

2017학년도 1학기 교수계획표

교과목명	현대법이론	교과목번호	LA98095	분반	001
개설학과	법학과	개설학년	1	학점-이론-실습	3.0 - 3.0 - 0.0
강의시간 및 강의실	월 15:00(75) 609-417, 수 15:00(75) 609-417				
담당교수	오정진	연구실 (상담가능장소)	법학관 2208호	상담시간	월수 13:00-15:00
		연락처		이메일	
수업방식	발표와 토론의 세미나식 수업. 부산대 교수학습지원센터에 의해 수업 동영상은 온라인상 공개된다.				
평가방법	<p>(1) 평가방법, 기준, 반영 비율 : 발제(중간시험 대체) 40%, 출석(토론참여도/유의미성) 10%, 사고의 변화/발전 10%, 법률문서(기말시험 대체) 40%</p> <p>(2) 부정행위 처리방법 : 시험부정행위 적발 시 '법학전문대학원 성적처리 지침' 제12조 및 '부산대학교 시험질서확립을 위한 규정'에 정한 기준에 따라, 해당 과목 또는 전과목이 F로 처리되며, 징계절차 회부됨.</p> <p style="color: red;">* 장애학생의 경우 시험시간의 연장이 가능하며, 대필이나 컴퓨터를 활용하여 시험에 응할 수 있습니다.</p>				
선수과목 및 지식	<p>Emmanuel Levinas(1906-1995)</p> <p>[by wikipedia]</p> <p>was a French philosopher of Lithuanian Jewish ancestry who is known for his work related to Jewish philosophy, existentialism, ethics, and ontology.</p> <p>In the 1950s, Levinas emerged from the circle of intellectuals surrounding Jean Wahl as a leading French thinker. His work is based on the ethics of the Other or, in Levinas's terms, on "ethics as first philosophy". For Levinas, the Other is not knowable and cannot be made into an object of the self, as is done by traditional metaphysics (which Levinas called "ontology"). Levinas prefers to think of philosophy as the "wisdom of love" rather than the love of wisdom (the literal Greek meaning of the word "philosophy"). In his view, responsibility precedes any "objective searching after truth".</p> <p>Levinas derives the primacy of his ethics from the experience of the encounter with the Other. For Levinas, the irreducible relation, the epiphany, of the face-to-face, the encounter with another, is a privileged phenomenon in which the other person's proximity and distance are both strongly felt. "The Other precisely reveals himself in his alterity not in a shock negating the I, but as the primordial phenomenon of gentleness." At the same time, the revelation of the face makes a demand, this demand is before one can express, or know one's freedom, to affirm or deny. One instantly recognizes the transcendence and heteronomy of the Other. Even murder fails as an attempt to take hold of this otherness.</p> <p>While critical of traditional theology, Levinas does require that a "trace" of the Divine be acknowledged within an ethics of Otherness. This is especially evident in his thematization of debt and guilt. "A face is a trace of itself, given over to my responsibility, but to which I am wanting and faulty. It is as though I were responsible for his mortality, and guilty for surviving." The moral "authority" of the face of the Other is felt in my "infinite responsibility" for the Other. The face of the Other comes toward me with its infinite moral demands while emerging out of the trace. Apart from this morally imposing emergence, the Other's face might well be adequately addressed as "Thou" (along the lines proposed by Martin Buber) in whose welcoming countenance I might find great comfort, love and communion of souls?but not a moral demand bearing down upon me from a height. "Through a trace the irreversible past takes on the profile of a 'He.' The beyond from which a face comes is in the third person." It is because the Other also emerges out of the illeity of a He (il in French) that I instead fall into infinite debt vis-a-vis the Other in a situation of utterly asymmetrical obligations: I owe the Other everything, the Other owes me nothing. The trace of the Other is the heavy shadow of God, the God</p>				

