早稲田大学大学院法学研究科

２０２５年度　修士課程入学試験問題（一般入試）

外国語科目　英語

（1）　以下は国際法の普遍化と半辺境の国際法学者の関わりについて論じた文章の一部である。これを読んで問いに答えなさい。

When we assume that international law has a European origin and look back at the progressive inclusion of non-Western states, we think that European international law expanded. However, delving into the discrepancy between ideas of expansion through admission and expansion through imposition, that is, acknowledging the coexistence of the regimes of equality and inequality, offers a glimpse into a very different story. This is the story about how international law became universal.

Nineteenth-century international law achieved global geographical scope by including (1)two separate regimes: one governing relations between Western sovereigns under formal equality, and the other governing relations between Western and non-Western polities under inequality, granting special privileges to the former. International law changed radically when the doctrines erecting the boundaries between these two regimes, the doctrine of recognition and the standard of civilization, were reinterpreted so that some semi-peripheral sovereigns were admitted into the international community and thus became governed by the regime recognizing formal equality.

Changes in the rules used to attribute international legal personality, however, resulted in (2)a transformation deeper than the geographical expansion of international law's range of validity. In the nineteenth century, international law became universal. The transformation of the doctrinal structure of international law was not a Western concession (i.e. expansion through inclusion), but the reinterpretation of rules by non-Western states, supporting their admission into the international community. This reinterpretation was possible because a generation of semi-peripheral international lawyers had appropriated Western international legal thought. After becoming versed in Western legal discourse, these semi-peripheral lawyers used it to engage in disciplinary debates, arguing for rules and doctrines that served the interests of their states. These particular uses of international law and engagements with the classical legal tradition produced a distinctive semi-peripheral legal consciousness. [...]

Consideration of semi-peripheral international lawyers' engagement with Western international legal thought invites us to rethink the meaning of universality as a term describing the transformations that the international order underwent during the nineteenth century. The term universality, I would suggest, reflects not only changes in international law's doctrinal outlook—reducing the scope of the doctrines that limited inclusion of non-European sovereigns—but also points at the global professionalization of international lawyers, articulating a transnational legal discourse. Furthermore, it describes a profound transformation in the nature and function of the international legal order itself: although international law continued enabling Western powers' global, political and economic intervention, it also began regulating and to some extent limiting the power of Western states, governing the interactions between independent political organizations on a global scale.

European international law expanded along with the global, economic and military expansion of the West. Semi-peripheral jurists internalized European legal thought in order to change rules. In changing the rules, however, they also transformed international law. (A)International law became universal, I would argue, only when non-Western jurists internalized European legal thought, transforming nineteenth-century international law in the abovementioned doctrinal, professional and normative dimensions.

※ページ下部に出典を追記しております。

問1　下線部(1)は具体的にどのようなものか、説明しなさい。

問2　下線部(A)を日本語に訳しなさい。

問3　下線部(2)はどのような意味か、内容を3つの側面に分けて簡潔に説明しなさい。

早稲田大学大学院法学研究科

２０２５年度　修士課程入学試験問題（一般入試）

外国語科目　英語

（2）　次の文章を日本語に訳しなさい。

There are always two types of cases pouring into criminal courts. The first set of cases, epitomized by homicides, are cases that the system has little choice but to forcefully address. A person is accused of a serious crime. The public demands justice. Rather than leaving justice to informal resolution among civilians, government officials funnel widespread concern and outrage into a formal judicial process for determining guilt and imposing punishment. That process is fairly characterized as "the criminal justice system."

The second set of cases, epitomized by drug offenses, is different. In this category of cases, the government makes a policy decision to discourage certain behavior through the criminal law. If the behavior continues undeterred, that policy decision generates a new flow of cases into the courts. The number of those cases and the intensity of enforcement depend on additional policy choices, not merely the prevalence of the underlying crimes. And while these cases go through the same adjudicative process as homicides, prosecution and punishment is about enforcing the law, not justice. This process can fairly be described as "the criminal legal system."

（3）　次の文章を日本語に訳しなさい。

The trigger based on which the discussion on the attribution of legal personality to AI emerged is that the powers that have been conferred to AI allow it to act autonomously or distantly from any human control. This situation raised concerns regarding the adequacy and application of current liability rules but those concerns have been extended to also capture future hypothetical cases in which AI would act and exist fully autonomously, which would then challenge almost every sphere of law.……There are already a few studies dealing with the rationale of attributing legal personhood to AI that distinguish between: (i) treating AI similarly to corporations or legal entities, namely as artificial entities capable of owning assets and transacting in their own name; and (ii) treating AI as persons, similarly to natural persons or individuals, in the futuristic scenario in which AI can indeed exist fully autonomously without principals or legal owners and act in its own name.