

A non-sectarian comprehensive Confucianism?

—On Kim's public reason Confucianism

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Abstract: In *Public Reason Confucianism*, Kim Sungmoon presents a perfectionist theory that is based on a partially comprehensive Confucian doctrine but is non-sectarian, since the doctrine is widely shared in East Asian societies. Despite its attractiveness, I argue that this project, unfortunately, fails because it is still vulnerable to the sectarian critique. The blurred distinction between partially and fully comprehensive doctrines will create a loophole problem. Sectarian laws and policies may gain legitimacy that they do not deserve. I further defend political Confucianism, which is regarded by Kim as an inadequately intelligible form of Confucianism. Kim assumes a too narrow understanding of intelligibility. Although political Confucianism may not be politically intelligible, it is civically intelligible, i.e. it is culturally intelligibly different from other political theories in terms of its implications in citizens' actions in civil society. In light of civic intelligibility, the distinctiveness of political Confucianism should not be underestimated.

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1. Introduction

Kim Sungmoon's *Public Reason Confucianism* makes an interesting attempt to reconcile Confucianism, a traditional East Asian perfectionist doctrine, with public reason, an idea that emerged in contemporary liberal democratic society.¹ Public reason and perfectionist doctrines have long been seen as being incompatible with each other. In the ideal of public reason, proposed by liberals, the state in a pluralistic society should exercise its coercive power on neutral grounds that all citizens can reasonably be expected to endorse. Perfectionist doctrines, which involve "non-public" epistemological, metaphysical or ethical claims, are comprehensive and could be reasonably rejected by some citizens. Therefore policies made on perfectionist grounds, such as moral education or cultural subsidies, are criticized by liberals as sectarian, i.e., these policies are justified to merely a sect of citizens but they ignore the reasonable dissent of other citizens.² While Confucian political theories are ineluctably perfectionist, they have been vulnerable to this sectarian critique.³ The contribution of Kim is that he takes the fact of pluralism in democratic societies seriously, but nevertheless shows that the Confucian comprehensive doctrine can be promoted in a non-sectarian way. In the cultural context of East Asia, Confucian values remain widely shared by citizens and thereby can be used as justificatory grounds for making laws and policies. Hence, Kim makes a particularistic claim that a model of Confucian-perfectionist state is more suitable for East Asian societies than the western liberal-neutral state. This model also challenges the common understanding among liberals that a perfectionist state must be sectarian by suggesting a possibility of non-sectarian perfectionist state.

Despite Kim's ambition of reconciliation, I find it difficult to agree with his attempt to retain the comprehensive character of Confucianism, as I believe that the idea of non-sectarian comprehensive Confucianism is self-contradictory, *even* in the context of East Asia. Although Kim emphasizes that his theory is partially comprehensive, the problem of sectarianism is still inevitable. In Section 2, I shall explain the sectarian critique that bothers perfectionists, and show how Kim reconstructs Confucianism to avoid this critique. In Section 3, I argue that, even if we accept Kim's empirical claim that a partially Confucian doctrine is widely accepted in East Asian countries, his theory is still vulnerable to a loophole problem. The blurred distinction between fully and partially comprehensive doctrines would enable citizens to overlook sectarian laws and policies in the legislative process and public discussions. In Section 4, I compare Kim's theory with political Confucianism, a model rejected by Kim. Political Confucianism is able to avoid the sectarian critique, but, as Kim argues, it fails to fulfill the intelligibility condition. I argue that, although political perfectionism is not politically intelligible, it is civically intelligible. The distinctiveness of political perfectionism is underestimated in Kim's critique.

2. The sectarian critique and Kim's public reason Confucianism

I shall begin with introducing the two theories that inspire Kim's project, public reason liberalism and Confucianism. Public reason liberalism is a democratic theory concerned with the legitimate use of state power. For public reason liberals, such as John Rawls and Gerald Gaus, two assumptions are widely accepted. First, pluralism is inevitable in

a democratic society. While the basic liberties of each citizen are protected, citizens endorse different comprehensive doctrines, i.e. systems of philosophical, moral and religious beliefs. Due to these beliefs, citizens have conflicting views on public issues. Secondly, a state is a coercive regime that deeply influences the life of each person. It punishes citizens who breach its laws and requests that citizens pay tax to support its policies. However, the coercive political power of a state is supposed to be the collective property of all citizens. To legitimately use this power, a state should justify its exercise of this power by reasons that are acceptable to those who are coerced.⁴

Given these two assumptions, public reason liberals argue that a state should avoid making perfectionist laws and policies, such as religious education and drug prohibition. These laws and policies usually assume moral truths, suggesting that a certain way of life is better than others, and these moral truths are parts of particular comprehensive doctrines. Since these moral truths are always subject to reasonable disagreement in a pluralistic society, perfectionist laws and policies are only acceptable to a sect of citizens in the whole population. A state is thereby sectarian if it forces all citizens to comply with laws and policies they might reasonably reject. Call it *the sectarian critique*. A sectarian state is unfair to some citizens because collective political power is exercised for the sake of partisan advantage. To avoid unfairness, a state should justify its laws and policies by public reason, which is only concerned with political values such as basic rights and opportunities and is a specific set of reasons that are accessible to each and every reasonable citizens, regardless of their comprehensive doctrines. Public reason “assigns a special priority to [political values] with respect to the claims of the general good and of perfectionist values.”⁵ By maintaining neutrality

and not being partial to any comprehensive doctrines, coercive political power can be exercised in a way fair to all citizens.

