ACLP Written work assignments (2026)

Each of your written works should not exceed 2 pages of an A4 size sheet.
Completed work must be uploaded at https://lawlec.korea.ac.kr/essay/

IMPORTANT

If you have used AI (even partially), you must disclose that your work was assisted by AI.

Ancient Chinese Law and Philosophy (ACLP) Written work assignments

[ACLP Assignment No. 1]

“Are we bound by law?”

In preparing your written work, please consult:

Joseph Raz, “The Obligation to Obey: Revision and Tradition”, 1 Notre Dame J.L. Ethics & Pub. Pol’y 139 (1985). (Full text available at HeinOnline, which is accessible from the KU Library website)

You should also take into account of the following:

The Master spoke of Gong Ye Chang (□□□): “He is marriageable. Although he was imprisoned, it was not his fault.” The Master gave his daughter to him in marriage. (Lunyu 5.1)

Due date: 10 November 2026, 23:00

[ACLP Assignment No. 2]

Discuss the following passage from Lunyu:

Duke She (□□) told Confucius, “In my village, there is a very honest person. When his father stole a sheep, he testified for the prosecution.” Confucius said, “In my village, honesty is different. Father’s deed may be covered up by the son. Son’s deed may be covered up by the father. Honesty may also be found there.” (Lunyu 13.18)

In preparing your written work, please take into account the classroom discussion and compare it with H Rosemont, R Ames, “Family Reverence (xiao □) as the Source of Consummatory Conduct (ren □)” Dao, Vol. 7, No. 1, 9-19

Due date: 24 November 2026, 23:00

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10. In his home town

1. When Confucius was in his home town, he was simple and meek. It looked as if he could barely speak. When he was in an ancestral temple or in a court, he spoke fluently without hesitation. But he was respectful.
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2. In court, speaking to counsellors junior to him, he was frank and straightforward. With counsellors senior to him, he would debate cordially and courteously. When the ruler was present, he was polite and cautious. He was also austere and poised.
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3. A ruler may ask him to receive a guest. When the guest arrives, he would wear a solemn face and tap the floor tile with his foot as a sign of respect. He would greet the guest from where he stood by joining his two hands at his chest. Before as well as after the greeting, his costume was neatly

maintained. He would then move forward on his toes in quick steps like a fluttering bird. After the guest has left, he would always report back saying, “The guest has left without looking back.”

君召使擯，色勃如也，足躩如也。揖所與立，左右手。衣前後，襜如也。趨進，翼如也。賓退，必復命曰：「賓不顧矣。」

4. When entering the gate of a government office, he would always bend himself, as if the gate was not big enough. He would not stand in the middle of the gate. While entering the gate, he would not step on the threshold. When passing by a place housing ancestral tablets, he would wear a solemn face, tap the floor stone with his foot as a sign of respect and his speech would become like that of a feeble man. He would then hold the hem of his lower garment and climb up to the place, bending himself and holding his breath almost as if he was not breathing. Coming out from the hall, as soon as he laid his foot on the first step, he would unwind. One could tell from his face that he was contented and elated. Having come down to the last step, he would respectfully move on in quick steps on his toes,
like a fluttering bird. When he re-passes by the place, he would be at ease and uninhibited.

入公門，鞠躬如也，如不容。立不中門，行不履閾。過位，色勃如也，足躩如也，其言似不足者。攝齊升堂，鞠躬如也，屛氣似不息者。出，降一等，逞顏色，怡怡如也。沒階趨進，翼如也。復其位，踧踖如也。

5. When holding the jade insignia, he would bend himself, as if it was too heavy to hold. In receiving it from his superior or passing it to his subordinate, he would wear a face of trepidation. While he was holding the insignia, he would walk without lifting his heels from the ground, as if he was being carried away effortlessly. During sacrificial ceremonies, he looked like an expert in rituals and music. In private audience, he was jovial and congenial.

執圭，鞠躬如也，如不勝。上如揖，下如授。勃如戰色，足蹜蹜，如有循。享禮，有容色。私覿，愉愉如也。

6. Our noble man avoided deep purple and orange in decorating

the lapels of his coat. Red and violet were not used for his daily wear. In hot weather, he would wear an unlined jacket made of ramie. But he would always put on an outer garment over it before going out. Over a dark costume, he would wear a black lamb skin coat; over a white costume, he would wear a deer skin coat; over a brown costume, he would wear a fox skin coat. His usual skin coats were long except for the right-hand sleeve, which was cut short. He would always wear pyjamas when he went to bed. They were half his length. Fox and mink fur was used to give a full padding to his bedding. When the mourning period was over, he would wear decorations without restriction. With the exception of the prescribed courtly wear, he would always tailor down his clothes to fit him. Wearing a black lamb skin coat and black hat, he would not attend a funeral. In the first month of the year, he would always wear the courtly costume and attend the court.

