外 国 語

A

英 語

早稲田大学大学院法学研究科

以下のⅠとⅡの問題にすべて日本語で答えなさい。

Ⅰ 次の文章を読んで、後の問いに日本語で答えなさい。

It is fascinating to consider the various ways in which Artificial Intelligence ("AI") and big data are being utilised by corporations, lawyers, judges and governments. But there are a variety of subtle ways in which bias can creep into a system, particularly AI systems dependent on machine learning. Bias may originate in the data used to train the system, in data that the system processes during its period of operation, or in the person or organisation that created it. There are additional risks that the system may produce unexpected results when based on inaccurate or incomplete data, or due to any errors in the algorithm itself. And although ①bias can of course emerge when datasets inaccurately reflect society, ②it can also emerge when datasets accurately reflect unfair aspects of society.

One area of particular concern is the use of AI tools to create 'risk assessments' to aid judges in sentencing decisions. This practice is becoming more and more common within the US justice system. At a high level, risk assessment tools aggregate data, often based on answers provided by the defendant or pulled from criminal records, and provide the judge with a recidivism score: a single number estimating the likelihood that defendant will reoffend. Many modern risk assessment tools were originally designed to provide judges with insight into the types of treatment that an individual might need — from drug treatment to mental health counselling. It can tell judges that if they put you on probation, they may need to provide certain services to assist you. But being judged ineligible for alternative treatment can translate into imprisonment, and the risk assessment score is then used to determine how severe the sentence should be.

Although this technology was crafted with the best of intentions, a former US Attorney General has warned that it "may exacerbate unwarranted and unjust disparities that are already far too common in our criminal justice system and in our society." Unfortunately, it appears that his fears are being realised. ProPublica, a non-profit newsroom in the US, carried out a study based on the risk scores assigned to more than 7,000 people arrested in Broward County, Florida, and checked to see how many were charged with new crimes over the next two years, the same benchmark used by the creators of the relevant risk assessment system. They reported that the score proved "remarkably unreliable" in forecasting violent crime: only 20 percent of the people predicted to commit violent crimes actually went on to do so. When a full range of crimes were taken into account the algorithm was somewhat more accurate than a flip of a coin: 61%. Moreover, the study found significant racial disparities: the system wrongly labelled black defendants as future criminals at almost twice the rate as white defendants. It is also concerning that defendants rarely have an opportunity to challenge their assessments. The results are usually shared with the defendant's lawyer, but the calculations that transformed the underlying data into a score are rarely revealed.

問１ 下線部①を本文にある事例に即して、具体的かつ簡潔に説明しなさい。

問２ 下線部②を本文にある事例に即して、具体的かつ簡潔に説明しなさい。

問３ 刑事被告人からすると、下線部①と②以外にもどんな問題があると本文は述べているか。

外 国 語

B－1

Ⅱ 英 語

早稲田大学大学院法学研究科

次の（イ）～（ニ）の中から２問を選択して答えなさい。
必ず選択した番号を明記すること。

（イ） 次の文章を日本語に訳しなさい。

THE costs of the criminal law are high. Not just the social or economic costs of the criminal justice system, though they are indeed high, especially in countries with a special zeal for incarcerating their citizens, but also the costs to offenders who are subjected to its uniquely severe sanctions. It is the costs of criminal law that make its use as a means of regulating conduct so difficult to justify. That justificatory threshold is commonly thought to be particularly difficult to surmount when the conduct in question is speech or expression. When, if ever, is the harm caused or threatened by expression serious enough to warrant control by means of criminal sanctions? And when, if ever, are less coercive or intrusive means unworkable or inappropriate? These are the questions I plan to explore in this chapter, with hate speech and obscenity as my two test cases. Throughout the discussion I will use Canadian free speech law and jurisprudence as my reference point, since (as we shall see) the Canadian courts have been particularly obliging in raising and responding to the principal philosophical issues concerning the criminal regulation of expression.

（ロ） 次の文章を日本語に訳しなさい。

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外 国 語

英 語

早稲田大学大学院法学研究科

（ハ） 次の文章を日本語に訳しなさい。

To speak of 'the autonomy of labour law' implies a claim that the subject is distinctive, independent and self-regulating. Like a person's face, labour law as a legal subject is distinctive in so far as it possesses certain characteristics that, in their unique combination, mark out that subject as different from others. The independence of the subject requires it to be self-standing and separate from the other branches of the legal system, not simply comprising a part of a broader whole in the way that liability for negligent breach of a duty of care is part of the law of torts. For a legal subject to be self-regulating, it must possess to a significant degree its own system of legal reasoning and its own concepts or legal institutions, or at least use legal rules and concepts in idiosyncratic ways. In other words, to be autonomous, labour law must think about issues within its own special logic, it must have its own sphere of meaning, or function as an autopoietic subsystem of law.

（ニ） 次の文章を日本語に訳しなさい。

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