nature, and the Failings of Democracy

It is of course not enough just to identify some disanalogy or other in order to mount a criticism. One has to identify the specific results of the disanalogy. I will argue in this section that noting the disanalogy opens up room for an alternative explanation of the ills of democracy, namely that capitalism fosters the features of our moral psychology that Bai thinks makes us unsuited to democracy. So, our unsuitedness to democracy is not something fixed in the nature of things, but something contingent that can thus be changed. Without that critique of democracy, we need not resort to Confucian meritocracy as a corrective, especially since Bai's arguments against democracy fundamentally rest, I will argue, on the unargued for assumption of a Mencian conception of human nature, according to which only some (the great people) can actualize their full human moral capacities, even though all have equal moral potential.¹⁴ I will call this assumption about human nature the *Mencian assumption*.¹⁵

Bai identifies several problems with democracy (63 ff.). All of his arguments rest on the (correct) claim that proper participation in any form of governance requires the development and exercise of certain moral and epistemic capacities and the possession of certain resources.

¹³ This reading of Gandhi is Akeel Bilgrami's. See the two essays on Gandhi in Bilgrami (2014) and Bilgrami (2016). See also Mantena (2012a).

¹⁴ Of course, one may still prefer Confucian meritocracy to democracy on other terms.

¹⁵ I assume for the purposes of argument that Bai's interpretation of Mencius, particularly of 3A.4, is correct, though one may read that passage and others as pointing out something about necessary social structures of rule (that there just *must* be a king, irrespective of the equality of human nature) and not about human capacities. See Bai (2020, 44–47). Thanks to my anonymous reviewers for making this point to me.

For example, decision-makers have to be properly informed about the decisions they make and how they affect relevant parties; they have to make decisions in light of more than their narrow self-interest; they have to be able to justify their decisions to others on the basis of reasons and engage politically with other decision-makers in order to inform themselves and make the right decisions; and so on. Each of these arguments, I will claim, fails in at least one of two ways. Some fail because the problems Bai attributes to democracy are better attributed to capitalism. Others fail because—absent the Mencian assumption—they would apply just as well to other forms of governance, including a Confucian meritocracy.¹⁶

In the case of democracy as a system of governance, all citizens (as participants in the process of governance) have to have the capacities and resources mentioned in the previous paragraph. But there are certain constraints, Bai argues, that stand in the way of just and humane democratic governance under modern conditions. The first is that it is particularly demanding to be properly informed, given (a) the limited time citizens have to devote to becoming informed given the nature of modern work and (b) the large size of society, the number of affected parties, and the consequent complexity of policy decisions. The second is that there are standing temptations to self-interest and the pursuit of private wealth, especially where the costs of being informed are so high. Those temptations need not be distractions or irrationalities; Bai claims that it may be perfectly rational and perfectly proper for people to choose to be politically uninformed or to devote their limited time to pursuits other than politics—especially given the negligible import of individual votes—after all, as we philosophers apparently know so well, the life of contemplation is superior to the practical life.¹⁷ These constitute what Bai calls the “sixth fact” (in addition to Rawls’s five facts that describe pluralistic societies in *Political Liberalism*) of modern societies (67).¹⁸ Let us examine these arguments more closely

¹⁶ Thanks to an anonymous reviewer for this formulation.

¹⁷ Especially, it seems, when contemplation gives us seemingly unassailable reasons not to act politically in concert with others.

¹⁸ Bai also cites, almost as an aside, common arguments about the evolutionary limitations of our cognition, e.g., at 65. Of course, if these were true, why would the supposed elites

before turning to Bai's master argument from the Mencian conception of human nature that lies behind them. I will argue that without the backing of the master argument these considerations do not speak against democracy more so than other forms of governance.

There are two kinds of consideration that comprise the sixth fact: epistemic considerations concerning the demandingness of being informed and moral considerations given temptations to self-interest (or even the prudence of choosing self-interest over general compassion). I will work through each of them in turn. Take the size of society and consequent complexity of decisions. This does not seem in principle to cut for or against democracy. Meritocrats or epistocrats or technocrats similarly would suffer from these difficulties. Perhaps, one might say, addressing large-scale and complex decisions requires higher development of the relevant epistemic and moral capacities.¹⁹ But this, while true, is only a problem for *democracy* in particular if the Mencian assumption (or something else) holds such that citizens in general cannot develop these capacities to this higher extent.

A similar argument runs for the moral considerations concerning the temptations to self-interest and private wealth (the rationality of choosing the life of contemplation I address when I tackle the Mencian assumption). As Bai admits in Chapter 4, we cannot just assume the meritocrats are immune to self-interest or that the best among us choose politics. We need even then to have ways of funneling the best among us into politics, and we also need institutional as well as educative mechanisms for resisting the temptations to self-interest. So, the only difference between democracy and meritocracy in this respect is, again, the *number* of people who need to develop this moral fiber and the compassion and commitment needed to put the general will ahead of

fare any better? Have they somehow transcended evolutionary limitations? See, more generally on arguments from evolutionary psychology, Smith (2019).

¹⁹ It is for this reason that Bai suggests a greater role for democracy in local contexts, where local forms of knowledge are correspondingly of higher importance. And it is important to recognize that Bai's meritocratic proposals are not intended to imply that all meritocrats will think alike. He admits and explicitly relies on room for diverse and competing viewpoints among the elite. Thanks to an anonymous reviewer for criticisms along these lines.

one's own self-interest. Here again the Mencian assumption is needed.

The moral inadequacies of citizens for democracy are also amenable to a different explanation. Bai accepts the Confucian point that the development of human capacities is a social and relational process. Our capacities are developed differently given different social conditions and different relations to others. But this opens up the possibility that self-interestedness is fostered by the particular capitalist conditions in which we currently live (though, of course, it may be fostered counterfactually by other conditions). These conditions include huge competitive pressures arising from the commodification and exploitation of human labor and human capacities that set human beings against each other, the prioritization of narrow financial and corporate interests above other interests because of the role of money in a capitalist economy, the worship of economic growth and economic efficiency for their own sake above the human and social goods that growth and efficiency are meant to serve, a worship tied up with a purely economic and instrumental conception of rationality that itself fosters self-interest and ideologically blinds us to other ways of thinking of ourselves and others, and the alienation from social and solidaristic life with others that comes about when we must compete with those others in a marketplace for artificially scarce resources. Bai rightly criticizes the effects of money and corporate influence on politics. But it is precisely because these interests have dominated politics for so long that the moral psychology of overweening self-interest is so prominent and that the pursuit of "private" interests is seen as (and therefore becomes) antithetical to politics. Capitalism constantly trains us to prioritize our own interests ahead of those of others and the general will, precisely the psychological tendency that Bai rightly complains undermines democracy.²⁰

²⁰ One might worry that "capitalism" is too broad and large a concept to play the kind of explanatory role I have here given it. Of course, "capitalism" is not a single thing that can be used as an independent variable in an empirical study, and I am drawing in broad brush strokes. And I have no room here to get into the intricacies of the relevant debates about the nature and definition of capitalism. But the shape of the relevant phenomenon and kind of explanation should be more or less clear—at least as clear as the Mencian assumption.

Capitalism—in the form of the concentration of power and influence directed toward profit—also partially explains the epistemic problems citizens face. Concentrated and privatized media ownership and a free market model of information distribution underlie much of the disinformation and misinformation that permeates modern political society, as well as the need for higher epistemic capacities in the form of what we now call “information literacy.” And why would citizens want to engage themselves politically when they sense that, through no fault of their own, the influence of wealth far outweighs their own?²¹ The general point is that the epistemic and moral vices that no doubt play a role in the current ills of democracy—even if they are individual vices—have structural and political causes that need to be explored before they can be sheeted home to simple failings of character.²²

Bai’s most compelling argument—one that does not rely on the Mencian assumption—is from the nature of modern work. He argues that modern work conditions consume our time and our energies so that workers “know little about public affairs or anything outside of their narrow specializations” (63). Let’s accept this claim on its face for now, though note that it actually comprises two related claims: the first is about our time and energies being consumed, and the second concerning the problem of skill specialization in the workplace. Why do we not have enough time?²³ And why can’t we be the kind of people, as Marx suggested, who can hunt in the morning and read criticism in the evening? (Marx [1845] 2007, 132)

One obvious line of response is to point to the conditions of work under capitalism: that the vast majority of us must sell our labor on the market under exploitative and competitive pressures, and that since time and money are treated (at least by modern economics) as fungible and equivalent goods, our time (like our labor) has been appropriated from us. If one accepts *something* like this story, the relevant time limitations are not fixed constraints, but contingent on the particular

²¹ For contemporary studies of the political influence of wealth, see e.g., Gilens (2005), Bartels (2009), and Bartels (2016).

²² See Dillon (2012).

²³ See Rose (2016), where Rose argues that a fair distribution of free time for pursuing whatever leisure goods one wishes is an egalitarian requirement of distributive justice.

social and economic structures that are currently in place.²⁴ In turn, if we could change the conditions of work, then they would not pose a challenge to democracy.

So much for time. What about specialization? There is admittedly something to be said for the idea that specialization stands in the way of generalist kinds of knowledge and understanding, and for the claim that politics requires something like the latter and not the former.²⁵ The way Bai figures this idea is by following Mencius's distinction between "labor of the muscles"—work that is done for oneself and a close circle of people—and "labor of the mind"—larger forms of (political) work that are done for the people (45). "Labor of the mind" is superior to specialized labor, insofar as the former requires fuller development of general human virtues—compassion for all and wisdom to apply that compassion properly—and the latter does not. That is, as Mencius says, "[t]here are affairs of great people, and there are affairs of small people. . . . The former rule; the latter are ruled" (*Mencius* 3A.4, as cited in Bai 2020, 45). This distinction between the great and the small concerns Mencius's conception of human nature: the Mencian assumption, as I called it earlier. According to Mencius, while everyone has "equal moral potential," not everyone equally actualizes that potential. The "great people" have more fully actualized their moral potential, while the small people have not; the great people are more fully human(e) (*ren*) insofar as they have more fully developed their distinctively human capacities. And those "great people" can only ever be a small minority; hence why democracy is infeasible: in Bai's words, "only great human beings can become rulers" (45). Lying behind Bai's claims about specialization is the claim, based on the Mencian assumption, that the particular kind of virtues needed for politics are the province of the very few.

²⁴ There is a reason why one of the earliest demands of worker organizations was the eight-hour day. And it is also no surprise that resistance to the alienation of modern work—a political demand if ever there was one—has always been led by workers.

²⁵ This claim is in some tension with the idea that politics is itself a specialization that requires a certain specific kind of training or education. This is a background tension (though I do not say contradiction) in Bai's conception of meritocracy: the old question of whether politics is a skill. Bai seems to want to have it both ways. Politics both is and is not a skill.

Something further needs to be said, before turning to the Mencian assumption, about Bai's views about labor and politics. Bai thinks that the political class ought to be insulated from those subject to the daily grind, that the ideal education for politics is an education *in* politics. He suggests in Chapter 3 that there ought to be a hierarchy of legislators, with steps in political office comprising the practical part of a political education. Every step up the meritocracy is a step further away from specialized labor. One might (in my view rightly) think—and I will not argue in detail for it here, other than to say “look and see”—that such a political education separated from the details of life and labor is precisely one of the factors that lead consistently to the dangerous and elitist features of the political class, their incomprehension of people's lives, the lack of compassion and humaneness that the political class shows for the “hoi polloi.” In contrast, something closer to a proper political education comes from different kinds of political action that occur in and through workplaces and other social spaces. It may be true that there is some role for career politicians, let alone for bureaucrats and the rest of the apparatus of the administrative state. But I think it politically dangerous and shortsighted to suggest that politics *in its purest* is to be separate from work and labor. A view like Bai's, that politics is for the great and noble and not for the ordinary, does not and cannot have room for a politics *of* the ordinary, of social movements, of resistance, which (I suggest) is the kind of transformative modernist politics that we need to theorize and practice.

So, Bai's central arguments against democracy either point in the direction of capitalism as an explanation for democracy's ills or, without some other premise (the Mencian assumption), do not cut against democracy as opposed to other forms of governance. We must thus turn to the Mencian assumption: that, while all are equal in moral potential, all are nonetheless unequal in moral actuality. Importantly, this assumption is separable from the (correct) claims that Bai endorses as part of the Confucian package, that the actualization of moral potential is a social process, that it involves practicing those moral capacities, that an education is necessary to actualize them, and that it is (at least partially) the responsibility of government to provide that education and the resources and time necessary to actualize those capacities. And,

it must be emphasized, Bai treats this claim as a political claim, not a metaphysical claim. In that it is akin to Rawls's political conception of the person as rational and reasonable, and it plays a similar grounding role in the account.

Yet *no argument is given for this grounding assumption*. "We have to consider this a basic assumption," Bai says, "... a fact of life" (48). And it holds irrespective of the education and institutional structures provided by the state: "for reasons unspecified . . ., in spite of the equal opportunities offered by the government and the equal potential of all people, in reality, people differ, and the majority of the people will fail to develop their potential adequately" (47-48). That is, the Mencian assumption cuts deeper than Bai's earlier (empirical) claims about the nature of work and so on, which were contingent on social structures. It is a grounding assumption that, it seems, has to be accepted for things to get off the ground. We have an unargued for assumption that is not only sufficient in itself to ground Bai's Confucian meritocracy, but, it seems, might even be necessary (given the grounding role that it plays in Bai's other arguments against democracy). At its highest, the Mencian assumption is argued for as the best explanation of the ills of democracy. But if there is any plausibility to the explanation involving capitalism that I have raised above, then the Mencian assumption cannot enjoy default status as the *best* explanation. Some further argument must be given.

So here are two questions for Bai. First, what reason do we have to accept this Mencian assumption, especially if we have an alternative explanation (in capitalism) for the ills of democracy? Second, what does it even mean for humans to have "equal moral potential," if it is a given that not everyone can (indeed that most people cannot) actualize that potential?

Let me say a little more about the second question, having said a bit about the first. Why is it important to Bai to have the equality part of the Mencian assumption, even if it is limited to potentiality? One important role that it plays is in resisting the slide to authoritarianism by grounding the democratic and human rights elements of Bai's proposal. For if humans did not have even equal moral *potential*, then on what grounds are we distinct from the "beasts," and why ought

government be for the people rather than for the fully developed human beings? So, one role of the claim to equal moral potential is that it descriptively grounds a normative goal for human beings: to actualize that potential is what it is to be human.²⁶ And to support people in achieving that goal is one of the functions of the state, hence why it cannot be an authoritarian state interested only in the self-interest of the few.

Yet, Bai simultaneously claims that it may be rational to choose to be politically uninvolved, to prefer private interests to the public good (66). Indeed, it is rational for the majority of people—those who do not have the right moral development—to do so.²⁷ It follows that it is rational to choose not to be fully human, at least for those who (in some sense) *cannot* actualize their human potential—a claim that seems to require further explication. So, again, the question arises: what does it even mean to speak of a potential that (in the vast majority of cases) *cannot* be actualized, even given the ideal conditions for its actualization? Let us assume that the relevant social conditions for actualization of that potential are met—a general civic education, time and resources and so on, so that government is not at fault for the failures to reach that potential—yet many do not reach that potential. Is that their fault? Does it mean that, really, they did not have that potential, since the conditions were met for its actualization but it was not actualized?²⁸

²⁶ In turn, this grounds some of Bai's later hierarchical claims about *xia* and *yi* states in the international order. *Yi* states are those that are not humane in the sense that they have not actualized this moral potential. For the sake of space, I leave aside concerns that I have about this reintroduction of the notion of "civilization" in this context, though I think that there is something to be said for Bai's appropriation of the Confucian notion of circles of compassion for cosmopolitan purposes.

²⁷ Yet compare Bai (2020, 68): "To satisfy the political needs of each citizen includes satisfying his or her need to participate in politics."

²⁸ One may be worried that here Bai is reminiscent of the old colonialist chestnut: if you (the colonized) are given all the right conditions, including the right education and the right opportunities and everything else, and *still* you refuse to become (like "us") properly civilized/free/virtuous, then—even if you are "human" in the sense that you *could* be civilized/free/virtuous—you are recalcitrant; your situation is your own fault; and "we" are justified in ruling over "you" for your own benefit. Bai does not go so far and I do not think he would endorse explicitly this line of thought. But there is that direction to the argument, reflected also in Bai's arguments for animal rights (it befits

There are other confusing uses of the term “potential.” For example, Bai rightly argues for a basic civic education for all, on the basis of each person having equal moral potential. That civic education is meant to reveal those suitable for politics. Yet after that civic education is complete, Bai speaks of further education and resources to be provided, conditional on a citizen being “interested in and [having] *potential* for participating in politics” (68, emphasis added). What does that latter use of “potential” refer to? It cannot be the moral potential everyone has equally, for that was the ground for the initial lot of basic civic education. So that use of “potential” must seemingly refer to some *further* potential, distributed *unequally*, that only some citizens have for the *actual* practice of politics. Are there “potential” potentials? Degrees of potentiality, like there are degrees of actuality?

I’ve argued in this section that taking seriously the role of capitalism as a disanalogy between the SAWS modernity and European modernity provides an alternative explanation for the ills of democracy. At the very least, it means that the Mencian assumption cannot simply be plonked down as the default explanation for these ills. And given that (at least to me) it is unclear what the notion of “equal moral potential” in the Mencian assumption means (though I understand the functional role it plays; what it is meant to do in the theory), it seems that the Mencian assumption faces further challenges that must be met.

III. Capitalism and the Challenges for Confucian Meritocracy

I argued in the last section that capitalism as a disanalogy between Bai’s two modernities undermines his arguments against democracy. I will argue in this section that it undermines his positive proposal for meritocracy. In essence, the argument is that meritocracies under capitalism become apologies for unjust hierarchies. And while Bai recognizes in principle that there are potentials for corruption (using the term broadly and not just to refer to official corruption) of his

“us” humans to treat animals well, because we are harmed when we harm them) and of the international community’s responsibility to protect (“you” are inhumane, so we must protect you from yourself), of which one ought to be at least a little suspicious.

Confucian meritocracy, he still idealizes meritocracy in a way that he does not do for democracy. So, my argument is in one way an argument from consistency: in comparing institutional alternatives, we ought not be realists about one and idealists about the other.²⁹

Let me make this argument through an analogy with Dalit philosopher B. R. Ambedkar's critique of M. K. Gandhi's philosophical reclamation of the hierarchical Vedic social structure of *varna*. *Varna* is the classical form of caste division in Vedic thought, contained in the early Vedic texts.³⁰ It is a system of fourfold division into broadly occupationally based castes (Brahmin "scholars," Kshatriya "warriors," Vaishya "merchants," Sudra "laborers") on the basis—like Bai's Confucian meritocracy—of the differing qualities and capacities of individuals. It also shares a kind of organic holism with Bai's Confucianism, insofar as that differentiation is justified on the basis that different people can contribute different kinds of skills to society considered as a whole. And, again like Bai's Confucian meritocracy, Gandhi's proposed reclamation of *varna* (as distinct from the historical and existing practices of caste) is based on some conception of the moral equality of all. The structure of Ambedkar's critique of Gandhi may thus shed some light on potential problems with Bai's Confucian proposal.³¹

I do not mean to deny the many and deep differences between Bai's Confucianism and Gandhi's Hinduism, including the (metaphysical) basis of the differentiation and their conceptions of equality. But the structural analogy with which I am concerned is not undermined by those differences. Let me note those differences quickly before proceeding.

²⁹ Another way of framing this objection is that Bai (quite unobjectionably, as a methodological stance) takes a non-ideal theoretic attitude toward democracy: democracy as it operates in existing non-ideal conditions. But he does not hold the same conditions fixed when he puts forward his meritocratic alternative. This is not meant to be an argument against ideal theory. It's perfectly acceptable (though in my view, purpose dependent) to make certain idealizing assumptions in one's theory. But then the same courtesy ought to be applied to other theories.

³⁰ For the oldest extant texts, see Olivelle (1999). That edition has a useful introduction on the dating of the texts. See also Olivelle (2010).

³¹ I do not suggest that the specific *details* of Ambedkar's critique also hold, though there may be some analogies that I do not pursue.

The first difference is in the nature and ground of the hierarchy. Gandhi's conception of *varna* was based in the karmic doctrine of rebirth on the basis of one's thought and action in past lives. One's *varna* in this life is based, at least in part, on "the influence of previous lives and heredity. All are not born with equal powers and similar tendencies" (Gandhi 1932, 226).³² This is of course a metaphysical ground for inequality that runs deeper than Bai's Confucian kind, which is political, not metaphysical. But Bai's Confucianism, like Gandhi's belief in karma, still holds that the relevant inequalities are fixed in the sense that they cannot be rectified by even collective human action.

Bai might argue that, unlike Gandhi's metaphysical dogma, his view holds that people have equal moral potential, and that moral differences arise only in this life. So, one is not born into a caste but can, through one's own actions, determine where one ends up in this life. There are two important points here. First, Gandhi, in proposing his idealized reclamation of *varna*, was intending to reform the existing caste by birth system in India, in which each person was born into a specific caste defined by hereditary occupation (*jati*).³³ So, like Bai's proposed Confucian meritocracy, Gandhi's view was specifically set against a hereditary model of caste inheritance. Karma is not equivalent to the caste one inherits at birth. Second, Gandhi's reclamation of *varna* involves an assessment of a person's *existing* virtues and character as the basis for the division.³⁴ So, for practical and epistemic purposes as distinct from the metaphysics, how one receives one's differentiation is this-worldly.

A second difference is in the kind of moral equality that characterizes Gandhi's and Bai's views. An essential part of Gandhi's reclamationary project was to remove *actual* hierarchies in moral value between

³² For reasons of space, I leave aside the question of whether karma of past thoughts and actions is determinative and where, if anywhere, a conception of freedom plays a role in Gandhi's thought.

³³ The relation of *jati* to *varna* is a complicated one. The British colonial government categorized all *jatis* into the fourfold *varna* categories for census purposes beginning with the 1901 Decennial Census. See Dirks (2002).

³⁴ This is so even if one's virtue and character are determined to whatever degree by one's karma.

castes. It is for this reason that Gandhi insisted on the term *harijan*, meaning “children of God,” to describe the “untouchable” Dalits. All *varnas* were equal and equally human, if functionally differentiated, for Gandhi. This is of course different from Bai’s notion of equality in moral *potential* and his normative and degreed notion of humanity, which is possessed unequally by people. So, both insist on some kind of inequality against the backdrop of some other, normatively important, kind of equality. And both see their projects as resisting Western intellectual imperialism by returning to an autochthonous philosophy. One way to put the critique is to ask whether that distinction can be maintained, or whether (at least under certain social conditions) inequality of one kind has a tendency to spread psychologically and institutionally into inequality of other kinds.³⁵

The part of Ambedkar’s critique of Gandhi that I want to draw on is the claim that his notion of *varna* is, under existing economic and social conditions, *indistinguishable from caste*.³⁶ For Ambedkar, Gandhi too quickly isolates an idealized religious ethics from the larger social context. And that in turn means that Gandhi is blind to the way in which his idealized differentiated social structure, when embedded in existing social conditions with existing social and economic institutions, will take a form shaped by those conditions and institutions and be corrupted by them. So, for Ambedkar, caste is not just a religious and ethical issue, to be addressed through religious and ethical reform. Caste, for Ambedkar, is “more than a religious system. It is also an economic system which is worse than slavery . . . not only a system of unmitigated economic exploitation, but . . . also a system of uncontrolled economic exploitation” (Ambedkar [1945] 2014, 197).³⁷ Ambedkar continues: “Those who believe that Untouchability

³⁵ Cf. the argument, made by Miranda Fricker among others, that certain kinds of prejudices are domain-insensitive: they “track” their objects across different domains (Fricker 2007, 27-28).

³⁶ I am leaving aside much of Ambedkar’s critique that is specific to the Indian context, and which has to do with the specific forms that caste takes, both in Hindu religious doctrine and in Indian colonial society.

³⁷ Ambedkar is using “religious” here in a narrow and modernist sense, as delimiting a particular social sphere from others. He also used “religious” in a deeper sense, to pick out what is fundamental to one’s being in the world, to one’s outlook on things.

will soon vanish do not seem to have paid attention to the economic advantages which it gives to the Hindus” (Ambedkar [1945] 2014, 197). Ambedkar’s broad point is that we cannot (either for theoretical or practical purposes) isolate one kind of institution from the broader web of institutions and structures in which it is embedded. To extend the analogy to a critique of Bai’s view, we cannot theorize how a Confucian political meritocracy would work without understanding its (possible) interactions with other existing institutions (unless they too are to be changed)—in particular, for my critical purposes, capitalism. Without transformative change to those economic and social institutions with their concomitant ways of thinking, even a Confucian meritocracy will be corrupted and fall into a simple oligarchy.

Ambedkar’s argument is twofold, one part methodological and one part substantive. The methodological point is that Gandhi is engaging in a kind of ideal theory. He is proposing an idealized order, the proper functioning of which relies on abstracting away from relevant features of our existing social structures.³⁸ Ambedkar’s criticism is that to do so misconstrues how that idealized order will function once those features are reintroduced into the analysis. Bai already accepts some version of this claim. He accepts, for instance, that introducing various meritocratic changes to political institutions will require transformation of educative and other cultural institutions. And he gestures towards the possible corrupting effects of continuing corporate money on his meritocratic institutions. Yet with regard to the basic structure of economic institutions and their concomitant moral psychology of self-interest and competition, he seems on the one hand remarkably

³⁸ To be fully fair to Gandhi, he is not putting forward an ideal theory in anything like the sense in which Rawls was putting forward an ideal theory. His ideals are intended to work a spiritual transformation in life as a whole and not simply to be goals that we need a separate “non-ideal” theory in order to achieve. In that light Gandhi was perfectly right (from his perspective) to ignore (or, better, not to compromise to) the non-ideal conditions and the surrounding institutions. That was all to be transformed through the spiritual action of *satyagraha*. See Mantena (2012b). Perhaps Bai also has a further story about how the Confucian spiritual transformation central to his view is to spread throughout the entire system; if so, that would be a fascinating and very important addition to the moral psychology of politics to which the second half of his book is dedicated.

sanguine about some of their possibilities while recognizing, on the other, the damaging political effects of overweening self-interest—which is precisely one important cause of the ills of democracy on Bai’s account.³⁹ Not only is there an inconsistency in the boundary conditions of his theory (meritocracy can utilize the benefits of self-interest, but democracy cannot), but Bai does not extend as fully as he ought the important Confucian insight that political institutions are not isolated from other social institutions, but are rather *systematically interconnected* with them.