I shall then briefly introduce Confucianism, a perfectionist theory which originated in ancient China. It assumes an objective conception of human nature and a related view of human flourishing described in terms of an ideal agent. According to Mencius, a leading Confucian in the fourth century BC, human beings are naturally born with *four sprouts* of virtues, feelings of pity and compassion, feelings of shame and aversion, feelings of modesty and compliance, as well as the sense of right and wrong. These are four moral sensibilities that incline them toward becoming virtuous. By cultivating these sensibilities, human beings can, like the growth of plants from nascent sprout to full flower, live an objectively good life of the *junzi* who has various virtues, such as *ren* (仁) and *xiao* (孝).⁶ Confucians also believe that ethics and politics are inseparable; the supreme goal of a state is to promote the objectively good life and to cultivate as many people to become *junzi* as possible. From the perspective of public reason liberals, Confucianism should be subject to the sectarian critique. Some citizens may reasonably disagree with the Confucian conception of the good life, but they are forced to live as a Confucian or pay tax to support Confucian laws and policies. The state is therefore partial to the Confucian party and is illegitimate. In short, perfectionist doctrines like Confucianism have long been seen as being objectionable in public reason liberalism.

An interesting feature of Kim's theory is that he accepts the two assumptions of public reason liberalism, but derives a perfectionist Confucian theory. To Kim, value pluralism is inevitable in modern democratic societies, and the coerciveness of state power should be taken seriously.⁷ He "share[s] Rawls's core premises regarding public reason that...

given the coerciveness of political power and the compulsory nature of the state, public reason as the shared premise of mutual cooperation is of supreme significance.”⁸ The exercise of state power should, therefore, be based on “common premises that can serve as the standard for mutual justification and reciprocity.”⁹ However, accepting these two assumptions does not mean that one must endorse a neutral state. In East Asia, at least, it is possible to find a consensus on Confucian values that publicly justify perfectionist laws and policies. Although East Asian democratic societies, such as South Korea, are pluralistic, their degree of pluralism is limited because these societies inherit and maintain a distinctive Confucian character.¹⁰ People share a constellation of Confucian values, “such as filial piety, ritual propriety, respect for elders, ancestor worship, harmony within the (extended) family, and social harmony.”¹¹ These values, together, form a distinctive Confucian way of life that binds citizens as members of one community, notwithstanding their differences and disagreements. Given this consensus, Kim believes it is legitimate for a state to promote this way of life.

Here Kim takes up a different position to Confucians such as Jiang Qing, who advocates that a state should use political power to promote Confucianism as a state religion.¹² Kim adopts Rawls’s distinction between fully and partially comprehensive doctrines, “[a] conception is fully comprehensive if it covers all recognized values and virtues within one rather precisely articulated system; whereas a conception is only partially comprehensive when it comprises a number of, but by no means all, nonpolitical values and virtues and is rather loosely articulated.”¹³ Jiang’s version of Confucianism, Kim argues, is *fully* comprehensive because it assumes an extensive ethical system of Confucianism that is “associated with a patriarchal, patrilineal, and androcentric Confucian worldview and way of life.”¹⁴ This theory is vulnerable to the sectarian

critique. Very few people, even in East Asia, endorse this extensive system of Confucianism. By contrast, public reason Confucianism is *partially* comprehensive because it assumes only a constellation of loosely articulated Confucian values. These values do not form an all-embracing worldview and are disconnected from the traditional patriarchal system. Since these values are less comprehensive, they are commonly shared among East Asian citizens. Kim believes that, by appealing to these Confucian values, perfectionist laws and policies can be made in a publicly justifiable way and the sectarian critique can be avoided.

For example, since “filial (xiao 孝) sons and daughters” and “benevolent (ren 仁) parents and grandparents” are valued in a Confucian society, some perfectionist laws and policies should be permitted, such as “a reduced tax rate for filial adult children who live with and/or economically support their aged parents or grandparents, government subsidies for or priority to such virtuous people in public housing sale/rent, prohibition of filing criminal complaint against one’s family members and enhanced punishment for crimes committed against one’s family members.”¹⁵ These laws and policies encourage adult children to learn to become filial and parents to learn to become benevolent, but they are not vulnerable to the sectarian critique because they are grounded on Confucian values that are widely acceptable to East Asians.

To further clarify the normative position of Kim, it would be helpful to contrast public reason Confucianism with Joseph Chan’s moderate Confucian perfectionism. Both Kim and Chan take pluralism seriously and are aware of the sectarian critique. Thus they both attempt to reconcile Confucianism with a commitment of public justification, and both keep a distance from Jiang’s fully comprehensive Confucianism. Despite these

similarities, Kim describes his position as partially comprehensive Confucianism, whereas Chan's position is described as political Confucianism. They differ on the question of whether a state should "be based in some particular ideal of what constitutes a valuable or worthwhile human life, or other metaphysical belief."¹⁶ To this question, Kim would answer "yes," since it presupposes that the Confucian way of life is objectively valuable and should be publicly promoted. Chan would answer "no." According to Chan, although perfectionist laws and policies should be made, they should be based on "piecemeal judgments about goodness", which are different from substantial judgments about which way of life is morally the best. Some judgments about agency goods and prudential goods, such as the judgment that friendship is valuable, are publicly accessible to reasonable citizens and compatible with a wide range of comprehensive doctrines. No matter what comprehensive doctrines one endorses, one will agree that having these goods is better than not having them. Perfectionist laws and policies based on these judgments will not give rise to reasonable disagreement. Chan thereby argues that Confucian values can be expressed in piecemeal judgments about goodness, such as "valuable social relationships, practical wisdom and learning, sincerity, harmony, social and political trust, and care."¹⁷ Chan calls these goods *civilities* and argues that they should be accepted as reasons in public justification. For example, in light of the great values of these civilities, a state should be permitted to use tax money to sponsor moral education in schools. Teachers should be funded to cultivate children to learn various virtues through stories and precepts. Through moral education, children should also learn to maintain harmonious familial relationships.¹⁸

