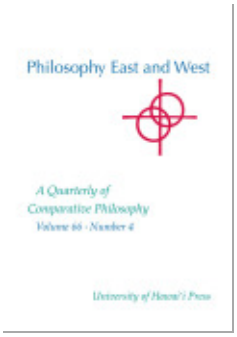
What Kind of Democracy Is a Confucian Democracy?: A Response to Jeffrey Flynn



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3 – See also Sungmoon Kim, "John Dewey and Confucian Democracy: Towards Common Citizenship," *Constellations* 22, no. 1 (2015): 31–43.

4 – Kim does maintain that his "contextualized political theoretical study of Confucian democracy can provide us with practically valuable insight into the prospect of Confucian democracy in yet-to-be-democratic East Asian countries such as China" (p. 247).

5 – See Jürgen Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy,* trans. William Rehg (Cambridge, MA: MIT Press, 1996), chaps. 7 and 8. Habermas maintains that such democratic procedures and institutions need a democratic culture to meet them halfway. One could interpret Kim as showing how it is possible for a Confucian public culture to be the kind of culture that can meet these institutions halfway. For more on Habermas' two-track model, see Jeffrey Flynn, "Communicative Power in Habermas's Theory of Democracy," *European Journal of Political Theory* 3, no. 4 (2004): 433–454.

6 – On this question, see also David Elstein, "The Future of Confucian Politics in East Asia," *Dao: A Journal of Comparative Philosophy* 15, no. 3 (2016).

What Kind of Democracy Is a Confucian Democracy? A Response to Jeffrey Flynn

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Jeff Flynn's comments on my methodological pluralism as well as the way I do political theory, namely explanatory evaluation, capture remarkably well what I struggled with most in writing *Confucian Democracy in East Asia: Theory and Practice.* As Flynn rightly notes, my research questions were inspired by actual problems with which contemporary East Asians (particularly Koreans) commonly struggle, and my goal was to derive philosophical inspirations from the actual social, cultural, and political realities of East Asia for normative political theory of Confucian democracy. To put this into a more personal perspective, my aim was to come up with a theory that would make sense to living East Asians (and I am one of them), as well as any ordinary people like my parents and grandparents who had only limited exposure to Western political philosophy but struggled for democracy and are now somehow practicing it.

Of course, in order to make philosophical sense of what East Asian citizens are doing as well as to evaluate and critique their ongoing democratic practices from

the perspectives that they have already adopted without much articulation, I had to resort to the Confucian classics to weave my episodic empirical observations into a coherent normative "Confucian" political theory that at once explains and evaluates such practices. My hope was that this sort of political theory can function as a regulative ideal not only for existing democracies in East Asia but also for non-democratic countries in the region that were historically Confucian such as China, North Korea, and Vietnam. I appreciate Flynn's overall positive assessment of my methodological strategy.

Flynn then raises a question on this very nexus between theory and practice: given that my political theory draws normative inspirations from Korea's practical reality, what justifies this relatively contingent starting point, and what should we say about the theory's general applicability? Obviously, my attention to Korea is due to the sheer fact that this is the country with which I am most familiar. But as Flynn notes, there are other more intellectually important reasons: first, as most historians attest, premodern Korea, at least since the sixteenth century, was the most Confucianized among East Asian countries, including China, and second, though arguably so, Korea remains the most Confucian to this day. After all, unlike their Chinese counterparts during the May Fourth Movement and the Cultural Revolution, Koreans never officially denounced Confucianism, and in spite of major interruptions in modern Korean history such as Japanese colonialism and the Korean War, they have embraced much of the Confucian legacy in their modern civil codes, criminal laws, and public policies.[1]

Flynn's second question is more challenging: can my theory, inspired by the Korean experience, be applicable to other East Asian countries? It is a question difficult for a theorist to answer; at the end of the day, I think, it is up to East Asian citizens themselves whether they would want to conceive of and conduct their public life in a parallel way that I suggested in my book. My hope, though, is that other East Asians can have a more concrete practical vision of what Confucian democracy looks like in the Confucian societal context, the generic features of which they still widely share with Koreans. Unlike in most Western liberal democracies, values such as filial piety, respect for elders, ancestor worship, ritual propriety, and harmony within the family are highly valued throughout East Asia and they are occasionally promoted as important public values by means of law and public policy. Of course, the exact cultural configuration of each Confucian value and the overall structure of the constellation of these values may be meaningfully different from country to country. But I believe my case studies on religious freedom, freedom of association, freedom of expression, insult law, and multiculturalism in Korea's Confucian societal context can provide other East Asians with an important point of view so as to (re)think about the mutually enhancing relationship between their own distinctive Confucian culture and democratic politics and practices.