The substantive claim is that economic institutions foster ways of thinking and feeling that affect the operation of political and social institutions. Specifically, capitalism corrupts whatever existing hierarchies it finds. It turns them into means for exploitation and oppression. For Ambedkar, the introduction of a wage labor economy to colonial India, in addition to whatever other ills it caused, led to exploitation along caste lines. It led to the hoarding of opportunities and resources by those who already had greater opportunities and resources—quite literally, forms of cultural capital in addition to economic capital. In these ways, caste serves as a basis for economic exploitation. It justifies (in practice) differential educational oppor-

³⁹ Bai’s arguments here strike me as particularly weak. For example, he argues in passing that competition can be good for well-being, on the basis of one unpublished study and with reference to one theory (“tournament theory”) in workplace economics, the technical results of which hold at best only under limited conditions (where absolute outputs cannot be easily measured, ordinal ranks can be easily assigned and reward granted solely on the basis of rank, where the participants are of equal ability, and participants are striving against each other and not for some common good) that do not seem easily to hold of Bai’s conception of politics or of political office. After all, if the conditions that define tournament theory hold, then political officers must be motivated not only solely by the receipt of pay, but by pay *differentials*—their own comparative (and not even absolute!) self-interest with respect to others. There must be the possibility of exit from one political organization and entry to other similar organizations; and the larger the organization size—huge, in the case of government—the larger the reward differentials must be, which in turn, according to other studies, lowers performance, motivation, and collaboration. So, unless we would like government to be structured and to function like the highest echelons of corporate governance, we ought to be skeptical of the applicability of tournament theory in the way Bai suggests. In short: do we want politics to be a tournament between holders of political office? See, e.g., the results summarized in Connelly et al. (2014).

tunities, and different political rights. The interpretations of religious doctrine that license it also, through the operation of formally equal laws, lead to substantively differentiated and oppressive effects in terms of access to social goods. So, in Ambedkar's view, one cannot get rid of the problematic hierarchies that comprise caste without wider transformative change to legal and political institutions, to forms of education, to village structures and structures of work, and to economic structures.⁴⁰ And at bottom, this is because capitalism fosters self-interestedness and competition, and existing hierarchies become easier means of seeking one's self-interest, albeit at the expense of others. We come to see all others as competitors; all of us are locked in zero-sum games for scarce resources.⁴¹ So, in practice, meritocracy, without deeper economic and social reform, in practice reinforces existing hierarchies.⁴²

Of course, as I have said, Bai is rightly concerned by the possibility that Confucian talent-based meritocracy may fall into or perpetuate other unjust or exclusionary forms of hierarchy. Bai defends against this possibility by emphasizing several elements of his view. First, the hierarchy must be *open*. There must be social mobility between classes, and admission to the upper class on talent alone. Second, Confucian

⁴⁰ There are deeper philosophical and strategic issues here about the process of reform, issues that generalize beyond caste to the removal of other oppressive hierarchies. I do not have the space to get into these here, but in short, Ambedkar argues that political reforms are needed to empower the lower castes and Dalits. This includes special rights and affirmative action for substantively fair political representation. But this political process requires the legal enshrinement of caste categories, which, at the social level, reiterate existing caste relations. Yet social and religious change is impossible without those political reforms—again, a way in which institutions in different spheres of society are systematically interconnected.

⁴¹ This is not to say that all forms of competition are necessarily bad. But the conditions under which competition can be a noble force are not the ones that hold in (or hold only in highly insulated sectors of) a capitalist society. So, we may admit, with Aristotle in Book IX of the *Nicomachean Ethics*, that there are forms of friendship that are based on healthy competition with equals, where the prize for competition is tempered by the close relationships one has with one's friends and where, consequently, self-interest becomes a far weaker motive.

⁴² See the extensive literature on this, e.g., Markovits (2019), Scanlon (2018), Guinier (2016), and Morton (2019). Of course, the direct applicability of these arguments and studies is limited by the fact that they focus on a broader economic and social meritocracy, and not to the specifically political meritocracy for which Bai argues. But there seems to be no reason in principle against extending these arguments.

meritocracy, like any political ordering, must be supported by the right kind of education so that the reasons for that political ordering and the benefits it brings can be widely known and accepted. What is essential here is that the meritocracy be a true meritocracy able to be endorsed by all who participate in it, and not merely a formalistic sham that reiterates substantively a fixed hierarchy. Third, Bai argues for certain institutional responses to protect against unjust use of elite power.

Let us look at these lines of possible response. I will begin with the institutionalist response, which is interesting for distinct reasons concerning the instability of liberal democracy and of Confucian meritocracy, before turning to the responses specific to Confucian philosophy.

Bai's institutionalist solutions to elite corruption take the form of checks and balances from the popular house and increasing factions and diversity among the elite to prevent accumulation of power (89-90). These proposals are interesting because they point to a deep tension in Bai's form of mixed government, one that reflects also a deep tension in liberal democracy that arguably does some important explanatory work in explaining the ills of democracy. I sketch this line of argument for the sake of that interest.

As Russell Hardin and others have pointed out, checks and balances are institutionalized forms of *distrust*.⁴³ We (here, the citizens) distrust those with power and consequently institute methods of restraining the exercise of that power so that it serves the interests that it is meant to serve. Such institutionalized distrust is essential to liberalism. Yet, at the same time, Bai insists that we (at least we *ordinary*, non-elite citizens) must place our trust in elites; after all, they receive certain powers and privileges that we do not, on the basis of their virtues and education.⁴⁴ And what is to stop us resenting that power and that privilege if we do not trust them? (In a sense, further, we must trust *blindly*, for we do

⁴³ See, e.g., Hardin (2002). See also the essays in Hardin (2004).

⁴⁴ See Bai (2020, 84): "It is crucial to the Confucian hybrid regime that people be instilled... with a sense of respect for moral and intellectual excellence and acceptance of the rule of the wise and virtuous so as to abdicate willingly their right to participate when they consider themselves incompetent. Chinese peasantry in the past and many Western voters before the age of populism and cynicism had respect for authority, and they did not find it unacceptable that the experienced and knowledgeable had more authority."

not have the virtue or the knowledge to understand the measures they are taking; else we would also be one of the elites.) So, there is a need to balance these two necessary features of Bai's system—the distrust characteristic of liberalism and the trust characteristic of elitism.

I do not say that this cannot be done or that there is a contradiction (as opposed to a tension) here. After all, the same problem faces liberal democracy—we must trust those whom we elect to represent us, and yet distrust of them is institutionalized in the form of party politics, the separation of powers, veto powers, constitutionalized rights protections, and so on. We might think (in a manner consistent with Bai's story about the rising distrust of “the age of populism and cynicism”) that this tension, or at least mismanagement of this tension, contributes directly to the ills of liberal democracy—especially where this populism and cynicism is in a sense quite justly driven by the failures of technocratic and elite governance to do what is just and right in the face of vested interests and all the other governance challenges of scale and complexity that Bai rightly notes. But—and this is a genuine question—are there new mechanisms in Bai's interesting Confucian combination of liberal distrust and democratic *and* meritocratic trust that might help manage this tension better? If so, they would be additional important lessons for political institutions today.

I turn now back to Bai's non-institutionalist responses, which do the bulk of the heavy lifting. One line is to insist that the relevant Confucian meritocracy is one of wisdom and virtue. Thus, by definition, those with the relevant merit will not be self-interested and will not fall prey to the psychological traps that befall the ordinary folk in a capitalist system. No doubt this is in some sense possible, but it seems, in light of the above critique, just to be table-thumping. It abstracts away from the features of our system that seem most stable—for instance, that power corrupts, and that absolute power corrupts absolutely, or that the more one becomes involved in formal politics and policy-making, the less one retains the kinds of connection to community and to the people directly affected by one's policy decisions that ought properly to inform one's decision-making.

What about Bai's insistence on the role of a proper and ongoing political education? As much as I too have a faith in the power of

education, it cannot overcome by itself the cultural and psychological power of the system as a whole, especially where education is not ongoing but rendered distinct from one's work. (This is becoming more and more apparent in the form that educative institutions are now taking. We may insist that a better education would be . . . better, but it is increasingly unclear how such a counter-cultural institution can exist without radical change to our economic system and the values and psychology it enshrines.) This holds especially true of Bai's proposed kinds of formal practical education through holding office, which involve, in my view, precisely the wrong kinds of education. As I suggested in the last section, politics is not, or at its best ought not to be, a specialized enterprise, a "labor of the mind" as distinct from a "labor of the muscles." Rather, it ought to be connected deeply to one's daily labor. It is no accident that many of the most important social and economic progressive developments of the last two centuries across the world have come because of unionization and the politics of organized labor.⁴⁵

Bai may focus on his claim that the Confucian hierarchy is not a fixed hierarchy, but one characterized by mobility and openness. But so too some insist that the existing "meritocracy" that, say, characterizes the Ivy League universities in the United States is one characterized by mobility, or, more generally, that the United States is in principle a meritocracy, even though *actual* mobility is next to non-existent.⁴⁶ The theoretical insistence does nothing without some confrontation with the reasons why meritocracies become corrupted and some account of how Bai's version is actually to resist these influences. And in

⁴⁵ I do not mean to underplay the problems and wrongs that unions have historically contributed to, including gender- and race-based oppression and some of the problems of disrespect and anti-intellectualism that Bai is concerned with. But these are problems caused by a *lack* of democracy and inclusion and not of over-inclusion. Ambedkar, for one, was very sensitive to these problems with union politics and with socialist politics more generally.

⁴⁶ Compare Bai (2020, 86n5, emphasis added): "the *apparent* mobility offered hope to the peasant and other people of the lowest strata of the traditional Chinese society, and they could—perhaps over the efforts of a few generations—first move up to the level of propertied men (landlords and wealthy merchants) and go from there to the elite ruling class."

the face of this lack of an account, Bai's claims about the benefits of upward mobility, even while he recognizes that the picture of upward mobility in classical Confucianism is "perhaps too rosy" and even that upward mobility is, for whatever unspecified reason, by and large across societies just not the case, sounds not a little like special pleading. After all, the meritocratic myth and the myth of upward mobility for a while now have played the ideological role of maintaining stability by redirecting discontented energies toward individualized goals rather than social change: "don't worry that you're heavily exploited, working for someone else's gain, and left without any kind of safety net—if you *just work hard enough*, you'll get ahead! And then it'll be your turn to exploit others for *your own gain*." While I do not disagree with Bai that hope is important and can provide a sense of purpose and motivation to people (especially those who may not have many other grounds for purpose and motivation), those hopes do have to be grounded in actual possibility. And given Bai's Mencian assumption—that only the few can achieve this hope—this hope of upward mobility that most cannot achieve becomes, almost definitionally, a *false hope*.

I hope that this claim about the ideological function of upward mobility does not strike the reader as an unfair one to make, against Bai's expressed intentions. Even if we were to accept, as a matter of stipulation, that a Confucian meritocracy would have a higher degree of class mobility than exists now or existed in historical Confucian society, Bai's arguments for upward mobility rely precisely on its ideological function (though, of course, he does not use this term) in stabilizing the political system. Even where upward mobility is only "apparent," Bai says, Confucian hierarchy "allows the possible resentment of the lowly to be vented by encouraging them to turn their resentment regarding their lowly status into a drive to strive for a higher status. This venting *doesn't threaten the stability of the hierarchy and prevents a 'slave revolt' from disrupting the status quo*" (106, emphasis added). Bai treats resentment in Nietzschean terms as a psychological mechanism to be redirected. Those on the bottom feel resentment at those higher—this is just the way things are. In doing so, he pushes to one side the *normativity* of resentment: that it can point to legitimate grievances that the "low" have against the "high." Of course, if Bai's Confucian

meritocracy indeed perfectly serves justice, then the resentment of the “low” would be unjustified. But if Bai accepts (as he does and ought) that virtue is not the only solution to bad governance, then resentment need not be something merely to be redirected and shuttled away. It could be (as it is, at least ideally, in the criminal justice system, for instance) a *just* emotion, one that can point out injustice and help address it.

It is to Bai’s credit that he sees the deep connections between moral psychology and political institutional structures. My comments in this last section have in part followed Bai in that vein, and have sought to extend his moral psychology of politics beyond the “positive” attitudes of compassion, respect, and hope to the “negative” attitudes of distrust and resentment. And I have sought to complicate Bai’s analysis of the political role (and the political dangers) of self-interest and competitiveness. It’s worth sketching in closing what I am not saying, in arguing that Bai’s multiple modernities analogy is undermined by his failure to take into account capitalism.

First, I am not arguing for the need for revolution. Indeed, we need to get past the dichotomy of total revolution *or* limited reform, a dichotomy inherited from Western modernity and its temporality. But I am insisting that our political imagination ought to encompass far-reaching and transformative changes to our social structures.⁴⁷ And I take Bai to be a fellow traveler here, to be a philosopher who also has such a wide political imagination—one of the signal virtues of his book.

Second, I am not arguing that there is nothing that can be learned from Bai’s multiple modernities analogy. I think it is exceptionally interesting to read Confucianism not in comparison to the Greek ancients, as is more common, but as modern thinkers, though I admit to a certain sympathy for modernizing interpretations in general. And I think there is much to pursue, both in relation to the Confucian moral psychology of humaneness and compassion and how that moral psychology relates to the “political, not metaphysical” reading of the Confucian texts.

⁴⁷ I don’t have the space to set out my own views here. But see Unger (1997, e.g., 61–63) on the distinction between revolution and reform and “transformation.”

Third, I am neither arguing that there can be no case made for hierarchies, though of course my sympathies quite clearly lie elsewhere, nor that egalitarianism ought to be construed as some kind of default. It may be that some hierarchies are unavoidable, and a challenge is how to make them as minimal and as temporary as possible. And I take seriously the challenges, articulated (and responded to) by Bernard Williams and others, to some general and abstract notion of equality.⁴⁸ There is work to be done there. But such arguments should not be made by plonking down some conception of human nature.⁴⁹

Fourth, in focusing on the ways in which capitalism fosters a moral psychology of self-interest, I do not mean to claim that *only* capitalism does this, or that self-interest is something outside human nature, forced on us by unnatural capitalism. One thing to take from the Confucian tradition is its emphasis on the *malleability* of human nature. We can put this (in an un-Confucian way) by saying that humans have no nature, that the concept of human nature plays only a false and constraining role in limiting human possibility. Or we can put it (in a more Confucian way) by saying that human nature contains many potentials, many possibilities for development, both good and bad, and that capitalism fosters certain of those possibilities at the expense of others. If we take seriously the claim central to the Confucian tradition—that human nature is actualized socially—we cannot simultaneously claim that some potential in human nature will out in the same form *no matter what*. How we structure our societies shapes who we are, as

⁴⁸ See Williams (1973, 230–49).

⁴⁹ It may be that, in the end, such arguments boil down to unargued-for assumptions. At one point, Bai invokes a hope in the benefits of meritocracy and a hope in the virtues of elites (90). It seems fair, correspondingly, to think that at the heart of democracy lies a hope in the agency of ordinary people, a hope expressed clearly by James Baldwin in saying to Audre Lorde that “we are the only hope we have” (Baldwin and Lorde 1984, 74). Such a hope is also expressed in other anticolonial and humanist thinkers, sometimes coupled with a vastly different and more expansive conception of human nature to Bai’s. Compare Du Bois ([1920] 2007, 68): “Infinite is human nature. We make it finite by choking back the mass of men, by attempting to speak for others, to interpret and act for them, and we end by acting for ourselves and using the world as our private property.” Du Bois begins *Darkwater* with a Credo, the first belief of which is in “the possibility of infinite development” of “all men.” It may be that this hope is unjustified. But we ought at least have the respect for others to test that hope before we discard it.

much as who we are structures our social forms.

There is much to like about Bai's wonderful book. My disagreements with much of Bai's positive picture do not lessen my own respect for the theoretical erudition and detail with which he draws together the vast array of resources and ideas that he marshals. *Against Political Equality* is a rich work that displays admirably the virtues of cosmopolitan thought informed by historical sensitivity. I have learnt much from it, and I hope that the criticisms that I have sought to articulate in this paper express the deepest compliments that (I think) one can give a work of philosophy: that it is interesting, that it provoked one to thought, that it compelled one to respond deeply to it.

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Political Confucianism and Human Rights

Daniel P. Corrigan*

Abstract

This article examines the theory of human rights developed by Tongdong Bai in his Confucian-inspired political philosophy. Partly influenced by Rawls's "political liberalism," Bai seeks to offer a "political conception" of Confucianism. However, Bai's methodological approach also deviates from Rawls's approach in certain key respects, and this has significant implications for his theory of human rights. The article begins with a comparison of Rawls's and Bai's methodological approaches. It then discusses how these competing methodologies are used by each philosopher to develop a theory of human rights and international relations. Finally, the article seeks to adjudicate these competing accounts of human rights. Notably, Bai does not follow Rawls in offering a "political conception" of human rights, one which recognizes the role of human rights in mediating international relations between states. While Rawls's political conception of human rights has been the subject of criticism, it is shown that even a revised version of this theory presents challenges for Bai's account. The article concludes by offering suggestions about how Bai's theory of human rights should be revised in order to adhere to his methodological approach. The issues raised in this article present a challenge not only for Bai, but for any attempt to develop a Confucian theory of human rights.

Keywords: Human rights, Confucianism, political philosophy, international relations, Rawls, Tongdong Bai

* Daniel P. Corrigan is Assistant Professor of Philosophy at Marymount University. E-mail: daniel.corrigan@marymount.edu

In *Against Political Equality*, Tondong Bai offers an interesting and provocative Confucian-inspired approach to political philosophy. While Bai's book makes valuable contributions to many topics and raises an array of issues for discussion, this article focuses on his theory of human rights. Bai's approach to Confucianism is partly influenced by Rawls. However, he also deviates from Rawls in certain key respects, and this has significant implications for his theory of human rights. The article begins with a comparison of the methodological approaches adopted by Bai and Rawls, then explains how these approaches are used to develop their respective theories of human rights and international relations, and finally seeks to adjudicate the differences between these theories. Ultimately, the article offers suggestions about how Bai's theory of human rights should be revised in order to consistently adhere to his methodological approach.

I. Methodological Approaches

Bai's approach to political philosophy is inspired by the early Confucians, in particular Confucius and Mencius. He argues that the Spring and Autumn and Warring States period (SAWS) from 770 BC to 221 BC, the period in which these philosophers lived, was very similar to the situation in early modern Europe. The SAWS came about with the fall of the Western Zhou feudal empire. This led to the formation of various states that share the characteristics of modern nation states: large, populous, states of strangers, with a plurality of values and under centralized control. Due to these features of the SAWS, Bai argues that the early Confucian philosophers can be understood as addressing the problems of modernity, which are the same problems confronted by early modern European philosophers many centuries later. As a result, Bai contends, Confucius and Mencius can be understood as doing political philosophy, rather than engaged in developing a moral metaphysics. According to Bai, the works of these philosophers should be "read 'ametaphysically,' as a political conception" (28). Reading the early Confucians in this way will yield a "thin" version of Confucianism, which can be "endorsed by Confucians of competing schools, and even

by people of different comprehensive doctrines” (29).

Bai’s suggestion of a “thin,” “political conception” of Confucianism reveals the Rawlsian influence on his approach. In Rawls’s later work, he became especially concerned about the political stability of his theory of justice and sought to recast his theory in order to demonstrate how political stability could be achieved and maintained over time. This concern arose because Rawls recognized that for the foreseeable future, free individuals in a liberal democratic society will reasonably disagree about and endorse a range of different comprehensive philosophical, ethical, and religious doctrines. If people in a liberal democratic society will reasonably disagree about different comprehensive doctrines, then how can these individuals endorse and continue to support a common conception of justice? To solve this problem, Rawls recast his theory—Justice as Fairness—as a “political conception” of justice, which can be endorsed by an overlapping consensus of all reasonable comprehensive doctrines within a liberal democratic society. The core idea is that a “political conception” of justice is “freestanding” from any particular comprehensive doctrine and provides a framework in which members of a liberal society can offer public justifications to each other. However, while the political conception of justice is freestanding from any particular comprehensive doctrine, all reasonable comprehensive doctrines in a liberal democratic society will have their own internal reasons for endorsing this conception of justice. In this way, Rawls purports to show how Justice as Fairness can achieve political stability over time.

Following this Rawlsian strategy, Bai seeks to offer a “political conception” of Confucianism, which can be endorsed by an overlapping consensus of people who adhere to different comprehensive doctrines. However, Bai’s approach differs in some significant ways from Rawls’s approach. A key difference involves how the content of each theory of justice is determined. The content of Rawls’s theory of justice is determined by using the Original Position, in which people are situated behind a veil of ignorance, unaware of certain aspects of their identity, and choose principles of justice in the absence of such knowledge. For Rawls, all reasonable members of a liberal democratic society endorse Justice as Fairness and agree that using the Original Position is the just

and fair way to determine the principles of justice (Rawls 1993, 22-28). Again, this is possible, according to Rawls, because each reasonable comprehensive doctrine in a liberal democratic society will have its own internal reasons for endorsing this, but they will all agree upon it through an overlapping consensus. It is important to notice that Rawls presents the idea of overlapping consensus *only* to show how his theory can achieve political stability over time, while it is the Original Position that is used to determine the content of his theory of justice.

In contrast, Bai determines much of the content of his theory of justice by relying on the works of the early Confucians. However, he also takes into consideration liberal democratic theory and what it may add. Bai describes this as showing how Confucianism can be “compatible” with liberal democracy. But despite this description, he seems to go further than exploring mere compatibility. It is not simply that political Confucianism is compatible with liberal democracy, but that elements of liberal democracy are incorporated into his Confucian theory. More specifically, Bai’s political conception of Confucianism offers what he calls a “hybrid regime,” which is a political system that incorporates meritocratic, democratic, and liberal elements. The Confucian hybrid regime seeks to limit nationalism and democracy—understood as “one person, one vote”—while embracing liberalism—understood as the rule of law and rights (244). In developing this model, Bai goes so far as to say, “. . . my critical proposal is in fact a support of (a revised version of) liberal democracy” (245). The suggestion is that Bai’s political conception of Confucianism is actually a version of liberal democracy, rather than merely compatible with liberal democracy.

But on what basis does Bai incorporate elements of liberal democracy into his Confucian theory, and how can he justify the claim that his theory is a “revised version” of liberal democracy? In developing the Confucian hybrid regime, Bai grounds his approach on the concept of overlapping consensus, which he explicitly attributes to Rawls. He explains his methodology as follows:

Rawls’s solution, simply put, is to take the whole theory of liberal democracy as a freestanding political conception, divorced from any known metaphysical ‘doctrine.’ This maneuver makes it possible

for different reasonable, liberal, or nonliberal doctrines to accept a common core, a political conception of liberal democracy that does not preclude the fundamental ideas of these doctrines. The *content* of liberal democracy is not predetermined by or derived from any a priori ideas but is an overlapping consensus worked out and endorsed by every reasonable and comprehensive doctrine.¹ (250, emphasis added)

While Rawls's theory may serve as the inspiration for Bai's approach, this passage reveals significant differences between them. First, as the passage indicates, Bai determines the content of his theory, and in particular its liberal aspects, by identifying an overlapping consensus of reasonable comprehensive doctrines (or more specifically, of Confucian and liberal democratic theory). Indeed, Bai states elsewhere that he will not follow Rawls in basing principles of justice on "equality, justice as fairness, or reciprocity" (254). We can understand this statement as indicating that Bai will not follow Rawls in using the Original Position to determine the principles of justice or content of his theory, and he instead employs the concept of overlapping consensus for this purpose. Second, Bai acknowledges that Rawls is concerned with how to achieve political stability, stating, "While sharing this concern with [Rawls], I am also concerned with helping people in a nonliberal democracy (as well as in a liberal democracy) to accept liberal democracy by showing that they can endorse liberal democracy and cherish their ideas that are different from and even in conflict with 'democratic' ideas" (252-53). In other words, Bai will use the idea of an overlapping consensus not merely to show how political stability might be achieved, but also to take into account both liberal and nonliberal comprehensive doctrines (such as Confucianism) to determine the content of his theory. As Bai states, in the passage quoted above, "The content of liberal democracy . . . is an overlapping consensus worked out and endorsed by *every* reasonable and comprehensive doctrine" (250, em-

¹ It is important to note that in this passage and others, Bai seems to attribute his own methodology to Rawls. Thus, it is not clear whether Bai recognizes that while he and Rawls may both appeal to the concept of overlapping consensus for certain purposes, they have very different methods for determining the content of their respective theories of justice.

phasis added). This is another significant deviation from Rawls, who directed his political conception of liberalism only to the members of liberal democratic societies. In other words, Rawls claims only that all reasonable comprehensive doctrines in a liberal democratic society will have reason to endorse Justice as Fairness and makes no claim that reasonable nonliberal comprehensive doctrines will endorse his theory. Furthermore, one of the things people are prevented from knowing in Rawls's Original Position is which comprehensive doctrine they endorse (Rawls 1993, 24; see also 25n27). In other words, for Rawls, comprehensive doctrines play no role in determining the content of the theory of justice, since a political conception of liberalism must be freestanding of any comprehensive doctrine. Rather, Rawls's political conception of liberalism derives its content from "fundamental ideas drawn from the public political culture of a democratic society" (Rawls 1993, 25n27). Third, Bai places a lot of emphasis on the idea of a "thin" conception of liberal democracy. The idea of "trying to 'thin down' liberal democracy in order for it to be inclusive" (251) is a direct result of basing the content of his theory on the common core of an overlapping consensus of every (liberal and nonliberal) reasonable comprehensive doctrine. Indeed, Bai acknowledges that his theory will be quite different from Rawls's conception of liberalism: "But my version of the common core of liberal democracy may explicitly be 'thinner' than Rawls's in certain respects, and only on the common core do I try to show that Confucianism is compatible with liberal democracy" (254). Given the very different methods for determining the content of their theories of justice, Bai's theory will necessarily be much thinner than Rawls's theory. It is not difficult to see that the common core of an overlapping consensus of every reasonable comprehensive doctrine will turn out to be much thinner than the content Rawls is able to derive from the Original Position.

While Bai's approach to political philosophy may be "inspired" by Rawls's approach, these contrasts should make it clear they are pursuing very different projects. Of course, one could challenge the premises of either theory, questioning whether the approach is plausible, will actually work, and so on. Here I have not tried to criticize or defend either approach, but instead to take each one at face value and highlight

the significant differences between them.

II. Bai on Human Rights

Let us now turn to the topic of human rights and explore how the methodological differences between Bai and Rawls bear on this aspect of their theories. Based on the overlapping consensus approach, Bai searches for a way to find a common core of agreement between the liberal concept of rights and Confucianism. While he acknowledges that the idea of rights is not to be found in the early Confucians (257), he argues that it is nevertheless possible to employ Confucian “strategies” for endorsing rights. Bai identifies three such strategies: “(1) replace rights talk with duties talk; (2) use the fallback apparatus; (3) refer rights to some higher good in Confucianism” (260). The first strategy relates to the fact that the early Confucians explicitly talk about duties, but not rights. This strategy involves placing an emphasis on obligations, rather than rights, so that rights are understood “not as the demandable right of the receiver but the demandable and (morally and legally) enforceable obligations and duties of the giver” (262). The second strategy relates to the fact that Confucians want people to willingly fulfill their obligations and believe that exerting too much coercion can be counter-productive to realizing that goal. However, despite this ideal, Bai claims that Confucians can still endorse moral and legal rights as a “fallback mechanism” that enforces certain duties when this is necessary. The third strategy involves justifying rights with reference to, and conditioning them on, higher goods recognized by Confucianism. These higher goods include ideals such as harmony, familial and communal care, and benevolent paternalism. This strategy will place conditions or limits on how certain rights are understood. For example, freedom of speech will not be interpreted as so robust that it allows neo-Nazis to march in a community of Holocaust survivors or permits pornography to be easily available (263), nor as permitting non-officeholders to engage in unlimited criticism of political officeholders (267). When the liberal concept of rights is combined with these Confucian “strategies,” we can identify an overlapping consensus

of liberal democratic theory and Confucianism, which yields a certain conception of rights. Bai argues that when rights are construed in this way, his political conception of Confucianism can endorse them and they can be incorporated into the Confucian hybrid regime.

Bai refers to the rights that result from this approach as “human rights.” He claims that his political conception of Confucianism can endorse human rights to freedom of speech, food, subsistence, education, healthcare, (267-68) and humane treatment or freedom from torture (277-78). He does not suggest that this list is exhaustive, so the political conception of Confucianism may be able to endorse additional human rights beyond those mentioned.