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	<p>who commands, "Thou shalt not kill!" Levinas takes great pains to avoid straightforward theological language. The very metaphysics of signification subtending theological language is suspected and suspended by evocations of how traces work differently than signs. Nevertheless, the divinity of the trace is also undeniable: "the trace is not just one more word: it is the proximity of God in the countenance of my fellowman." In a sense, it is divine commandment without divine authority.</p> <p>Following <i>Totality and Infinity</i>, Levinas later argued that responsibility for the other is rooted within our subjective constitution. It should be noted that the first line of the preface of this book is "everyone will readily agree that it is of the highest importance to know whether we are not duped by morality." This idea appears in his of recurrence (chapter 4 in <i>Otherwise than Being</i>), in which Levinas maintains that subjectivity is formed in and through our subjection to the other. Subjectivity, Levinas argued, is primordially ethical, not theoretical: that is to say, our responsibility for the other is not a derivative feature of our subjectivity, but instead, founds our subjective being-in-the-world by giving it a meaningful direction and orientation. Levinas's thesis "ethics as first philosophy", then, means that the traditional philosophical pursuit of knowledge is secondary to a basic ethical duty to the other. To meet the Other is to have the idea of Infinity.</p> <p>The elderly Levinas was a distinguished French public intellectual, whose books reportedly sold well. He had a major influence on the young Jacques Derrida, a fellow French Jew whose seminal <i>Writing and Difference</i> contains an essay, "Violence and Metaphysics", on Levinas. Derrida also delivered a eulogy at Levinas's funeral, later published as <i>Adieu a Emmanuel Levinas</i>, an appreciation and exploration of Levinas's moral philosophy. In a memorial essay for Levinas, Jean-Luc Marion claimed that "If one defines a great philosopher as someone without whom philosophy would not have been what it is, then in France there are two great philosophers of the 20th Century: Bergson and Levinas."</p>
<p style="text-align: center;">교수목표</p>	<p>타자성의 렌즈로 인권에 관한 최근의 급진적인 논의를 소개하고 논의한다. 주로 라캉과 레비나스를 활용한다.</p> <p>[by wikipedia]</p> <p>Jacques Lacan(1901-1981)</p> <p>was a French psychoanalyst and psychiatrist who has been called "the most controversial psycho-analyst since Freud". Giving yearly seminars in Paris from 1953 to 1981, Lacan influenced many leading French intellectuals in the 1960s and the 1970s, especially those associated with post-structuralism. His ideas had a significant impact on post-structuralism, critical theory, linguistics, 20th-century French philosophy, film theory and clinical psychoanalysis.</p> <p>Major concepts</p> <p>Return to Freud</p> <p>Lacan's "return to Freud" emphasizes a renewed attention to the original texts of Freud, and included a radical critique of ego psychology, whereas "Lacan's quarrel with Object Relations psychoanalysis" was a more muted affair. Here he attempted "to restore to the notion of the Object Relation... the capital of experience that legitimately belongs to it", building upon what he termed "the hesitant, but controlled work of Melanie Klein... Through her we know the function of the imaginary primordial enclosure formed by the imago of the mother's body", as well as upon "the notion of the transitional object, introduced by D. W. Winnicott... a key-point for the explanation of the genesis of fetishism". Nevertheless, "Lacan systematically questioned those psychoanalytic developments from the 1930s to the 1970s, which were increasingly and almost exclusively focused on the child's early relations with the mother... the pre-Oedipal or Kleinian mother"; and Lacan's rereading of Freud?"characteristically, Lacan insists that his return to Freud supplies the only valid model"[33]?formed a basic conceptual starting-point in that oppositional strategy.</p> <p>Lacan thought that Freud's ideas of "slips of the tongue," jokes, and the interpretation of dreams all emphasized the agency of language in subjective constitution. In "The Agency of the Letter in the Unconscious, or Reason Since Freud," he proposes that "the unconscious is structured like a language." The unconscious is not a primitive or archetypal part of the mind separate from the conscious, linguistic ego, he explained, but rather a formation as complex and structurally sophisticated as consciousness itself. One consequence of his idea that the unconscious is structured like a language is that the self is denied any point of reference to which to be</p>

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"restored" following trauma or a crisis of identity.

Other/other

While Freud uses the term "other", referring to der Andere (the other person) and das Andere (otherness), under the influence of Alexandre Kojève, Lacan's use is closer to Hegel's.

Lacan often used an algebraic symbology for his concepts: the big Other is designated A (for French Autre) and the little other is designated a (italicized French autre). He asserts that an awareness of this distinction is fundamental to analytic practice: "the analyst must be imbued with the difference between A and a, so he can situate himself in the place of Other, and not the other." Dylan Evans explains that:

- 1.The little other is the other who is not really other, but a reflection and projection of the Ego. Evans adds that for this reason the symbol a can represent both objet a and the ego in the Schema L. It is simultaneously the counterpart and the specular image. The little other is thus entirely inscribed in the Imaginary order.
- 2.The big Other designates radical alterity, an other-ness which transcends the illusory otherness of the imaginary because it cannot be assimilated through identification. Lacan equates this radical alterity with language and the law, and hence the big Other is inscribed in the order of the symbolic. Indeed, the big Other is the symbolic insofar as it is particularized for each subject. The Other is thus both another subject, in his radical alterity and unassimilable uniqueness, and also the symbolic order which mediates the relationship with that other subject."