Unlike Chan, Kim believes that political Confucianism is fatally flawed and “only comprehensive Confucianism can be a plausible normative position.”¹⁹ Here Kim suggests two conditions which a Confucian political theory should satisfy. One of them is the intelligibility condition, namely that the values promoted by the state should be publicly understood as “an inseparable part of a constellation of internally entwined values or virtues that is intelligibly Confucian as a whole.”²⁰ The meanings of values in the Confucian comprehensive doctrine are internally connected. If the state promotes merely filial piety and dissociates it from other Confucian values and practices, then it will alter the meaning of filial piety. For if “filial piety is no longer practiced in a ritually appropriate way,...it would be extremely difficult to call it *xiao* as the Confucian cultural tradition has understood the term.”²¹ For instance, in the Confucian tradition, *xiao*, the Confucian interpretation of filial piety, is connected with the ritual of ancestral worship. The head of a family regularly leads the family members to a shrine where they pay respect to their ancestors. Offering, like food and wine, are made to show that descendants submit themselves to their ancestors and demonstrate their reverence to the past. This ancient ritual, which expresses a sense of respect for the past of a family as well as an effort to associate descendants with ancestors, characterize the way of *xiao*, a particular way in which Confucians understand filial piety.²² However, in the moral education advocated by political Confucianism, filial piety, but not *xiao*, is promoted because the state is only legitimate in promoting generic, freestanding perfectionist values. Teachers encourage students to maintain harmony within the family without especially mentioning the ritual of ancestral worship. Such moral education is difficult to identify intelligibly as a Confucian policy because its connection with substantial Confucian traits is too weak. No matter whether one is Confucian or not, one may support this policy. Kim, therefore, argues that political Confucianism is not a

distinctive Confucian theory. Instead of grounding on generic moral values that are widely shared across cultural boundaries, a Confucian political theory should have a more intelligible connection with the comprehensive doctrine of Confucianism.

Kim, therefore, constructs a partially comprehensive theory, working out a middle position between fully comprehensive Confucianism and political Confucianism. Public reason Confucianism is not fully comprehensive because it is grounded on a constellation of Confucian values that are widely shared in East Asian societies. It is not political because it still maintains an intelligible connection with the comprehensive Confucian doctrine. Although the scope of application is limited within East Asian societies, public reason Confucianism shows a possible way in which a state can make Confucian laws and policies without being sectarian.

3. The loophole problem in public reason Confucianism

Kim's public reason Confucianism is grounded on a philosophical premise, namely that, if the Confucian way of life is publicly shared, then it is not sectarian to make perfectionist laws and policies on this shared ground.²³ In this section, I shall argue that this philosophical premise is problematic. As a partially comprehensive doctrine, public reason Confucianism fails to avoid the sectarian critique.

For the sake of argument, I shall assume that the Confucian way of life is, as Kim describes, publicly shared in East Asian societies.²⁴ Nevertheless, citizens may disagree on the *ranking* of Confucian values (filial piety, ritual propriety, respect for elderly, etc.)

in the Confucian way of life. While all citizens agree that the state should promote filial piety and ritual propriety, some may prefer promoting filial piety, whereas others may give ritual propriety a higher priority. The former might then advocate subsidies for citizens who live with their parents/grandparents, whereas the latter would perhaps advocate subsidies to organizations which practice Confucian rituals publicly. Accordingly, this causes a reasonable disagreement about the order in which policies should be made. No matter which side a state chooses, it will be sectarian to another side. In fact, the source of reasonable disagreement is usually not about whether a value is important, but rather about how important this value is, compared with other values. As the psychologist Milton Rokeach observes, there is a set of thirty-six values widely agreed upon by Americans. Nevertheless, Americans deeply disagree on “the way they organize them to form value hierarchies or priorities.”²⁵ Therefore, sectarianism cannot be avoided in public reason Confucianism even if citizens share a constellation of Confucian values.

Kim might reply that my critique overestimates the divisiveness caused by different rankings of shared values. He might argue that similar conflicts would also happen in a Rawlsian well-ordered society. In “The Idea of Public Reason Revisited,” Rawls admits that citizens in a well-ordered society would not agree with a single political conception of justice. Rather, there would be *a family of* political conceptions of justice.²⁶ Apart from the Rawlsian conception of justice as fairness, “Habermas’s discourse conception of legitimacy” and a “Catholic view of the common good and solidarity...expressed in terms of political values” would also be endorsed by citizens.²⁷ Each political conception represents a reasonable ranking of political values. They together form the content of public reason and provide citizens resources in public debate and political

decision-making. Whatever the conception appealed to in making laws and policies, the exercise of political power is legitimate since the ranking of political values specified in each conception is acceptable to reasonable citizens. With these points in mind, Kim might argue that there would be *a family of Confucian conceptions of justice* in his ideal Confucian society; each would specify a reasonable ranking of Confucian values. Either of them can serve as a non-sectarian ground for the state to make perfectionist laws and policies.