What if my observation is wrong that East Asians generally share at least certain key elements of Confucianism? Would my model be less applicable in a less thoroughly Confucian East Asian society? The fact that my model of Confucian democracy is inspired by actual social practices in democratic Korea does (and should) not

necessarily prevent it from offering a normative inspiration for other East Asians whose Confucian culture has suffered significantly greater attrition. It can still enable them—many of whom failed to enjoy the genuine opportunity to design their modern political life by themselves due to wars and colonial experiences during the past century—to have an attractive normative ideal of democracy that is rooted in their (bygone?) traditional culture and to consider it as *one* of the important political options in reforming their current political system. Likewise, even if South Koreans become further liberal-Westernized and their Confucian culture loses its current social visibility and viability, this does not weaken the normative force of my argument, though its practical persuasiveness may have significantly weakened—the factor that I argue makes my model socially relevant in existing East Asian societies. Despite my passion to make political theory relevant to social, cultural, and political reality, I contend that the relation between theory and practice is much more convoluted and open-ended than any naive causal account might suggest.

Finally, Flynn turns to my political theory of Confucian democracy itself. As he rightly notes, my focus on the Korean democratic experience (or experiment) results in a particular kind of Confucian democracy, which is institutionally buttressed by a vibrant Confucian democratic civil society. This is an insightful observation because the original proposed title of the book was actually *Confucian Civil Society.* Flynn's question is as follows: Even though I do not (seem to) explicitly present a distinct normative model of democracy (whose *procedure,* not merely substance, is meaningfully Confucian), in the sense that the Confucian democracy I construct is "more like an idealized version of what democratic culture and practice should look like in a Confucian society that already has liberal-democratic institutions," might I still be able to offer a model of democracy that is qualitatively different from both the meritocratic models and some models of liberal democracy? Put differently, Flynn wonders whether my idea of Confucian democracy, presented as an alternative to the meritocratic model, can make a general contribution to the political theory of democracy as such. Once again, Flynn pays attention to my discussion of civil society:

> To bring this back to my original point, there seems to be a more general model of democracy than *Confucian* democracy that is operative in the book, one that stresses the importance of a vibrant public sphere as part of exercising collective self-determination and ensuring democratic accountability. And this, I take it, is modeled on what he calls the "semirepublican mode of Korean democracy" (p. 281). This could be more clearly distinguished from other models of liberal democracy by the key components or constituents that comprise it.

Flynn is convinced that once I clarify my generic model of Confucian democracy in this way, I can offer a more nuanced response to Joseph Chan's distinction between the constituents and conditions of democracy.[2] I can advocate here the model of democracy that "makes the institutions of civil society and a vibrant public sphere one of the central constituents of a modern democracy."

Flynn pointedly captures what I took for granted and thus to what I should have given more clarification. In the book, I occasionally said that the Confucian democracy I explore embraces a version of deliberative democracy.[3] What I failed to illuminate was the institutional implications of this embrace for my idea of democracy in general. My preferred model of democracy, which I argue ought to be developed, invigorated, and sometimes modified by Confucian societal culture, is a Deweyan model in which democracy is understood not so much as government (or formal political institutions) but as a way of life in which citizens actively and intelligently participate in problem-solving and decision-making processes of social communication in order to govern themselves on equal terms.[4] Democracy according to this understanding is fundamentally educative. Though the Deweyan model of democracy does not dismiss the crucial importance of formal democratic institutions, especially their instrumental value in coordinating complex social interactions among social actors with diverse moral and material interests under the fact of pluralism,[5] it sees democratic self-government as intrinsically valuable because of its direct contribution to personal autonomy and common citizenship, the core ideals of democracy.