君子不以紺緅飾。紅紫不以為褻服。當暑，袗絺綌，必表而出之。緇衣羔裘，素衣麑裘，黃衣狐裘。褻裘長。短右袂。必有寢衣，長一身有半。狐貉之厚以居。去喪，無所不佩。非帷裳，必殺之。羔裘玄冠不以弔。吉月，必朝服而朝。

7. During purification, he would always rise at dawn, put on his cloth and say the sidereal prayer. During purification, he would always be on a special diet and stay in a different room.

齊，必有明衣，布。齊，必變食，居必遷坐。

8. He would prefer finely milled rice and thinly sliced meat. When the rice turned bad and began to have a funny taste, when the fish smelled slightly fishy, when the meat was a bit off, he would not eat. When the food was discoloured, he would not eat. When it smelled bad, he would not eat. When it was not piping hot, he would not eat. When it was not served at the right time, he would not eat.
When the food was not cut to the proper shape and size, he would not eat. When it was not accompanied by the right sauce, he would not eat. Even when meat was there in plenty, he would not let his appetite win over him. But he drank like a whale.

He would not, however, go out of control. Purchased wine and dried meat from a market, he would not touch. He did not mind spicy food but he would not have it too much. After a sacrificial ceremony in a government office, he would not keep overnight the give-away meat. The meat used in a sacrificial ceremony at home, he would not keep it for more than three days. After three days, he would not eat it. While eating, he would not have long conversations. In bed, he would keep quiet. Even when he only had coarse rice and vegetable soup, he would set aside some of them for the spirits. He was always solemn when he did this.

[illegible]

9. If the cushions were not properly laid out, he would not sit.

[illegible]

10. While drinking with the local people, only after the senior member has left would he also leave. When the local people were having a ritual to fend off a plague, he would wear his courtly costume and stand at the east side of the step.

[illegible]

11. When he was sending a man to a different country, he would bow twice and see him off. Lord Ji Kang sent him some medicine. He bowed and received it. Then he said, “Qiu is not equal to this. I dare not taste it.”

[illegible]

12. His stable was burnt down. He came home from the court. He said, “Was anybody hurt?’ He did not ask about the horse.

[illegible]

13. If a ruler sent him a dish, he would always correct his posture and have a taste of it first. If a ruler sent him raw meat, he would always cook it and eat it while it is hot. If a ruler sent him a live animal, he would always raise it. In attendance during a meal of a ruler, the ruler would set aside some food for the spirits first and then he would also eat. During serious illness, when the ruler was coming to see him, he would lay his head to the east and place the courtly costume on him and tie it with the belt. If a ruler summoned him, without waiting for the carriage to be harnessed, he would set off.

□□
□□□□

14. When he was inside the Grand Temple, he would ask about everything.

□□□□□□□□

15. A friend died. But the deceased had been homeless. He said, “Bring the corpse in my house for a funeral.” If it was a friend who sent him a gift, even though it might be a carriage or a
horse, as long as it was not the give-away meat used in a sacrificial ceremony, he would not bow.

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16. He did not sleep like a corpse. But he did not live in extravagance. If he saw that a man was in a mourning period, even though he knew him very well, he would invariably wear a solemn face. If he saw a man wearing the funeral cap or a blind man, even if the man was in a rag, he would always correct his posture. To those who were press-ganged to hard labour, he showed respect. He paid respect to those who were heavy laden. When he was served with an elaborate meal, he would always show a sign of astonishment and stand up. When there was a big lightening or a violent gale, he would

invariably change his face.

□□

17. In climbing onto a carriage, he would always keep himself upright and hold the rope. Once in the carriage, he would not look around inside, he would not tell the driver to go fast, he would not point his finger at things.

□□□□□□□□□□□□□□□□□□□

18. Alarmed by people, the birds flew up. After circling around, they came down and gathered together. The Master said, Female pheasants in the mountain! It’s the right time! It’s the right time!” Zi Lu served the bird to the Master. The Master sniffed the dish three times, then he rose.
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Was Guan Zhong (□□) a man of ren (□)?

Guan Zhong (□□; ca. 720BC-645BC) was the minister who assisted Duke Huan of Qi so that the State of Qi became the leading state (hegemon) during the Spring and Autumn Period of ancient China. But Confucius apparently had harsh things to say about him:

> *“Guan Zhong is a man of small calibre! (□□□ □□□! □□□□□□□)” (□□ 3.22)*

Someone asked clarification.

> *“You mean, he was frugal? □□□□□”*

Confucius did not mince his words. He made scathing remarks about Guan Zhong's staggering wealth. According to Confucius, Guan Zhong did not know Li □ either.

