

The Right to Silence: Asia

By: Thalia Vrachopoulos

Silence is a source of great strength, Lao Tzu, 3-4 c.bc.

In the context of the exhibition Right to Silence, I will examine several traditions in Asia evinced in works by artists from Japan, Korea, China, Taiwan and Thailand as they pertain to both the 5th Amendment Right and more loosely interpreted as selected or imposed silence.

Silence in Asia which is primarily a listening culture does not signal the withholding of information as it does in most western cultures, but rather it signifies careful thought or is seen as calming pause. This is evidenced in the meditative works of the Japanese artists Kenichi Nakajima and Hiroshi Sunairi. In Japan silence is sometimes used to avoid showing disagreement, and in some cases as seen in Goro Nakamura's work, this silence can reveal conflicting thoughts. In South Korea since it has a Confucianist grounding, the most important person or oldest speaks first while the audience keeps still until directly addressed. Although none of these artists kowtow to this philosophy it is nevertheless somewhat manifested as underlying principle in the works of Ho Han, Hoyoon Shin, Buldong Park, Chonggon Byun, Jonggu Lee, Mina Cheon, Oksang Lim, and Wonhee Noh. For others like Hobong Kim, Maelee Lee, Jaiseok Kang, Jeongsoo Shim, and Kyonghyo Park this tradition is not as important as challenging the prevailing norms.

Three main religious philosophies Buddhism, Taoism, and Christianity exist in combination in South Korea. In Japan Shintoism which replaces Taoism, advocates silence as an awareness of nothingness. In Thailand from where Vasan Sitthiket comes, 95% of the population practices some form of Buddhism that practices silence as a way of self-awareness, understanding and wisdom. In Buddhism silence is believed to strengthen one's spirituality, whereas in Taoism stillness is crucial for alchemical transformation and harmony. Buddhist philosophy takes silence as manifestation of complete sincerity grounded in the nature of heaven and earth. So that silence has been part of all these Asian religious philosophies since antiquity and inform not only society but also the artworks of its advents. In Taiwan where Chin-chih Yang was born, the majority of people like in mainland China, practice a combined version of Buddhism and Taoism. It is these main philosophies that impact the beliefs, life and standards of the represented artists but also the majority of Asian artists depending on their geographical area.

Silence can also be used as a bargaining method. An example of this is a negotiating table comprised of both Asians and Europeans wherein Asians maintain silence while their opposites taking it for dissatisfaction, keep upping the ante. Furthermore, in most Asian cultures, silence can be paradoxical and can signal respect as much as protest. Silence can relieve tension in the body or it can create nervousness as a result of the anxiety it produces. The absence of the aural sense in itself creates psychological discomfort thus a desire to fill the pause.

Silence in the Asian countries has ancient precedents that are grounded in Taoism whose philosophy teaches followers to submit to the path/way (or divine way of the universe) advocating humility and piety rather than imposing one's will upon the universe. As such, it can be understood as passive whereas in the west, such behaviors for the most part, are seen as active or even aggressive. Confucianism although not a religion per se, informs even the most modern Asian countries, and advocates a passive stance vis a vis the idea of class structure and filial piety. Its philosophies have exerted great influence on Asian culture, politics, family, and education. Consequently, when examining the law as it pertains to the 5th Amendment Right, (Miranda Warning,) there are some differences in perception and cultural traditions as well as the legal philosophies in Asia.

The 5th Amendment does not have a direct equivalent in the Korean constitution. While the American 5th Amendment Right covers a variety of related topics which are explained in separate articles, in the South Korean constitution originally drafted in 1954, it was general, providing the defendant with the Miranda warning before he was charged, but not in its current detailed position. The 1997 article 95 of the Taiwanese Code of Criminal Procedure was revised to include the right to silence for the defendant who had to be notified before interrogation. And in Thailand, it was in 2004 that these provisions were introduced as amendments to the Criminal Procedure Code. Japan passed its Criminal Procedure Code in 1948, but amended it in 2004 to include the right to silence along with the obligation to inform the accused of charges. Japan's 1922 Act No. 75, of the Criminal Procedure Code did not contain this provision.

Mainland China does not guarantee the accused as to the right to silence. Although as of 1998 according to the International Covenant on Civil and Political Rights, China was supposed to guarantee defendants with the right against self-recrimination, its Criminal Procedure Article 93, impending treaty has not been ratified.

https://en.wikipedia.org/wiki/Right_to_silence#:~:text=China%20has%20recognized%20the%20right,not%20been%20ratified%20in%20China

Finally, it is important to see the issue of the right to silence with its variegation in Asian countries represented by Japan, Korea, China, Thailand and Taiwan, but also to be aware of their differing philosophies as they pertain to this right. Apropos of this last statement, it is crucial to understand the philosophical attitudes or implications pertaining to this right to silence.

More broadly interpreted, silence can be seen as political tactic, protest, absence, crime, or religious practice and is expressed in artworks found in this exhibit by artists from South Korea, Japan, China, Taiwan and Thailand.

Galleries 2&3 Curation: Thalia Vrachopoulos
Participating Artists:

Bul dong Park, Chen Hui & Zeng Han, Chin Chih Yang, Chong Gon Byun, Goro Nakamura, Han Ho, Hobong Kim, Hoyoon Shin, Jaiseok Kang, Jeongsoo Shim, Jong-gu Lee, Kenichi Nakajima, Kyung Hyo Park, Maelee Lee, Mary Ting, Ok-Sang Lim, Pan Xing-lei, Seung Wook Sim, Sunairi, Vasas Sitthiket, Wonhee Noh, Xu Jin

Production Associates: Georgia Kalogeropoulou, Eva Kostopoulou, Odette Kouzou

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