Suppose this is true, the danger still exists, for a Kimian state may mistakenly legitimize sectarian laws and policies. A major difference between Rawls's and Kim's theory is their attitude to partially comprehensive doctrine. To Rawls, both values from partially comprehensive doctrines and fully comprehensive doctrines (hereafter called partially comprehensive values and fully comprehensive values) should not be appealed in the political domain. Even if they are sometimes appealed to, the justification must fulfill a certain proviso.²⁸ Kim holds the opposite view. Since some partially comprehensive values are widely shared in the context of East Asia, it should be permitted for these values to be appealed to in the political domain in the political domain. Only fully comprehensive values should be prohibited. However, compared with the distinction between political values and comprehensive values, the distinction between partially comprehensive values and fully comprehensive values is very much blurred. For the former distinction, what matters is whether the value assumes any comprehensive views, i.e., metaphysical and epistemological views, as well as moral views of what is valuable in life and gives life its meaning. If a value does not assume any comprehensive views, then it is a political value. It is simple for citizens to identify whether a reason offered by other citizens is political or not. Yet, for the latter distinction, it is rather difficult to

distinguish whether a value belongs to a partially or fully comprehensive doctrines, especially when both doctrines are from the same cultural tradition. Both invoke similar epistemological, metaphysical and ethical concepts and arguments. Both may even appeal to the same passages in the classical texts. To be able to distinguish these two kinds of values, citizens need to learn a cultural tradition and its classical texts deeply, separate different types of metaphysical and ethical claims, and have an excellent sociological understanding of their society in order to know which claim is widely shared. Such a cost would likely be unaffordable for most citizens. Citizens thus have a larger chance of mistakenly perceiving some fully comprehensive values to be partially comprehensive values. Unreasonable citizens may make use of this confusion and advocate sectarian proposals that are seemingly publicly justifiable by partially comprehensive values. These proposals may eventually slip through the cracks and gain legitimacy without being truly publicly justifiable. Call it *the loophole problem*.

The following example illustrates this loophole problem. Suppose a partially comprehensive version of *xiao* is to sacrifice personal interest for the sake of the family, and a fully comprehensive version of *xiao* is to endorse a strict family hierarchy and obey parents absolutely. While the former is widely shared among East Asians, the latter is controversial and would be reasonably rejected.²⁹ However, it is demanding for citizens to identify the shareability of each claim in the public domain. Both senses of *xiao* are defended by a similar language of Confucianism and appeal to similar classical sources, such as the *Analects*. Accordingly, some Confucian radicals, a kind of unreasonable citizen in the Kimian society, may advocate a sectarian law that could be justified by only the fully comprehensive version of *xiao*, such as a law saying that one will be punished if one disobeys orders from parents. Although this sectarian

justification should be rejected, public discussions are not so orderly and the two senses of *xiao* may be confused in the minds of many citizens. Eventually, the sectarian legislation may be enacted in the name of promoting the partially comprehensive sense of *xiao*. Therefore, even if Kim is right that East Asians share partially comprehensive Confucian values, the unclear distinction between fully and partially comprehensive values may open a door to sectarianism.

Here a clarification should be made. The loophole problem may be misunderstood as an observation that people may use confusing languages or rhetorical tricks to take advantage of others in public discussion. This phenomenon is commonly seen in real politics, but it is a crudely simplified account of what is at stake here. The problem is a philosophical objection, suggesting that public reason Confucianism fails to *contain* unreasonable citizens. Unreasonable citizens, who are the citizens that aim at making sectarian laws and policies, always exist in a society. As Rawls argues, the presence of unreasonable citizens is, like “war and disease,” a permanent fact of any society.³⁰ A theory of justice should explain how “to *contain* [unreasonable citizens]...so that they do not overturn political justice.”³¹ If a theory fails to do so, then the sustainability of its conception of justice is questionable. The appeal of the theory in question is severely weakened.³²

Containing unreasonable citizens means undermining their negative effects on society. Although unreasonable citizens exist, reasonable citizens should be able to correctly identify and reject their political proposals, in such a way that no sectarian laws and policies would be democratically made. For example, in Rawls’s political liberalism, reasonable citizens identify sectarian proposals by requesting the supporters of these

proposals to justify their proposals in terms of freestanding political values. If the supporters fail to do so, then their proposals should be rejected. The problem of public reason Confucianism is that it fails to offer a reliable means of identification for reasonable citizens to distinguish publicly justifiable proposals from sectarian proposals. Due to the blurred distinction between shared and non-shared values, unreasonable citizens have more chances to play with words. This arguably increases the cost for reasonable citizens of correctly identifying sectarian proposals. Reasonable citizens would be less likely to identify and reject the sectarian proposals. The likely ineffectiveness in containing unreasonable citizens weakens the appeal of public reason Confucianism as a political theory.

The loophole problem may be resolved if there is a ritual expert (or a group of ritual experts) that have the political authority to identify and reject laws and policies based on fully comprehensive Confucian values. The ritual expert may have better knowledge of Confucian classics and the shareability of each Confucian claim and thereby decide what kind of *xiao* should be rejected. Consequently, what citizens need to do is to rely on the judgment of the ritual expert. However, Kim cannot make this reply since he acknowledges that *ritual pluralism* is inevitable in a democratic Confucian society.³³ Ritual pluralism means that, although all citizens agree that *xiao* is necessary for becoming a good person in the moral universe, they have different ritual expressions of *xiao*. No one can authoritatively tell other citizens which ritual to practice *xiao* should be followed. As Kim says, “filial piety might be cherished as an important human/moral virtue by all (at least most) kinds of ethical communities, albeit in varying degrees, but for morally incommensurable reasons and with different sets of [ritual] practices justified by such reasons.”³⁴ Among these many incommensurable ritual expressions,

some are grounded on a fully comprehensive sense of *xiao*, whereas some are grounded on a partially comprehensive sense. In a society where moral experts have no additional authority and can only express their views as normal citizens do, citizens can only rely on themselves to distinguish these two senses of *xiao*. Hence, it is dubious whether all sectarian laws based on fully comprehensive sense of *xiao* would be rejected.