> *He had three residences, each complete with a full array of domestic staff. How could he be frugal? Only a ruler can have a gate screen. But Guan Zhong had one. Only when a ruler entertains another ruler, can he have a cup stand. But Guan Zhong had a cup stand. If he knew Li, who didn't?*

However, regarding the question of ethical integrity (□), Confucius shows a very interesting response. Was Gaun Zhong a man of ethical integrity? That was the question posed by Confucius' students.

> *Zi Gong said, "Guan Zong lacked ethical integrity, did he not? When Duke Huan of Qi had his brother Jiu killed, Guan Zhong was unable to commit suicide. He instead served Duke Huan as his minister." (□□ 14.17)*

Jiu was the elder brother of Duke Huan. Guan Zhong was originally serving Jiu. When there was an armed conflict between brothers who were competing for the throne of Qi, Guan Zhong attempted to assassinate Duke Huan. But the attempt was unsuccessful and Jiu had to flee to a neighbouring state. When Duke Huan eventually came to the throne of Qi, he put pressure on the ruler of the neighbouring state (who harbours Jiu) to have Jiu killed. Jiu was duly killed and his body was pickled and presented to Duke Huan. When a ruler is killed, it was 'appropriate' and perhaps 'ethical' for his minister such as Guan Zhong to commit suicide. For instance, minister Shao Hu who had been serving Jiu committed suicide when Jiu was killed. But Guan Zhong not only not killed himself but somehow enlisted the help of his close friend Bao Shuya (□□□) who was an aide to Duke Huan. Bao recommended Guan Zhong to Duke Huan and Guan Zhong became his minister. Guan Zhong must have had a superbe skill of winning the mind of his former enemy.

Zi Gong, however, denounces Guan Zhong’s apparent lack of ‘ethical integrity’. However, Confucius replied as follows:

> *Guan Zhong acted as prime minister to the duke Huan, made him leader of all the princes, and united and rectified the whole kingdom. Down to the present day, the people enjoy the gifts which he conferred. Without Guan Zhong, we should now be wearing our hair unbound, and the lappels of our coats buttoning on the left side. Will you require from him the small fidelity of common men and common women, who would commit suicide in a stream or ditch, no one knowing anything about them? (□□ , 14.17)*

Zi Lu asked a similar question. Confucius’ reply was even more definitive.

> *When the duke Huan caused his brother Jiu to be killed, Shao Hu died with his master but Guan Zhong did not die. May not I say that he was lacking ethical integrity?*
> *The Duke Huan assembled all the princes together without even using weapons of war and chariots – it was all through the influence of Guan Zhong. Have ethical integrity like him! Such ethical integrity as his!* □□□□□□□□□□□□□□□□□□□□□□□□□□□□□□□ *(□□, 14.16)*

There is another passage where Confucius extols Guan Zhong’s great virtue.

> *Someone asked about Zi Chan. Confucius replied. ‘He was kind.’ Someone asked about Zi Xi. Confucius said, ‘Oh dear, don’t ask me about him. Not him!’ Someone asked about Guan Zhong. Confucius said, ‘A great man, indeed. He grabbed the town of Pian which had three hundred households from the Bo family. The villagers only managed to have coarse meals, but no one had bad feelings until the end (even when they had no teeth from old age).’(□□, 14.9)*

What then? All is well that ends well? The end justifies the means? All is forgiven as long as you get the result? Definitely not! There are simply too many passages where Confucius emphasised that the process counts, rather than the result. Even if you cannot hope to have a result, you must nevertheless endeavour in all earnest.

Ethical integrity, morality is far more complex. It cannot be simply explained in black on white. It is certainly not a matter of some "inflexible" principle. It is not something that can be approached from dogmatic or absolute terms.

A good deal of common sense and flexibility would put you on the right path, provided that you have the right training and the right frame of mind – provided also that you have the determination to improve yourself constantly.

Advice to Kangshu (□□)

Original text

[Duke of Zhou] spoke thus: Lord of lords, my younger brother Feng! Our illustrious father the late King Wen (□□) has shown splendid virtues and prudently applied punishments (□□□□). He dared not despise widows and widowers. He employed the employable, respected the respectable. He was fearsome against the feared. He shined in the eyes of the people. He thus started our area, then it grew beyond our one or two regions and this is how we came to rule our western territory. All this while, he diligently sought counsel from the Lord Above (□□) and the Lord was pleased. Heaven therefore ordained King Wen to conquer the Yin. The heavenly mandate reached its territory and its people. They are provided for at the moment. Your humble elder brother (Duke of Zhou) made some efforts and

thus you are here in this eastern territory.