Bai certainly does not attempt to offer a comprehensive theory of human rights that would address many questions related to this topic. However, he does offer extended discussion of one specific dimension of human rights, namely, the use of human rights as standards for just war or foreign intervention. He completely rejects the idea of human rights providing standards for these actions, and instead advocates the concept of Confucian compassion. In order to understand Bai’s rejection of human rights serving this role, we must place this in the broader context of his approach to international relations.

Bai calls his general approach to international relations the “new tian xia model” (184), which is based on the virtue of Confucian compassion. Confucian compassion is a universal sentiment that essentially all people possess, at least to some extent. According to Bai, this virtue is the “social glue” (119) that can bond together a large society of strangers and provides the basis of his Confucian hybrid regime. However, it can also extend beyond the domestic state, to encompass other states, and even the entire world. Confucian compassion is hierarchical in nature and recognizes that one will have greater compassion for those who are near than for those who are more distant. The development of compassion or care for others begins in the family and must be extended step-by-step outwards. In this way, hierarchical care can be extended from the family, to the state, to the rest of the world (176).

The other key concept of the new tian xia model involves the distinction between civilized states and barbaric states. A civilized state will display civility through its culture, which does not have to be a

Confucian culture. There are at least two criteria that must be satisfied for a state to be civilized: (i) the legitimacy of the state lies in service to the people and the government is guided by the ideal of humaneness; (ii) this humaneness is reflected in its international conduct, such that it will never resolve conflicts with another civilized state through violence (186). A barbaric state, on the other hand, is “one that either tyrannizes its people or, out of incompetence or indifference, fails to offer basic services to its people, leaving them in great suffering; moreover, it threatens the well-being of other people or completely disregards its duty to other people, such as to protect a shared environment” (185). Tyrannical, failed, and ultranationalist states are mentioned as examples of barbaric states.

Combining the concept of Confucian compassion or hierarchical care with the distinction between civilized and barbaric states, the new tian xia model of international relations holds that “the people of one civilized state should ‘give preferential treatment to their own state over other civilized states,’ and people of all civilized states should ‘give preferential treatment to all civilized states over barbaric ones’” (Bai 185). It is important to note that preferential treatment does not mean indifference. For this reason, civilized states can intervene in the affairs of barbaric states, based on compassion for the people of the barbaric state.

We now come to Bai’s theory of just war and foreign intervention. He calls his position the “humane responsibility overrides sovereignty” view (227). This view builds on the new tian xia model of international relations, treating compassion or humaneness as the criterion for determining justified war and foreign intervention. Bai holds that it is best for civilized states to serve as a model of good conduct for barbaric states, as “the beacon on the hill,” and to reserve military intervention for only the most extreme cases (186). Nevertheless, the humane responsibility view treats a government’s right to sovereignty as dependent upon its humane treatment of the people. If the “state doesn’t practice humane governance but actively puts its people under unbearable misery, and if the ‘invaders’ are meant to save these people from their misery, then to defend the invaded state is fully unjust, while to welcome the invaders (liberators) is fully just” (227). In addition to

the requirement that there be a compassionate motivation to relieve the suffering of people, the humane responsibility view includes a few other important requirements: the suffering of the people must be to such a degree that they would welcome foreign intervention, the intervention must be endorsed by the international community,² and if the invading power is to remain in the invaded state, this must also be something that is welcomed by the people (227).

The “humane responsibility overrides sovereignty” view contrasts with what Bai calls the “human rights overrides sovereignty” view. He associates the latter with liberal theory. It treats respect for human rights as the basis of sovereignty, and violations of this duty as grounds for justified foreign intervention or war. Bai offers a number of criticisms of the human rights view, arguing that the humane responsibility view offers a better approach. First, he argues that foreign intervention on behalf of human rights can justify intervention in another society even when the people of that society do not recognize themselves as having such rights. The only thing necessary is that the intervening state recognizes the human rights in question. Among other problems, he argues, this can excuse and justify colonialism (230). In contrast, Bai claims that whether or not people are suffering is less controversial, and thus the standard used by the humane responsibility view provides a less problematic criterion for foreign intervention.

Bai’s contention that human rights can offer an excuse or justification for colonialism is not very convincing, because it overlooks the fact that colonialism itself would be a violation of certain human rights. A foreign state could not invade, set up illegitimate rule over a people, and claim fidelity to human rights. An additional problem with this criticism of the human rights view is Bai’s own discussion of cases that demonstrate the humane responsibility view can succumb to the same problem. More specifically, the humane responsibility view can also justify liberating people based on a value they do not recognize. He mentions the cases of the Chinese at the height of the Cultural Revolution and the current situation in North Korea, where

² Bai later qualifies the “international community” to include only civilized states, not all states (236).

people may be so oppressed and lacking in information, they believe their oppressed lives are fairly good. In these particular cases, Bai claims that the humane responsibility view may justify intervention, despite not all, or even a majority, of the people welcoming it (235). For both of the reasons mentioned, the human rights view does not appear to suffer from a problem that the humane responsibility view manages to avoid.

Bai offers a second criticism of the human rights view, arguing that it can justify foreign intervention and regime change even if the people of the target society are not ready for regime change. Furthermore, he argues, this could even have the problematic result of pushing the suffering people to side with their inhumane government and prolonging their suffering. Presumably, this problem is supposed to arise because violation of human rights is the only relevant consideration on the human rights view. Bai claims the humane responsibility view avoids this problem, because it requires that the people are suffering to such a degree, they would welcome the foreign intervention (231).

Once again, this criticism of the human rights view does not seem very convincing. First, on most developed theories of human rights, violations of human rights are a necessary, but not a sufficient, condition for justified foreign intervention.³ A state that seeks to intervene on behalf of human rights can exercise prudence and determine whether military intervention, or some other action, is the appropriate response to the violations. Bai implicitly recognizes this when he says that according to the human rights view, “a war of invasion in this situation *can* be just” (231, *emphasis added*), indicating that military intervention is not dictated by this view. Since the human rights view does not necessitate military intervention, it can take into account the probable reaction of the suffering population when determining the best overall course of action. If the people are not ready for a regime change, it may be very imprudent for a foreign power to carry out military intervention. This could involve a costly mistake, which requires the foreign state to stay and exercise some kind of governance, or risk having created a failed state. This type of situation may be illustrated by the United States’ second invasion of Iraq, a case that Bai

³ This point will be discussed in greater depth later in the paper.

mentions (228-29). Furthermore, while Bai is concerned with military intervention in these cases, it is important to note that military intervention is not the only available response to human rights violations. There can be a range of responses to such violations, which might take the form of diplomatic measures, economic sanctions, or military intervention, among others.

While these responses offer some reason to doubt that the human rights view fares worse than the humane responsibility view, there appear to be deeper issues at stake. First, it is important to notice that Bai's new *tian xia* model of international relations and the "humane responsibility overrides sovereignty" view of just war or foreign intervention are entirely derived from the early Confucians. There is no attempt to identify an overlapping consensus of Confucian and liberal democratic theory, which was the approach used to justify and incorporate human rights into the Confucian hybrid regime. We will return to this point later. Second, it is perhaps surprising to find Bai completely rejecting human rights as a standard for just war or foreign intervention. This surprise is due to Bai having followed Rawls in offering a "political conception" of justice, by drawing on certain ideas from Rawls's political liberalism to develop his political conception of Confucianism, but now rejecting Rawls's "political conception" of human rights. Rawls is the originator of not only political liberalism, but also of what has come to be known as a political conception of human rights. A key feature of political conceptions of human rights is their focus on the political role of human rights as norms that mediate the international relations between states.⁴ In order to better assess Bai's departure from Rawls on this particular point, we need to examine Rawls's conception of human rights and its role in his theory of international relations.

⁴ Political conceptions of human rights contrast with moral conceptions of human rights. While political conceptions focus on human rights as mediating the international relations between states, moral conceptions tend to focus on human rights as the moral rights that all people have simply in virtue of being human. Moral conceptions of human rights are more likely to embody what Bai calls a "moral metaphysics." For an example of a moral conception of human rights, see Griffin (2008). For other examples of a political conception of human rights, see Beitz (2009) and Raz (2010).

III. Rawls on Human Rights

While Bai refers to the rights endorsed by his Confucian hybrid regime as “human rights,” Rawls distinguishes between liberal rights and human rights, treating them as two distinct sets of rights. Liberal rights are the domestic rights of people within liberal societies, and are justified by the principles of justice chosen in the Original Position, as discussed above. In his later work, Rawls develops a theory of international justice, which governs the relations between “peoples” or societies. For Rawls, human rights are a “special class of urgent rights” that pertain to the international domain and play a key role in governing the relations between societies.

More specifically, Rawls claims that human rights specify “necessary conditions of any system of social cooperation,” where a system of social cooperation requires that members be given an adequate degree of respect and moral consideration (Rawls 1999, 68). Thus, these norms transcend liberalism and apply to all societies, both liberal and non-liberal. Rawls’s list of human rights includes the following:

the right to life (to the means of subsistence and security), to liberty (freedom from slavery, serfdom, and forced occupation, and to a sufficient measure of liberty of conscience to ensure freedom of religion and thought), to property (personal property), and to formal equality as expressed by the rules of natural justice (that is, similar cases be treated similarly) (Rawls 1999, 65).

In addition, he recognizes that minority groups have a human right to be secure from mass murder and genocide (79), and that women have human rights against oppression and abuse (75). Many commentators have noted that Rawls offers a rather short list of human rights, especially in comparison to the list found in the *Universal Declaration of Human Rights* (United Nations 1948) and other international human rights treatises. This short list of human rights is explained in part by the role they are given in Rawls’s theory of international relations.

Rawls calls his theory of international relations the “Law of Peoples.” This theory is based on the idea that peoples—or societies—are

equal, free, and independent, and that each decent society's freedom and independence should be respected by other decent societies. The Law of Peoples is comprised of eight principles. However, three of these principles, which pertain to war, intervention, and human rights, and are the most relevant for our purposes:

Peoples are to observe a duty of non-intervention (except to address grave violations of human rights).

Peoples have a right of self-defense, but no right to instigate war for reasons other than self-defense.

Peoples are to honor human rights. (Rawls 1999, 37)

As these principles reveal, just war is limited to self-defense and military intervention to addressing grave human rights violations. Thus, Rawls gives human rights a central and important role in international relations, since they serve as one of the primary norms that can justify military action.

The role of human rights is specified by three interconnected functions:

1. Their fulfillment is a necessary condition of the decency of society's political institutions and of its legal order.
2. Their fulfillment is sufficient to exclude justified and forceful intervention by other people, for example, by diplomatic and economic sanctions, or in extreme cases by military force.
3. They set a limit to pluralism among peoples. (Rawls 1999, 80)

For Rawls, human rights specify the limits of acceptable pluralism, or how much difference can be tolerated in the international community. If a society fulfills its human rights obligations, then it remains within these permissible limits and demonstrates itself to be a decent society. Furthermore, in demonstrating itself to be a decent society, it excludes itself from any justified intervention by other societies. On the other hand, if a society fails to fulfill its human rights obligations, and exceeds these permissible limits, then it demonstrates itself not to be a decent society. Furthermore, in demonstrating itself not to be a decent society,

it makes itself subject to justified intervention by other societies. Intervention in response to human rights violations may be diplomatic, economic, or military, with the caveat that military intervention is reserved for extreme cases.

Similar to Bai's categories of civilized and barbaric states, Rawls develops a typology of peoples or societies. A "people" is defined in terms of an institutional, cultural, and moral dimension. It involves a group of individuals that have a common government, shared sympathies, and a common conception of justice (Rawls 1999, 23-24). Rawls believes that peoples will seek to protect their political independence and territory, maintain their institutions and culture, and secure proper self-respect for themselves. There are five general types of peoples or societies: reasonable liberal peoples, decent peoples, outlaw states, burdened societies, and benevolent absolutisms (4). The first two types of peoples are decent, meaning they are peaceful and do not engage in unjust wars or aggression, have a common good conception of justice (one that aims at the good of its members), and honor the human rights of their people. Reasonable liberal peoples are peaceful and non-expansionist, governed by a liberal conception of justice, and honor the human rights of their people. Decent societies are peaceful and non-expansionist, governed by a nonliberal (common good) conception of justice, and honor the human rights of their people. The other three types of societies are not decent for one reason or another. Outlaw states violate the principles of international justice by being aggressive and expansionist and/or violate the human rights of their people. Burdened societies suffer from unfavorable conditions, which may be social or economic in nature, and are unable to maintain decent institutions or honor the human rights of their people. Burdened societies may include impoverished societies or failed states. Benevolent absolutisms may be peaceful and non-expansionist, and mostly honor human rights, but they do not allow their people a meaningful role in political decision-making, and thus fail to have decent political institutions.

Now let us turn to the issue of methodology. In order to justify the Law of Peoples and determine its content, Rawls introduces the idea of a second Original Position. While the first Original Position, discussed earlier, involves the members of a liberal society choosing principles of

justice to govern their own society, the second Original Position involves representatives of different societies deciding upon principles to govern their relations with each other. Rather than choosing among different principles of justice, as individuals did in the first Original Position, the representatives in the second Original Position are presented with eight principles, as mentioned above, and merely choose among “different formulations or interpretations” of those principles (Rawls 1999, 40). These eight principles are “familiar and largely traditional principles . . . take[n] from the history and usages of international law and practice” (Rawls 1999, 41).

It is significant that the Law of Peoples draws on the actual history and practice of international law, and merely allows the representatives to choose among different interpretations of these principles, rather than choosing among principles themselves. This is because in drawing on the actual history and practice of international law, Rawls exhibits a distinguishing feature of political conceptions of human rights. Political conceptions appeal to the practice of human rights, and especially to the political role of human rights in mediating international relations between societies or states. This appeal to practice has a formative influence in shaping political conceptions, because it directs their focus on the political role of human rights, rather than on, for example, the basic moral rights of persons.

The second Original Position involves a two-step process. The first step includes only the representatives of liberal societies, who decide which interpretations of the eight principles they will endorse. Rawls begins with this step because the “Law of Peoples . . . concerns what the foreign policy of a reasonably just liberal peoples should be” (Rawls 1999, 83). More specifically, the Law of Peoples is an extension of Rawls’s political liberalism to the international domain, and for this reason, it first and foremost determines the principles of foreign policy for liberal societies. However, Rawls claims that political liberalism includes a value of toleration, and this value necessitates a second step in the procedure.

Liberal societies recognize that, in the international sphere, equal peoples or societies will want to maintain their equality with each other and will also want due respect from other societies. Recognition

of this fact, in conjunction with the liberal value of toleration, makes it unreasonable for liberal societies to demand that all other societies also become liberal democracies (Rawls 1999, 59-62). To be clear, Rawls believes that only liberal societies are just. Nevertheless, some nonliberal societies, while not being fully just, are what Rawls deems decent, and should therefore be tolerated by liberal societies. These societies constitute the “decent peoples” mentioned above. Tolerating decent societies requires not only refraining from sanctioning them, but also treating them as “equal participating members in good standing of the Society of Peoples” (Rawls 1999, 59). Since decent peoples must be treated as equal members in the Society of Peoples, the second Original Position requires another step, which examines whether the principles of the Law of Peoples are acceptable from the perspective of decent peoples.

Rawls argues that decent peoples will accept the eight principles of the Law of Peoples. Since decent peoples are not aggressive and expansionist, and have a common good conception of justice, they will accept the (second) Original Position as a fair procedure for determining principles of international relations. Furthermore, since decent peoples have a common good conception of justice and protect the human rights and the good of their people, they will accept the principle of honoring human rights. In addition, since decent peoples are not aggressive or expansionist, they will accept principles that maintain a civil international order, such as the principle that permits war only in cases of self-defense and military intervention only to address grave human rights violations (Rawls 1999, 69).

It is important to notice that the liberal idea of toleration provides the basis for this second step. There is no appeal to comprehensive doctrines, since comprehensive doctrines are among the things representatives in the second Original Position are blocked from knowing. Rawls treats decent peoples as a type of nonliberal society with certain features, rather than as societies based on some particular comprehensive doctrine. Thus, Rawls’s use of a second Original Position to justify and determine the content of Law of Peoples continues to distinguish his methodological approach from the overlapping consensus approach used by Bai.

IV. Bai vs. Rawls on Human Rights

In order to assess Bai's and Rawls's competing views on human rights, it will be helpful to situate Bai's position within the Rawlsian framework of international relations. This requires us to more closely examine Rawls's concept of "decent peoples," because it can be shown that Bai's Confucian hybrid regime should be placed in that category. If this is the correct way to categorize the Confucian hybrid regime, then a representative of that regime will be included in the second step of Rawls's second Original Position, and we will need to check whether the Law of Peoples can be endorsed from the perspective of that representative.

Rawls suggests that there are two types of decent peoples. One type he calls "decent consultation hierarchies," while the other type is left unspecified, but supposes there may be some decent societies that do not fit the first model (1999, 63). A decent consultation hierarchy is "associationist," meaning it views individuals in society as members of groups, and these groups are represented by certain bodies in the political and legal system. A decent consultation hierarchy has a common good conception of justice that is typically grounded in a comprehensive religious or philosophical doctrine, and hence it does not have a political conception of justice like a liberal society. This common good conception of justice leads the society to respect and secure the human rights of its members, to have a legal system that is binding on all members of society, and to administer the legal system guided by the conception of justice. Furthermore, a decent consultation hierarchy is non-aggressive, pursues its aims through diplomatic means, and respects the independence of other societies (Rawls 1999, 64-67). As Bai acknowledges, the Confucian hybrid regime is not a liberal society according to Rawls's conception.⁵ However, we can also see the Confucian hybrid regime is not a decent consultation hierarchy, due to a couple of features it shares with liberal societies.

⁵ While Bai claims that the Confucian hybrid regime is actually a version of liberal democracy, he admits this claim requires one to embrace a broader conception of liberal democracy than the one offered by Rawls.

First, it lacks the “associationist” character of a decent consultation hierarchy. Like liberal societies, the Confucian hybrid regime does not treat its people as members of groups, but rather, as individuals. Second, like Rawls’s liberal society, the Confucian hybrid regime is based on a political conception of justice, whereas a decent consultation hierarchy is typically governed by a comprehensive conception of justice. So, the Confucian hybrid regime is neither a liberal society nor a decent consultation hierarchy. However, the Confucian hybrid regime does share the other features of a decent consultation hierarchy. It is a non-aggressive society, as shown by the new tian xia model of international relations and the limits this model places on war and foreign intervention. Furthermore, the Confucian hybrid regime involves a common good conception of justice, because “. . . the government is responsible for the material and moral well-being of the people. It is responsible for making it possible that average citizens have their basic material, social, moral, political, and educational needs met” (Bai 2020, 68). In order to ensure this aim, the Confucian hybrid regime seeks to elevate morally and intellectually superior people to political offices: “the right to participate in certain political activities is inseparable from one’s willingness to consider the common good and one’s competence at making sound decisions on this matter” (68). Finally, the Confucian hybrid regime honors human rights, as demonstrated by the Confucian “strategies” for justifying and incorporating human rights into this regime. So, while the Confucian hybrid regime is not a decent consultation hierarchy, these features place it among the other, unspecified, type of decent peoples.

Now that we have established Bai’s Confucian hybrid regime should be categorized as a decent society within the Law of Peoples framework, let us recall Rawls’s argument. The argument claims that due to the features of decent societies, they will endorse the second Original Position as a fair procedure for determining principles of international relations, and they will endorse the eight principles of the Law of Peoples as the appropriate principles for governing those relations. However, it is clear Bai will dispute this. Leaving the differing methodological approaches aside for now, Bai does not endorse the eight principles of the Law of Peoples. The Confucian hybrid regime endorses the new tian

xia model of international relations and the “humane responsibility overrides sovereignty” view of just war and foreign intervention. While the new tian xia model may share many similarities with the Law of Peoples, there is a clear difference between the “humane responsibility overrides sovereignty” view, which grounds just war and foreign intervention on Confucian compassion or humanness, and the human rights standard of foreign intervention offered by Rawls. Does this show that Rawls’s methodology has failed to justify his theory of international relations and the role he assigns to human rights?

Here it is worth noting that Rawls’s theory of human rights has been the subject of criticism, including criticism from liberal scholars. James Nickel (2006) criticizes Rawls for merely gesturing at the history and practice of international law and human rights, as shown by the eight principles Rawls offers for consideration in the second Original Position, while not considering thoroughly enough the contemporary practice of human rights. According to Nickel, this mistake leads Rawls to rely on grand dichotomies that oversimplify human rights and tie them too closely to being standards for foreign intervention. Instead, Nickel contends, contemporary human rights practice reveals that using human rights as standards for international intervention is only one among many roles that human rights can play. Standards for international intervention are not the central or primary role of human rights, and this role tends to apply only in the case of very severe human rights violations. Since international coercion and intervention can be “costly, dangerous, and often fail to work it is reasonable to restrict their use to the most severe human rights crises” (Nickel 2006, 271). Furthermore, Nickel points out that the human rights system places much emphasis on what he calls “jawboning,” which involves public “criticism or condemnation . . . that is not accompanied by significant threats” (271). Rather than making coercion and intervention the central response to human rights violations, we find that “many human rights treaties deal with human rights violators through gentler means, such as consciousness-raising, persuasion, norm-promotion, criticism, shaming, defining conditions for full acceptance, mediation, and negotiation” (273). Given these features of human rights practice, Nickel suggests a better description of the main role of human rights

it that “they *encourage and pressure* governments to treat their citizens humanely. . . .” (271, emphasis in the original).

We should also consider the important work of Charles Beitz (2009), who offers perhaps the most developed version of a political conception of human rights. Like Rawls, Beitz appeals to the history and practice of international human rights to develop his theory. However, as Nickel suggests, Beitz goes further than Rawls, explicitly grounding his theory in a full account of contemporary human rights practice (Beitz 2009, chap. 2). Like Nickel, Beitz recognizes a range of roles that human rights can play. This leads Beitz to propose a “two-level model” of human rights. At the first level, human rights apply to the domestic political institutions of states, “including their constitutions, laws, and public policies” (109). At this level, human rights create responsibilities for governments to respect, protect, and fulfill the rights of people within their state. At the second level, human rights are “matters of international concern” (109). The international concern arises when a government fails to meet its first-level human rights obligations, which provides *pro tanto* reasons for capable outside agents, including other states and the international community, to act. These actions can include holding states accountable for meeting their human rights obligations, assisting states that lack the ability to meet their human rights obligations, and intervening in a state to protect human rights (109). Beitz contends that the international role of human rights is “. . . perhaps the most distinctive feature of contemporary human rights practice” (115), and that “. . . the interference-justifying role is central to understanding their discursive function” (116). Thus, Beitz recognizes not only a range of roles that human rights can play, but also a range of actions that may be justified when a government fails to meet its first-level human rights obligations. Foreign intervention is one among the possible responses to such a failure. However, Beitz also treats these responses in a more nuanced manner, by construing human rights failures as providing *pro tanto* reasons for outside agents to act, meaning violations do not provide conclusory reasons for action (including intervention), because these reasons must be weighed against competing reasons.

If we take into account Nickel’s criticisms of Rawls and Beitz’s more developed political conception of human rights, we may identify ways in

which Rawls's theory of human rights should be revised. Human rights can serve a range of different roles, and they need not be tied so closely to the particular role of standards for foreign intervention. Instead, human rights can serve as norms that enable societies to "encourage and criticize" other societies, and this need not involve threats or intervention. In other cases, a failure to meet human rights obligations may be due to a lack of resources, in which case the appropriate response could be foreign assistance, not intervention. By recognizing a wider range of roles for human rights and tying them less closely to standards for foreign intervention, Rawls would be able to recognize a longer list of rights, such as rights to education and healthcare, which are included in Bai's list of human rights. This is because when a state fails to provide healthcare or education for its people, it is typically not cause for foreign intervention, although it might be cause for foreign criticism, encouragement, aid, or other forms of assistance.

While these revisions would allow Rawls's theory to more accurately and fully reflect the practice of human rights, it is important to note that neither Nickel nor Beitz rejects the role of human rights as providing standards for just war or foreign intervention. Nickel suggests foreign intervention should only be an appropriate response to the most severe human rights violations, while Beitz recognizes foreign intervention as among the possible responses to human rights violations, tempered by a consideration of the competing reasons for other forms of action (or inaction). So even when taking these criticisms and possible revisions into account, Rawls's theory of human rights would still recognize a role for human rights to provide standards for just war or foreign intervention.

Having established that a revised version of Rawls's theory will still recognize a role for human rights to provide standards for just war or foreign intervention, we can return the issue of how Bai, or the representative of the Confucian hybrid regime, should respond to the Rawlsian framework. Suppose Bai continues to object to this role for human rights because it embodies the "human rights overrides sovereignty" view, whereas the Confucian hybrid regime endorses the "humane responsibility overrides sovereignty" view. For this reason, Bai argues that the Law of Peoples is not acceptable to all decent

societies, based on Rawls's own methodology of the second Original Position. We now find the discussion coming back around to the issue of methodology.

It does not appear Bai can justify this rejection of the Law of Peoples and the role that Rawls assigns to human rights. The problem is not due to Rawls's methodology, but rather, because Bai violates his own methodology. Recall that Bai justifies and incorporates human rights in the Confucian hybrid regime by appealing to an overlapping consensus of Confucianism and liberal democratic theory. This overlapping consensus involves combining the liberal concept of rights with the three Confucian strategies for endorsing rights. However, as briefly discussed above, when Bai develops the new *tian xia* model of international relations, with its "humane responsibility overrides sovereignty" view, it is derived purely from the works of the early Confucians. There is no attempt to identify an overlapping consensus of Confucianism and liberal democratic theory. Instead, Bai completely rejects the idea of human rights as providing standards for just war or foreign intervention, or as he calls it, the "human rights overrides sovereignty" view, in favor of the Confucian-inspired "humane responsibility overrides sovereignty" view.

It is important to notice that this is not merely an obscure methodological point but goes to the very heart of Bai's theory. Bai acknowledges that rights are not to be found in the work of the early Confucians. It is only by employing the overlapping consensus approach, which identifies an overlapping consensus of liberal democratic theory—and specifically, its concept of rights—and Confucianism, that Bai justifies the inclusion of human rights in the Confucian hybrid regime. If Bai is to consistently apply this methodology, he must also look for an overlapping consensus in the area of international relations. This involves finding a common core of agreement between the Confucian concept of compassion or humaneness and human rights, or in other words, between the "humane responsibility overrides sovereignty" view and the "human rights overrides sovereignty" view. Perhaps human rights could serve as *précising* norms for Confucian compassion or humaneness. That is, while Bai could maintain the general approach of using humane responsibility as the standard for just war or foreign

intervention, the violation of human rights would determine precisely when the mistreatment of people has reached such a level that compassion or humaneness demands foreign intervention. Adopting this approach, Bai would not only adhere to his own overlapping consensus methodology, but it would also allow his political conception of Confucianism to incorporate a political conception of human rights, one which recognizes the contemporary practice of human rights and the political role of human rights in mediating international relations between societies or states.