For Lacan "the Other must first of all be considered a locus in which speech is constituted," so that the Other as another subject is secondary to the Other as symbolic order. We can speak of the Other as a subject in a secondary sense only when a subject occupies this position and thereby embodies the Other for another subject.

In arguing that speech originates not in the Ego nor in the subject but rather in the Other, Lacan stresses that speech and language are beyond the subject's conscious control. They come from another place, outside of consciousness?"the unconscious is the discourse of the Other." When conceiving the Other as a place, Lacan refers to Freud's concept of psychical locality, in which the unconscious is described as "the other scene".

"It is the mother who first occupies the position of the big Other for the child," Dylan Evans explains, "it is she who receives the child's primitive cries and retroactively sanctions them as a particular message". The castration complex is formed when the child discovers that this Other is not complete because there is a "Lack (manque)" in the Other. This means that there is always a signifier missing from the trove of signifiers constituted by the Other. Lacan illustrates this incomplete Other graphically by striking a bar through the symbol A; hence another name for the castrated, incomplete Other is the "barred Other."

Phallus

Feminist thinkers have both utilised and criticised Lacan's concepts of castration and the Phallus. Feminists, such as Avital Ronell, Jane Gallop, and Elizabeth Grosz, have interpreted Lacan's work as opening up new possibilities for feminist theory.

Some feminists have argued that Lacan's phallogocentric analysis provides a useful means of understanding gender biases and imposed roles, while other feminist critics, most notably Luce Irigaray, accuse Lacan of maintaining the sexist tradition in psychoanalysis. For Irigaray, the Phallus does not define a single axis of gender by its presence/absence; instead, gender has two positive poles. Like Irigaray, French philosopher Jacques Derrida, in criticizing Lacan's concept of castration, discusses the phallus in a chiasmus with the hymen, as both one and other.

강의개요

영문텍스트를 한국어로 발제하고 토론하는 수업이다. 요약보다는 텍스트의 문제의식을 스스로 소화하여 발제하고 토론한다. 별도의 번역/발제문은 필요하지 않으며 문단별로 주요한 내용을 직접 책을 보면서 얘기한다. 텍스트가 끝나면 관련 있는 주제를 택하여 법률문서를 작성하여 발표 발표한다. 법률문서의 대상 사건은 실제의 사건도 좋고 개연성 있는 사건을 구성해도 좋다. 법률문서의 종류에도 제한이 없다. 소장, 준비서면, 항소이유서 등 변호사가 작성하는 여하한 형식을 취하면 되며, 심급에도 제한이 없다.

* 장애학생의 경우 장애학습지원센터와 강의 및 과제에 대한 사전 협의가 가능합니다.

교재 및 참고자료		
주교재	J. A. Indaimo, [The Self, Ethics and Human Rights: Lacan, Levinas & Alterity], Routledge, 2015.	
참고자료	오정진, [주변의 법](부산대출판부, 2013); 오정진, [사이의 법](부산대출판부, 2015). 엠마누엘 레비나스, [윤리와 무한], 다산글방, 2000. 김도형, "윤리와 정치-레비나스 윤리의 정치철학적 함의에 대한 연구", 부산대 철학과 박사학위논문, 2016.2.	
주별 강의계획		
주차	강의 및 실험 실기 내용	과제 및 기타 참고사항
제1주	[표절, 시험 부정행위 예방교육 및 실험·실습 안전교육 실시] 3/6 수업 안내	3/8
제2주	3/13	3/15
제3주	3/20	3/22
제4주	3/27	3/29
제5주	4/3	4/5
제6주	4/10 보조자료 제공, 토론	4/12 보조자료 제공, 토론
제7주	4/17 수업 없음(중간시험 기간)	4/19 수업 없음(중간시험 기간)
제8주	4/24 보조자료 제공, 토론	4/26 보조자료 제공, 토론
제9주	5/1	5/3 휴강(석가탄신일)
제10주	5/8	5/10
제11주	5/15 수업 없음(개교기념일)	5/17
제12주	5/22	5/24
제13주	5/29	5/31
제14주		term paper workshop
제15주		
제16주		
첨부파일		