Oh, Feng, keep this in mind. Whether these people will remain reverent would depend on whether you take the example of the late King Wen and follow his virtuous words (□□). Please do a comprehensive study of earlier sage kings of Yin so that you can govern these people well. You should uphold the teachings of Shang elders so that you can win their heart and know what to teach them. You should specially seek counsel of the ancient sage kings so that you make people prosper and protect them. When your virtues are great enough to reach the sky, you will not be cast away in the execution of the king's commands.

My little brother Feng! Feel the pain of the people as if it is your own. Be mindful of the Heaven. Fearful as it may be, Heaven helps those who are sincere. You can see the public opinion in its broad outline, but it is difficult to retain small men. When you are there, give all your heart. Do not indulge in leisure and pleasure. Govern people instead. I heard thus, "Grievance does not arise from abundance or shortage; it arises from lack of principle in giving rewards and lack of the ruler's efforts."

It is true, my little brother, you must ensure that the Yin people are well protected and that they obey the king. You must assist the royal house in fulfilling the Heaven's mandate by renovating these people (□□□).

Oh, Feng, please be cautious and transparent in applying punishments (□□□□). Suppose a person commits a small crime. If it is not a mishap but an intentionally committed violation of the rules, then the law is that – even though the crime may be small – he cannot but be put to death. On the other hand, even though the crime is great, if it was not intentionally committed but a disastrous mishap, then the equity is that – if the person has already fully admitted its fault – he shall not be put to death.

Oh, Feng, if these are properly done, people will obey splendidly. They will regulate themselves and strive for harmony treating the misdeed as if it is a disease. They will abandon their evil deeds. Protect them as if they are your own babies. They will prosper and be orderly. It is not you, Feng, who punish or execute people. Do not punish or execute them arbitrarily. It is not you, Feng, who cut the nose or ears of the people. Do not arbitrarily cut people's nose or ears.

When 'external' affairs are presented to you, let the appropriate legal offi□cer (□□) deal with them according to the punishments of Yin which stand to reason. When interrogating a prisoner, reflect for five, six or upto ten days before making the definitive decision. When legal officer pronounces the punishments in the proceedings you supervise, make sure that they are in accordance with the Yin law and the punishment and the execution are just. Do not use them to suit your personal feelings, saying, "I think this is proper", "I think this is not in order". [It is true, Feng, you are young. There is no one who has a heart like yours. You know my heart and my virtue.]

Those who commit the crime of robbing, stealing, treachery, killing, laying hands on other's goods or committing violence without fearing one's life, are to be abhorred. But the greatest evil to be abhorred all the more is lack of filial piety and brotherly love. The son who does not serve his father with respect, but greatly hurts his father's heart; the father who does not love his son, but hates him; the younger brother who does not think of Heaven's brightness, and does not respect his elder brother; the elder brother who does not have compassion for his tender younger brother, and treats him coldly and suppress him: if we do not deal with the people who commit these crimes, the law which our people have received from the Heaven will be greatly annihilated and disturbed. This is why these conducts need to be constrained. They must have the punishment or execution as set down by King Wen

without pardon.

When the great command is disobeyed; moreover, when junior lords, village chiefs, their deputies and minor offi□cers sent out [to Yin] entrusted with power give commands arbitrarily and cause havoc; and when people in general, without scruple and without diligence, plague their ruler, evils arise. And I abhor them. This is why you need to deal with them and put them to death in accordance with rightness.

Also, when the ruler and the heads cannot manage to control their own family members and when their small offi□cers and retainers cause terror and commit cruelty, that is to greatly abandon the king's commands and to use punishments without virtue (□□□□). You too must never fail to uphold the law and make people happy just as King Wen made them happy through his cautious reverence for the law. Having made the people happy, if you can say, "I made it", I shall be happy.

Feng! people should be guided by auspiciousness and happiness. Use the virtue of earlier sage kings of Yin and seek to govern people well. It is not right to lead people astray. If people do not follow your lead, then there is no government in that country.

Feng! I cannot but reflect upon and tell you these virtuous sayings about administration of punishments (□□□□□□□). At the moment, the people are not quiet. A lot of them have not made up their mind to follow us. They have not yet become one with us. Only Heaven will punish those who kill us. We should not blame them as long as their crimes are not with their magnates, are not widespread. It is said, "If it is manifest, it will be heard in Heaven."

Oh, Feng! Be cautious and respectful. Do not cause grief. Do not use bad counsel, do not follow the crooked way. Please practice virtue diligently. Have firm resolve. Scrutinise your own virtue. Have a grandiose plan. Be generous to the people

to bring them comfort. Then I shall have no occasion to blame you or to remove you.