However, while this proposal might seem to resolve the issue, the problem actually goes deeper. Recall that Bai's methodology requires him to identify an overlapping consensus "endorsed by every reasonable and comprehensive doctrine" (Bai 2020, 250). Even if Bai adopts the suggestion offered above, he has merely identified an overlapping consensus of Confucianism and liberal democratic theory. He tells us that his attention is focused on an overlapping consensus of Confucianism and liberal democratic theory because liberal democracy has an "end of history" status (1; 97). But the problem is that there is no reason to believe reasonable comprehensive doctrines are limited to Confucianism and liberal democratic theory. For example, while still confining our focus to the issue of human rights, consider the *African Charter on Human and Peoples' Rights* (Organization of African Unity, 1981). When this regional human rights treaty was developed by the Organization of African Unity (later replaced by the African Union), they specifically included not just individual human rights, but "peoples" rights, which are group rights. The inclusion of "peoples" or group rights distinguishes the African Charter from other regional human rights treaties, and this was felt to be important because it reflects the communal aspects of African society and thought. Thus, the inclusion of "peoples" rights is reflective of comprehensive doctrines found in African societies. Presumably, these are reasonable comprehensive doctrines.⁶ If Bai's methodology requires that he identify an overlapping

⁶ Here we should recall that Rawls recognizes decent consultation hierarchies as being reasonable societies. In the case of decent consultation hierarchies, every individual is viewed as a member of a group, and groups receive representation in the political institutions. The *African Charter on Human and Peoples' Rights* is certainly closer to

consensus of every reasonable comprehensive doctrine, both liberal and non-liberal, then his consideration of Confucianism and liberal democratic theory has only partially completed the work that must be done. Identifying an overlapping consensus with other reasonable comprehensive doctrines, such as those found in African societies, will also be necessary. Taking these comprehensive doctrines into account, including the idea of communal or group rights, will almost certainly require further modification of Bai's theory of human rights.

V. Conclusion

In conclusion, we can see that Bai has not fully adhered to his own methodology when developing a theory of human rights. This methodology requires that he more fully take into account the liberal theory of human rights. More specifically, this must include recognition of the role that human rights play in the international domain and meditating the relations between states, including their role as standards for just war or foreign intervention. This step would perhaps bridge differences between Bai's and Rawls's theories of international relations and human rights, so that the representative of the Confucian hybrid regime could endorse something approximating the Law of Peoples. However, the demandingness of Bai's methodology is revealed when we recognize that there are other reasonable comprehensive doctrines, besides just Confucianism and liberal democratic theory. Since Bai bases his approach to political philosophy on an overlapping consensus of every reasonable comprehensive doctrine, these other reasonable comprehensive doctrines must also be taken into account when determining the consensus. This will almost certainly require further modification of his theory.

liberalism than a decent consultation hierarchy, because it simply recognizes communal or group rights, in addition to individual rights. Therefore, Rawls would almost certainly recognize the comprehensive doctrines reflected in the *African Charter* as reasonable.

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A Moderate, A-metaphysical, and Hierarchical Proposal to Save Liberal Orders—Response to Critics

Tongdong Bai*

Abstract

In this article, I respond to four critics of my book, *Against Political Equality: The Confucian Case*. Although sharing my concerns with democracy, Yarren Hominh argues that I fail to appreciate the role of capitalism in corrupting democracy. The cure I propose, then, is doomed to fail, and the real hope lies in the power to the working people. After clarifying our differences, I argue that the meritocratic design in my proposal can be considered to be a compromise before all people are lifted up, if they can ever be lifted up. Both Steven Wall and Thomas Mulligan criticize me from the “right,” pressuring me to adopt the position of natural aristocracy instead of merely defending meritocracy on a consequentialist ground. But considering myself to be a Wittgensteinian, my worry with concepts such as natural aristocracy and desert is that they will lead us back to a metaphysical and potentially oppressive path. Daniel Corrigan questions me on how I determine the content of rights, especially in light of how Rawls did it. On the one hand, I argue that the way Rawls “determines” the content of rights is metaphysical and even arbitrary, which is why I leave this issue aside completely. On the other hand, I argue that we should have more rights than liberal neutrality allows in order to preserve liberalism.

Keywords: Multiple Modernities, Capitalism, Social Egalitarianism, Natural Aristocracy, Rawls

* Tongdong Bai is Professor of Philosophy at Fudan University. E-mail: baitongdong@fudan.edu.cn

In my book, *Against Political Equality: The Confucian Case* (Bai 2021)—the hardcover edition was first published at the end of 2019—I show how Confucianism, as a political philosophy, can (1) correct the excesses of democracy by introducing meritocratic elements to governance while preserving the liberal elements of liberal democracy, i.e., the rule of law and the protection of some basic human rights, and (2) correct the excesses of nation-states by introducing humane duty to global order while preserving states and not taking the path of cosmopolitanism.

In this issue, four critics have offered oftentimes very charitable readings and illuminating and constructive criticisms of my book. In response, let me first offer a slightly more detailed and structured summary of my book, so that the readers can orient themselves when reading the critics and my responses.

The optimistic mood of “the end of history” in the 1990s and early 2000s has been quickly disappearing in the recent decade as liberal democratic orders have encountered problems both domestically and globally, and various discussions, celebratory or critical, of China Model(s) have been gaining ground. Though deeply suspicious of the hype surrounding such discussions, being a political philosopher, I am merely trying to offer critical and constructive proposals to address the ills of liberal democratic orders, proposals that are inspired by a certain coherent reading of Confucianism. Despite being very explicit about this, some reviewers still mistake my proposals as a defense of some China models. Luckily, there are not many of them, and none of the critics in this issue have that misunderstanding. They all address my proposals in the realm of political philosophy, as normative ideals.

But can Confucianism be read as a political philosophy? In my book, I argue that we can, and then I show how we can do so. Mindful of competing interpretations of Confucianism, I try to offer a coherent system of Confucian ideas that are based on two early Confucian classics, the *Analects* and the *Mencius*. I organize these ideas around three fundamental political questions: who should rule (legitimacy), how to bond a political entity together, and how to deal with entity-entity relations. Moreover, I argue that the early Confucians, Confucius and Mencius in particular, lived in a politically transitional period, the Spring and Autumn and Warring States Periods in Chinese history

(SAWS, ca. 770-221 BCE), which resembles in some fundamental ways the European transition to early modernity (ca. 1500-1800 CE) in that in both transitions, the nobility-based, “feudalistic” hierarchy of close-knit and autonomous communities on various levels collapsed, and large, populous, well-connected, mobile, plebeianized societies of strangers emerged. The above three fundamental political questions have to be answered anew, under these “modern conditions.” I argue in the following chapters that the early Confucian answers, as I have already summarized in the first paragraph, can still be relevant today.

On the issue of political legitimacy and the selection of rulers, I begin with illustrating Mencius’s idea of human nature, which Yarren Hominh calls “the Mencian assumption” in his article in this issue. That is, human beings are all equal in that they all have a universal moral sentiment of compassion and have the potential to develop it to the fullest degree. But in reality, only the few can actualize it, even if the government fulfils its duty to help all to actualize this potential. Put it in another way, early Confucians embraced the ideas of equality (in a way), upward mobility, and accountability, which can be interpreted as embracing two elements of democracy: “of the people” and “for the people.” But they differ from the mainstream understanding of democracy in their embrace of actual inequality among human beings and apparent reservations of the democratic idea of “by the people,” or self-governing. However, I argue that it is precisely this idea, or the ultimate reliance on the institution of “one person, one vote,” that is the root cause of the ills of democracy.

In particular, there are four problems of democracy that are all structural and inherent in the theoretical design of the institution of “one person, one vote.” That is, these problems are about the ideal, and not the real, although I use real-world examples to illustrate these problems. Therefore, I have been puzzled by some critics who argue that I use the ideal (an idealized version of meritocracy) to criticize the real (real-world democracies). True to my profession as an arm-chair philosopher, I try to stay in the realm of the ideal, and use the real only to illustrate the ideal. Fortunately, among the criticisms in this issue, there is only one mention in passing by Hominh, who says, “[Bai] still idealizes meritocracy in a way that he does not do for democracy.” This

is different from the aforementioned misunderstanding. To be clear, even a theoretical physicist would have idealized reality as the starting point of his or her theorizing—concepts such as matter, motion, etc., that have roots in reality but are abstracted from the multitudes of it (e.g., an object with the mass of 1 kilogram instead of that particular chair or this stone). What Hominh actually says or should have said, then, is that I use certain idealized reality conditions (the sixth fact, in particular) to criticize democracy, but I fail to take another fundamental element of the reality of today's world into my idealization. This element, that of capitalism, will seriously challenge my proposal of meritocracy. I will come back to this point in the next section.

In fact, many liberal democratic theorists also see (some of) the problems of democracy, but most of them propose solutions that promote “true” equality and “real” self-governance. In my book, I argue that these and other corrections from within liberal democracy are fundamentally inadequate to address the four problems of democracy, and a regime that is based on the aforementioned Confucian ideas—a hybrid that combines popular participation with the intervention by meritocrats—can address these problems more adequately. This hybrid is premised on the conviction that “true” equality is fundamentally evasive, and what we should look for is not “true equality,” but a kind of “inequality” that brings the greatest benefit to the least advantaged members of society. Though an apparent departure from democracy, I argue that this regime could be embraced or envisioned by earlier thinkers such as the Federalists and John Stuart Mill. Even John Rawls never took “one person, one vote” as a basic human right, and he flirts with ideas of meritocracy in his own writings. Indeed, the Confucian hybrid regime can even be considered to be based on a political version of his Difference Principle and is projecting the *de facto* hierarchical global order in his *Law of Peoples* back to domestic governance, thus making his theories coherent and symmetric. The hybrid regime is only in conflict with a radical form of equality, the idea that what is essential to equality is the equal participation in political decision-making, or the ultimate reliance on “one person, one vote” for political decision-making. In Stephen Wall's article in this issue, he correctly points out that my design is only in conflict with this kind of equality. In fact, he

offers a very illuminating distinction between basic moral equality and social equality and argues that my design is only in conflict with the latter, not the former.

On the two other issues under the conditions of modernity, that is, how to bond a society of strangers and how to deal with international relations, I again appeal to the early Confucian ideas of humaneness and compassion, especially Mencius's idea that compassion is universal and is applicable to strangers. But this universal moral sentiment is rather weak, and thus needs to be cultivated. The most important institution of cultivation is family. By expanding one's care outward, one can eventually embrace the whole world. This continuity picture potentially challenges an underlying assumption of liberal neutrality, the separation between the private and the public. To acknowledge this continuity is not to reject the conflict of duties one may have to different spheres of expanding care. After discussing how early Confucians can resolve this kind of conflicts, and offering a conceptual analysis of the early Confucian idea of universal and hierarchical care, I show how it can be used, together with the early Confucian distinction between *yi* 夷 and *xia* 夏, to develop what I would call the Confucian New Tian Xia model of state identity and international relations. This model, I argue, is superior to both certain versions of the nation-state model and the cosmopolitan model. I also apply this model to the issue of war, or interventions in general. The overarching principle here is "humane responsibility overrides sovereignty," and I argue that it has merits compared to the liberal theory of humanitarian intervention that is based on the principle of "human rights override sovereignty."

On both domestic and global governance, the models I propose have hierarchical elements, hence the title of my book. Though critical of some form of equality and democracy, I am deeply sympathetic to the liberal side of liberal democracy and global order. Indeed, in both reality and in conceptualization, democracy and liberalism are different and often in conflict. Although I have offered some Confucianism-based reservations of liberal neutrality, I think liberalism is the real gem of liberal democratic orders that should be preserved, by restricting the democratic and equal aspects of governance. That is, instead of trying to preserve both the liberal and the democratic/egalitarian

components of liberal democratic orders, and to save liberal democracy by strengthening equality, I acknowledge the unbridgeable discrepancy between the liberal and the democratic (as well as the egalitarian) and try to save liberalism by putting (Confucianism-inspired) limits on democracy and equality.

But can Confucianism be compatible with liberalism, especially, the protection of basic human rights through the rule of law? In the last chapter of my book, inspired by a fundamental insight of Rawls in his *Political Liberalism*, I argue that for liberal democracy to be compatible with different doctrines and political conceptions, Confucianism included, we need to make rights free-standing, i.e., free from metaphysical ideas such as the Kantian idea of autonomy. Using this (revised) Rawlsian maneuver, I show how Confucianism can be made compatible with the rights regime by offering its own readings of rights that bear enough resemblance to, or have enough “overlapping consensus” with, typical liberal readings. In particular, I appeal to three tactics: “(1) replace rights talk with duties talk; (2) use the fallback apparatus; (3) refer rights to some higher good in Confucianism” (Bai 2021, 260), which Daniel Corrigan also quotes in his article in this issue. But there are some remaining differences between the Confucian readings and the typical liberal readings, and again I argue that there are merits in the Confucian readings.

I. The System Is Rigged by Capitalism?

— A Response to Hominh

In his paper in this issue, Hominh praises me for challenging the West-centric understanding of modernity, but our agreement ends pretty quickly. To put it crudely, my criticism of the West is a revisionist and “conservative” one, while Hominh’s is revolutionary, anti-colonial, post-capitalistic, and even post-modern.

To illustrate his position, Hominh points out the similarity between my position and Gandhi’s, which is rather flattering, and then uses B. R. Ambedkar’s criticism of Gandhi to criticize my proposals. According to Hominh, Gandhi accepted the idea of *varna*, a system of divisions that

are based on the thoughts and actions of one's previous lives. It seems to me that this system implies an inborn inequality among people, but it is not clear to me how this can be used to argue "worth instead of birth." More importantly, the birth-based caste system remained a key feature to traditional Indian society, while this class system collapsed during the SAWS in China and a system of upward mobility had since been the mainstream throughout traditional China. This is a fundamental disanalogy between traditional India and traditional China. Confucians embraced the equality that emerged from the collapse of feudal hierarchy. For Mencius, all human beings are born with the same potential to become a sage, although in actuality, people drift apart. The equality in potentiality is the key for Confucians to defend equal opportunities and upward mobility.

Despite these differences, Hominh suggests that Gandhi's reformed interpretation can be similar to my reading of Mencius. In his criticism, Ambedkar argued that this reformed and more egalitarian notion of *varna* "is, under existing economic and social conditions, indistinguishable from caste." That is, without reforming these economic and social conditions, Gandhi's *varna* would degenerate into caste. Similarly, Hominh argues that "(w)ithout transformative change to those economic and social institutions with their concomitant ways of thinking, even a Confucian meritocracy will be corrupted and fall into a simple oligarchy."

The institutions Hominh refers to are those of capitalism. Indeed, despite his very strong sympathy to my underlying idea of multiple modernities, he argues that I fail to appreciate a distinctive feature of the European modernization, that is, capitalism. In my defense, I distinguish between Europe's early modernity (roughly from 1500 to 1800), i.e., "modernity 1.0," and late, industrialized modernity (from 1800 and onward), i.e., "modernity 2.0," and argue that the transition in SAWS in China is a transition to early modernity, and not to late modernity. Hominh acknowledges this, but then argues that capitalism is different from mere industrialization.

Missing the role of capitalism in my discussion, according to Hominh, is very serious, if not fatal. He argues that upward mobility and competition (which I heartily embrace), when done in the social and

economic setting of capitalism (which “constantly trains us to prioritize our own interests ahead of those of others and the general will”), are precisely a root cause of “overweening self-interest” (which I consider to be an evil that makes people unfit to self-govern). He continues that, in order to cure the ills of democracy, capitalism needs to be addressed, stating that “meritocracies under capitalism become apologies for unjust hierarchies,” and that the hope lies in the power of those who labor with their hands, i.e., the workers. In other words, Hominh suggests that despite my more “cosmopolitan” approach and the correct recognition of the ills of democracy, I miss the role of capitalism, which makes my cure only a perpetuation of the underlying sickness.

In my book, I have expressed my sympathy toward this frustration with radical capitalism and individualism (Bai 2021, 169). The concern with their influence is an important reason why I consider liberal neutrality to be deeply problematic and embrace moderate perfectionism instead. The government has a crucial role and duty to prepare a level playing field for people to pursue true diversity. It cannot be hands-off and leave everything to the “free” market—even the “free” market of ideas—for the market can be rigged by the influence of Money and Capitalism (*intentionally capitalized*). Hominh notices my own reservations, but he apparently considers them to be fundamentally inadequate.

So here lies an irony. My criticism of some internal corrections of democracy, embraced by many democratic theorists, is that they fail to address the structural problems. But I am sure many of them consider my proposed solution of the hybrid regime to be unnecessary or even too radical. Hominh’s criticism of my proposal is that it is internal tinkering, and fails to address the structural problems. But I consider his implied solution, although he claims that it is not necessarily a call for revolution, to be too radical. Both of us think that the system is rigged, but we differ as to the extent.

I don’t think Hominh and I can persuade each other, because the differences are about fundamental observations of human existence. Surely what is fundamental in my theoretical construction, for example, the moral and intellectual limit of the masses, can be a derivative that is explainable in Hominh’s theory, but I can do the same to fundamental

elements in his theory as well. We theorists all have to start from somewhere, and the differences about where that “somewhere” is may not be resolvable. But we can at least be clear and honest about it. For me, I have to confess that deep down, I have always been a conservative in the Burkean or Confucian sense. I tend to be both sympathetic to and suspicious of the revolutionary spirit. Of the human conditions, my own life experience has repeatedly corroborated the Mencian assumption. While Hominh sees progress as being often made by “unionization and the politics of organized labor,” I see the failure of communism and the fact that all workers divide (rather than unite) in international conflicts. While Hominh sees the ills of competition in the setting of capitalism, I see the good things that come out of it, especially when it is done well. After all, there have been societies that are capitalistic, but are duty-bound and have a sense of the collective, while revolutions in the real world that are meant to eliminate the rigged systems only bring about evils worse than the ones they try to eliminate. But again, I don’t think Hominh (or Bernie Sanders, or many Trump supporters) can be persuaded by my conservative suspicion of revolution.

In addition to recognizing and clarifying these fundamental differences, I do have some direct responses to Hominh’s criticism. He argues, “(a) view like Bai’s, that politics is for the great and noble and not for the ordinary, does not and cannot have room for a politics of the ordinary.” But although Hominh considers “the recognizing of the equal potentials of all” to make merely nominal differences, with this recognition, the kind of Confucian proposal that I propose *does* leave room for popular participation, even full popular participation on the communal level. It merely poses some checks and balances by the meritocrats on the popular will at the higher levels of political decision bodies.¹ But why don’t we give the people full and unrestricted access to

¹ On the use of the language of checks and balances (both here and perhaps more importantly, in my defense of the rule of law and rights in Confucianism), Hominh argues, “As Russell Hardin and others have pointed out, checks and balances are institutionalized forms of *distrust*.” But I also argue for people’s respect for authority. There seems to be a need of a balancing act, as Hominh correctly points out. Nevertheless, I consider it to be just that, a balancing act, which is quite common in our travel through the complexity of life, but not a contradiction.

political decision-making by lifting them up, as Hominh would like to have? My response is, “until then!” Until all are lifted to the same level, let’s give those with greater moral and intellectual capacities a bigger voice.

Hominh’s hero, Ambedkar, embraced Buddhism, which can be understood as a form of radical egalitarianism. I defend Confucianism. Indeed, the introduction of Buddhism to China eventually led to a Confucian revival in the attempt to counter the Buddhist teachings. The battle seems to continue even today.

II. Not Elitist Enough?—A Response to Wall and Mulligan

In contrast to Hominh’s criticism of me, which comes from the egalitarian side, both Steven Wall and Thomas Mulligan criticize me from the other end of the spectrum by suggesting that I ought to offer a stronger version of meritocracy. It is somewhat unusual. In the English-speaking world, democracy and equality often enjoy quasi-sacred status, and thus my main concern is to defend the hybrid regime against egalitarian and democratic challenges. I was once caught completely off-guard when I was asked, after presenting the proposal of a hybrid regime, why I didn’t defend a regime of pure meritocracy? It was at University Paris 1-Panthéon Sorbonne, and so I shouldn’t have been surprised. Wall and Mulligan may not go as far as that questioner would like, but they are deeply sympathetic to my meritocracy-based proposal. In fact, Wall offers very clear and helpful reformulations of and conceptual frameworks to some of my defense of meritocracy (or the meritocratic elements in the hybrid regime).² As already mentioned, despite the book’s title, the politically unequal elements I introduce to domestic governance are only in conflict with a special kind of equality, which Wall called “social equality,” according to which members of a society should “relate to one another on a footing of equality,” to which I will add, in all aspects of life. In politics, social equality calls not for “equal

² The best example of this is the “pleasing symmetry” of my view that is pleasingly revealed by him.

chances to rule unequally over others, but equal rule with others.” But the Confucian hybrid regime does preserve the democratic element in the lower house of the bicameral legislature, thus addressing the “diversity trumps ability” thesis—a typical defense of equal rule—by being inclusive of the voice of the people. This reason was not explicitly offered when I answered the question of why the ideal regime should not be purely meritocratic. In short, the Confucian hybrid regime does take into account egalitarian considerations, and only violates equality in a limited manner. As Wall indicates in his paraphrasing of Robert Nozick,

[T]he most promising way for a society to avoid widespread feelings of social superiority and inferiority is not to try to eliminate recognized differences in merit but to have no common social ranking of attributes of excellence. Rather than establishing a single or dominant society-wide scale a wide plurality of rankings should be encouraged.

Or, as in his equally beautiful paraphrasing of Michael Walzer,

His version of social equality does not require the elimination of hierarchy within each sphere of social life, but rather excludes the dominance of any one type of inequality over the others.

In sum, the most promising way to counter wide-spread inequality is to temper “the claims of excellence in politics” with “the claims of excellence in other spheres of social life.” This, I would add, is also a good answer to the pluralist worry about perfectionism.

Both Wall and Mulligan, however, question my justification of meritocracy, which they consider to be on a “consequentialist” or “instrumentalist” ground—a ground that is not very popular among Western normative theorists. Instead, they defend meritocracy on the ground of justice (desert) or fittingness. An example Mulligan offers is about a black worker whose productivity is reduced to a non-competitive level in a racist environment, and he implies that from a consequentialist point of view, this black worker shouldn’t be hired. But this racist environment clearly endangers equal opportunities. This is similar to the situations where blacks are not given equal access to education

and to getting informed, and then are excluded from voting under the excuse that they are not educated and informed. This is unacceptable to a Confucian meritocrat who embraces the aforementioned “Mencian assumption.”

On the broader issue of whether Confucian meritocracy is consequentialist or not, Mencius, whose ideas I rely on in my reconstruction, is ambivalent. On the surface, in the very opening passage of the *Mencius* (1A.1), Mencius angrily rejects a king’s plea to offer him some profitable advice and condemns the king’s obsession with profit. In other places, he distinguished between the noble rank by heaven and the noble rank by humans (*Mencius* 6A.16). He clearly favored the former, which is a form of natural aristocracy suggested by Wall. But this is what we could call one’s inner worth, which doesn’t have to be manifested in politics. More importantly, going back to *Mencius* (1A.1), the argument Mencius offered after the condemnation is that, if, following the king’s model, everyone in the king’s court is driven by profit, the kingdom will become a jungle and be in peril. This is, if we think carefully, a consequentialist objection to being obsessed with consequences.

We can argue that Mencius only made this argument because this is something the king could understand. Indeed, Mencius insisted on the distinction the “great people” and “small people.” The former can hold onto virtue in spite of challenging circumstances, and the latter can only be virtuous when basic needs are met (*Mencius* 1A.7). Nevertheless, I suspect that there is a reason for Mencius to frequently offer arguments that are implicitly consequence-oriented. And even if I were wrong about Mencius, this reason is what *I* have, under the influence of Han Fei Zi, a harsh critic of early Confucians, for refusing to go down the road of natural aristocracy in a whole-hearted manner. To put it simply, how do we know that someone is a natural aristocrat? How do we know he deserves or is fitting to rule if not for the fact that he has actually ruled well?

Wall’s example to challenge an instrumentalist defense of meritocracy is whether it can distinguish between a true pilot in the parable of the ship in Plato’s *Republic*, and a lucky pilot. My rejoinder is, can we still be convinced of the judgment that someone is a true pilot if he keeps

failing to right the ship? He could have been extremely unlucky, and he could claim “noble rank by heaven” by *himself*, if this is of any comfort. For the public, however, there have to be some signs that suggest that he is indeed a good pilot. Sadly, the world is not always in human control. But unless we take a radically relativist view of human effort, we have to accept the idea that there are more and less competent rulers, and their competence is revealed *somehow*. To be sure, luck and contingent factors play a role in the consequences of a ruler’s action, and we should not hold a meritocrat accountable for every accidental consequence. Instead, we should identify stable and reliable proxies, character or “merits,” that are shown to be connected with ruling well and build institutions to examine a large number of actions by the contestant, in order to see if these actions lead to good consequences and to see if they reveal this person’s character. On the basis of this kind of examination, we can then claim that he is justified, fitting, or deserving to rule. If we reject even this moderate consideration of consequences and insist on the identification and the inner worth of a true pilot, the *Republic*, in which the ship parable is introduced, has already told us where we will end up: we will be eventually guided by the Good, which, unfortunately, is not accessible to us. Socrates acknowledged this and said explicitly that the accounts he offered about the Good are merely analogies and allegories. Indeed, this also reveals my hidden, or maybe not so hidden, worry that the claim to *natural* aristocracy may have been implicitly on a metaphysical or doctrinal ground. Having been deeply influenced by both later Wittgenstein and later Rawls, I try to stay away from talks of inner worth or natural aristocracy. In fact, my own reading of Mencius’s idea of universal compassion is to focus on its utility, i.e., its usefulness to bond a society of strangers together. Mencius, in contrast, understood it as essential to humans *qua* human. As I mentioned in my book, my reading is a rather in the vein of Xun Zi, a rival to Mencius among early Confucian thinkers (Bai 2021, 122).

Wall argues that both the natural aristocrat and the social egalitarian recognize that “the character of the political relationship itself has value.” In this recognition, “the natural aristocrat has an advantage over the instrumentalist in responding to the social egalitarian insofar as he or she presents an alternative positive vision of the political rela-

tionship itself.” In my book, I acknowledge the fact that my version of meritocracy is defended on the ground of good governance, which is clearly consequence-oriented, and cannot be defended if self-governing through “one person, one vote” is considered a fundamental value, which is implied by the positive vision of social egalitarianism. With regard to the recognition of the positive vision of meritocracy, I defend meritocracy by arguing that, even if meritocrats do not always make good decisions, meritocracy still has its value in that the existence and prestige of the meritocrats in the political decision-making process is a lesson to the masses: to participate in politics is not an inborn right, but a right to be earned by moral and intellectual effort and by exhibiting motivational and cognitive merits. But this defense is still consequence-based, although consequence is understood more broadly. It doesn’t, as Wall correctly points out, offer an alternative positive vision of the political relationship itself. Wall’s aristocracy does offer such a vision. But to me, this is just thumping on a metaphysical table different from the social egalitarian one. In addition to the aforementioned aversion to metaphysics, I am worried about the political implications of a political regime that is built on some metaphysical and practically oppressive idea of the Good.

Despite my almost kneejerk aversion to something that appears to be metaphysical, I deeply appreciate many of Wall’s reformulations and even his defense of natural aristocracy. For the key to his defense is that it has the consequence of answering one more challenge from social egalitarianism, and is thus superior, in consequence, to a consequence-oriented defense of meritocracy. Mulligan’s defense of meritocracy, however, is more based on the consideration of (distributive) justice, a deontological and not a consequentialist justification, which he calls “Western meritocracy.” As he later acknowledges, what he calls “Eastern meritocracy” (the consequence-based kind) is not necessarily Eastern, while I would add, as I indicated above, Mencius could be interpreted as being concerned with the inner worth and can be “Western” in this regard. My reading of Mencius is a revisionist one, revised by two of his theoretical rivals, Xun Zi and Han Fei Zi.

