

nondemocratic institutions, or it must accept democracy as the best form of governance that is consistent with respect for individual freedoms and the rule of law. The choice is authoritarianism or liberal democracy: there is no stable middle ground.

Liberalism without Democracy?

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doi:10.1017/S003467052100005X

Contemporary Confucian political theory is often formulated as an alternative to liberal, rights-based, individualistic democracy, and many Confucian democrats present their vision of Confucian democracy in terms of a nonliberal and communitarian democracy. Tongdong Bai's *Against Political Equality: The Confucian Case* is one of the rare attempts in Confucian political theory to shift attention from nonliberal democracy to liberal nondemocracy. Bai's central argument is that although Confucianism, especially the version developed by Mencius, can be compatible with liberalism, which he understands in terms of rule of law and the exercise of rights, it can never accommodate democracy understood as rule by the people.

In making this argument, Bai appeals to the following propositions: (a) in Confucianism, political authority is justified by its service to the material and moral well-being of the people (34); (b) Confucianism assumes a division of labor between the wise and virtuous political elites and the ordinary people (whom Bai calls "the masses") and allows only the former the right to rule (45); (c) the masses may be able to express their (dis-)satisfaction toward the government, but "they are not capable of deciding which policies have made or will make them satisfied" (50); (d) there is an inherent disvalue in democracy underpinned by the "one person, one vote" principle, not only because of the complexity of public decision-making, but, more importantly, because of the critical moral and epistemic limitations of the people, whom Bai understands to be self-interested, myopic, uneducated, or misinformed (53–54); (e) although Confucianism, with its acknowledgment of moral equality among the people as human beings, endorses partial democracy understood as rule *for* and *of* the people, many liberties and rights, and equality before law,

there is no way to allow the people an equal voice in the political decision-making process given “the *actual* differences among human beings with regard to their moral, political, and intellectual capacities” (99); (f) the ineluctable fact of the actual differences among human beings, tempered by the respect for some limited moral and political capacities of the ordinary people, justifies the Confucian hybrid regime, central to which is the institutionalization of the bicameral legislature consisting of the meritocratic upper house and the democratic lower house (72–79); and finally (g) even though Confucianism, given its nonindividualistic and nonegalitarian nature, cannot endorse the liberal conception of equality predicated on self-respect and the individualistic conception of rights, it nevertheless can support human rights as the “fallback apparatus” (259).

Overall, I believe that Bai’s proposal of the Confucian hybrid regime makes an important contribution to contemporary Confucian political theory, but his philosophical justification for liberal nondemocracy raises the following questions.

First, in proposing the Confucian hybrid regime, Bai draws on Mencius, who he believes acknowledged the moral and political capacity of the people both as the (collective) holders of political power and as the beneficiaries of good governance. Although this alone does not make Mencius a democrat, given his unswerving commitment to the heavily hierarchical Zhou political ritualism, I wonder why this Mencian endorsement of rule for and of the people cannot be reappropriated to justify rule by the people in contemporary East Asia where the traditional, status-based distinction between the ruling class and the commoners has become obsolete. Put differently, if Confucianism acknowledges that “people are the *de facto* owners of the state” (41),¹ what is the compelling moral reason that prevents a contemporary Confucian from empowering the people to become active political agents capable of collective self-government? The fact that Mencius defended a division of labor between the ruling class and the laypeople against those who believed that all individuals must equally engage in agricultural production does not provide a decisive Confucian justification for rejecting the modern-Confucian possibility of rule by the people. All that we can glean from Mencius is that the task of public decision-making should not be entrusted to manual workers (of ancient Chinese society)—as distinct from the people in general—who are presumably preoccupied with their daily labors, and thus likely lack the competence to make informed public decisions. This is different from the claim that a layperson can never become a

¹This interpretation, however, does not seem to have many supporters among Chinese philosophers and Confucian political theorists. See, among others, Loubna El Amine, *Classical Confucian Political Thought: A New Interpretation* (Princeton: Princeton University Press, 2015); Sungmoon Kim, *Theorizing Confucian Virtue Politics: The Political Philosophy of Mencius and Xunzi* (New York: Cambridge University Press, 2020).

good public decision-maker—if that was the case, then it would be simply impossible to understand how people such as Shun and Yi Yin, who were farmers before being handpicked by the incumbent kings, could later become sage-ministers. In fact, when discussing the division of labor, Mencius does not specify whom the ruling class consists of, whether a layperson can become a public official, or how public officials would be selected. Though the division of labor refers to a functional differentiation of the people in terms of specialty and qualification, Bai understands it as the semblance of the ancient Greek distinction between citizens and slaves. The ancient Greek distinction, however, is not so much about the division of labor as it is a status/class distinction.