Oh, my little brother Feng! Our mandate is not permanent. You must remember it. Do not make me remove you. Obediently carry out the mandate clearly. Uphold what you heard from me. Govern people well.

Go, Feng! Do not ruin the revered law. Listen to my advice. You will then be venerated by Yin people generation after generation.

Contract interpretation

The fundamental rule of contract interpretation is that contractual language must in principle be given effect as it is written. The Korean Supreme Court (the highest court in Korea for civil and criminal matters) has consistently ruled as follows:

> *Once the court is satisfied with the authenticity of the contractual document, the court must, in the absence of clear and convincing evidence to deny what is written, recognise the existence and the content of the parties' intent as it is written on the contractual document. (Supreme Court Judgment 2002Da23482 dated 28 June 2002)*

The importance of contractual language is further emphasised as follows:

> *In interpreting a contract, if the parties' true intent is not knowable, the interpretation should be based on the intent inferred from outward expressions rather than the intent inside the parties' mind because what constitutes the*

contractual intent is the intent inferred from expressions, i.e., the expressed intent, rather than the intent which was held in the parties' mind.[2]

[2]*Ibid.*

The Supreme Court also ruled that "contract interpretation aims to establish clearly the objective meaning the parties assigned to the expression. While the court is not always constrained solely by the language chosen by the parties, the court's task is nevertheless to base itself on the contractual language and to interpret reasonably the objective meaning which the parties assigned to the expression regardless of what the parties might have entertained in their mind."[3]

If the objective meaning is unclear from the language of the contract, the Supreme Court has given guidance as follows: "when the court has to interpret the intent of the parties because there is a difference of views as to the interpretation of the contract, the interpretation must be done reasonably in accordance with logic and rules of experience, taking account comprehensively of the textual content, motives and circumstances leading to the agreement, the aim and purpose which are to be achieved by the agreement as well as the parties' true intent."[4]The Supreme Court has also held that the interpretation must be consonant with the notions of justice and equity as well as the common sense of the general public and the ordinary commercial understanding.[5]

[3]Supreme Court Judgment 2000Da40858 dated 23 March 2001. Also see Supreme Court Judgment 2002Da23482 dated 28 June 2002.

[4]Supreme Court Judgment 93Da32668 dated 25 March 1994; Supreme Court Judgment 96Da1320 dated 9 April 1996. Similar rulings are repeated in a number of cases. For example, Supreme Court Judgment 92Da47236 dated 24 August 1993. The "rules of

experience” mean rules derived from the experience of living in society (□□□□□ □□□□ □□ □□).

5Supreme Court Judgment 2008Da90095, 90101 dated 14 May 2009.

To govern (□ zheng) and □(xiao)

1. The Night Sky

- The Master said, “To govern with virtue is like being the Pole Star. You stay put and all the stars venerate you.” □□□□□□□□□□□□□□□□□□□□□□□(2.1)
- Our illustrious father the King Wen greatly promoted virtue (□) and cautiously applied punishments (□). □□□□ □□□ □□□□□. □□, □□ 2

2. Everything in its right place: □□□□□□□□□□□□□

- The Master said, “Govern people with politics and align them with punishments, they will evade and have no shame. Govern them with virtue and align them with Li, they will have decency and things will be in the right place (□).” □□□□□□□□□□□□□□□□□□□□□□□□□□□□□□□□□□□(2.3)
- Duke Jing of Qi asked about governing. Confucius said, “A ruler should be a ruler, a minister should be a minister, a father should be a father and a son should be a son.” The Duke said, “Lovely answer! Suppose a ruler is not a rule, a minister is not a minister, a father is not a father and a son is not a son, then even if there may be grains of millet, how can I eat them?” □

□□□
□□□□□

3. Proper punishments (□□□)

- **Pre-confucian sources:**
  - If governing is done properly, people will obey. □□□ □□□□ (□□, □□ 6)
  - With upright application of proper punishments, you should guide and govern people to make them splendid □□□□□□□□□□□(□□, □□ 3)

- **Analects:**
  - Duke Ai asked, "What should I do to make people obey?" Confucius replied, "If you promote and employ the straight to grind out the crooked, people will obey. If you promote and employ the crooked to grind out the straight, people will not obey." □□□□□□□□□□□□□□□□□□□□□□□□□□□□□□□□□(2.19)
  - Zi Lu said, "Suppose the ruler of Wei recruits you and entrusts the governing. What will you do first?" The Master said, "I would rectify names, first of all." Zi Lu said, "There you go. You're always taking a long detour, aren't you? How come rectifying names is your first priority?" The Master said, "How uncivilised you are! A noble man would remain quiet when it is about something he does not know. If names are not correctly used, your speech will be feigned. With a feigned speech, you cannot accomplish anything. If things are not accomplished, the Li and the Music will not flourish. If the Li and the Music do not flourish, punishments will not be properly administered. If punishments are not properly administered, people would not know where to

stand. If a noble man should name names, he must be able to defend it. If he should say things, he must be able to act on it. When it comes to speech, a noble man ought not to talk nonsense."
[illegible](13.3)

