

早稲田大学 大学院法学研究科

## 2018年度 修士課程入学試験問題（国外受験）

外国語科目

英語

## 外国人留学生

(1) 下線部 ① ② ③ を和訳しなさい。

① Two cases addressing the complicated concerns of reputation, identity, privacy and memory in the Digital Age were decided the same day on opposite sides of the Atlantic with different conclusions. The first began in Spain. In 2010, Mario Costeja González requested that a Spanish newspaper remove information about a sale of his property related to insolvency proceedings. When the paper refused, he requested that Google remove the search results that included the information. Google's refusal led to litigation in the Court of Justice of the European Union. On May 13, 2014, the court ordered Google to edit the results retrieved when González name was searched because the information about the property sale was "inadequate, irrelevant or no longer relevant, or excessive in relation to the purposes of the processing at issue carried out by the operator of the search engine."

On the same day in the U.S., two *American Idol* contestants brought every conceivable claim against Viacom, MTV, and a number of other defendants over online content that led to their disqualification from the television show. These two contestants made it to the "Top 32" round when information about their earlier arrests was published on websites like Smoking Gun. The hopeful singers had not disclosed their arrests to the show's producers. An unexceptional U. S. case, all of their claims were dismissed by the Tennessee district court for two main reasons. ② First, some of the claims were too old. Even though the Internet allows for continued public accessibility, under Tennessee state law, defamation claims must be filed within one year from the time the content was published. Second, any lawsuit in the U.S. seeking damages for the publication of true information is not going to get far.

③ Although the facts of the cases differ in ways that matter to the law as well as to public opinion, both involved parties asking the judicial system to limit the damage of digital content that would otherwise remain available for an indefinite period of time. Policy makers around the globe are being pressed to figure out a systematic response to the threat of digital memory – and it is a complex threat involving uncertain technological advancements, disrupted norms, and divergent values.

(2) 次の文章を日本語に訳しなさい。

In a globalized world, populism plays two roles: It denounces social inequality and decries the privileges of the wealthy few; and it calls for renewed national unity in the name of "the people." By highlighting ethnic understandings of democratic popular sovereignty, it lays bare the weaknesses of many liberal-democratic norms and shows how dependent on underlying social conditions modern representative democracy can be.

Populism is parasitical on representative democracy, but it also challenges and deforms representative arrangements. To be sure, all democratic political movements and parties make somewhat populist claims – especially during contested elections – but when populists actually take over governments, they may very well abandon party pluralism, divisions of power, rights of dissenters, and other key principles of constitutional democracy. Although ingrained in the ideology of the people and the language of democracy, populism in power stretches toward an extreme and unfettered strong-man rule in the name of the majority, with attacks on minorities.

Populism in power is a project that mistakes the part for the whole with devastating effects on constitutional arrangements. In short, even though modern populist movements are an understandable expression of current malaise in many democratic countries, they cannot lead to any sustainable democratic remedies.