

Icebreak

I am Motoki Miura. I am studying philosophy of law at Graduate School of Law in Hitotsubashi University. May I first thank Dr. Simpson for his Brexit venture, travelling all the way to the other side of the continent, in this difficult hour? I'd hope the transportation and the accommodation has provided enough space for you to relax.

It is my surprise that a postgrad student should do a keynote. Yet, as I remember my experience at UCL in London, where Dr. Simpson serves as a lecturer, it often was Ph.D. students' task to briefly present the speaker in this kind of academic symposium.

I would expand the duty a little further today. My task is twofold: one, introducing Dr. Simpson to the audience; two, updating Dr. Simpson on the background of the commentators, audiences, and the currency of hate speech issue in Japan.

Brief summary of Simson's carrier

After graduating Monash University, Australia, Dr. Simpson flew beyond the big pond to complete his D.Phil. in Oxford [I hope I pronounced it correctly]. He has taught at the University of Chicago, and also his alma mater in Australia. Now he teaches at UCL, London.

Brief summary of Simpson's works

If I may, arbitrarily, pick up a keyword in Dr. Simpson's research, it would be the quest for 'structural harms of identity-based social hierarchy'. In a number of papers, Dr. Simpson has sought to articulate what generates and fosters the identity-based social hierarchy. His work is, if I may be arbitrary in description, careful and yet clear, being faithful to the analytic tradition. His focus is on hate speech indeed, but Dr. Simpson does not jump to conclusion without empirical support. He sees philosophy, or moral philosophy as a common enterprise with solid ground, not just personal enthusiasm. If my conjecture is correct, his aspiration for precision has to do with his background in Monash University, where he received MSc. It sure is fruitful to the audience, because some of us have more legal background than scientific one.

One of his papers is cited approvingly in Associate Professor Honda's paper included in the *Annuals of Legal Philosophy* 2017. If any of you would like to have a look at it in Japanese, it should be available through university libraries.

We all are certainly looking forward to hearing how Dr. Simpson will update the hate-speech theory.

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The commentators, audience, and hate Speech

Today's commentators are Associate Professor Ikeda from Meiji University and Associate Professor Kawase from Chiba University.

Professor Ikeda is a specialist of phenomenology, especially of Heidegger. His recent papers show a profound academic interest in the ethical issues that verbal communication might cause, like harassment and hate speech. Also, Professor Ikeda is famous for his translation of *When is Discrimination Wrong?*, written by Deborah Hellman.

Professor Kawase is a specialist in philosophy of law. His research has dealt with the complexity around nationalism. He has sought to reconcile the conflict between individual autonomy and nationalism. His research is extensive and covers essential issues around nationalism. His recent papers thoroughly examined distributive justice and collective responsibility in and between states. + BIOETHICS

Now, I would like to briefly mention the current situation of hate speech in Japan. Hate speech has been a subject of hot debate for the past several years. The hottest year probably was around 2014 to 2015. Right after I came back from London in September, 2014, I took entrance exams to two graduate schools of law in Japan. One was Hitotsubashi, the other was Keio. Both of them contained a question identical to today's title: Is hate speech punishable? It was intended to be a question on constitutional law. What was remarkable about this story is that I was sort of expecting it. Even from London, I could frequently see people talking about hate speech on social media and news. It was such a hot summer.

Back then, the problem was mostly of hate speech directed to people with non Japanese-heritage, especially that of Korean peninsula. Political implications aside, the debate led to the 2016 Anti-Hate Speech Act in National Diet, but it came without punishment for hate-speech. Now the reaction from local communities varies. Let me mention two examples. Osaka city passed an ordinance of similar sort. Osaka city's rule includes possible official announcement of violator's names. It is worth mentioning that Kawasaki city went further very recently. Last December it passed an ordinance that allows local authorities to take three-staged approaches. What was remarkable is the last stage includes a possible fine up to five hundred thousand yen.

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Before I close my part and hand the place over to Dr. Simpson, let me briefly mention what books are available, so that he can better understand what sort of academic resources are available to the Japanese public. Alongside a huge number of papers on academic journals, there are a number of books on hate speech. I dare not, and cannot hope to, list all of them. Of the works Dr. Simpson has cited, certainly Mill’s *On Liberty* and John Langshaw Austin’s *How to Do Things with Words* has been translated multiple times. Jeremy Waldron’s *The Harm in Hate Speech* became available to Japanese readers in 2015. Brettschneider’s work is introduced in an open access paper, but no translation has been published at the moment. Sadly, Frederick Schauer’s *Free Speech* is not available. I say this partly because I have had keen interest on his philosophy of law, but it is very good book and I hope someone will take up the task of translation. Other than the works cited, Deborah Hellman’s *When is Discrimination Wrong?* is available since 2011, and as I mentioned earlier, we owe this to Professor Ikeda.