- The Master said, "A noble man cherishes virtue, a small man cherishes land. A noble man is mindful of punishment, a small man is mindful of benefit." [illegible](4.11)

- **Post-confucian sources:**
  - Through an upright application of punishments, let the people have the sense of shame. [illegible] ([illegible], [illegible] 57)
  - Li does not reach down to the rank and file. Punishment does not reach up to the magnates. [illegible] ([illegible], [illegible] 68). ??
  - [When Confucius was appointed the Chief Law Enforcement Officer of Lu, he had executed a magnate Shao Zheng Mao ([illegible]) on charges of corruption.] The words got around and a few months later, merchants selling pork or mutton did not try to rip off the customers; men and women used different sides of a road; no one touched lost or misplaced items in the street; and visitors from foreign countries obtained what they wanted from the officials without bribing them. ([illegible], [illegible] 19)

4. xiao ([illegible]) in the context of Zhou feudalism

- Master You said, "A person who loves his parents and

brothers and yet loves to attack his superiors is hard to find. A person who does not love to attack his superiors and yet loves to start a rebellion is unheard of. A noble man will strive to get the basics properly done. When the root is solidly established, the Way will flourish. Respect for parents and affection for brothers are the root of ethical integrity.” □□(1.2)

- The Master said, “When your father is alive, you should observe what he intends. When he is dead, you should observe what he did. If you do not change your father’s way for three years, you can be called a dutiful son. □□□□□□□□□□□□□□□□□□□□□□□□□□□□□□□□(1.11)
- Zi Zhang said, “In the Documents, there is a passage ‘Gao Zong did not speak for three years when his father died.’ What does that mean?” The Master answered, “Not only Gao Zong, but all rulers in olden days were like that. When a ruler dies, officials reported to the Prime Minister and the governing was done by the Prime Minister’s order. This continues for three years.” □□□(14.40)
    - (□□, □□□ 23): When the Emperor Xiao Yi died, his son Wu Ding [=Gao Zong] was established as the new emperor. Emperor Wu Ding wanted to rejuvenate Yin but he could not secure his aides. For three years, he did not speak. He let the governing be done by the Prime Minister’s decisions and observed the trends of the country. □□□

- Master Zeng said, “I heard the Master saying as follows: Lord Meng Zhuang’s love for his parents can be emulated by others. But he did not replace his father’s ministers and he did not change his father’s policies. That is difficult to emulate.” □□□□□□□□□□□□□□□□□□□□□□□□□□□□□□□□

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- cf. Meng Zi’s misunderstanding: When a ruler dies, the new ruler would let the Prime Minister do the governing. The new ruler would eat porridge, his face dark with sorrow. He keeps wailing upon acceding to the throne. Officials down to the lowest grade dare not fail to grieve. □□□□□□□□□□□□□□□□□□□□□□□□□□□□□ (□□, □□□□ 2)
- Confucius’ own remarks about mourning period: Three year mourning is normally practised everywhere. (17.21)

5. Honesty (□)

- Duke She (□□) told Confucius, “In my village, there is a very honest person. When his father stole a sheep, he testified for the prosecution.” Confucius said, “In my village, honesty is different. Father’s deed may be covered up by the son. Son’s deed may be covered up by the father. Honesty may also be found there.” □□(13.18)
- Duke She asked Zi Lu about Confucius. Zi Lu ignored him. The Master said, “Why didn’t you say that he is the kind of man who would forget about eating when he is outraged, forget his worries when he is happy and he does not know that old age will eventually get to him.” □□(7.19)
- Duke She asked about governing. The Master said, “If you make people near you happy, far away people will come to you.” □□□□□□□□□□□□□□□□□□(13.16)

What did Confucius say about honesty?