Compared with public reason Confucianism, political Confucianism, which is structurally similar to political liberalism, can avoid the loophole problem. Although political Confucianism is more permissive to perfectionist values, it argues that public justification should be based on political perfectionist values that are freestanding to comprehensive doctrines. For example, civilities, such as mutual respect and public-spiritedness, are common goods that should be valued by reasonable citizens. These values can be justified on their own ground, without appealing to any comprehensive doctrines.³⁵ The distinction between permissible and non-permissible values in political Confucianism is obvious. Accordingly, in the public domain of a political Confucian society, citizens are more likely to distinguish publicly justifiable proposals (e.g., political proposals that could be justified solely by freestanding political values) from sectarian proposals (e.g., political proposals that need to be justified by comprehensive metaphysical or ethical values). As long as comprehensive values are appealed to, reasonable citizens can confidently reject these proposals in public deliberation. This enables unreasonable citizens to be more effectively contained.

Kim might nevertheless argue that political Confucianism is still vulnerable to the loophole problem because it, like Rawls's political liberalism, endorses the "wide view" of public reason. The wide view is the ethics of public justification suggested by the

later Rawls. In the wide view, comprehensive values are conditionally permitted to be introduced into the public discussion, provided that *in due course* proper political values are presented as public reason to explain the comprehensive values.³⁶ The term “in due course” is worryingly vague. It is not entirely clear how long of a period is envisaged.³⁷ Before the appropriate time comes, citizens are permitted to offer arguments based merely on comprehensive values in public discussions. Unreasonable citizens may exploit this permission and make false promises. They may advocate sectarian laws that can only be justified by comprehensive values and claim that they will offer public reasons afterward. Other citizens might be unable to distinguish these citizens who freeride the trust of others from those citizens who will keep their promise in due course. Public reason is supposed to be a means that enables reasonable citizens to identify sectarian laws and policies, but the wide view is too permissive that it undermines the effectiveness of public reason.³⁸

Two replies can be made. First, despite the similarities between political liberalism and political Confucianism, there are no strong reasons to believe that political Confucianism must accept the wide view. Political Confucianism can turn to embrace a stricter principle in public deliberations, such as the “exclusive view,” i.e., citizens should never introduce reasons given explicitly in terms of comprehensive doctrines into public reason.³⁹ In the exclusive view, comprehensive values are totally ruled out from political discourse. Only freestanding values are permitted. Unreasonable citizens would thereby have much fewer chances to make sectarian laws, which could only be justified by comprehensive values. In fact, it is not uncommon for political liberals to defend the exclusive view, instead of the wide view. Richard Rorty is one of the philosophers who argue that comprehensive values are “conversation-stopper” in public

discussion.⁴⁰ Christie Hartley and Lori Watson also argue that, compared with the wide view, the exclusive view is more consistent with reciprocity, the core commitment of political liberalism.⁴¹ Secondly, some might criticize the exclusive view as being too restrictive. It may be that freedom of speech and expression will be undermined.⁴² However, this criticism does not account for the fact that according to the exclusive view, citizens are permitted to appeal to comprehensive values in most spheres of their life. The requirement of restricting themselves from appealing to comprehensive values is applied only in political decision-making in the public political forum of courts, public offices, legislatures, campaigns and voting booths.⁴³ Outside the public political forum, citizens are totally permitted, and even encouraged, to appeal to comprehensive values in other public spaces, such as companies, academia, internet, media, etc. Discussions in these spaces are assumed to be “full and open.”⁴⁴ Although the exclusive view is relatively stringent, its impact on freedom of speech and expression should not be exaggerated. In short, by embracing the exclusive view, political Confucianism is able to address the loophole problem that besets public reason Confucianism.

4. The intelligibility condition revisited

To remedy the theory, Kim can either make it become a comprehensive Confucian theory and reject the idea of public justification, or opt for a political Confucian view and abandon the partially comprehensive Confucian doctrines. I shall focus on the second option for two reasons. First, in a recent article, Kim states that, instead of realizing certain Confucian goods, his primary concern is how East Asian societies can “organize political institutions in a way that can best coordinate social interactions under the circumstances of modern politics marked by pervasive value pluralism and

resulting moral conflicts.”⁴⁵ Thus Kim is more likely to retain the idea of public justification in his theory. Secondly, due to the influence of the Western culture, East Asian societies are inevitably becoming more and more pluralistic. Constructing a more comprehensive Confucian theory merely intensifies the conflict between Confucianism and the fact of pluralism. Nevertheless, it is worth noting that Kim explicitly rejects political Confucianism since it fails the intelligibility condition. In this section, I shall discuss how intelligibility should be understood and why political Confucianism is intelligibly Confucian.

According to Kim, the key problem with Chan’s political Confucianism remains that its distance from other political theories is negligible. As a Confucian political theory, it fails to be “identified intelligibly as such.”⁴⁶ Chan advocates that the state should promote civilities such as valuable social relationships and practical wisdom. However, on what grounds are these items *Confucian* values? Although these civilities are mentioned in Confucian classics, they are also advocated by thinkers in other cultures. Without attaching civilities to any particular cultural traditions, these civilities are too ambiguous and their connection with Confucianism is unclear. It is thereby hard to conceive this normative position as an intelligibly Confucian-perfectionist position.⁴⁷ An example that illustrates the problem of unintelligibility is the educational policy mentioned in Section 2. The Confucian idea of *xiao* is usually connected with a particular ritual of ancestral worship. If the state-sponsored perfectionist education only promotes filial piety and take it as a generic moral goodness that is independent of any particular cultural interpretations, then this can hardly be called a kind of Confucian education. A Confucian political theory must advocate some laws and policies that promote certain traits and relationships that are intelligibly Confucian.