But Mulligan’s distinction does reveal some deeper difference between his theorizing and mine. In fact, he suspects that what I am

doing is not political theorizing. He considers Rawls' *A Theory of Justice* to be a proper political theory, for "[it] is just that: a theory of justice." As I have shown, my theorizing is organized by looking into how early Confucians answer three fundamental political questions under the conditions of modernity. The kind of early Confucianism I use can be summarized with a coherent and very limited set of basic tenets, such as the Mencian assumption, and, related to it, the moral psychological structure of compassion and its political implications. I try to avoid using ideas that are broadly speaking "Confucian" and are convenient to use but are not made coherent with the set of ideas I am using. In the same vein, although, as Mulligan points out, the idea of meritocracy is certainly in line with Mohism, I don't appeal to Mohism because other ideas I use to construct the hybrid regime and the Confucian New Tian Xia order are in conflict with the ideas of Mohism. Despite my attempt to be coherent, Mulligan is still suspicious of whether what I am doing is theorizing. I suspect that his suspicion, just like his reservation about "Eastern meritocracy," comes from the lack of discussion of justice in my book. To me, however, the obsession with justice is indeed West-centric. Early Chinese thinkers didn't discuss justice as it is understood by Plato or Aristotle, although this doesn't mean that they didn't discuss other issues and didn't use other theoretical tools that could be related to the issue of justice. Indeed, I have found the contemporary "mainstream" (read as "Western") obsessions with concepts such as agency and representation sometimes nauseating. There are other very important political issues that need to be addressed, and we can address them with a language that is more accessible to different philosophical, religious, and cultural traditions, a language of a greater overlapping consensus, rather than the technical language of Kant or the narrow focus on justice.

In Mulligan's paper, he also mentions the famous case of the Upright Gong. In his reading, in the conflict between protecting one's father who has committed a crime and reporting him to the authorities, the Duke of She chooses the side of criminal justice, and the Confucians or the Eastern meritocrats endorse the protection of the family member. He agrees with the Confucians on this point. I discuss this and other related cases in detail in my book (Bai 2021, 141-49, as well as the

whole Chap. 6). To me, the conflict is between one's duty to the public and one's duty to the private. The former includes not only what we could call criminal justice, but also concern for the person the father has wronged. The Confucian resolution of this conflict is not to endorse one's private (family) duty, but to try to find a solution that can address *both* duties. Another important factor Mulligan fails to notice is that the crime in question is a petty crime (taking a sheep from the street). I have discussed some more challenging cases. In the most serious ones, perhaps we cannot find a good compromise, such as the ticking bomb case Mulligan offers. I discuss a similar case in my book (Bai 2021, 153-54, fn21). Although a good compromise cannot be found, as one can see from my discussion there, perhaps not being merely obsessed with justice and rather trying to take the complexity of human life into account could be more productive, both theoretically and practically.

III. A Liberal Confucianism That Is Both Thinner and Thicker than Liberalism—A Response to Corrigan

Daniel Corrigan's criticisms are centered on how liberal my liberal Confucianism is, especially with regard to rights. He realizes that although I am deeply influenced by the later Rawls, there are some key differences between my approach and that of Rawls'. As he points out, "(t)he content of Rawls' theory of justice is determined by using the Original Position," while "Bai determines much of the content of his theory of justice by relying on the works of the early Confucians." I will address the second claim later. On Rawls' approach, the veil of ignorance already implies what will come out of it, and to me, it is merely a beautiful illustration of the principle of justice that is already inherent in the design of the veil of ignorance. We shouldn't pretend that this offers any a priori justification of the principle. Or, as Corrigan put it, liberal rights that "are the domestic rights of people within liberal societies" "are justified by the principles of justice chosen in the Original Position." This is not really a justification. It is a kind of tautology. If you accept the Rawlsian Veil of ignorance and enter the Original Position, you will have liberal rights; and if you accept liberal rights, you will accept

the conditions stipulated by the veil of ignorance and thus enter the Original Position. A Hobbesian, for example, would reject both. Put it in another way, although Rawls tried to become more a-metaphysical, Wittgensteinian, and pluralistic in his *Political Liberalism* by taking liberal democracy as a freestanding political concept that is detached from any particular metaphysical or religious doctrine, the core of this concept, the principle of justice, still enjoys the fundamental status that is (very thinly) metaphysical and a priori. Maybe this is not fair to Rawls or to any a-metaphysical philosopher. For unless we philosophize as Wittgenstein did, that is, as a “therapist,” and as long as we try to construct something, we have to start from *somewhere*. As Wittgenstein put it in Section 343 of *On Certainty*, “If I want the door to turn, the hinges must stay put” (Wittgenstein 1969, 44e).

With this understanding, I am not intending to determine the content of Rawls’ (or my) theory of justice or his liberal rights. Instead, I simply assume that these rights, or a significant chunk of them, are where we begin, and I try to see if some of these rights can be endorsed by Confucianism through a pluralistic reading that is implied by overlapping consensus, a convenient tool introduced by the later Rawls. Otherwise put, my project is to acknowledge the existence of certain rights, such as the right to free speech, and see if we can offer a Confucian endorsement of these rights. The Confucian endorsement can be different from how these rights are endorsed by or are derived from other comprehensive doctrines but bears enough overlapping consensus with the endorsements by other doctrines. My project is thus not as “fundamental” as Rawls’. But if we carry through the Wittgensteinian spirit that is underlying Rawls’ later philosophy, then less (fundamental) is more. Since my project is rather moderate, it is not necessary for me to show, contrary to Corrigan’s claim, that the rights I try to endorse are part of the overlapping consensus that includes “other reasonable comprehensive doctrines, such as those found in African societies.”

As Corrigan points out, on the international level,³ “(i)n order to

³ Rawls avoided using “state” and “nation” in his *Law of Peoples* for some very sensible reasons. I use the word “international” only for the sake of convenience.

justify the Law of Peoples and determine its content, Rawls introduces the idea of a second Original Position.” But as Corrigan quickly acknowledges, peoples in the second Original Position are merely choosing among different formulations and interpretations of eight principles that are presented to them. The contingent nature of the starting point becomes even more apparent in the second Original Position than the first. Later, Corrigan refers to revisions by some other liberal thinkers such as Charles Beitz, but the revisions are based on a more comprehensive survey of existing rights that are not justified or determined within a theory. These rights are used to justify other things in the theory, and they are the hinges on which the door of theory turns.

The rights endorsed in the second Original Position are called “human rights,” distinguished from Rawls’ “liberal rights.” But defenders of global justice often point out asymmetries between *A Theory of Justice* and *The Law of Peoples*, and question Rawls on why the veil of ignorance in the former cannot be used to derive rights on a global scale by putting persons, and not peoples, behind the veil of ignorance. I am actually sympathetic to the moderate or even conservative attempt by Rawls on the international level. Indeed, as mentioned, I argue that if Rawls acknowledges a de facto hierarchy globally, then why don’t we carry this project through and acknowledge hierarchy within a state?

As mentioned, what I am trying to do in my book is to correct domestic and global governance with arrangements inspired by Confucianism, and on the liberal side of liberal democracy, I am mostly just trying to show that Confucianism can endorse various arrangements of liberalism. Simply put, I try to show that liberal Confucianism is possible. Although this attempt is rather modest, I do deviate from typical liberal orders on a few occasions. For one, I do talk about rights to education and health care, i.e., socio-economic rights. But Rawls also argued, in *Political Liberalism*, that rights, without certain basic goods offered, are merely formal.⁴ Whether you call them rights or not—indeed, my version of liberal Confucianism doesn’t really call them rights—they are the basic goods the government has a duty to provide to its citizens.

⁴ For my discussion of this on Bai (2021, 61).

On the international level, I differ even more from Rawls or the typical liberal line of thought. In his extension from liberal rights to human rights, Rawls tried to include so-called decent people. The example of a decent people Rawls offered is an imagined and idealized people, the people of “Kazanistan” (Rawls 1999, 75-78). From the name of this people and from Rawls’s own description, we can see that what he has in mind is an Islamic people that is nevertheless tolerant and non-aggressive. Despite his attempt to be non-parochial, he had a curious obsession with Islam that is typical of a Western thinker, and only argued for tolerating this people from the moral high ground that is his liberalism.⁵ It is a small wonder, then, that Corrigan thinks that the Confucian regime I propose should be categorized as an “unspecified” decent people. Well, it is Rawls’ own fault.

The ideal global order I propose is the New Tian Xia Order (NTX). One can see some resemblance between this order and the one proposed by Rawls in his *Law of Peoples*. Nevertheless, in NTX, international interventions can be justified when a state fails to perform the humane duty to the people—first and foremost to its own people, and second to other peoples. As mentioned, the underlying principle is “humane duty overrides sovereignty.” I argue that this principle is better than the principle “human rights override sovereignty,” especially when being applied to the justification of a military intervention. It can justify the intervention of the domestic politics of even a decent or a liberal people, if their state pollutes the environment that endangers the well-being of its own people, future generations, and other peoples. That is, it can justify more expansive interventions than the Law of Peoples could. At the same time, it can be more prudent than the liberal theory that justifies interventions on the basis of human rights violations. For I argue that according to Mencius, military interventions can only be justified when the suffering of a people is so great that they are ready to welcome any invaders who have the sole intention of liberating them and when their liberation is proven long-lasting and is celebrated by other peoples. The flip side of this is that defensive war, such as the defense of a completely inhumane state, is not automatically justified,

⁵ For a more detailed criticism, see Bai (2015).

contrary to Rawls' "principle that permits war only in cases of self-defense," according to Corrigan.

It is true that, as Corrigan points out, human rights violations can be merely a necessary condition of military intervention, and there can be other cautionary factors against it. But as I illustrate in Chapter 8 of my book, the cautionary mechanism is built into NTX. There are complexities when we apply NTX to military intervention, which I acknowledge in my book. This recognition is the reason I argue that in the case of military intervention, we should offer more concrete criteria such as mass starvation and genocide (not something like the so-called cultural genocide, but the physical elimination of a people). In this revised version, NTX comes pretty close to the Responsibility to Protect doctrine, which I also happily acknowledge. This way, we can avoid using the principle of "humane duty overrides sovereignty" to defend colonialism, as Corrigan warns against.

How do I justify all these additional duties (or rights)? Corrigan accuses me of failing to do so. I confess that I am indeed guilty of this. What I try to do is to illustrate a coherent Confucian proposal that is based on a limited set of basic ideas and can address today's problems, and to defend it as best as I can. How do I justify these basic ideas, such as compassion or humaneness? I don't think that I have a justification. All I can do is to make them as "thin" (as a-metaphysical or as freestanding from any peculiar metaphysical baggage, early Confucianism included) as possible, and hope that other reasonable peoples could endorse them as a part of an overlapping consensus. In my own understanding, Rawls doesn't offer real justification for his liberal rights and human rights, and he merely throws them out there, hoping that they can be endorsed by reasonable peoples with different comprehensive doctrines. So, if I am guilty of failing to offer the ultimate justification, so is Rawls.

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Confucian Ritual and Reduced Deviancy among Young People

Nicholas Lassi*

Abstract

This is a study of the connection between Confucian ritual and reduced deviancy among young people. Within Confucianism, rituals control behavior and reduce deviancy. Previous studies have linked family rituals with positive behavioral outcomes for young people across a range of developmental dimensions, prompting the current test applied to deviancy. Two main tests were conducted. In the first test, a ritual variable, “family routines,” was tested by negative outcome variables. This data was from the NLSY97, in the years 1997 to 2000, with a sample of 2,846 people. It was found that family routines were linked to reduced delinquency and substance use, even after controlling for gender, ethnicity, age, and so on. In the second test, a ritual variable, “how often the mother reads to the child,” was tested by negative outcome variables. This data was from the NLSY79CYA, in the years 1988 and 1998, with a sample of 1,087 mothers and children. It was found that ritualized mother-child reading was linked to reduced antisocial behavior and bullying, even after controlling for gender, ethnicity, and age.

Keywords: Confucianism, ritual, deviancy, NLSY97, NLSY79CYA

* Nicholas Lassi is an SJD candidate at the Guanghua Law School at Zhejiang University. He has a PhD in criminal justice from the University of North Dakota, along with other advanced degrees in law, foreign policy, and communications. E-mail: Luckynickphd@gmail.com.

This study explores the connection between Confucian ritual or *li* (禮) and reduced deviancy among young people. It examines the question of whether ritualistic behaviors can reduce deviancy. If there is a connection between ritual and reduced negative behavioral outcomes, the inclusion of ritual into social and correctional programs may increase public safety.

The views of Confucius (551-479 BCE) and Xunzi (c.300-c.230 BCE) are considered.¹ Their ideas are pertinent to criminological issues as they were regular advisors to feudal administrators regarding the control and punishment of populations. As such, explanations for misconduct are thoroughly articulated within their philosophical material.

Studies suggest that ritual increases behavior regulation and benefits mental health. Kiser, Bennett, Heston, and Paavola (2005) examined the relationship between family rituals and the psychological health of children and found that “family rituals are a correlate of child well-being,” and that “the constructive use of family rituals is reliably linked to family health and to psychosocial adjustment” (357). Malaquias, Crespo, and Francisco (2015) analyzed the relationship between family ritual and the social connections, depression, and anxiety of 248 Portuguese students. From self-report questionnaires, they found that, “Family ritual meaning was positively related to social connectedness and negatively related to depression” (3009). Santos, Crespo, Silva, and Canavarro (2012) conducted a cross-sectional study of 149 Portuguese children, and found that, “Stronger family ritual meaning predicted a more positive family environment (i.e., higher cohesion levels and lower conflict levels), better health-related quality of life, and fewer emotional and behavioral problems in youths” (557). These results follow other studies that found significant positive relationships between family rituals and the healthy cognitive/emotional functioning of young people (Fiese, Koley, and Spagnola 2006), and family rituals and family

¹ Any mention of Confucius' thought should be qualified with a recognition that his actual philosophical contribution, versus how much is legend or is unknown, is still widely debated. Confucius never wrote anything himself and the *Analects* were compiled over many generations. This, along with the fact that he lived during the early fifth century BCE, leaves room for speculation about his actual participation in the philosophy.

cohesion (Fiese and Kline 1993).

Although juxtapositions between ritual and law, and the unique challenges and value each provides for society, have been discussed (Hutton 2021), there has been little thorough and direct analysis of Confucian ritual from a criminological standpoint, and little empirical testing therein. This subject is of significant value, given that childhood influences have a habit of altering behavior later in life (see Cline 2015; Farrington 2005).

I. Confucian Ritual

Within Confucianism, rituals are instrumental for generating self-control and morality. Bell (2008) describes Confucianism as an “action-based” ethical philosophy, wherein “One learns by participating in different rituals and fulfilling different responsibilities in different roles, and the wider the life experience, the greater the likelihood that one has developed the capacity for good moral judgement in this or that situation” (152). These ritualized actions are to hold meaning that exceeds any practical value. Ivanhoe (2013) explains, “Confucian *li* includes those regular, stylized social practices that express significance or meaning beyond their instrumental utility, those behaviors that possess symbolic value to those within a shared community” (32).

Confucian rituals are behavioral norms and forms of personal etiquette meant to draw children into a family system and control behavior. Norms draw children into the family, and ritualized etiquette regulates the mind. Correspondingly, Confucian ritual also forms people’s emotions, sensibilities, temperaments, and rationales. Wang (2012) illustrates the controlling effects of ritual, “In the process of exercising *li*, individuals keep a tight rein on their feelings, emotions, and desires as a means to restraining their behavior to meet the standards of communal life” (89). Xunzi (1999) asserted that rituals control and foster the desires of people—forming a middle-ground between overindulgence and yearning, writing, “The Ancient Kings abhorred . . . disorder; so they established the regulations contained within ritual and moral principles in order to apportion things, to

nurture the desires of men, and to supply the means for their satisfaction” (19.1, 601).

Through ritualized bonding within the family, order is created, and, from this order, impulsivity and deviancy are reduced. For example, Confucian ritual often expounds on the limits of a son’s autonomy within the family. These ritualized guidelines are to increase parent-child attachment and self-control. The *Liji* (Book of Rites) states, “A filial son will not do things in the dark, nor attempt hazardous undertakings, fearing lest he disgrace his parents” (Qu Li I, 19).

Xunzi (2003) thought that people are inherently bad, and it is through ritual that this innate nature can be overcome; he explains, “Since man’s nature is evil, it must wait for the . . . guidance of ritual principles before it can become orderly. . . . If they have no ritual principles to guide them, they will be perverse and violent and lack order” (162). Rituals distance people from their counterproductive dispositions. They attach people to a behavioral framework in which desires can be achieved in a controlled manner.² Rituals control desires and reduce deviancy.

A. Family Routines Are Often Confucian Ritual

Confucians rituals are often common routine behaviors—how to behave bodily and vocally in everyday social situations (e.g., table etiquette, how parents should interact with children and vice versa, and how music should be played within the family to create optimum harmony).³ Confucius explains this general idea in the *Book of Rites*, “The superior man is careful in small things, and thereby escapes

² Puett’s (2015) exposition on the function of ritual is valuable here, “The goal is . . . to learn to respond to situations well—an ability we gain through the endless work of training ourselves through ritual activity. . . . Rituals are then, in a sense, a way of training ourselves to break from those patterns that usually prevent us from being caring toward others” (550).

³ Cline (2020) explains why the Confucians considered these routine interactions a form of ritual, “They [the Confucians] thought we should take them more seriously than we do. After all, one of the things that distinguishes rituals from other practices is a certain degree of solemnity and respect. . . . People in ancient China were starting to overlook and disregard a lot of those daily practices. . . . But Confucian philosophers urged people to take a closer look” (23).

calamity. . . . His courtesy [as a product of ritual] keeps shame at a distance,” and “The superior man, by his gravity and reverence [ritual], becomes every day stronger for good; while indifference and want of restraint lead to daily deterioration. The superior man does not allow any irregularity in his person, even for a single day” (Biao Ji, 5, 6). These common routines form and train comportment.

Family routines are often Confucian ritual. For example, the act of a family having dinner together on a regular basis is ritual, because it is regular and meaningful behavior that produces family bonding and the development of self-control through dining etiquette. A family regularly visiting the children’s grandparents or other relatives on the weekends are rituals that serve a similar purpose: family bonding, the transmission of moral lessons between generations, and displays of filial piety. The point is that Confucian ritual fits many different social circumstances. Ivanhoe (2000) explains, “Even under normal circumstances, the virtuous person is always fine-tuning the expression of virtue to fit the occasion and acting from the greater perspective of the overarching goals of ritual. No simple set of prescriptions will suffice to guide or describe such a person’s conduct” (2). What is important is that regular and meaningful patterns of prosocial behavior are conducted within the family. These routine activities pull family members together so that norms, expectations, and moral lessons can be conveyed. Xunzi (2003) points out the importance of regular family interactions within daily living:

If all matters pertaining to temperament, will, and understanding proceed according to ritual, they will be ordered and successful; if not they will be perverse and violent or slovenly and rude. *If matters pertaining to food and drink, dress, domicile, and living habits proceed according to ritual, they will be harmonious and well regulated*; if not they will end in missteps, excesses, and sickness. (26, emphasis added)

An illustration of family routines as Confucian ritual, and something that occurs regularly in modern times, is when children serve their parents in a day-to-day manner. This system of routine conduct was codified in the *Book of Rites*:

With bated breath and gentle voice, they [children] should ask if their clothes are too warm or too cold, whether they are ill or pained, or uncomfortable in any part; and if they be so, they should proceed reverently to stroke and scratch the place. They should . . . help and support their parents in quitting or entering the apartment. They will ask whether they want anything, and then respectfully bring it. All this they will do with an appearance of pleasure to make their parents feel at ease. (Nei Ze, 4)

In Confucian thought, these regular and meaningful interactions pull families together in harmony, thus diminishing criminality. Confucius explains how a failure to engage in ritual will result in misconduct and malevolence, “Respect shown without observing the rules of propriety [ritual] is called vulgarity . . . and boldness without observing them is called violence. Forwardness takes away from gentleness and benevolence” (*Book of Rites*, Zhongni Yan Ju, 1).

II. Current Analysis

Given the aforementioned theoretical backdrop, the main question of this study is: Is there a link between ritual and reduced deviancy among young people? To respond the prevailing research gaps, two tests were administered.

A. Current Analysis Test One (NLSY97)⁴

The first test investigated whether one NLSY97 ritual variable: (1) family routines, in the years 1997, 1998, 1999, and 2000, was linked to two NLSY97 behavioral outcome variables (1) delinquency (years 1997 and 2000) and (2) substance use (years 1997 and 2000). This test controlled for ethnicity, gender, year of birth, the age of the biological

⁴ The National Longitudinal Survey of Youth 97 (NLSY97) is an initiative of the U.S. Bureau of Labor Statistics that follows the lives of 8,985 participants born between 1980-84. The subjects, with a starting age range of 12-16, are being examined longitudinally, commencing in 1997 to the present time (Bureau of Labor Statistics, 2019).

mother when she first gave birth, gross household income in the past year, the biological mother's highest grade completed, and the biological father's highest grade completed.

Confucian rituals often consist of regular, meaningful, and routine conduct. The "family routines" variable in the NLSY97 is Confucian ritual because family routines are often regular and meaningful conduct. The family routines in this variable are positive and prosocial, in the same way that Confucian ritual is positive and prosocial. The description of the "family routines" variable in the NLSY97 conveys this information, "Index of family routines. Based on . . . the number of days per week the youth's family eats together, does housework, does something fun together, and does something religious together" (Bureau of Labor Statistics, 2019). For Confucius, these meaningful family routines qualify as ritual; Ivanhoe (2013) explains:

Kongzi thought the clothes we wear and how we maintain and wear them, our deportment and demeanor, how we sit upon our mats and whether our mats are properly arranged, what food we eat and how we cut and consume it—all these things fall within the ambit of ritual. Kongzi saw that all of these activities can be important . . . all can serve as means to cultivate ourselves in ways that contribute to a more humane social ideal. (33)

For example, in ritualized visits to aging family members, a normal family routine in contemporary times, the *Book of Rites* describes how young people should behave, "He did not presume to ask their age . . . when he met them on the road, if they saw him, he went up to them, but did not ask to know where they were going. . . . When seated by them, he did not, unless ordered to do so, produce his lutes. He did not draw lines on the ground, that would have been an improper use of his hand. He did not use a fan. . . ." (Shao Yi, 8). These rituals should be engaged habitually and decisively. Common modern family routines involve playing music or listening to music within the home. The Confucians believed that these musical activities are rituals of high importance, "When it is preformed within the household, and father and sons, elder and younger brothers listen to it together, there are

none that are not filled with a spirit of harmonious kinship. . . Hence music brings about complete unity and induces harmony” (Xunzi 2003, 116). Modern gaming rituals within the family require a degree of etiquette and decorum; Confucian ritual is concerned with the same, “At the throwing of darts. . . . If he conquered, he washed the cup and gave it to the other, asking him to drink. If he were defeated, the elder went through the same process with him” (*Book of Rites*, Shao Yi, 9), and, when engaged in a game, “the young people were admonished in these words, ‘Do not be rude; do not be haughty; do not stand awry; do not talk about irrelevant matters. . . .’” (*Book of Rites*, Tou Hu, 6). Modern family dinners are often defined by meaningfulness, dining etiquette, and self-control at the dinner table; Confucian rituals emphasize the same, “When their parents give them anything to eat or drink, which they do not like, they will notwithstanding taste it and wait. . . .” (*Book of Rites*, Nei Ze, 16). Thus, family routines are often Confucian ritual.

B. Current Analysis Test Two (NLSY79CYA)⁵

The second test investigated whether two NLSY79CYA ritual variables: (1) how often the mother reads to the child (3-5 yrs), in the years 1988 and 1998, and (2) how often the mother reads to the child (6-9 yrs), in the years 1988 and 1998, were linked to two NLSY79CYA behavioral outcome variables (1) antisocial behavior (years 1988 and 1998) and (2) child bullies or is cruel/mean to others (years 1988 and 1998). This test controlled for gender, ethnicity, and year of birth.

The “how often the mother reads to the child (3-5 yrs and 6-9 yrs)” variables in the NLSY79CYA are Confucian ritual because, like the family routines variable in the NLSY97, routine mother-child reading is consistent and meaningful conduct. For instance, regarding ritualized learning in the home, a form of routine parent-child reading in the modern home, the *Book of Rites* states, “At six years old, they

⁵ The National Longitudinal Survey of Youth 79 Child and Young Adults (NLSY79CYA) is an initiative of the U.S. Bureau of Labor Statistics that surveys 11,545 mothers and children (the children were born between 1970 and 2014). The surveys started in 1979 and continue to the current time (Bureau of Labor Statistics, 2019).

were taught the numbers and names of the cardinal points . . . at nine, they were taught how to number the days” (Nei Ze, 77), and “At ten (the child) went to a master outside . . . he learned the characters and calculation . . . he would be exercised in reading the tablets” (Nei Ze, 78). Routine learning in the home is Confucian ritual, “The child of a good founder is sure to learn how to make a fur-robe. The son of a good maker of bows is sure to learn how to make a sieve. [In other words] Those who first yoke a young horse place it behind, with the carriage going on in front of it” (*Book of Rites*, Xue Ji, 15), and “When the pupils withdrew, and gave up their lessons for (for the day), they were required to continue their study at home” (*Book of Rites*, Xue Ji, 6). This interconnection between modern family routines/reading and Confucian ritual proceeds throughout the principle Confucian texts. Ultimately, routine parent-child reading is Confucian ritual.

C. Hypotheses

Confucian ritual involves regular and meaningful conduct for purposes of behavior regulation. Therefore, the hypotheses are as follows:

The hypotheses of the first test (NLSY97):

Hypothesis 1: Family routine scores in the NLSY97 1997 cycle array from 0 to 28; higher scores specify more days expended in routine events with the family. Family routines in the 21 to 28 range (the top 25%) are most characteristic of Confucian ritual. Accordingly, scores in the 21 to 28 range will be linked to a reduced likelihood for delinquency and substance use.

Hypothesis 2: Family routine scores in the NLSY97 1998, 1999, and 2000 cycles array from 0 to 21; higher scores specify more days expended in routine events with the family. Family routines in the 16 to 21 range (the top 25%) are most characteristic of Confucian ritual. Accordingly, scores in the 16 to 21 range will be linked to a reduced likelihood for delinquency and substance use.

Table 1. Hypotheses of the First Test (NLSY97)

Hypotheses	Brief Descriptions	Supported by Results (Yes/No)
1a	1997: Family routines in the 21 to 28 range will be linked to the lowest probability for delinquency	Yes
1b	1997: Family routines in the 21 to 28 range will be linked to the lowest probability for substance use	Yes
2a	1998: Family routines in the 16 to 21 range will be linked to the lowest probability for delinquency	Yes
2b	1998: Family routines in the 16 to 21 range will be linked to the lowest probability for substance use	Yes
3a	1999: Family routines in the 16 to 21 range will be linked to the lowest probability for delinquency	Yes
3b	1999: Family routines in the 16 to 21 range will be linked to the lowest probability for substance use	Yes
4a	2000: Family routines in the 16 to 21 range will be linked to the lowest probability for delinquency	No
4b	2000: Family routines in the 16 to 21 range will be linked to the lowest probability for substance use	Yes

The hypotheses of the second test (NLSY79CYA):

Hypothesis 3: How often the mother reads to the child (3-5 yrs and 6-9 yrs) scores in the NLSY79CYA 1988 and 1998 cycles array from 1 to 6; higher scores indicate more mother-child reading. Reading in the 5 to 6 range (the top 33%) is most characteristic of Confucian ritual. Thus, scores in the 5 to 6 range will be linked to a lower likelihood for antisocial behavior and bullying or being cruel/mean to others.