- One should live with honesty. If you live crookedly, all you can manage, if lucky, is to avoid being caught.” □□□□□□□□□□□□□□□□□□□(□□ 6.19)
- The Master said, “There are three types of helpful friends and three types of harmful friends. Honest

friends, sympathetic friends and erudite friends are beneficial. Bigoted friends, slippery friends and silver-tongued friends are harmful.” □□□□□□□□□□□□□□□ □□□□□□□□□□□□□□□□□□□□ (□□ 16.4)

- Zi Zhang asked, “What should an officer do to become a successful person?” The Master said, “What do you mean by ‘success’?” Zi Zhang answered, “Renowned in the country, renowned in the family.” The Master said, “That is a renown. It is different from ‘success’. A successful person is honest in his substance and is fond of righteousness. He cautiously observes people’s speeches and appearances. He is considerate to people who are below him. Such a person is a success wherever he may be. A renowned person puts on an appearance of being ethical but his actions are against it. He remains and indulges in his position without self reflection. Such a person is bound to be renowned in the country and in the family.” □□□□□□□□□□□□□□□□□□□□□□□□□□□□□□□□□ □□ □□□□□□□□□□□□□□□□□□(□□ 12.20).
- When honesty is not in accordance with Li, it becomes a snare. □□□□□ (□□ 8.2),
- When you cherish honesty and does not cherish learning, you end up in a straight jacket. □□□□ □□□ (□□, 17.8)
- Learning will make you overcome inflexibility. □□□ (□□ 1.8)
- Zi Gong said, “Does a noble man also have hatred?” The Master said, “Of course. He hates those who speak ill of others. He hates those who live a lowly life and slander superior people. He hates those who have courage and yet fail to abide by Li. He hates those who are bold and yet have a closed mind.” The Master then said, “Ci (□), do you also have hatred?” Zi Gong replied, “I hate those who beat around the bush and treat it as wisdom. I hate those who are rude and think that they are courageous. I hate those who rat on others and think that they are honest.” □□□□□□□□□□□□□□□□□□□□□□□□□□□□□□□□□□□□□□

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- Modern debates about Lunyu 13.18 largely miss the complexity of honesty. Instead, they were lost in the maze created by introducing xiao (□), ren (□) and criminal procedural technicalities into the discussion:
  - H Rosemont, R Ames, “Family Reverence (xiao □) as the Source of Consummatory Conduct (ren □)” Dao, 7 (1), 9-19 (2008)
  - Xiaomei Yang, “Reframing the Issue in 13.18 of the ‘Analects of Confucius’: Family Privileges in Criminal Litigation and the Confucian Insight”, Dao, 23(3), 377-395 (2024)

6. Mencius (372-289 BCE), Warring States Period (475-221 BCE), “xiao (□) fundamentalism”

- Emperor Shun (□) (legendary, 2294-2184)
- His father Gu Sou (□□)
- Justice Minister Gao Yao (□□)
- Gu Sou commits a murder and is arrested. Shun smuggles out Gu Sou. Shun and Gu Sou escape to a seaside town and they live happily ever after.
- Ethical Black Hole (□□, □□□ 35; □□□ 1-3)

Xiao, Di (□, □) should apply beyond the family

- Lord Ji Kang asked, “What should I do to encourage people to be respectful and loyal?’ The Master said, “Face them with splendour, they will be respectful. Show them filial love and compassion, they will be loyal. Take the good examples to teach those who are less able, that is to encourage.” (2.20)
- Someone said to Confucius, “Sir, why are you not engaged in governing?” The Master said, “In the Documents, it is

said, ‘Filial love and brotherly love. Apply them to governing.(□□□□ □□□□ □□□□).’ What I do is also governing. Is it not governing?” (2.21)

- The Master said, “Hey guys, when you are at home, have filial love (□ xiao). When you are outside, have brotherly love (□ di). Be earnest and trustworthy. Comprehensively love all living beings but closeness should be based on ethical integrity. Conduct should come first. Then, study culture and civilisation when you have energy to spare.” (1.6)
- Si Ma Niu was unhappy and said, “Everybody has brothers. But I am all alone.” Zi Xia said, “I heard thus: Life and death take their course as ordained. Wealth and poverty are made in Heaven. A noble man will tread cautiously and will not make mistakes. A noble man will respect people and abide by Li. If you conduct yourself in this manner, within the four seas, everyone is your brother. How can a noble man worry about not having a brother?” □□□(12.5)
- [Actually, Si Ma Niu had a brother, □□ Huan Tui, who attempted to assassinate Confucius. Analect 7.23. Zuo Zhuan, Duke Ai, 14]

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Question 1

- Duty to disclose

Whether Mr Kim committed an act of deception will depend on whether Mr Kim has a duty to disclose and whether Mr Kim had the requisite intent to deceive and to induce Ms Lee to

conclude the contract.

If it can be concluded that a road plan affecting a portion of the garden is not something which has a substantial impact on the buyer's decision, there cannot be any duty to disclose on the part of Mr Kim.

- Ms Lee's first notice of termination

Assuming that Mr Kim has no duty to disclose, Ms Lee's first notice of termination shall be invalid. Ms Lee shall be in repudiatory breach. Ms Lee shall also be in mora creditoris.