In Dewey's communicative ideal of democracy, therefore, there is no stark separation between the state and civil society; instead, the state is deemed the sum of a multitude of social and civic institutions or organizations in civil society such as neighborhoods, townships, schools, churches, and many other forms of voluntary or involuntary associations.[6] Put differently, the state is understood as civil society at large. Among contemporary democrats, Seyla Benhabib offers what she calls the deliberative model of democracy precisely in a Deweyan spirit:

> [I]nstitutions, individuals, and movements in civil society attempt to influence the public-political process and in doing so cross the boundaries between public and more private-civil associations. . . . Civil society and its associations are not public in the sense of always allowing universal access to all, but they are public in the sense of being part of that anonymous public conversation in a democracy. A deliberative model of democracy is much more interested than Rawls in what he calls "background cultural conditions," precisely because politics and political reason are always seen to emerge out of a cultural and social context.[7]

Does this mean that in my political theory of Confucian democracy, the Confucian part is a mere adjective to an otherwise Western-deliberative model of democracy? Not quite, because in my theory the Confucian part is constitutive of the mode of democratic deliberation and jurisprudence by virtue of Confucian public reason(ing) as well as the substantive content of public policy and law. For example, as my court case of expressive liberty in chapter 10 shows, Confucian public reasoning makes a substantive contribution to the legal process in which the moral value of expressive liberty is balanced with Confucian civility.[8] In this regard, my idea of Confucian democracy is moderately perfectionist not only in the sense that it permits the state to publicly promote certain Confucian values (such as filial piety) in terms of civic

virtues but, more significantly, in the sense that it invites a distinctively Confucian mode of public reason(ing) in the process of democratic self-determination. I leave it as my future task to offer a robust philosophical account of how substantively Confucian my model of democracy is, the topic I only touched upon tangentially in my book.

Perhaps scholars such as Jiang Qing would find my philosophical project underwhelming as far as its Confucian part is concerned because their ambition is to derive a modern Confucian political theory directly from Confucian philosophical or political traditions.[9] I admire such ambition, but that is not what I wanted to achieve in my overall practice-oriented book. In my view, there is a deep tension between the two approaches to contemporary Confucian political theory, and thus far I am not convinced that radical (re-)Confucianization of the polities of modern East Asia (particularly China) is such an attractive political option for those living there.

Notes

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1 – Marie Seong-Hak Kim, *Law and Custom in Korea: Comparative Legal History* (New York: Cambridge University Press, 2012); Sungmoon Kim, ed., *Confucianism, Law, and Democracy in Contemporary Korea* (London: Rowman and Littlefield International, 2015).

2 – Joseph Chan, "Democracy and Meritocracy: Toward a Confucian Perspective," *Journal of Chinese Philosophy* 34, no. 2 (June 2007): 179–193.

3 – For instance, see Sungmoon Kim, *Confucian Democracy in East Asia: Theory and Practice* (New York: Cambridge University Press, 2014), pp. 121–125.

4 – My understanding of Deweyan democracy is importantly different from that of so-called Deweyan Confucian communitarians. See Sungmoon Kim, "John Dewey and Confucian Democracy: Towards Common Citizenship," *Constellations* 22, no. 1 (March 2015): 31–43.

5 – See Jack Knight and James Johnson, *The Priority of Democracy: Political Consequences of Pragmatism* (Princeton: Princeton University Press, 2011).

6 – John Dewey, *The Public and Its Problems* (Athens, OH: Swallow, 1954), p. 111.

7 – Seyla Benhabib, "Toward a Deliberative Model of Democratic Legitimacy," in *Democracy and Difference: Contesting the Boundaries of the Political,* ed. Seyla Benhabib (Princeton: Princeton University Press, 1996), p. 76.

8 – In my recent book, I give a more detailed account of the substantive Confucian contribution that Confucian public reasoning makes (and can make) to the process of democratic jurisprudence. See Sungmoon Kim, *Public Reason Confucianism: Democratic Perfectionism and Constitutionalism in East Asia* (New York: Cambridge University Press, 2016).

9 – Jiang Qing, *A Confucian Constitutional Order: How China's Ancient Past Can Shape Its Political Future,* trans. Edmund Ryden (Princeton: Princeton University Press, 2012).