Despite its essential role in Kim's theory, Kim has never clearly explained why the intelligibility condition is a crucial condition that a Confucian political theory must fulfill. He seems to assume that a Confucian political theory must advocate that a state should promote Confucian civilities, specified by civil traits, activities and relationships intelligibly Confucian. Yet such assumption imposes a severe burden on Confucianism. Even if, at this moment, partially comprehensive Confucian values are widely shared among citizens and promoting Confucian civilities by state power is non-sectarian, it is hardly surprising that one day the society may become increasingly pluralistic due to globalization and citizens may object to the state promotion of these Confucian civilities. Although some forms of Confucian political theories, such as public reason Confucianism, can temporarily fulfill the intelligibility condition in a pluralistic society, the reconciliation between intelligibility and plurality is inevitably unstable. When the society becomes more diverse, the reconciliation will break down and the intelligibility condition will eventually burden Confucianism. For this condition renders Confucianism inflexible in the sense that it can only choose to ignore plurality and advocates the Confucian civilities, rather than evolving into a more plurality-sensitive form.

This does not mean that the intelligibility condition is unimportant and Confucianism can be detached from the Confucian civilities. On the contrary, I agree with Kim that a Confucian political theory "must be identified intelligibly as such,"⁴⁸ but the idea of intelligibility should be understood in a different way. Here we should distinguish two senses of intelligibility. Kim is concerned with what I call *political intelligibility*, which means that a theory is intelligible when it advocates distinctive laws and policies that

are intelligible to promote values and civilities in a particular cultural tradition. According to Kim, this sense of intelligibility is necessary for “a robust normative political theory.”⁴⁹ Therefore political Confucianism is flawed since the laws and policies that it suggests, such as the moral education, would not be disagreed by other political theories, such as liberal perfectionism.⁵⁰ However, the distinctiveness of a political theory is not necessarily evaluated in terms of how it suggests states and citizens make laws and policies. It can be evaluated in terms of how it suggests citizens interact with each other in civil society, which is what Rawls calls the “background culture.”⁵¹ Put succinctly, a political theory is not necessarily a theory of governance; it can rather be a theory of citizenship. Hence, I shall introduce another notion of intelligibility, *civic intelligibility*, which means that a theory is intelligible when it offers a distinctive guideline for citizens to promote comprehensive values and civilities intelligibly belonging to a particular cultural tradition by activities in civil society.

In light of this distinction, Chan’s political Confucianism is not politically intelligible, but it is civically intelligible since it offers a distinctive and comprehensive guideline of what a Confucian citizen should and should not do. First, it provides a perfectionist ethics that teaches democratic citizens what activities they should engage in civil society and what arguments they can offer if they are deeply affirmed with traditional Confucian values and intend to promote these values. Confucian citizens may together form non-governmental organizations to promote family ethics for the sake of keeping alive the spirit of Confucianism. Citizens may also appeal to arguments inspired by Confucian classics to defend or criticize laws or policies in their private discussions with other citizens. Political Confucianism values Confucian civilities, but it refrains from promoting these civilities by political power because using this power to promote

Confucian civilities is unfair to non-Confucian parties which have an equal claim to the use of this power. “To maintain civic concord, citizens must exercise self-constraint, and no group should attempt to impose its own worldview and system of values on others in a winner-take-all fashion.”⁵² Therefore, instead of promoting Confucian civilities in the level of law and policies, these civilities should be promoted in the level of civil society, by activities organized by social organizations. Confucian citizens should persuade other non-Confucians patiently and hope that one day in the future other non-Confucians will appreciate these civilities as well.

Secondly, political Confucianism helps citizens engage with unreasonable Confucians who challenge democracy in public debate due to their belief that Confucian values are incompatible with democratic citizenship. Given the basic liberties guaranteed in a democratic society, there are inevitably some unreasonable citizens who reject their duty of citizenship for their comprehensive values. How are these citizens to be treated? Some political theorists, such as Burton Dreben and Jonathan Quong, believe that the state need not engage with these citizens.⁵³ whereas others, such as Matthew Clayton and David Stevens, believe that unreasonable citizens should not be ignored because refusing to engage may lead to a balkanization of positions where those unreasonable citizens engage only with the like-minded citizens and become more extreme.⁵⁴ However, Clayton and Stevens argue that the state should not engage with the unreasonable directly. Rather, there should be a division of justificatory labour and the task of engagement should be delegated to citizens who share a similar comprehensive doctrine with those who are unreasonable.⁵⁵ For example, reasonable Muslims should engage with unreasonable Muslims in private discussions and offer religious reasons to explain how Islamic doctrine is in fact compatible with democratic norms. Similarly,

reasonable Confucians have a duty to engage with unreasonable Confucians and demonstrate their misunderstanding of the Confucian values to them. Here political Confucianism provides helpful resources for reasonable Confucians in this kind of engagement. It explains how the moral premises of Confucianism can lead to the conclusion that one should be a good citizen and support liberal democracy.⁵⁶ Political Confucianism cannot guarantee that all unreasonable Confucians will be persuaded to become reasonable. Nevertheless it offers a way of engaging with extreme views that might be found amongst Confucians and reveals the possibility of reconciling Confucianism and democratic values. This already enables reasonable Confucians to debate with unreasonable Confucians and attract their followers in civil society. In brief, political Confucianism is civically intelligible in two senses. First, it instructs Confucians to promote Confucian civilities to non-Confucians through private associations. Secondly, it offers help to Confucians to engage with unreasonable Confucians who promote Confucian civilities in a sectarian way. These together show how a Confucian citizen can live a culturally intelligible way of life in civil society.