Regardless of his interpretation of Mencius, Bai can still espouse political meritocracy and reject rule by the people, and this is exactly what he does when he questions ordinary people's moral, epistemic, and political capacity to make sound public decisions. The problem is that Bai does not provide empirical evidence to support his conviction of ordinary people's inaptitude for democratic self-government. He occasionally draws on the American epistocrats such as Jason Brennan as if the empirical evidence they rely on is determinative. But he dismisses other empirical evidence that vindicates the people's capacity to self-rule. A closer look reveals that it is not the empirical findings that motivate Bai to object to rule by the people. It is rather his elitism that makes him believe that people are incompetent and self-interested "masses." Bai's elitist penchant is most pronounced when he, quite ironically, stresses the importance of civic education: "it is crucial to the Confucian hybrid regime that people be instilled, through civic education, 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" (84). My second question, therefore, is how this view of the people can be consistent with the Confucian ideal of moral self-cultivation. Both Mencius and Xunzi believed that anyone can become like Yao and Shun, the ancient sages. They never argued that an ordinary man must cultivate himself only to realize how incompetent he is compared to sages like Yao and Shun. For Bai, the purpose of civic education is to promote the governability of the people. It never aims to help individuals develop civic virtues, such as public-spiritedness, capacities for political participation, public judgment, and a sense of responsibility—virtues that are equally required of political leaders. I wonder if we can call education that makes the people submissive, self-limiting, and unequal "civic education."

My third and final question is concerned with Bai's idea of nondemocratic liberalism. As noted, Bai takes pains to reject the democratic ideal of rule by the people, even though his interpretation of Mencius has led him to endorse rule by and of the people. Given the strong normative connection between rule by the people (the mode of government) and rule of the people (the source of political authority), Bai's effort to disentangle these two democratic ideals is counterintuitive. At a minimum, it requires a much more

sophisticated philosophical argument. In sharp contrast, Bai wholeheartedly embraces the liberal components of liberal democracy such as rule of law and rights. This enthusiastic embrace of liberalism by a nondemocratic Confucian is quite surprising (though welcomed), given that the compatibility between Confucianism and liberal rights and rule of law is one of the most contested subjects among Chinese philosophers, including communitarian Confucians who are sanguine about the compatibility between Confucianism and democracy. One obvious question, therefore, is that if ordinary people are untrustworthy as far as their public judgment and exercise of political power are concerned, why should they be given the right to exercise civil and political rights and freedoms, which equally affect the well-being of others as well as public policy?

More importantly, Bai does not explain whether it is justified to assume that rule of law is placed beyond popular control under the circumstances of pluralism, which necessarily entail moral disagreement on matters pertaining to rights and underlying moral principles. Bai may be right in claiming that good public policy can be better discerned by the virtuous and knowledgeable, although I believe that we can make our political leaders and public officials more meritorious without going beyond representative democracy and its accountability mechanisms. Undoubtedly, experience, expertise, and dedication do matter in figuring out which policy can bring about better consequences than its alternatives. However, disagreement on the matters of principle is importantly different from disagreement on the questions of public policy in that its resolution cannot appeal (solely) to well-being consequentialism. In the case of disagreement on rights, there is no way to conclude with any moral or scientific objectivity who has which right in particular contexts without undertaking public deliberation, which in principle should be open to all rights holders who are potentially affected by this decision.

If Bai takes pluralism seriously and if he also agrees that rule of law cannot be understood as independent of pluralism and disagreement, he cannot simply assume that the members of the meritocratic upper house, the so-called virtuous and knowledgeable, can make law that can fantastically resolve the conflicts of rights and moral convictions. Under the circumstances of moral disagreement, each citizen deserves the right to participate in the public decision-making process, both as a rights holder and as the one who is subject to and affected by others' exercise of rights. While public policy concerns the matters pertaining to the well-being of the people, law and rights are matters of principle. Even though it may be said that the virtuous and knowledgeable can handle matters concerning the well-being of the people better than the people themselves, it is an entirely different question whether the matters pertaining to rights and moral principles must be entrusted to the experts who are selected by nondemocratic means and thus who are not entrusted to represent the people's moral convictions and opinions regarding rights and laws.