Now, let me leave a few final notes. Today’s commentators and audiences include specialist(s) of law, philosophy, as well as those specialized in modern Japanese thinker, who actually coined a translation for the word ‘Philosophy’ in Japanese. I hope we will have a fruitful time of discussion. Thank you.

はじめに (抄)

三浦基生

一橋大学大学院法学研究科・博士後期課程 (法哲学)

- 目的
 - ①Simpson 先生の報告を理解するための簡単な情報提供
 - ②Simpson 先生への簡単な情報提供

①Simpson 先生の報告を理解するための簡単な情報提供

- Simpson 先生について
 - 豪・モナシュ大学→英・オックスフォード大学 (D.Phil.)
 - 現在 University College London の講師。(UCL はロンドン大学の最初の機関)
- 研究について
 - ヘイト・スピーチ、structural harms of identity-based social hierarchy
 - 議論の正確さ、慎重さ、経験的探求－「理系」のバックグラウンド？
 - 日本での紹介
 - 本多康作 (2018) 「差別発言の発話行為論的分析：H.L.A.ハートの法理論を補助線に用いて」 法哲学年報 2017, 187-198

②Simpson 先生への簡単な情報提供

- 本日のコメンテーターについて
 - 池田喬先生 (明治大学)
 - 現象学を中心とする現代哲学・倫理学、言語使用が引き起こす倫理的問題
 - デボラ・ヘルマン『差別はいつ悪質になるのか』共訳者
 - 川瀬貴之先生 (千葉大学)
 - 法哲学
 - 個人の自律とナショナリズム、正義論
- 日本におけるヘイト・スピーチ問題への関心
 - ちょっとした個人的経験から
 - 2014 年夏に受けた法学研究科院試憲法科目 = 'Is hate speech punishable?'
 - 法規制
 - 「本邦外出身者に対する不当な差別的言動の解消に向けた取組の推進に関する法律」(2016)
 - 「大阪市ヘイト・スピーチの対処に関する条例」(2016)
 - 表現活動を行ったものへの措置と氏名・名称の公表
 - 「川崎市差別のない人権尊重のまちづくり条例」(2019)
 - 勧告→命令→氏名公表・50 万円以下の罰金
 - 資料について (Simpson 先生が今回取り上げられた本・論文などについて；年は翻訳の出版年)
 - ミル『自由論』
 - ジョン・ラングショー・オースティン¹『言語と行為』

¹ 法哲学者にもジョン・オースティンがひとりいる。『法理学領域論 *The Province of Jurisprudence Determined*』(1832) の著者である。いずれもイギリスの学者で、『言語と行為』のオースティンはオ

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- (2019) 『言語と行為 (飯野勝己・訳)』 講談社学術文庫
- (1978) 『言語と行為 (坂本百大・訳)』 大修館書店
- ジェレミー・ウォルドロン (2015) 『ヘイト・スピーチという危害 (谷澤正嗣、川岸令和・訳)』 みすず書房
- コーリー・ブレットシュナイダー
 - 著作の紹介論文あり、オープンアクセス
 - 山邨俊英 (2016-7) 「ヘイト・スピーチに対する非強制的施策に関する原理的考察 (一) ~ (三) : Corey Brettschneider の価値民主主義 (Value Democracy) 論と民主的説得 (Democratic Persuasion) 論の考察を中心として」
広島法学 40 巻 2 号 134-106 頁 ; 41 巻 1 号 242-210 頁 ; 41 巻 2 号 86-62 頁
- Frederick Schauer. (1982). *Free Speech: A Philosophical Enquiry*. Cambridge University Press.
 - 未邦訳が惜しまれる専門家向け概説書
- 資料について+
 - デボラ・ヘルマン (2018) 『差別はいつ悪質になるのか (池田喬、堀田義太郎・訳)』 法政大学出版局

ックスフォードで教鞭をとっていたのに対して、法哲学者のオースティンは後の UCL にもなる London University で法理学講座を担当していた。批判的紹介は下記参照。
>H. L.A. ハート (2014) 『法の概念』 (第3版、長谷部恭男・訳) 筑摩書房 [原著は2012年]