Table 2. Hypotheses of the Second Test (NLSY79CYA)

Hypotheses	Brief Descriptions	Supported by Results (Yes/No)
5a	1988: Mothers reading to children (3-5 yrs) in the 5 to 6 range will be linked to the lowest probability for antisocial behavior	Yes
5b	1988: Mothers reading to children (3-5 yrs) in the 5 to 6 range will be linked to the lowest probability for bullying or being cruel/mean	No
6a	1988: Mothers reading to children (6-9 yrs) in the 5 to 6 range will be linked to the lowest probability for antisocial behavior	Yes
6b	1988: Mothers reading to children (6-9 yrs) in the 5 to 6 range will be linked to the lowest probability for bullying or being cruel/mean	Yes
7a	1998: Mothers reading to children (3-5 yrs) in the 5 to 6 range will be linked to the lowest probability for antisocial behavior	No
7b	1998: Mothers reading to children (3-5 yrs) in the 5 to 6 range will be linked to the lowest probability for bullying or being cruel/mean	No
8a	1998: Mothers reading to children (6-9 yrs) in the 5 to 6 range will be linked to the lowest probability for antisocial behavior	Yes
8b	1998: Mothers reading to children (6-9 yrs) in the 5 to 6 range will be linked to the lowest probability for bullying or being cruel/mean	Yes

III. Methodology

A. Methodology of the First Test (NLSY97)

The data used for this research came from two datasets: the NLSY97 and NLSY79CYA. The data for the first investigation came from the first four cycles of the NLSY97, collected from 1997 to 2000.

As recommended by Cramer and Bock (1966), two-way MANCOVAs were used to help defend against expanding the type 1 error rate in any subsequent ANCOVAs and post-hoc assessments.

Two two-way MANCOVAs were conducted in the first test:

MANCOVA 1: examines the influence of two independent variables: (1) family routines (1997) and (2) family routines (1998), on two dependent variables: (1) delinquency scores (1997) and (2) substance use (1997).

MANCOVA 2: examines the influence of two independent variables: (1) family routines (1999) and (2) family routines (2000), on two dependent variables: (1) delinquency scores (2000) and (2) substance use (2000).

Both MANCOVAs controlled for gender, ethnicity, year of birth, gross household income in the past year, the age of the biological mother when she had the first born, the biological mother's highest grade completed, and the biological father's highest grade completed.

Mahalanobis Distance ($CV = .001$) found that less than 1% of cases were outliers, which is a tolerable figure. No outliers were eliminated from the dataset as there was no reason to think that any were incorrect. Correspondingly, the additional variability the outliers presented did not impact the outcomes.

One independent variable and two dependent variables were tested. The NLSY97 ritual variables:

The 1997 "family routines" information was presented thusly: "Index of family routines. Scores range from 0 to 28; higher scores specify more days spent in routine activities with the family." The description of the "family routines" variable in the NLSY97: "Based on youth-report questions about the number of days per week the youth's family eats together, does housework, does something fun together, and does something religious together"

The 1998, 1999, and 2000 "family routines" information was presented thusly: "Index of family routines. Scores range from 0 to 21; higher scores indicate more days spent in routine activities with the family."⁶

The NLSY97 variables measuring behavioral outcomes:

The 1997 and 2000 “delinquency” information were collected thusly: “Delinquency score index. Scores range from 0 to 10; higher scores indicate more incidents of delinquency.” The NLSY97 explains the development of this index, wherein questions, “asked respondents if they ever participated in various criminal/delinquent activities. [And later] asked respondents if they participated in various criminal/delinquent activities since the last interview.”

The 1997 and 2000 “substance use” information was collected thusly: “Substance use index. Scores range from 0 to 3; higher scores indicate more instances of substance use.” The NLSY97 explains the development of this index, “Questions asked respondents if they ever smoked marijuana or if they had smoked marijuana since the date of their last interview.”

B. Methodology of the Second Test (NLSY79CYA)

The data for the second investigation came from two cycles of the NLSY79CYA, collected in 1988 and 1998.

As recommended by Cramer and Bock (1966), one-way MANCOVAs were used to help defend against expanding the type 1 error rate in any subsequent ANCOVAs and post-hoc assessments.

Four one-way MANCOVAs were conducted in the second test:

MANCOVA 1: examined the influence of one independent variable: (1) how often the mother reads to the child 3-5 yrs (1988), on two dependent variables: (1) antisocial behavior (1988) and (2) child bullies or is cruel/mean to others (1988).

MANCOVA 2: examined the influence of one independent variable: (1) how often the mother reads to the child 6-9 yrs (1988), on two dependent variables: (1) antisocial behavior (1988) and (2) child bullies or is cruel/mean to others (1988).

⁶ The description of the “family routines” variable in the NLSY97: “Based on youth-report questions about the number of days per week the youth’s family eats together, does housework, does something fun together, and does something religious together”

MANCOVA 3: examined the influence of one independent variable: (1) how often the mother reads to the child 3-5 yrs (1998), on two dependent variables: (1) antisocial behavior (1998) and (2) child bullies or is cruel/mean to others (1998).

MANCOVA 4: examined the influence of one independent variable: (1) how often the mother reads to the child 6-9 yrs (1998), on two dependent variables: (1) antisocial behavior (1998) and (2) child bullies or is cruel/mean to others (1998).

All MANCOVAs controlled for ethnicity, gender, and year of birth.

Mahalanobis Distance ($CV = .001$) found that less than 1% of cases were outliers, which is a tolerable figure. No outliers were eliminated from the dataset as there was no reason to think that any were incorrect. Correspondingly, the additional variability the outliers presented did not impact the outcomes.

One independent variable and two dependent variables were tested. The NLSY79CYA ritual variable:

The 1988 and 1998 “how often the mother reads to the child” (both 3-5 yrs and 6-9 yrs) enquiries were presented to the mothers thusly: “How often mother reads to child. 1 Never . . . 6 Everyday.”

The NLSY79CYA variables measuring behavioral outcomes:

The 1988 and 1998 “antisocial behavior” information was presented thusly: “Behavior problems index: antisocial raw score. Scores range from 0 to 6; higher scores indicate more behavior problems.” The NLSY97 continues, “[This] BPI [behavior problems index] score . . . was based on the items in the following domains: (1) antisocial behavior, (2) anxiousness/depression, (3) headstrongness, (4) hyperactivity, (5) immature dependency, and (6) peer conflict/social withdrawal.”

The 1988 and 1998 “child bullies or is cruel/mean to others” enquiries were presented to mothers thusly: “Child bullies or is cruel/mean to others. 1 Often true; 2 Sometimes true; 3 Not true.”

IV. Results for the First Test (NLSY97)

A. Family Routines (1997) on Delinquency and Substance Use

A statistically significant multivariate test was observed from family routines, Pillai's Trace = .065, $F(56, 4798) = 2.89$, $p < .001$, $\eta^2p = .033$.⁷

Table 3. Adj. Mean, Std. Error, and 95% CI for Family Routines (1997)

Dependent variable	Family routines (1997)	Mean	Std. error	95% Confidence interval	
				Lower bound	Upper bound
Delinquency score	0	1.479 ^{a,b}	.226	1.037	1.922
	1	.847 ^{a,b}	.597	-.323	2.018
	2	1.832 ^{a,b}	.535	.782	2.882
	3	2.767 ^{a,b}	.422	1.940	3.594
	4	1.129 ^{a,b}	.499	.151	2.108
	5	2.383 ^{a,b}	.324	1.749	3.018
	6	2.039 ^{a,b}	.323	1.405	2.673
	7	1.640 ^{a,b}	.235	1.180	2.101
	8	1.153 ^{a,b}	.252	.658	1.648
	9	1.009 ^{a,b}	.220	.578	1.440
	10	1.474 ^{a,b}	.208	1.066	1.881
	11	1.190 ^{a,b}	.192	.812	1.567
	12	.952 ^{a,b}	.188	.583	1.320
	13	1.425 ^{a,b}	.167	1.097	1.753
	14	1.225 ^{a,b}	.167	.897	1.553
	15	1.228 ^{a,b}	.173	.889	1.567
	16	.975 ^{a,b}	.135	.710	1.239

⁷ Pillai's Trace was employed to test the MANCOVAs. Pillai's Trace is a statistical test that is durable and not largely dependent upon assumptions regarding the normality of the distribution of data.

Delinquency score	17	.862 ^{a,b}	.161	.547	1.177
	18	1.059 ^{a,b}	.159	.747	1.370
	19	.569 ^{a,b}	.186	.205	.933
	20	.625 ^{a,b}	.214	.206	1.044
	21	.896 ^{a,b}	.205	.493	1.298
	22	.982 ^{a,b}	.219	.553	1.410
	23	.755 ^{a,b}	.271	.223	1.287
	24	.433 ^{a,b}	.293	-.142	1.008
	25	.560 ^{a,b}	.270	.031	1.088
	26	.425 ^{a,b}	.263	-.091	.941
	27	.613 ^{a,b}	.620	-.603	1.829
	28	1.193 ^{a,b}	.323	.560	1.827
Substance use	0	.868 ^{a,b}	.142	.590	.590
	1	1.550 ^{a,b}	.375	.814	.814
	2	.915 ^{a,b}	.337	.255	.255
	3	1.891 ^{a,b}	.265	1.371	1.371
	4	.956 ^{a,b}	.314	.341	.341
	5	1.073 ^{a,b}	.204	.674	.674
	6	1.489 ^{a,b}	.203	1.090	1.090
	7	1.083 ^{a,b}	.148	.793	.793
	8	.795 ^{a,b}	.159	.484	.484
	9	.736 ^{a,b}	.138	.465	.465
	10	1.176 ^{a,b}	.131	.920	.920
	11	1.072 ^{a,b}	.121	.834	1.309
	12	.589 ^{a,b}	.118	.357	.821
	13	.765 ^{a,b}	.105	.559	.971
	14	.782 ^{a,b}	.105	.576	.989
	15	.929 ^{a,b}	.109	.715	1.142
	16	.701 ^{a,b}	.085	.535	.867
	17	.634 ^{a,b}	.101	.436	.832
	18	.633 ^{a,b}	.100	.437	.828
	19	.426 ^{a,b}	.117	.198	.655
	20	.349 ^{a,b}	.134	.086	.613
	21	.481 ^{a,b}	.129	.228	.734

Substance use	22	.593 ^{a,b}	.137	.324	.863
	23	.465 ^{a,b}	.171	.131	.800
	24	.731 ^{a,b}	.184	.369	1.092
	25	.461 ^{a,b}	.169	.129	.793
	26	.227 ^{a,b}	.165	-.097	.551
	27	-.068 ^{a,b}	.390	-.832	.697
	28	.618 ^{a,b}	.203	.220	1.016

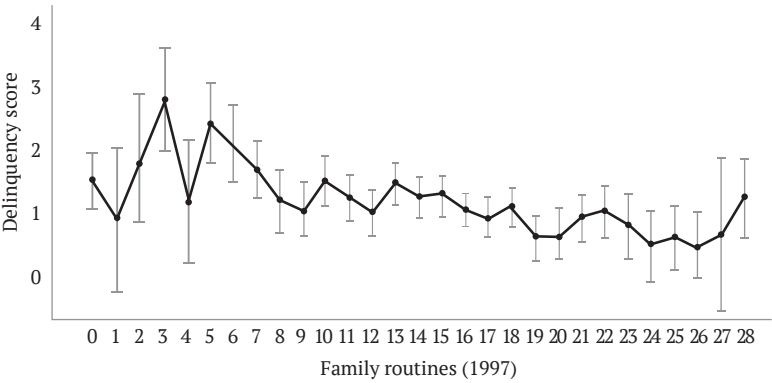
a. Covariates in the model: gender = 1.48, ethnicity = 3.04, year of birth = 1983.02, age of biological mother at first birth = 23.23, gross household income in past year = 50484.10, biological mother's highest grade = 12.89, biological father's highest grade = 12.80.

b. Based on modified population marginal mean

1. Family Routines (1997) on Delinquency

Univariate testing found a significant difference among the 29 levels of family routines (scores range from 0 to 28; higher scores specify more days spent in family routines) on delinquency (scores range from 0 to 10; higher scores specify more episodes of delinquency), $F(28, 2399)$

Figure 1. The Effect of Family Routines (1997) on Delinquency



Covariates in the model: gender = 1.48, ethnicity = 3.04, year of birth = 1983.02, age of biological mother at first birth = 23.23, gross household income in past year = 50484.10, biological mother's highest grade = 12.89, biological father's highest grade = 12.80.

* Delinquency scores range from 0 to 10; higher scores specify more episodes of delinquency.

** Family routine scores range from 0 to 28; higher scores specify more days spent in family routines.

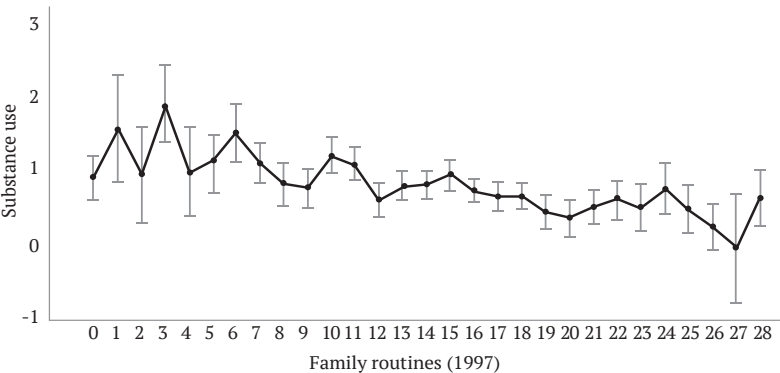
= 3.38, $p < .001$, $\eta^2p = .04$. A post hoc analysis using Fisher's LSD test specified significant differences between two main groups of family routines, wherein levels 3 ($M = 2.77$), 5 ($M = 2.38$), and 6 ($M = 2.04$) had significantly higher delinquency compared to levels 16 ($M = .98$) through 27 ($M = .61$).

As shown in figure 1, higher levels of family routines were linked to a lower probability for delinquency.

2. Family Routines (1997) on Substance Use

Univariate testing found a significant difference among the 29 levels of family routines (scores range from 0 to 28; higher scores specify more days spent in family routines) on substance use (scores range from 0 to 3; higher scores specify more episodes of substance use), $F(28, 2399) = 4.04$, $p < .001$, $\eta^2p = .05$. Levels 1 ($M = 1.55$), 3 ($M = 1.89$), 6 ($M = 1.49$), and 10 ($M = 1.18$) had significantly higher substance use relative to levels 16 ($M = .70$) through 28 ($M = .62$).

Figure 2. The Effect of Family Routines (1997) on Substance Use



Covariates in the model: gender = 1.48, ethnicity = 3.04, year of birth = 1983.02, age of biological mother at first birth = 23.23, gross household income in past year = 50484.10, biological mother's highest grade = 12.89, biological father's highest grade = 12.80.

* Substance use scores range from 0 to 3; higher scores specify more episodes of substance use.

** Family routine scores range from 0 to 28; higher scores specify more days spent in family routines.

As shown in figure 2, higher levels of family routines were linked to a lower probability for substance use.

B. Family Routines (1998) on Delinquency and Substance Use

A statistically significant multivariate test was observed from family routines, Pillai's Trace = .048, $F(42, 4798) = 2.80, p < .001, \eta^2p = .02$.

Table 4. Adj. Mean, Std. Error, and 95% CI for Family Routines (1998)

Dependent variable	Family routines (1998)	Mean	Std. error	95% Confidence interval	
				Lower bound	Upper bound
Delinquency score	0	1.290 ^{a,b}	.198	.901	1.679
	1	2.030 ^{a,b}	.202	1.634	2.426
	2	1.766 ^{a,b}	.191	1.391	2.141
	3	1.335 ^{a,b}	.168	1.007	1.664
	4	1.329 ^{a,b}	.168	.998	1.659
	5	1.233 ^{a,b}	.181	.878	1.588
	6	.953 ^{a,b}	.174	.611	1.295
	7	1.039 ^{a,b}	.165	.716	1.363
	8	1.418 ^{a,b}	.153	1.117	1.718
	9	1.246 ^{a,b}	.178	.896	1.596
	10	.901 ^{a,b}	.160	.588	1.215
	11	.963 ^{a,b}	.182	.606	1.320
	12	.941 ^{a,b}	.191	.566	1.316
	13	.798 ^{a,b}	.190	.427	1.170
	14	.624 ^{a,b}	.217	.198	1.050
	15	.815 ^{a,b}	.240	.345	1.286
	16	.613 ^{a,b}	.278	.068	1.158
	17	.879 ^{a,b}	.333	.225	1.532
	18	1.015 ^{a,b}	.384	.263	1.767
	19	.469 ^{a,b}	.378	-.272	1.210
	20	.248 ^{a,b}	.545	-.820	1.316
	21	.873 ^{a,b}	.358	.171	1.575

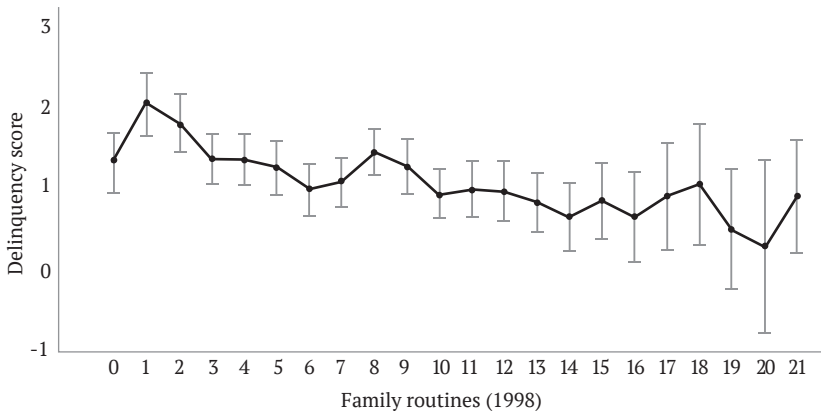
Substance use	0	1.214 ^{a,b}	.125	.970	1.459
	1	1.233 ^{a,b}	.127	.984	1.482
	2	1.182 ^{a,b}	.120	.947	1.418
	3	1.011 ^{a,b}	.105	.804	1.218
	4	.730 ^{a,b}	.106	.523	.938
	5	.913 ^{a,b}	.114	.689	1.136
	6	.696 ^{a,b}	.110	.481	.911
	7	.905 ^{a,b}	.104	.702	1.109
	8	.915 ^{a,b}	.096	.726	1.104
	9	.645 ^{a,b}	.112	.425	.865
	10	.599 ^{a,b}	.101	.402	.797
	11	.680 ^{a,b}	.114	.455	.904
	12	.535 ^{a,b}	.120	.299	.771
	13	.448 ^{a,b}	.119	.214	.681
	14	.617 ^{a,b}	.137	.350	.885
	15	.35 ^{a,b}	.151	.058	.649
	16	.534 ^{a,b}	.175	.192	.877
	17	.561 ^{a,b}	.210	.150	.972
	18	.492 ^{a,b}	.241	.019	.965
	19	.404 ^{a,b}	.237	-.062	.870
	20	-.097 ^{a,b}	.342	-.769	.574
	21	.580 ^{a,b}	.225	.139	1.022

a. Covariates in the model: gender = 1.48, ethnicity = 3.04, year of birth = 1983.02, age of biological mother at first birth = 23.23, gross household income in past year = 50484.10, biological mother's highest grade = 12.89, biological father's highest grade = 12.80.

b. Based on modified population marginal mean

1. Family Routines (1998) on Delinquency

Univariate testing found a significant difference among the 22 levels of family routines (scores range from 0 to 21; higher scores specify more days spent in family routines) on delinquency (scores range from 0 to 10; higher scores specify more episodes of delinquency), $F(21, 2399) = 3.05$, $p < .001$, $\eta^2 p = .03$. Levels 1 ($M = 2.03$) and 2 ($M = 1.77$) had significantly higher delinquency compared to levels 9 ($M = 1.25$) through 21 ($M = .87$) (there was no significant difference between levels 2 and 18).

Figure 3. The Effect of Family Routines (1998) on Delinquency.

Covariates in the model: gender = 1.48, ethnicity = 3.04, year of birth = 1983.02,
 age of biological mother at first birth = 23.23,
 gross household income in past year = 50484.10,
 biological mother's highest grade = 12.89,
 biological father's highest grade = 12.80.

* Delinquency scores range from 0 to 10; higher scores specify more episodes of delinquency.

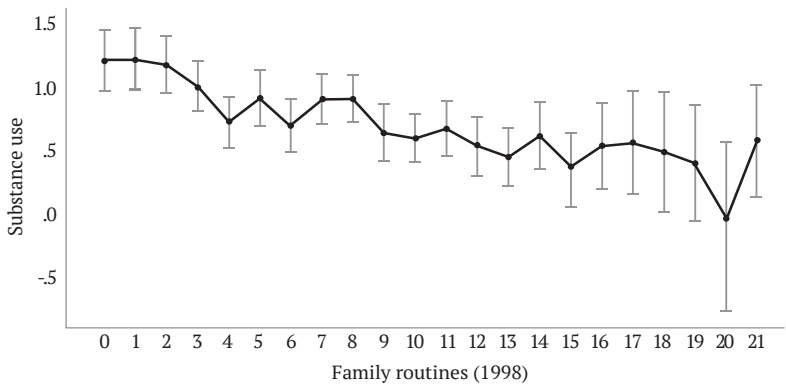
** Family routine scores range from 0 to 21; higher scores specify more days spent in family routines.

As shown in figure 3, higher levels of family routines were linked to a lower probability for delinquency.

2. Family Routines (1998) on Substance Use

Univariate testing found a significant difference among the 22 levels of family routines (scores range from 0 to 21; higher scores specify more days spent in family routines) on substance use (scores range from 0 to 3; higher scores specify more episodes of substance use), $F(21, 2399) = 4.15$, $p < .001$, $\eta^2 p = .04$. Levels 0 ($M = 1.21$), 1 ($M = 1.23$), 2 ($M = 1.18$), and 3 ($M = 1.01$) had significantly higher substance use relative to levels 9 ($M = .65$) through 21 ($M = .58$) (there was no significant difference between level 3 and levels 17 and 21).

Figure 4. The Effect of Family Routines (1998) on Substance Use



Covariates in the model: gender = 1.48, ethnicity = 3.04, year of birth = 1983.02,
age of biological mother at first birth = 23.23,
gross household income in past year = 50484.10,
biological mother's highest grade = 12.89,
biological father's highest grade = 12.80.

* Substance use scores range from 0 to 3; higher scores specify more episodes of substance use.

** Family routine scores range from 0 to 21; higher scores specify more days spent in family routines.

As shown in figure 4, higher levels of family routines were linked to a lower probability for substance use.

C. Family Routines (1999) on Delinquency and Substance Use

A statistically significant multivariate test was observed from family routines, Pillai's Trace = .051, $F(42, 4362) = 2.72$, $p < .001$, $\eta^2p = .03$.

Table 5. Adj. Mean, Std. Error, and 95% CI for Family Routines (1999)

	Family routines (1999)	Mean	Std. error	95% Confidence interval	
				Lower bound	Upper bound
Delinquency score	0	.480 ^{a,b}	.214	.061	.899
	1	1.175 ^{a,b}	.210	.762	1.587
	2	1.205 ^{a,b}	.173	.866	1.544
	3	.671 ^{a,b}	.167	.343	.999

Delinquency score	4	.639 ^{a,b}	.145	.355	.924
	5	.499 ^{a,b}	.157	.192	.806
	6	.662 ^{a,b}	.137	.393	.930
	7	.505 ^{a,b}	.133	.245	.766
	8	.558 ^{a,b}	.137	.290	.827
	9	.379 ^{a,b}	.145	.095	.664
	10	.358 ^{a,b}	.143	.078	.638
	11	.492 ^{a,b}	.174	.151	.834
	12	.273 ^{a,b}	.160	-.041	.587
	13	.327 ^{a,b}	.205	-.076	.729
	14	.417 ^{a,b}	.196	.033	.801
	15	.265 ^{a,b}	.202	-.131	.661
	16	.299 ^{a,b}	.247	-.184	.783
	17	.277 ^{a,b}	.241	-.195	.749
	18	.752 ^{a,b}	.318	.128	1.377
	19	.112 ^{a,b}	.351	-.577	.800
	20	.064 ^{a,b}	.515	-.947	1.075
	21	.353 ^{a,b}	.301	-.237	.943
Substance use	0	1.165 ^{a,b}	.194	.784	1.546
	1	1.394 ^{a,b}	.191	1.019	1.769
	2	1.295 ^{a,b}	.157	.987	1.604
	3	1.385 ^{a,b}	.152	1.086	1.683
	4	1.464 ^{a,b}	.132	1.205	1.724
	5	1.002 ^{a,b}	.143	.723	1.282
	6	1.246 ^{a,b}	.125	1.002	1.490
	7	1.176 ^{a,b}	.121	.939	1.413
	8	.882 ^{a,b}	.125	.638	1.127
	9	.840 ^{a,b}	.132	.580	1.099
	10	.779 ^{a,b}	.130	.524	1.034
	11	1.010 ^{a,b}	.158	.700	1.321
	12	.550 ^{a,b}	.146	.264	.836
	13	.583 ^{a,b}	.187	.216	.950
	14	.622 ^{a,b}	.178	.273	.972
	15	.456 ^{a,b}	.184	.096	.816
	16	.240 ^{a,b}	.225	-.201	.680
	17	.564 ^{a,b}	.219	.134	.994
	18	.601 ^{a,b}	.290	.033	1.169
	19	.420 ^{a,b}	.320	-.207	1.046
	20	.063 ^{a,b}	.469	-.857	.984
	21	.425 ^{a,b}	.274	-.112	.962

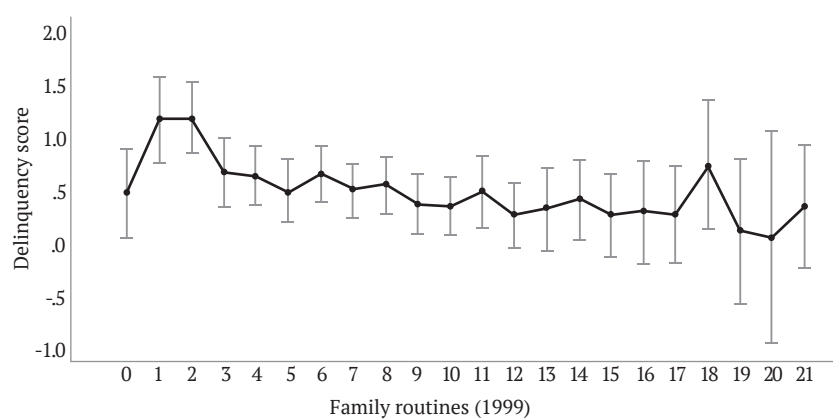
a. Covariates in the model: gender = 1.48, ethnicity = 3.02, year of birth = 1983.09,
age of biological mother at first birth = 23.30,
gross household income in past year = 50424.16,
biological mother's highest grade = 12.88,
biological father's highest grade = 12.77.

b. Based on modified population marginal mean

1. Family Routines (1999) on Delinquency

Univariate testing found a significant difference among the 22 levels of family routines (scores range from 0 to 21; higher scores specify more days spent in family routines) on delinquency (scores range from 0 to 10; higher scores specify more episodes of delinquency), $F(21, 2173) = 1.91, p = .008, \eta^2p = .02$. Levels 1 ($M = 1.18$) and 2 ($M = 1.21$) had significantly higher delinquency compared to levels 4 ($M = .64$) through 21 ($M = .35$) (there was no significant difference between level 18 and levels 1 and 2).