- Mr Kim's impossibility of performance

On or after the closing, both parties' contractual obligations shall remain obligations without a due date. As Ms Lee is in mora creditoris, Mr Kim shall only be liable for intentional or grossly negligent breach. Mr Kim's failure to pay interest on his loan, which led to the foreclosure of M Bank, shall be assessed as Mr Kim's **intentional** breach of contract. Mr Kim shall thus be held liable for his impossibility of performance. Ms Lee's second termination notice shall therefore be valid.

- Damage

Ms Lee shall be entitled to damage award (in addition to termination). But the amount shall be reduced taking account of the parties' comparative negligence.

- Alternatively, in the event Mr Kim is found to have a duty to disclose

If the court or the tribunal finds that the road plan which affects a portion of the garden has a **substantial** impact on Ms Lee's decision to purchase the property, then Mr Kim shall have a good faith duty to disclose the road plan. Mr Kim's failure can, in such a case, amount to a deception if Mr Kim had the requisite intent. Ms Lee's first 'termination' notice

can in that case be interpreted as a notice of rescission (voidance). If Mr Kim did not have the requisite intent to deceive and to induce Ms Lee to conclude the contract, Mr Kim's failure to disclose can still constitute a breach of contract. In such a case, Ms Lee's first termination notice can most probably be valid (assuming that the road plan is found to have a **substantial** impact on Ms Lee's decision to purchase the property, Mr Kim's failure to disclose will be assessed to be a 'material' breach).

Question 2

- If Y does not terminate the contract, but seek damages in lieu of performance

Then the amount of Y's damage entitlement must be assessed as of the date of impossibility (1 Jan 2018). Y shall be entitled to the market value of the property as of 1 Jan 2018, which is 1.4 billion KRW plus interest from 2 Jan 2018.

X shall not have any defence. X shall be entitled to keep the money received from Y.

- If Y terminates the contract and seeks damage (which is not a wise step for Y to take)

Both parties must restore everything. Additionally, X has also to pay interest on the purchase price he received from the date he received the money. Y has also to pay market rate of rent for the property from the date he took the delivery.

Additionally, Y can choose between performance measure damage (0.4 billion KRW) or reliance measure damage.

X can have a defence of simultaneous performance to refuse (i.e., delay) payment of damage until Y disgorges the benefit of using the property (assuming Y has not done so to Z, see 2016Da240).

- If X did not know, at the time of the contract, that the

property did not belong to him [however, this point was not considered in grading as it was not covered by this semester’s syllabus]

X can terminate the contract (Art, 571(1)). Then all the consequences of termination and the defence of simultaneous performance explained above shall apply.

X shall have to pay damage to Y (but Y can choose between performance measure damage and reliance measure damage).

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Personal Details

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Education

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Employment

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Select Publications

Books:

Commentaries of the Korean Civil Code (2016 edition) contributing author of articles on general introduction to contracts and the legal effect of contract

Nationality and the Law: their origins and the future (Seoul: Korea University Press, 2010) co-author

The Inconvenient Truth of Korean Web (Seoul: Digital Media Research, 2009)

Aliens in medieval law: The origins of modern citizenship (Cambridge University Press, 2000)

Recent Articles:

“Korea-Japan Claims Agreement of 1965 and Compensation Claims of Korean Victims of Forced Labour”, The Journal of Comparative Law (2017).

“Re-evaluation of the Electronic Transaction Act”, Journal of Infomedia Law (2016).

“Gross negligence under the Electronic Financial Transaction Act of Korea”, Journal of Infomedia Law (2014).

“Codification in the 21th century – A view from Korea”, Codification in East Asia: Selected Papers from the 2nd IACL Thematic Conference (Springer, 2014).

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“Voluntary Third-party Intervention in International Arbitration for Construction Disputes”, Journal of International Arbitration (2013). Co-authored with Mr J Mitchenson
“Cloud Service and Protection of Personal Information”, Journal of Informedia Law (2012).
“The ‘real’ contract (Dinglicher Vertrag): a Futile Concept”, Journal of Korean Civil Law, (2010).
“Arbitration agreement under Korean law”, Korea University Law Review, Vol. 3 (2008).
“Measures of Damages under Korean Contract Law”, The Asian Business Lawyer, Vol. 2 (2008).

Other remarks
Fluent in English and French. Native language is Korean. Member of the Korean Bar Association, with frequent involvement (either as an arbitrator or as an expert witness) in international arbitrations conducted in accordance with the Rules of the ICC or the KCAB. Currently a member of the ICC Commission on Arbitration and ADR. Formerly an advisor to Culture, Media and Telecommunications Team of Legislation Research Commission of the National Assembly of Korea. He also served (until 2013) as a member of Civil Code Reform Commission appointed by the Minister of Justice of Korea. Currently a member of the Presidential Advisory Council on Science and Technology.