Despite this, Kim might still argue that the intelligibility of political Confucianism is too unclear, compared with other political theories, such as liberal perfectionism. I believe that the result of comparison depends on which aspect of the theories we choose to compare. If we compare liberal perfectionism and political Confucianism in terms of their implications for citizenship, then there are intelligible differences between these two theories. Liberal perfectionism, advocated by Raz and Wall, takes autonomy as the core ideal. Therefore, citizens who are affiliated with this theory would put more effort in promoting this value in civil societies. The public issues that would catch the attention of these citizens should be issues such as whether compulsory liberal

education is needed to guarantee everyone possessing skills necessary for an autonomous life.⁵⁷ Political Confucianism does not deny the value of autonomy, but it also appreciates values such as social relationships, as well as practical wisdom and learning. Accordingly, political Confucians would be concerned more about public issues such as whether the values of friendship and family life are properly taught in early education. This does not mean that the concerns of liberal perfectionists and political Confucians do not overlap with each other. Yet they apparently have different scopes of concern and this can be attributed to their system of values which are intelligibly different from each other. As pressure groups in a civil society, there are intelligible differences between them. Similarly, while liberal Christians and liberal Muslims share with political Confucians support for liberal democracy, they have intelligible differences as pressure groups.⁵⁸ This implies that political theories may not be intelligibly different from each other in the political sense, but they are intelligibly different in the civic sense.

5. Conclusion

The sectarian critique has been a long-standing critique of perfectionism, especially the conceptions of perfectionism that assume a comprehensive doctrine. Kim is ambitious in rebutting this critique by constructing a partially comprehensive yet non-sectarian perfectionist theory. Given that a partially comprehensive Confucian doctrine is prevailingly shared in East Asian societies, a state is non-sectarian in making perfectionist laws and policies on the ground of this partially comprehensive Confucian doctrine. In this paper, I argue that this ambition unfortunately fails. Even if the

partially comprehensive Confucianism is widely shared, it is still an impeachable ground for making laws and policies. The reason is that, compared to the distinction between comprehensive values and political values, the distinction between partially comprehensive values and fully comprehensive values is far less clear-cut. The loophole problem will be serious if partially comprehensive values are permissible in the legislative process. Sectarian laws and policies may slip through the cracks and gain legitimacy that they do not deserve.

Therefore, I believe that the best way for Confucians, a kind of perfectionist, to avoid the sectarian critique is to become “political,” i.e. to detach from comprehensive Confucian doctrines and construct a theory of political Confucianism. While Kim suggests that political Confucianism fails to be intelligible as a form of Confucianism, I argued that his view, in this respect, assumes a too narrow understanding of intelligibility. Although political Confucianism may not be politically intelligible, it is civically intelligible, i.e. it is culturally intelligibly different from other political theories in terms of its implications in citizens’ actions in civil society.

Robert Bellah famously indicates that, in spite of cultural and religious pluralism, Americans share a civil religion that is centered upon certain traditional beliefs and cultural symbols. This civil religion shapes the political reasoning of people and stabilizes the democratic society.⁵⁹ While both Kim and I share Bellah’s idea of civil religion and believe that traditional wisdom has an active role to play in politics, we have different views of how Confucianism should be conceived as civil religion. Kim takes Confucianism as *the* civil religion of East Asia and offers a perfectionist theory grounded on this civil religion.⁶⁰ This underestimates pluralism in East Asia. Rather, I

believe that *a part of* Confucianism, together with some parts of Christianity, Daoism, Islam, etc., should form a civil religion which is centered upon some universal perfectionist values. Such a humanitarian civil religion offers a more appropriate ground for perfectionist politics in the modern pluralistic society.

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Notes

¹ Kim 2016.

² See Rawls 2005; Gaus 2011; Quong 2011.

³ See Jiang 2013 and Bai 2012. An example of sectarian critique is Chan’s critique to Jiang. Although Chan does not directly use the word “sectarianism,” he makes a similar point that “Jiang’s Confucian constitutional order demands that the constitutional order be grounded on the worldview of Confucianism, which implies a total rejection of liberalism, socialism, Buddhism, or Christianity as possible grounds for the constitutional order. Implementation of this proposal harms civility as it deviates from the social reality.” (Jiang 2013, 104)

⁴ Rawls 2005, 61—62; Gaus 2011, 479—481.

⁵ Ibid., 223

⁶ Ivanhoe 2013, 52-56; Yao 2010, 46

⁷ Kim 2016, 21—22, 72.

⁸ Ibid., 79.

⁹ Ibid., 87

¹⁰ Ibid., 125.

¹¹ Ibid., 19

¹² Jiang 2013.

¹³ Rawls 2005, 13.

¹⁴ Kim 2016, 139.

¹⁵ Ibid., 35.

¹⁶ Kim 2016, 38.

¹⁷ Chan 2014, 203.

¹⁸ Ibid., 99, 119.

¹⁹ Kim 2016, 39.

²⁰ *Ibid.*, 16.

²¹ *Ibid.*

²² Yao 2000, 199-202.

²³ This philosophical premise is the second of the five premises of public reason Confucianism mentioned by Kim (2016, 23—24), namely that it is permissible for a democratic state to promote or discourage some activities or ideas based on the grounds of a constellation of Confucian values.