Figure 5. The Effect of Family Routines (1999) on Delinquency



Covariates in the model: gender = 1.48, ethnicity = 3.02, year of birth = 1983.09,
age of biological mother at first birth = 23.30,
gross household income in past year = 50424.16,
biological mothers highest grade = 12.88,
biological fathers highest grade = 12.77.

*Delinquency scores range from 0 to 10; higher scores specify more episodes of delinquency.

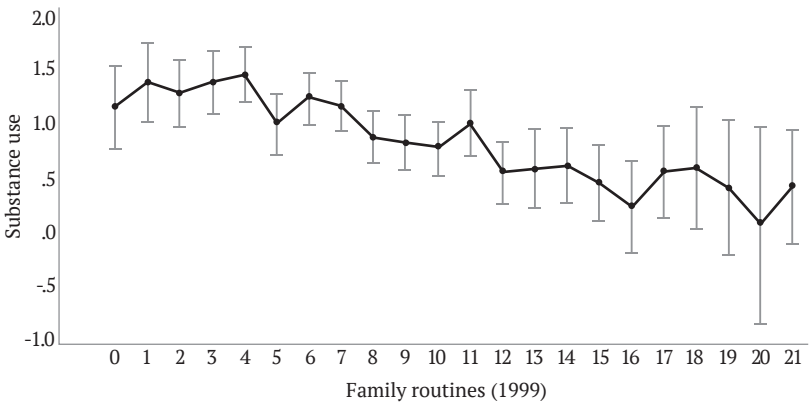
**Family routine scores range from 0 to 21; higher scores specify more days spent in family routines.

As shown in figure 5, higher levels of family routines were linked to a lower probability for delinquency.

2. Family Routines (1999) on Substance Use

Univariate testing found a significant difference among the 22 levels of family routines (scores range from 0 to 21; higher scores specify more days spent in family routines) on substance use (scores range from 0 to 3; higher scores specify more episodes of substance use), $F(21, 2173) = 4.40, p < .001, \eta^2p = .04$. Levels 0 ($M = 1.17$) through 4 ($M = 1.46$) had significantly higher substance use relative to levels 12 ($M = .55$) through 21 ($M = .43$) (there was no significant difference between levels 0 and 18).

Figure 6. The Effect of Family Routines (1999) on Substance Use



Covariates in the model: gender = 1.48, ethnicity = 3.02, year of birth = 1983.09, age of biological mother at first birth = 23.30, gross household income in past year = 50424.16, biological mother's highest grade = 12.88, biological father's highest grade = 12.77.

* Substance use scores range from 0 to 3; higher scores specify more episodes of substance use.

** Family routine scores range from 0 to 21; higher scores specify more days spent in family routines.

As shown in figure 6, higher levels of family routines were linked to a lower probability for substance use.

D. Family Routines (2000) on Delinquency and Substance Use

A statistically significant multivariate test was observed from family routines, Pillai's Trace = .036, $F(42, 4346) = 1.89$, $p < .001$, $\eta^2p = .02$.

Table 6. Adj. Mean, Std. Error, and 95% CI for Family Routines (2000)

Dependent variable	Family routines (2000)	Mean	Std. error	95% Confidence interval	
				Lower bound	Upper bound
Delinquency score	0	.961 ^{a,b}	.178	.612	1.311
	1	.621 ^{a,b}	.180	.267	.975
	2	.650 ^{a,b}	.146	.362	.937
	3	.709 ^{a,b}	.155	.405	1.012
	4	.693 ^{a,b}	.148	.403	.983
	5	.453 ^{a,b}	.156	.147	.758
	6	.762 ^{a,b}	.148	.473	1.051
	7	.742 ^{a,b}	.145	.459	1.026
	8	.392 ^{a,b}	.132	.133	.650
	9	.448 ^{a,b}	.142	.169	.726
	10	.724 ^{a,b}	.147	.435	1.013
	11	.425 ^{a,b}	.168	.096	.754
	12	.257 ^{a,b}	.188	-.112	.627
	13	.151 ^{a,b}	.232	-.305	.606
	14	.483 ^{a,b}	.199	.094	.873
	15	.214 ^{a,b}	.230	-.238	.665
	16	-.023 ^{a,b}	.299	-.608	.562
	17	.613 ^{a,b}	.353	-.079	1.305
	18	.259 ^{a,b}	.323	-.374	.893
	19	-.033 ^{a,b}	.364	-.746	.681
	20	.104 ^{a,b}	.545	-.965	1.173
	21	.258 ^{a,b}	.359	-.446	.961

Substance use	0	1.396 ^{a,b}	.162	1.078	1.714
	1	1.164 ^{a,b}	.164	.842	1.486
	2	1.376 ^{a,b}	.133	1.114	1.637
	3	1.311 ^{a,b}	.141	1.035	1.587
	4	.973 ^{a,b}	.135	.709	1.237
	5	1.130 ^{a,b}	.142	.852	1.408
	6	.840 ^{a,b}	.134	.577	1.103
	7	.819 ^{a,b}	.132	.561	1.077
	8	.773 ^{a,b}	.120	.537	1.008
	9	.908 ^{a,b}	.129	.654	1.161
	10	.806 ^{a,b}	.134	.543	1.069
	11	.811 ^{a,b}	.153	.512	1.111
	12	.613 ^{a,b}	.171	.277	.950
	13	.728 ^{a,b}	.211	.314	1.143
	14	.814 ^{a,b}	.181	.459	1.168
	15	.634 ^{a,b}	.210	.223	1.045
	16	.307 ^{a,b}	.272	-.226	.840
	17	.393 ^{a,b}	.321	-.238	1.023
	18	.621 ^{a,b}	.294	.045	1.198
	19	.291 ^{a,b}	.331	-.359	.940
	20	.412 ^{a,b}	.496	-.561	1.385
	21	.564 ^{a,b}	.327	-.076	1.205

a. Covariates in the model: gender = 1.48, ethnicity = 3.02, year of birth = 1983.09,
age of biological mother at first birth = 23.30,
gross household income in past year = 50424.16,
biological mothers highest grade = 12.88,
biological fathers highest grade = 12.77.

b. Based on modified population marginal mean

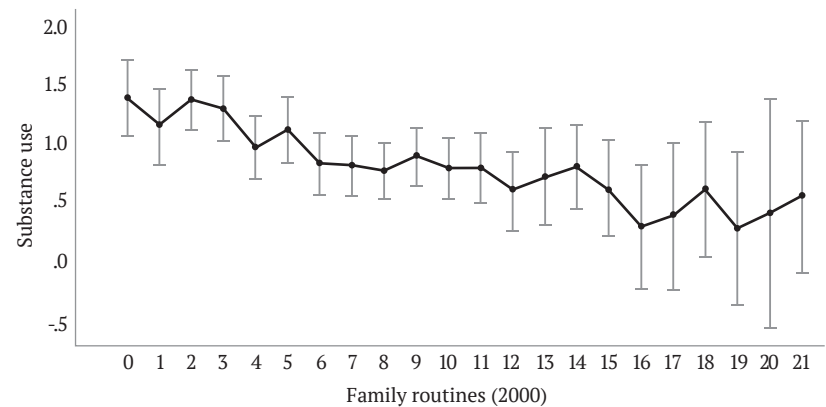
1. Family Routines (2000) on Delinquency

Univariate testing indicated that there was not a significant difference among the 22 levels of family routines on delinquency, $F(21, 2173) = 1.52, p = .061, \eta^2 p = .01$.

2. Family Routines (2000) on Substance Use

Univariate testing found a significant difference among the 22 levels of family routines (scores range from 0 to 21; higher scores specify more days spent in family routines) on substance use (scores range from 0 to 3; higher scores specify more episodes of substance use), $F(21, 2173) = 2.69, p < .001, \eta^2p = .03$. Levels 0 ($M = 1.40$), 2 ($M = 1.38$), and 3 ($M = 1.31$) had significantly higher substance use relative to levels 06 ($M = .84$) through 21 ($M = .56$) (there was no significant difference between level 20 and levels 0, 2, and 3).

Figure 7. The Effect of Family Routines (2000) on Substance Use



Covariates in the model: gender = 1.48, ethnicity = 3.02, year of birth = 1983.09,
age of biological mother at first birth = 23.30,
gross household income in past year = 50424.16,
biological mother's highest grade = 12.88,
biological father's highest grade = 12.77.

* Substance use scores range from 0 to 3; higher scores specify more episodes of substance use.

** Family routine scores range from 0 to 21; higher scores specify more days spent in family routines.

As shown in figure 7, higher levels of family routines were linked to a lower probability for substance use.

V. Results for the Second Test (NLSY79CYA)

A. How Often the Mother Reads to the Child Years 3-5 (1988)
on Antisocial Behavior and Child Bullies or Is Cruel/Mean
to Others

A statistically significant multivariate test was observed from mother-child reading yrs 3-5 (1988), Pillai's Trace = .030, $F(10, 2156) = 3.23$, $p < .001$, $\eta^2p = .02$.

Table 7. Adj. Mean, Std. Error, and 95% CI for Mother-Child Reading
Years 3-5 (1988)

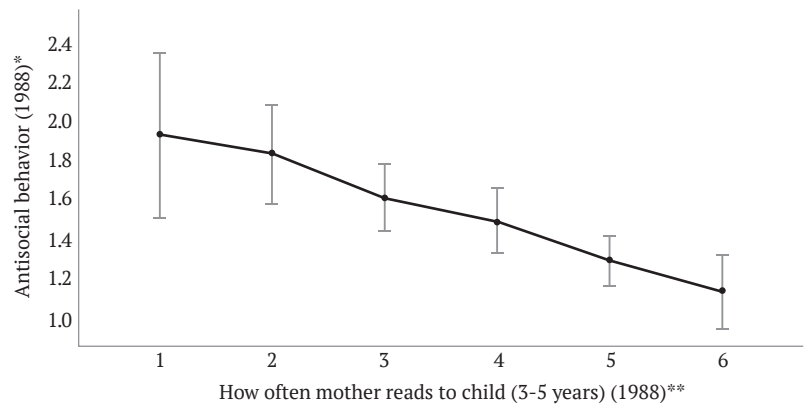
Dependent variable	How often mother reads to child (3-5 yrs) (1988)	Mean	Std. error	95% Confidence interval	
				Lower bound	Upper bound
Antisocial behavior (1988)	1	1.938 ^a	.217	1.512	2.365
	2	1.842 ^a	.130	1.587	2.097
	3	1.621 ^a	.087	1.450	1.792
	4	1.503 ^a	.086	1.334	1.673
	5	1.302 ^a	.069	1.167	1.437
	6	1.146 ^a	.095	.960	1.333
Child bullies or is cruel/mean to others (1988)	1	2.608 ^a	.087	2.438	2.778
	2	2.613 ^a	.052	2.512	2.715
	3	2.642 ^a	.035	2.574	2.710
	4	2.654 ^a	.034	2.586	2.721
	5	2.734 ^a	.027	2.680	2.788
	6	2.747 ^a	.038	2.672	2.821

a. Covariates in the model: Gender = 1.52, Ethnicity = 2.34, Date of birth = 1983.16.

1. *How Often Mother Reads to Child Years 3-5 (1988) on Antisocial Behavior*

Univariate testing found a significant difference among the 6 levels of mother-child reading (scores range from 1 to 6; higher scores indicate more days spent reading) on antisocial behavior (scores range from 0 to 6; higher scores indicate greater incidents of antisocial behavior), $F(5, 1078) = 6.14, p < .001, \eta^2p = .03$. A post hoc analysis using Fisher's LSD test specified significant differences between two main groups of mother-child reading, wherein levels 5 ($M = 1.30$) and 6 ($M = 1.15$) had significantly lower antisocial behavior compared to levels 1 ($M = 1.94$) through 3 ($M = 1.62$). Level 6 also had significantly lower antisocial behavior compared to level 4 ($M = 1.50$).

Figure 8. The Effect of Mother-Child Reading Years 3-5 (1988) on Antisocial Behavior



Covariates in the model: Gender = 1.52, Ethnicity = 2.34, Date of Birth = 1983.16

* Scores range from 0 to 6; higher scores indicate greater incidents of antisocial behavior.

** Scores range from 1 to 6; higher scores indicate more days spent reading.

As shown in figure 8, higher levels of mother-child reading years 3-5 (1988) were linked to a lower probability for antisocial behavior.

2. How Often Mother Reads to Child Years 3-5 (1988) on Child Bullies or Is Cruel/Mean to Others

Univariate testing indicated that there was not a significant difference among the 6 levels of mother-child reading, $F(5, 1078) = 2.04$, $p = .07$, $\eta^2 p = .01$.

B. How Often the Mother Reads to the Child Years 6-9 (1988) on Antisocial Behavior and Child Bullies or is Cruel/Mean to Others

A statistically significant multivariate test was observed from mother-child reading yrs 6-9 (1988), Pillai's Trace = .021, $F(10, 3570) = 3.81$, $p < .001$, $\eta^2 p = .01$.

Table 8. Adj. Mean, Std. Error, and 95% CI for Mother-Child Reading Years 6-9 (1988)

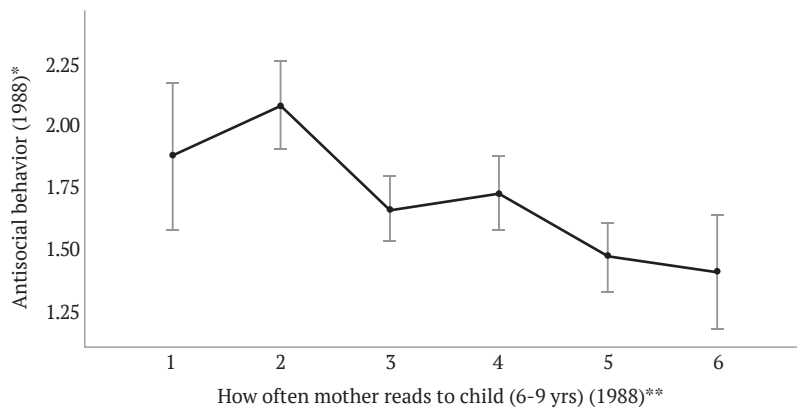
Dependent variable	How often mother reads to child (6-9 yrs) (1988)	Mean	Std. error	95% Confidence interval	
				Lower bound	Upper bound
Antisocial behavior (1988)	1	1.884 ^a	.152	1.585	2.182
	2	2.092 ^a	.089	1.917	2.267
	3	1.667 ^a	.069	1.533	1.802
	4	1.736 ^a	.079	1.581	1.891
	5	1.472 ^a	.073	1.328	1.617
	6	1.411 ^a	.119	1.178	1.644
Child bullies or is cruel/mean to others (1988)	1	2.669 ^a	.053	2.564	2.774
	2	2.592 ^a	.031	2.530	2.653
	3	2.689 ^a	.024	2.642	2.736
	4	2.701 ^a	.028	2.647	2.755
	5	2.721 ^a	.026	2.670	2.772
	6	2.724 ^a	.042	2.642	2.806

a. Covariates in the model: Gender = 1.48, Ethnicity = 2.29, Date of birth = 1980.39.

1. *How Often Mother Reads to Child Years 6-9 (1988) on Antisocial Behavior*

Univariate testing found a significant difference among the 6 levels of mother-child reading (scores range from 1 to 6; higher scores indicate more days spent reading) on antisocial behavior (scores range from 0 to 6; higher scores indicate greater incidents of antisocial behavior), $F(5, 1785) = 7.08, p < .001, \eta^2p = .02$. Levels 5 ($M = 1.47$) and 6 ($M = 1.41$) had significantly lower antisocial behavior compared to levels 1 ($M = 1.88$), 2 ($M = 2.09$), and 4 ($M = 1.74$).

Figure 9. The Effect of Mother-Child Reading Years 6-9 (1988) on Antisocial Behavior



Covariates in the model: Gender = 1.48, Ethnicity = 2.29, Date of Birth = 1980.39.

* Scores range from 0 to 6; higher scores indicate greater incidents of antisocial behavior.

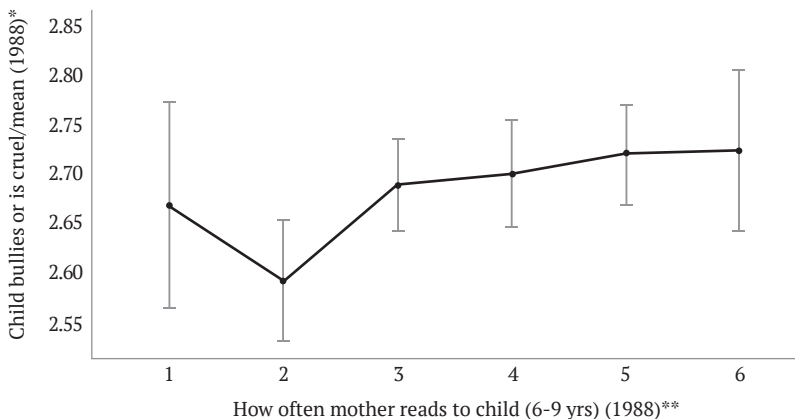
** Scores range from 1 to 6; higher scores indicate more days spent reading.

As shown in figure 9, higher levels of mother-child reading years 6-9 (1988) were linked to a lower probability for antisocial behavior.

2. How Often Mother Reads to Child Years 6-9 (1988) on Child Bullies or Is Cruel/Mean to Others

Univariate testing found a significant difference among the 6 levels of mother-child reading (scores range from 1 to 6; higher scores indicate more days spent reading) on bullying or being cruel/mean (scores range from 1 to 3; lower scores indicate greater incidents of bullying or being cruel/mean), $F(5, 1785) = 2.36$, $p = .038$, $\eta^2 p = .01$. Level 2 ($M = 2.59$) had significantly more bullying or being cruel/mean compared to levels 3 ($M = 2.69$) through 6 ($M = 2.72$).

Figure 10. The Effect of Mother-Child Reading Years 6-9 (1988) on Bullying or Being Cruel/Mean to Others



Covariates in the model: Gender = 1.48, Ethnicity = 2.29, Date of Birth = 1980.39.

* Scores range from 1 to 3; lower scores indicate greater incidents of bullying or being cruel/ mean.

** Scores range from 1 to 6; higher scores indicate more days spent reading.

As shown in figure 10, higher levels of mother-child reading years 6-9 (1988) were linked to a lower probability for bullying or being cruel/mean to others.

**C. How Often the Mother Reads to the Child Years 3-5 (1998)
on Antisocial Behavior and Child Bullies or Is Cruel/Mean
to Others**

A statistically significant multivariate test was obtained from mother-child reading yrs 3-5 (1998), Pillai's Trace = .065, $F(10, 1120) = 3.73$, $p < .001$, $\eta^2p = .03$. However, univariate tests found either inconclusive results (antisocial behavior) or no significant differences among the levels (child bullies or is cruel/mean to others). Ultimately, this test was unsupportive of the hypotheses.

**D. How Often the Mother Reads to the Child Years 6-9 (1998)
on Antisocial Behavior and Child Bullies or Is Cruel/Mean
to Others**

A statistically significant multivariate test was observed from mother-child reading yrs 6-9 (1998), Pillai's Trace = .030, $F(10, 2770) = 4.23$, $p < .001$, $\eta^2p = .02$.

Table 9. Adj. Mean, Std. Error, and 95% CI for Mother-Child
Reading Years 6-9 (1998)

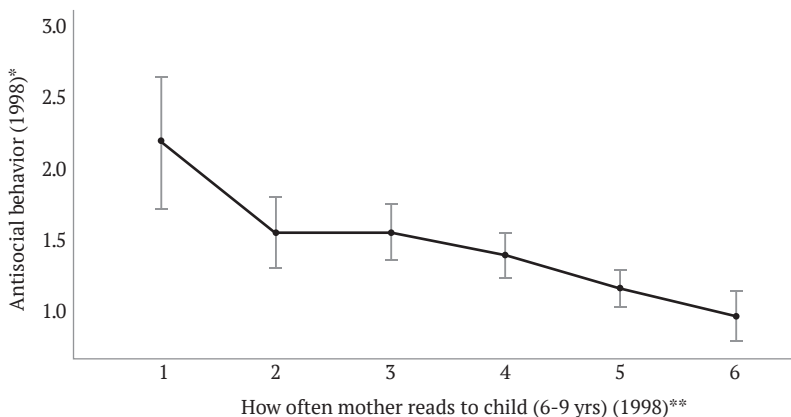
Dependent variable	How often mother reads to child (6-9 yrs) (1998)	Mean	Std.error	95% Confidence interval	
				Lower bound	Upper bound
Antisocial behavior (1998)	1	2.197 ^a	.237	1.733	2.661
	2	1.561 ^a	.127	1.313	1.809
	3	1.561 ^a	.101	1.363	1.759
	4	1.399 ^a	.080	1.242	1.556
	5	1.171 ^a	.068	1.037	1.305
	6	.980 ^a	.090	.803	1.157
Child bullies or is cruel/mean to others (1998)	1	2.607 ^a	.072	2.465	2.749
	2	2.781 ^a	.039	2.705	2.857
	3	2.725 ^a	.031	2.664	2.785
	4	2.769 ^a	.024	2.721	2.817
	5	2.821 ^a	.021	2.780	2.862
	6	2.861 ^a	.028	2.807	2.915

a. Covariates in the model: Gender = 1.49, Ethnicity = 2.34, Date of birth = 1989.87.

1. How Often Mother Reads to Child Years 6-9 (1998) on Antisocial Behavior

Univariate testing found a significant difference among the 6 levels of mother-child reading (scores range from 1 to 6; higher scores indicate more days spent reading) on antisocial behavior (scores range from 0 to 6; higher scores indicate greater incidents of antisocial behavior), $F(5, 1385) = 8.07, p < .001, \eta^2 p = .03$. Levels 5 ($M = 1.17$) and 6 ($M = .98$) had significantly lower antisocial behavior compared to levels 1 ($M = 2.20$) through 4 ($M = 1.40$).

Figure 11. The Effect of Mother-Child Reading Years 6-9 (1998) on Antisocial Behavior



Covariates in the model: Gender = 1.49, Ethnicity = 2.34, Date of birth = 1989.87.

* Scores range from 0 to 6; higher scores indicate greater incidents of antisocial behavior.

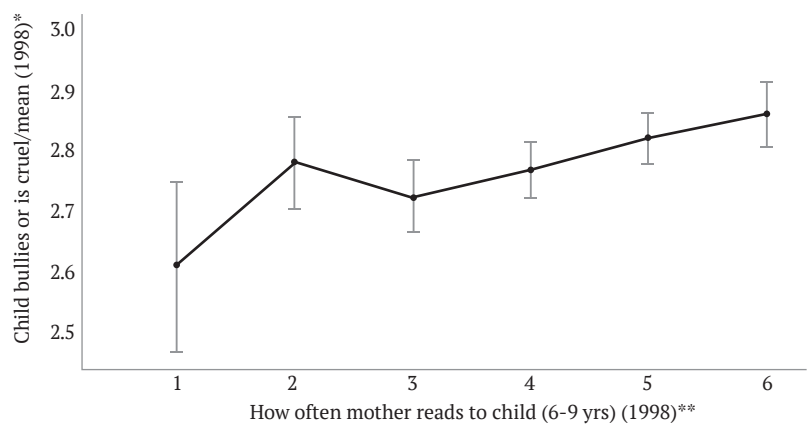
** Scores range from 1 to 6; higher scores indicate more days spent reading.

As shown in figure 11, higher levels of mother-child reading years 6-9 (1998) were linked to a lower probability for antisocial behavior.

2. How Often Mother Reads to Child Years 6-9 (1998) on Child Bullies or Is Cruel/Mean to Others

Univariate testing found a significant difference among the 6 levels of mother-child reading (scores range from 1 to 6; higher scores indicate more days spent reading) on bullying or being cruel/mean (scores range from 1 to 3; lower scores indicate greater incidents of bullying or being cruel/mean), $F(5, 1385) = 3.87, p = .002, \eta^2p = .01$. Levels 1 ($M = 2.61$) and 3 ($M = 2.73$) had significantly more bullying or being cruel/mean compared to levels 5 ($M = 2.82$) and 6 ($M = 2.86$). Level 4 ($M = 2.77$) had significantly more bullying or being cruel/mean compared to level 6.

Figure 12. The Effect of Mother-Child Reading Years 6-9 (1998) on Bullying or Being Cruel/Mean to Others



Covariates in the model: Gender = 1.49, Ethnicity = 2.34, Date of birth = 1989.87.

* Scores range from 1 to 3; lower scores indicate greater incidents of bullying or being cruel/mean.

** Scores range from 1 to 6; higher scores indicate more days spent reading.

As shown in figure 12, higher levels of mother-child reading years 6-9 (1998) were linked to a lower probability for bullying or being cruel/mean to others.

VI. Conclusions and Further Study

The results show that increased levels of family routines, a form of Confucian ritual, were linked to reduced delinquency and substance use. High levels of mother-child reading, a form of Confucian ritual, were linked to reduced antisocial behavior and bullying or being cruel/mean to others. These findings indicate that Confucian ritual is closely linked to reduced deviancy and have implications for behavior control (namely, delinquent and criminal rehabilitation, the prevention of deviancy, and substance abuse programs).

Nationally representative samples were used that provided a wide range of material concerning rituals, family routines, antisocial behavior, delinquency, substance use, and other aspects of the family, allowing for the documentation of factors impacting deviancy. The NLSY97 and NLSY79CYA are high-level datasets that are commonly employed in descriptive research.⁸

The multifaceted nature of the ritual-deviancy relationship is worth mention. Family routines may be statistically associated with reduced deviancy in ways that are not understood in the current analysis. It is possible that similar underlying influences, such as socioeconomic conditions, education, household income, etc., may be influencing the connection found in this study.

Future studies might investigate the form of ritual exhibited to determine which rituals are most likely to modify undesirable behavioral outcomes. For example, parent-child bedtime routines⁹ and family dinner routines¹⁰ have been linked with encouraging cognitive/behavioral results for children. An analysis of specific rituals and their capacity to impact adverse behavioral outcomes would be helpful.

Future studies might also test crime data assembled from Confucian cultures to test Confucian thought. Data on Confucian rituals gathered

⁸ See the NLS Annotated Bibliography for a comprehensive list of research using NLSY97 and NLSY79CYA data: <https://nlsinfo.org/bibliography-start>.

⁹ Ferretti and Bub (2017), Guidubaldi et al. (1986), Guidubaldi, Perry, and Nastasi (1987), Kitsaras et al. (2018), and Mindell and Williamson (2018).

¹⁰ Elgar, Craig, and Trites (2013), Elgar et al. (2014), Hoffmann and Warnick (2013), and Sen (2010).

in, for instance, China or South Korea may help confirm these findings. However, the data being from the United States does not moderate the results. Meaningful results employing American data intensifies the robustness of the outcomes, in that the link between Confucianism and reduced deviancy is so robust that it is recognized in data from the United States. It is the quality of the variables that counts: the variables were a form of Confucian ritual, and they were associated with reduced deviancy. Whether the participants were Chinese or American was of little consequence in the final evaluation of this study.