²⁴ For a critique of this empirical claim of Kim, see Tan (2017, 526). Tan Sor-hoon challenges that the whole East Asia is as cultural homogeneous as Kim describes. Though not criticizing Kim, He Baogang (2010, 24) also makes a similar point. While I agree with Tan's critique and He's observation, I shall not further discuss this point here.

²⁵ Rokeach 1973, 110. A similar point is also mentioned by Gaus (2009: 92—93) in his critique of Daniel Weinstock.

²⁶ Rawls 2005, xlvi.

²⁷ *Ibid.*, 451—452.

²⁸ To Rawls, comprehensive doctrines, either fully or partially comprehensive, can be appealed to only when the proviso in the wide view is fulfilled, that is, only when “in due course proper political reasons.....are presented that are sufficient to support whatever the comprehensive doctrines introduced are said to support.” (Rawls 2005, 462) The wide view of political liberalism will be discussed in the later part of this section.

²⁹ Cf. Shin 2012, 184—185.

³⁰ Rawls 2005, 64n19

³¹ *Ibid.*

³² Quong 2011, 300

³³ Kim 2016: 197. I am indebted to Elton Chan for discussions of the points in this passage.

³⁴ *Ibid.*, 198.

³⁵ Chan 2014, 202, 228. The similarity between Rawls and Chan is also indicated in Kim 2016, 50.

³⁶ Rawls 2005, 462.

³⁷ Larmore 2003, 386

³⁸ Here it would be helpful to distinguish the loophole problem from the problem of noise, which has recently been suggested by John Thrasher and Kevin Vallier (2014). According to Thrasher and Vallier, public reason is a mechanism of mutual assurance among citizens. Citizens in the Rawlsian well-ordered society want to assure each other's allegiance to justice before behaving justly, and thus they signal their allegiance to each other by offering public reason. But Thrasher and Vallier argue that this mechanism fails because, in the wide view, comprehensive values are permitted to be introduced in public justification, so long as public reasons are provided in due course. The speeches that involve comprehensive values then become noise in the public domain, because they disturb citizens into confirming the signal of others. In a public domain in which people can freely offer comprehensive reasons, citizens are confused about who is offering comprehensive reasons that could be justified by public reason and who is not. Some citizens may refuse to behave justly because they cannot guarantee that others are committed to justice. Hence the Rawlsian society will inevitably be unstable.

Although both the loophole problem (in Kim's possible critique to political Confucianism) and the problem of noise are about the negative effect that would happen when the wide view permits comprehensive reasons, they are different in nature. The loophole problem is about how unreasonable citizens may exploit the over-permissive principle of public discourse and allow sectarian laws and policies to slip through the cracks without having to secure unanimous approval of reasonable citizens. The problem of noise is about how reasonable citizens may doubt each other and finally refuse to behave justly. The loophole problem will cause sectarianism; unreasonable citizens will impose unfair burdens on reasonable citizens in the name of legitimate laws. The problem of noise will cause instability; the mutual trust between reasonable citizens breaks down and reasonable citizens may in turn become unreasonable. In the loophole problem, reasonable citizens may wrongly trust unreasonable citizens. In the problem of noise, reasonable citizens may mistakenly distrust each other. These two problems may both occur simultaneously, but they should not be confused with each other.

Another paper may be needed to discuss whether political Confucianism, as well as public reason Confucianism, is vulnerable to the problem of noise. Since this paper intends to argue that public reason Confucianism is vulnerable to the sectarian critique while political Confucianism is not. I shall focus on the loophole problem. I am grateful to an anonymous reviewer for pushing me to greater clarity the difference between these problems.

- ³⁹ The exclusive view is first suggested by Rawls (2005, 247), and is used in contrast to the inclusive view embraced by Rawls himself, though Rawls eventually turned to endorse a more permissive wide view in his later years.
- ⁴⁰ Rorty 1993
- ⁴¹ Hartley and Watson 2009, 496
- ⁴² Cf. Thrasher and Vallier 2015, 946.
- ⁴³ Rawls 2005, 443-444.
- ⁴⁴ *Ibid.*, 444
- ⁴⁵ Kim 2017, 245.
- ⁴⁶ Kim 2016, 45.
- ⁴⁷ *Ibid.*, 47.
- ⁴⁸ *Ibid.*, 45.
- ⁴⁹ *Ibid.*, 51.
- ⁵⁰ For an example of liberal perfectionism that advocates a similar kind of moral education, see Levinson 1999. Similar to Chan, Levinson also advocates that the state should be permitted to use public funding to educate children to become citizens that have “good character,” including the virtues of courage, trust, friendship, honesty, and so forth.
- ⁵¹ Rawls 2005, 14.
- ⁵² Chan 2014, 201-202.
- ⁵³ Dreben 2003, 323; Quong 2011, 313.
- ⁵⁴ Clayton and Stevens 2014, 74
- ⁵⁵ *Ibid.*, 81. However, I do not fully agree that *only* citizens who share a similar comprehensive doctrine should engage with those unreasonable citizens. After fulfilling some conditions, politicians and political philosophers who endorse different comprehensive doctrines should also be permitted to take up this task. But I should leave this point here. For my comment of Clayton and Stevens, see Wong 2019.
- ⁵⁶ Chan 2014, 84-87.
- ⁵⁷ Wall 1998, 205—213.
- ⁵⁸ For an example of liberal Muslims, see March 2011. For an example of liberal Christians, see Griffin 1996 and Chaplin 2006.
- ⁵⁹ Bellah 1970
- ⁶⁰ Ivanhoe and Kim 2016, 3. A similar view can also be found in Kim 2014, 232—233.

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