The significant findings show that Confucian ritual is meaningfully linked with reduced deviancy among young people. Reducing deviancy through ritual will increase public safety. This study shows the advantages of Confucian ritual, particularly in the sphere of criminology, which enlarges the focus of previous researches.

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Book Review:

Origins of Moral-Political Philosophy in Early China: Contestation of Humaneness, Justice, and Personal Freedom

Origins of Moral-Political Philosophy in Early China: Contestation of Humaneness, Justice, and Personal Freedom by Tao Jiang. NY: Oxford University Press, 2021, 514 Pages. US\$35.00. Paperback. ISBN-13: 9780197603475.

Karyn Lai*

What kinds of social environments and political institutions will enhance our lives and foster human flourishing? And how do we interpret early Chinese insights on these topics? *Origins of Moral-Political Philosophy in Early China* addresses both questions, in the process offering an important account of the rich and complex early Chinese intellectual exchanges on the nature of government and political institutions, and of human relationships, moral life, and freedom. Tao Jiang's analysis covers a predictable set of inherited pre-Qin texts associated with key figures, traditionally called the "Masters" (zi 子) texts (34; 3n2).¹

These texts are typically the ones that come under the purview of Anglophone scholarship in Chinese philosophy.² In *Origins*, however,

* Karyn Lai is Professor of Philosophy at the University of New South Wales, Sydney, Australia. E-mail: k.lai@unsw.edu.au

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¹ The texts are: the *Analects* of Confucius, the excavated Guodian texts (chap. 1); the *Mozi*, the *Mencius* (chap. 2); the *Daodejing* (or *Laozi*), the Shanghai Museum manuscripts (chap. 3); the *fajia* texts associated with Shen Buhai, Shang Yang and Shen Dao (chap. 4); the *Zhuangzi* (chap. 5); the *Xunzi* (chap. 6); and the *Hanfeizi* (chap. 7).

² Given *Origins'* methodological considerations (see discussion below), readers might have expected consideration of other texts examined in scholarship in cognate areas and not usually included in this "canon." Take, for example (and this is just *one* example), the illuminating analysis of the *Shuihudi* (睡虎地) Daybooks (日書) by Lisa Raphals, which reveal the preoccupations of ordinary folk on life, health and death (Raphals 2013; See also Harper and Kalinowski 2017). These angles on matters of agency and human existence provide interesting counterpoints to the "Masters" texts that are almost entirely from the perspectives of those involved in official life.

Jiang places their themes within an original conceptual landscape consisting of three primary focal points: humaneness-partialist, justice-impartialist, and personal freedom. For Jiang, some of these texts are more closely aligned with the humaneness orientation (*Analects*; *Mencius*), and some with the justice orientation (*Mozi*, *Daodejing*, *fajia* texts, *Xunzi* and *Hanfeizi*), while the *Zhuangzi* is an outlier, devoting itself to questions of personal freedom. Within this framework, Jiang systematically traces an intricate web of key philosophical terms to highlight intellectual debts and cross influences among the texts.

The unique arguments offered in *Origins* are grounded in Jiang's methodological considerations (*apropos* of the second question posed above). Concerning this question of how we interpret these texts, Jiang notes that scholarship in Chinese philosophy often sits uncomfortably between two closely-intertwined disciplinary fields—Sinology and Philosophy. Their analytical tools and aims of scholarship are often divergent: being more historically-oriented, Sinology tends to be more interested in the details of a text's production and transmission, of the lives involved in and around the text, and of the contexts and period within which it was produced. By contrast, Philosophy has a more presentist orientation and takes a more imaginative approach. Thus, philosophers concerned with articulating a text's conceptual world might overlook or ignore potentially relevant considerations such as multiple authorship. Carefully noting that these distinctions are not as sharp in scholarship, Jiang captures what is at stake for Chinese philosophy, that sits between the two disciplines: both sinologists and philosophers study the very same texts; yet, their "scholarly objects" are distinct. He makes the insightful point that "scholars actively construct the very objects they study, instead of simply investigating some given objects" (21). Thus, *Origins* aims to engage insights from both Sinology and Philosophy to present new angles on moral-political philosophy in pre-Qin Chinese texts.

Engaging with a number of *Origin's* key themes and analyses in my discussion below, I first explore the humaneness-partialist and justice-impartialist framework that Jiang weaves across its chapters, generally in keeping with the order of the book's chapters. Second, I discuss questions relating to personal freedom and agency, a topic covered

primarily in relation to the *Zhuangzi*, and in the Conclusion chapter.³ Finally, I return to some methodological matters in Chinese philosophy research.

I. Humaneness and Justice

The idea of humaneness in *Origins* is coupled with partiality, thus emphasizing not only a moral norm but also an aspect of the human condition, that is, “our natural inclination to be partial toward those who are close to us” (35). By these lights, humaneness is framed in such a way that recognizes particular moral agents, and particular moral recipients, by virtue of their unique relationships with us. In contrast, “justice” is characterised by impartiality, which signifies agent- and recipient-neutrality or intersubstitutability.

At first glance, the humaneness framing may sound uniquely Confucian, in that key Confucian terms, benevolence (*ren* 仁) and ritual propriety (*li* 禮), often refer specifically to close personal relationships. Yet, what Jiang’s analysis brings out is that it is by no means clear those considerations of humaneness are entirely absent from texts associated with other traditions, nor that the justice framing is absent from the early Confucian texts (more on this below). Moreover, though not expressed in these terms in *Origins*, the pre-Qin thinkers unanimously subscribed to the idea that individuals are naturally motivated to care for their own. From this basic observation about human nature, some advocated that our natural inclination to care for our own *should* be the basis of socio-political institutions (*Analects*, *Mencius*), whereas most others sought, to greater or lesser extents, to sidestep or even extirpate such care from the political-collective (*Mozi*, *Laoists*, *fajia* thinkers and *Xunzi*).

Beginning with the *Analects*, Jiang resists a common interpretation of *ren*, that its multiple meanings in the text might be explained with reference to *ren qua* “meta-virtue” (75). Rather, he maintains that the

³ There is another prominent theme in *Origins*, concerning the nature and role of Heaven (*tian*) in the hands of the different thinkers. Jiang has interspersed insightful comments on this matter across the chapters, but I lack space to discuss it fully in this review.

two meanings of *ren*—with a humaneness orientation grounded in filial piety (*xiao* 孝) and a justice orientation aligned with the golden (or silver) rule (*shu* 恕)—should not be synthesized into a single unified picture (95). Maintaining these divergent conceptions of *ren* sits well with the methodology in *Origins*, that heeds the multivocality of the *Analects*. On this view, the variety of *ren*'s meanings in the *Analects* in fact provide a window on how the early Confucians were debating the term, as they sought to infuse ritual with a human, ethical rationale.

Reading the *Analects* in this way is philosophically significant: it facilitates our understanding that some uncertainty was expressed through some voices in the text, concerning whether our natural sentiments for particular others can be harnessed and refined to provide a sufficient basis for political order (77). In other words, there was hesitation concerning whether those feelings we first develop within the family context would be generalizable, and ultimately inclusive, so as to guide our interactions with *all* others. There is a similar hesitancy in the *Mencius*. Among the Confucian texts and, indeed, among the texts covered in *Origins*, the *Mencius* maintains most staunchly the humaneness orientation, with the domain of familial relationships being second to no other (165). Yet, even in its idealism about family relationships, it articulates potential tensions between obligations that arise within the family and political domains. Jiang presents a novel view, that the *Mencius* straddles the tension between these *two roots*,⁴ the first being care for those within the family, and the second a general sympathy for anyone (156; 160ff). In Jiang's view, these two sources of morality are "within ourselves"; the *Mencius* is more subtle than the *Analects* in both allocating primacy to family relationships, and yet in limiting their role within the political domain (156).

⁴ Jiang claims that his account of Mencius' "two roots" offers a "different interpretation and [reaches] a different conclusion" from that offered by Nivison (1980), who provided an influential discussion of the Mohist two roots issue (156). In *Mencius* 3A.5, Mencius criticizes Yi Zhi, identified as a Mohist, as having two roots rather than one. However, Jiang's claim about the Mencian two roots does not relate to this particular passage. Thus, I have difficulty seeing why Jiang represents his account as contesting Nivison's. That Mencius calls out Yi Zhi as espousing "two roots," and that the Mencius itself also holds a "two roots" view of morality, are not mutually exclusive ideas.

I suggest another set of important distinctions articulated in the *Mencius*, concerning relationships with particular others, and with generalized others, that would have enriched *Origin's* considerations. This is set out in the famous debate between Mencius and Gaozi (*Mencius* 6A.1-8), centering on the scope of *ren* and *yi* (righteousness, rightness; 義). Here, Gaozi drew clear lines between close personal relationships, guided by *ren*, and relationships with (intersubstitutable) others, guided by *yi*.⁵ While the *Mencius's* position is that both *ren* and *yi* inhere in human nature, Gaozi concedes that that is the case for *ren*, but not for *yi*. He maintains that the moral grounds of *yi* arise not from natural inclinations but from circumstances, *external* to the self. The example used to represent Gaozi's view on *yi* is that of serving wine first to an elder, *any* elder. It seems that Gaozi aims to distinguish between different *reasons* (perhaps also sources, and/or motivations) for moral action while Mencius claims they arise from the one source, humanity's natural feelings for both particular and generalized others.

There is more to help illuminate Gaozi's position. That *ren* and *yi* apply across different domains of interaction, or different types of relationships, is illuminated by some discussions in the Guodian texts. In the *Liu De*, for example, *ren* presides over those relationships considered "internal" (*nei* 內), that is, father, son and husband, while *yi* presides over those "external" (*wai* 外), that is, ruler, minister, wife (strips 26-33).⁶ There are also assertions in *Yucong* 1 that delineate *ren's* being inherent in humanity, in contrast to *yi's* being grounded in *dao* (strips 22-23; *ibid.*). These positions align with Gaozi's view and hence provide deeper insights into the Mencius-Gaozi debate. They would also have extended Jiang's investigations of Mencius' moral vision about humanity's natural sentiments as a basis for socio-political order.⁷

The idea of allocating greater moral weight to familial relationships troubles the Mohists, Laoists, and the *fajia* thinkers. The Mohists were concerned that Confucian norms such as filial piety (*xiao* 孝)

⁵ Jiang discusses this, but only very briefly, at 110n52.

⁶ *Liu De* 六德 in Cook (2012).

⁷ I have presented more detailed analyses and arguments of the Mencius-Gaozi debate in light of the Guodian texts. Refer to Lai (2019).

and parent-child closeness or affect (*qin* 親) were potentially divisive (even though, Jiang notes, some parts of the *Mozi* acknowledge the importance of specific relationships (136-37)). In general, from a Mohist perspective, the act of prioritizing particular relationships also had the effect of (one's) being partial (*bie* 別). By contrast, the *Mozi*'s impartialist commitment is one that Jiang characterizes as "Universal State Consequentialism." According to Jiang, this position values not only the collective goods of the state (wealth, order, population), but also the practices that would benefit the collective, beyond state or territorial boundaries—much like the idea of a "global community" (132-33). Indeed, insofar as the *Mencius* may be described as having a humaneness-partialist orientation, the *Mozi* is much more closely aligned with the justice-impartialist orientation.⁸

The *Daodejing*'s project is also characterized as "impartialist," with a distinctly *naturalist* leaning. Here, in Chapter Three, Jiang draws on the cosmogonic perspectives in the *Tai Yi Sheng Shui* (from the Guodian corpus) and the *Heng Xian* (from the Shanghai Museum texts) to support his naturalist, impartialist, and anti-anthropocentric account of the *Daodejing* (though one might perceive these connections as rather too tenuous). Jiang suggests that the *Tai Yi Sheng Shui*'s "Great One," the source of all things, and the *Heng Xian*'s "primordial orderliness," together with the *Daodejing*'s *dao*, articulate a Laoist cosmogonic account of life that contests the anthropocentric character

⁸ Jiang's scrutiny of the question of Heaven in the *Analects* and *Mozi* reveals important contrasts in the two texts; for one, Confucius' claim in *Analects* 2.4 to know the mandate of Heaven was a presumptuous and potentially subversive move (62; 123). The Mohists, by contrast, asserted the ultimate authority of *tian*. Although I agree with Jiang that "both the Confucians and the Mohists claimed Heaven as the supreme moral authority for their causes" (140), I believe that they did so in very different ways and for very different reasons. It would have been particularly important for the *Mozi* to establish an independent, non-human source of standards, hence taking discretion out of the hands of even the Son of Heaven (even if, ultimately, the standard is beneficence and benefits humanity). I believe this is an under-recognized innovation of the Mohists in their contention with the Confucians. The Mohists were keen to disestablish the Confucians as the arbiter of standards and thus also re-defined and located *yi* (which, for them, also took precedence over *ren*), in a source beyond human control. I discuss these issues in greater detail in Lai (2017, 84-91).

of Heaven (*tian* 天) in the Mohist project (196-98). Moreover, where Mohists seek to *instill* practices of impartialist concern (*jianai* 兼愛), the Laoist decentring of humanity involves non-action (*wuwei* 無為), or non-interference with the natural operations of the world (226). Although I find these differences illuminating, I believe Jiang's claim about the Laoist view on government is overstretched, as he claims that, in the Laoist perspective, "any human effort at governing the world is doomed to failure" (226; emphasis mine).

Origins next proposes that the impartialist-justice framework is also apt for characterizing the *fajia* views on institutional power. For the *fajia* (including the *Hanfeizi* discussed in chpt. 7), the Confucian proposal to develop a person's moral sensibilities based on close personal relationships, and to grow that for participation within the political domain, was anathema. Jiang suggests, thus, that the *fajia*'s commitments may be seen more in terms of impartialist commitments, for example, that "Clearly, Shen Dao's overarching concern was impartiality in governing the state through laws and regulations" (281). Personally, I find this suggestion difficult to accept as it seems that neither term, "impartialist" or "justice," appropriately describes the *fajia* proposals. Both in *Origins* so far, and in Anglophone philosophical discourse more generally, these phrases refer to projects that incorporate some level of concern for morality.⁹ And it seems odd to characterize the *fajia*'s primary concern as the maintenance of positional power (274-75), on the one hand, and to assert that it adheres to a "principle of impartiality" (268), on the other.

Fascinatingly, the *Zhuangzi* is the only text that is not placed within the humaneness-justice framework. According to *Origins*, the *Zhuangzi* advocates personal freedom and hence stands as a lone voice, outside of both humaneness and justice orientations. Although the text holds deeply social, political, and moral concerns, Jiang states, its views were markedly different from the Confucian, Mohist, and *fajia* commitments as it did not aim to establish institutional leadership or power (338). Jiang's analysis, rightly, dwells at length on elements of the *Zhuangzi*

⁹ Jiang also claims that the "virtue of humility" in *fajia* thought is underrated; I believe this, too, is contestable (282).

that articulate a sense of personal freedom. Yet, I find it difficult to agree that the text is an “outlier” (34) insofar as personal freedom is concerned, that no other projects sought some element of personal freedom. I return to this point later.

The discussion in *Origins* follows next with the *Xunzi*, a Confucian text that takes the justice orientation, with a model of leadership centred on the Sage Kings’ development of ritual as channels of humane justice. On this view, the *Xunzi* offered a moral program that would *justly* implement distributive justice across the many dimensions of the human condition (380; 391). Jiang’s discussion is illuminating: the *Xunzi*’s emphasis on the *deliberate* effort required to intervene in and control natural human responses (357) stands in stark contrast to the Mencian account of the moral inclinations natural to humanity as the bedrock of good government.

In *Origin*’s final chapter on the pre-Qin inherited texts, the *Hanfeizi*, which challenges many fundamental commitments of the Confucians, falls within the “justice” arm of Jiang’s scheme. (Here, again, I am uncomfortable about the characterisation of this text as having a commitment to “justice”). The *Hanfeizi*, a text belonging to the *fajia* tradition, insisted on the irreconcilability of the basic commitments of the humaneness and justice orientations (as articulated in *Origins*). Having little faith in sagely leadership, the *Hanfeizi* established political power on the basis of the instruments of government such as *fa* (penal law 法), and left little to officials’ discretion (426-29; 432). Here was a proposal for a political system that trusted no one: not its people, not its officials, and not even the rulers themselves, who were thought to be mediocre (455).

I am fascinated by Jiang’s characterization of the pre-Qin inherited texts according to the humaneness-justice framework. Importantly, as discussed above, it helps bring out connections and tensions between, as well as within, the texts under consideration. For example, it highlights how the different thinkers thought about human inclinations, relationships, and interactions with others at the personal and socio-political level. Across the texts considered, the different thinkers lean more heavily toward the view that our relationships with significant others, and those with generalized others, are not merely different

in degree but different in kind. This helps explain why most of the views considered in *Origins* align more closely with the impartialist orientation. Through careful analysis of the inherited texts, commentaries, and scholarly literature, *Origins* illuminates the texts' different conceptions of selfhood, of our interdependencies as human beings, and whether and how to harness some basic aspects of the human condition to make for a better life together.

However, I am concerned about how, at times, *Origins* gives the impression that, based on the texts, beginning with the *Analects* and culminating in the *Hanfeizi*, we are able to track a progressive trajectory of socio-political thought in pre-Qin China. The language sometimes implies that thinkers actively and knowingly engaged with the ideas of those before them, addressing specifically those matters according to the humaneness, justice, and personal freedom frameworks outlined in *Origins*. At points, Jiang's discussion seemed to suggest that the thinkers themselves were working comfortably within this scheme, as for instance:

[Han Feizi] challenged the Confucian paradigm by poking holes in every aspect of the latter's *raison d'être*, especially the tensions between the personal and the political and between the familial and the political. In so doing, Han Feizi pushed the divergence between humaneness and justice we have first seen in the philosophical projects by Mozi and Mencius and continued by Laozi and the early *fajia* thinkers to its logical conclusion, a conclusion that would completely reject the Mencian project of humaneness while bringing the Mohist cause of universal justice to its statist and impartialist finish. (401; see also 154, 201, 223, 268).

The tightly-knit sense of progression at some points in *Origins* may give the impression that the authors of these inherited texts were conversant with each other's views. There is, of course, good evidence in the texts that cognizance of other texts or thinkers was present, to a degree. However, precisely *given the multivocality* of many of these inherited texts, we should perhaps be less certain that these voices are specifically responding to specific views articulated in some other texts. In addition, awareness of the texts' compositional details behooves us

to be more tentative about whether the thinkers knew the texts that preceded them and, if so, in what form(s). Needless to say, this has important philosophical implications for how we understand early Chinese political philosophy. In Jiang's own words, because "scholars actively construct the very objects they study" (21), we need to be particularly careful about how the voices in the texts are represented within our constructed frameworks.

II. Personal Freedom and Agency

Conceptions of freedom are of course closely intertwined with questions about agency. In *Origins*, these matters are discussed primarily in relation to the *Zhuangzi*, and in the Conclusion. In my view, Jiang captures some distinctive and salient aspects of the *Zhuangzi* on these matters. Not least among these are his perceptive comments on how the *Zhuangzi* sees "constant change and pervasive relationality" as the "basic characteristics of the world" (298). In my view of the *Zhuangzi*, it is in light of these *givens* of the human condition, that the text considers the question, how do we live fulfilling lives? In working through this question, the *Zhuangzi* seeks ways for individuals to hone their capabilities to better navigate the world. These considerations also frame the *Zhuangzi*'s dim view of those proposals that sought to establish political institutions, in order to regulate relationships and to set up buffers against change. For example, while ritually appropriate behaviours in Confucian philosophy can help structure human interactions, the *Zhuangzi* is wary that attempts to entrench the familiar can create complacency such that we do not see what is beyond the familiar.

There are other compelling points on freedom in the *Zhuangzi* made in the Conclusion. Jiang is insightfully cautious about what he calls the "regime of self-cultivation" (461), shared by most if not all thinkers in early China. In these traditions, self-cultivation is often closely aligned with "the cult of exemplary persons" (461) or the "epistemic superiority of a cultivated sage" (471), in such way that the ordinary aspects of human experience, and what is in the interests of ordinary people, are

overlooked.¹⁰ I find Jiang's analysis of these matters, in engagement with Isaiah Berlin's (1969) conceptions of positive and negative freedom, most stimulating and inspiring, and return to it towards the end of this review.

On the topic of freedom, there are a couple of views I would hold more tentatively than Jiang does, that the *Zhuangzi*'s is a "lone project" (title, chap. 5) not only in its unique conception of positive freedom, but also in the way its views resonate with important aspects of negative freedom. Briefly, I believe there are important terms or debates available in the other inherited texts not explored in *Origins*, that could add more shades to these two claims. I suggest three points below.

First, the issue of moral agency is reasonably developed in the Confucian tradition, though largely a prerogative of those involved in political life, as Jiang rightly notes (467-68). However, there are also opportunities for individuals—ordinary folk—to exercise initiative in a range of ways. Take filial piety, for example. If a text presents opportunities for people to develop an understanding of the scope and rationale of filial piety, and for them to exercise that sensitively, with discretion (e.g. *Analects* 4.18), would this not indicate some concern for positive freedom, for the people? Admittedly, these are limited gestures to take into account the lives of ordinary people. More thorough investigation is necessary, I believe, on how the texts think through matters concerning blameworthiness, right action, duty, having virtuous dispositions, securing certain outcomes, having (the right moral) reasons for action, being appropriately motivated, and so on, insofar as ordinary life is concerned. It seems to me that the broad and general use of the term "virtue" in *Origins* might obscure finer-grained assessments of concepts relevant to moral agency. In *Origins*, "virtue" may be dispositional (virtue of *ren*; 53), it may refer to more conceptually-oriented moral commitment (virtue of justice; 85), it seems akin to epistemic virtue (virtue of sagacity; 155), and it sometimes refers to right action (virtue of a minister being fiercely

¹⁰ Refer to footnote 2 of this article.

loyal to his lord; 173).¹¹ A more focused analysis of what these “virtues” entail, may allow more complexity on the notion of positive freedom to emerge from other texts.

Second, questions about negative freedom in early China may be illuminated by consideration of the term *ming* (names, titles, 名) in the pre-Qin texts. This term, appearing in various word-compounds, was applied especially in political discourse. The *Xunzi* famously advocated *zhengming* (正名), setting standards for the correct use of words or names, as an instrument of sagely leadership. The *Hanfeizi*’s *xingming* (刑名), according to which officials, as bearers of their titles, would be punished for not accomplishing their tasks, sought to ensure the ruler’s hold over his officials. Texts associated with the Daoist tradition were critical of *ming* as it was, in their eyes, bound up with the denial of the peoples’ initiative and discretion. Debates on *ming* also involved questions about how language was used, and thus closely associated with discourses on words (*yan* 言) and debating (*bian* 辯). The latter were most prominent in the Mohist writings. Examination of these debates is likely to provide more support for Jiang’s argument about the paucity of views on negative freedom in early China. It would also have helped bring out more divergences and complexity in the concepts of political power and authority proposed by the politically privileged to control the people, and illuminated questions concerning the pressures of the collective over the individual.

Third, although Jiang believes that the *Zhuangzi*, and even more so the other inherited texts, do not investigate questions of negative liberty, I believe otherwise, that there are glimpses of views that align with the spirit of negative liberty. Let me mention one example. Jiang emphasizes how the Confucian tradition has a “general orientation

¹¹There are other uses of the term “virtue” in *Origins*: virtue of filial piety (83), virtue of *yi* (righteousness; 110, 382), virtue of propriety (153), virtue of wisdom (218), virtue of humility (257), virtue of loyalty (277), professional virtue of faithfully carrying out the duties prescribed for one’s particular role in the political system, ideally not simply following personal orders of one’s superior (279), virtue of genuineness (326), virtue of abiding by what is right (363), virtue of frugality (396), virtue of impartiality (415), virtue of self-constraint (448), and virtue of *wuwei* (450).

We should ask whether “virtue” in the above uses properly represents the views articulated in the texts concerning matters of morality and agency.

toward positive freedom” in its emphasis on moral agency (467-68).¹² However, we should not overlook the specificity of the comments in the *Mencius* 1A.2, for example, that suggest that visions of positive freedom are closely intertwined with the wellbeing of the ordinary people. Setting up environments to grow humanity’s basic shared inclinations is a key ingredient for human flourishing and is the responsibility of Sages, but the people’s desires *cannot* be ignored. Perhaps the *Zhuangzi* is not the only text that contains nascent ideas which align well with negative liberty.

III. Methodological Matters

The discussion of the methodological concerns in Chinese Philosophy research are enlightening, though I am intrigued by the reference to “Sinology.” The term is not immediately familiar to academicians in the Anglophone world¹³ and therefore it is quite important for *Origins* to be more explicit about how it uses Sinology’s analytical tools to interact fruitfully with those of Philosophy. In brief, I would have appreciated the inclusion of more discursive comments on how particular sinological angles or methods of analysis were applied to yield the stimulating interpretations across the chapters of *Origins*.

In fact, the Conclusion chapter (in Sections 1 and 2) sets out its methodology discursively, and that facilitates a systematic and illuminating discussion of personal freedom; this approach could also have been taken in the substantive chapters of *Origins*. In the conclusion, Jiang adeptly carves a conception of freedom (based partly

¹² I agree this is particularly pronounced in the *Xunzi*, where it is not only the Sage Kings, but officials, who have significant discretionary insight and power, exercised in: weighing and perhaps prioritizing (*quan* 權); making (ethical) distinctions (*bian* 辨); (understanding) measure and significance (*shu* 數); and (understanding) the degree or depth of a matter (*du* 度). Examining these terms would have enriched Jiang’s analysis.

¹³ To my knowledge, there are no “Sinology” departments in academic institutions in the English-speaking world (Australia, UK, US), although there are, of course, in Europe. The issue is further complicated by the translation of the Chinese phrase *hanxue* (漢學) as “sinology,” which is cognate with but different from “Sinology” as an academic discipline in Europe.

on the *Zhuangzi*'s ideas) that, *contra* Berlin (1969), emphasizes the importance of both positive and negative freedom. In doing so, he elucidates how Berlin's ideas are relevant, and why they are relevant, for understanding questions of personal freedom in the Chinese texts. He also points out and explains tensions, such as how the context of Berlin's negative freedom applies to ordinary persons, and the gaps in that discourse across early Chinese texts (471). This leads Jiang to pose a critical question concerning whether and how these texts address or can accommodate institutional protections, that allow ordinary people to live fulfilled lives (472). In this way, Jiang powerfully and eloquently exposes a significant lacuna in these early Chinese texts. However, as he optimistically suggests, various of the *Zhuangzi*'s commitments, including to pluralist values, may be harnessed to construct a socio-political framework that takes into consideration the personal freedoms—particularly the negative freedoms—of the ordinary person (473).

I would be more emphatic than Jiang, proposing that the story of the naked Scribe in *Zhuangzi* 21 *does* broach the possibility of challenging the prevailing system, in this instance actually going beyond the ruler's cage, so to speak (see 469-70). Moreover, the *Zhuangzi*'s stories about ordinary men with extraordinary skills are replete with comments about the necessary conditions for these men to develop mastery. Many of them are *free from* encumbrances that dictate how they should approach a task, or that prescribe ideal outcomes. I believe that the *Zhuangzi*'s deliberate use of ordinary men as inspirational models is intended to show how ordinary lives can *also* be fulfilling and, simultaneously, to prompt readers to consider how socio-political institutions can be developed in such a way as to *enable* (not only to protect) individuals to attain these outcomes. These reflections on how philosophical explorations can enrich ordinary lives, inspired by *Origins*, are among the most valuable in a thought-provoking book that opens up multiple new lines of inquiry.

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