# ２０２６年度 博士後期課程入学試験 ・ ２０２５年度 外国語能力試験 問 題

# 外 国 語

A

## 英 語

以下のⅠとⅡの問題に答えなさい。

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Ⅰ 以下は人権に関する著書の一部分である。これを読んで問いに答えなさい。

The concept of a 'human rights culture' [...] means different things to different people. To some, it means ensuring that everyone is treated with respect for their inherent dignity and human worth. To others, it means that judges, the police, and immigration officials are required to protect the interests of terrorists, criminals, and migrants at the expense of the security of the population. (1)This tension has come to a head in some countries, including the United Kingdom, with popular newspapers ridiculing the application of human rights legislation and campaigning against the role of 'foreign judges'.

At times, human rights protections may indeed seem to be anti-majoritarian; why should judges or international bodies determine what is best for any society, especially when democratically elected representatives have chosen a particular path? But the point is that human rights may serve to protect people from the 'tyranny of the majority'. Human rights law, however, should not be seen as a simple device to thwart the wishes of the majority, as, with the exception of the absolute ban on torture, it does in fact allow for security needs and the rights of others to be taken into consideration in a democratic society. There is no easy answer to this conundrum that asks why judges should be entitled to uphold human rights in the face of democratic decisions. Different societies will choose different arrangements, some will place more power in the hands of judges than others. These arrangements may change over time—there is no perfect balance; there is no perfect judge. (2)Sometimes judges may be seen by some as able to rein in a government that unjustifiably tramples human rights, but that same judgment may be seen by others as upholding the rights of property owners or employers at the expense of a popular legislature mandated to protect vulnerable workers or racial groups. Arguing about rights is a way to argue about what sort of society we want. Rights to freedom of expression and information can be useful in ensuring that we have full democratic decision-making, and the same human rights can also be used to challenge the resulting legislation. Whether those claiming rights are actually right is something which we can only know in context. So let us try to be a bit more concrete.

We first need to understand that (3)*human rights* are a special, narrow category of rights. William Edmundson's introductory book on rights distinguishes human rights from other rights by suggesting that: 'Human rights recognize *extraordinarily* special, basic interests, and this sets them apart from rights, even moral rights, generally.' Richard Falk suggests that human rights are a 'new type of rights' achieving prominence as a result of the adoption of the Universal Declaration of Human Rights by the United Nations in 1948. This point is worth remembering throughout the book: we are not talking about all the rights that human beings may have—we are considering a rather special category of rights. The elevation of human rights to the international level after the Second World War has meant that behaviour can be judged, not only against what national law requires, but also against a standard which sits outside a national system. Every nation state is now subject to this scrutiny from outside.

Many who approach the subject of human rights turn to early religious and philosophical writings. In their vision of human rights, human beings are endowed, by reason of their humanity, with certain fundamental and inalienable rights. This conclusion has existed in various forms in various societies. The historic development of the concept of human rights is often also associated with the evolution of Western philosophical and political principles; yet a different perspective could find reference to similar principles concerning mass education, self-fulfilment, respect for others, and the quest to contribute to others' well-being in Confucian, Hindu, or Buddhist traditions. Religious texts such as the Bible and the Koran can be read as creating not only duties but also rights. Recognition of the need to protect human freedom and human dignity is alluded to in some of the earliest codes, from Hammurabi's Code in ancient Babylon (around 1780 BCE), right through to the natural law traditions of the West, which built on the Greek Stoics and the Roman law notion of *jus gentium* (law for all peoples). (4)Common to each of these codes is the recognition of certain universally valid principles and standards of behaviour. These behavioural standards arguably inspire human rights thinking, and may be seen as precursors to, or different expressions of, the idea of human rights—but the lineage is not as obvious as is sometimes suggested.

※出典は下記に記載しております。

問1 下線部(1)の指す内容を日本語で記しなさい。

問2 下線部(2)を日本語に訳しなさい。

問3 下線部(3)はどのようなことを指すか、日本語で分かりやすく記しなさい。

問4 下線部(4)の主語を抜き出しなさい。

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# 外 国 語

B-1

## 英 語

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Ⅱ 次の（イ）～（ニ）の中から１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）

It is universally recognized that an action will lie for inducing breach of contract by a resort to means in themselves unlawful such as libel, slander, fraud, physical violence, or threats of such action. Most jurisdictions also hold that an action will lie for inducing a breach of contract by the use of moral, social, or economic pressures, in themselves lawful, unless there is sufficient justification for such inducement.

Such justification exists when a person induces a breach of contract to protect an interest which has greater social value than insuring the stability of the contract. Thus, a person is justified in inducing the breach of a contract the enforcement of which would be injurious to health, safety, or good morals. The interest of labor in improving working conditions is of sufficient social importance to justify peaceful labor tactics otherwise lawful, though they have the effect of inducing breaches of contracts between employer and employee or employer and customer. In numerous other situations, justification exists depending upon the importance of the interest protected. The presence or absence of ill-will, sometimes referred to as "malice," is immaterial, except as it indicates whether or not an interest is actually being protected.

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More recently the ECtHR* subjected a (French) choice-of-law rule to scrutiny under the general principle of equality and the right to family life […]. French private international law subjects the adoptability of a child to the law of the child's nationality, thereby distinguishing -- as the Court ruled -- between two different categories of children: those who can be adopted (such as French children) and those who cannot (such as nationals of an Islamic country). French private international law does not, however, close the door completely on the adoption of a child born as a national of a state in which adoption is prohibited. Rather, it provides for the possibility that such a child -- after being given over to the legal care of its foster parents (in the instant case, by kafala) and thus coming to reside in France -- can eventually acquire French nationality and then be adopted under the law of his or her new nationality. The Court held that

> by gradually obviating the prohibition of adoption in this manner, the respondent state, which seeks to encourage the integration of children of foreign origin without cutting them off immediately from the rules of their country of origin, has shown respect for cultural pluralism and has struck a fair balance between the public interest and that of the applicant.

This holding again evidences the fact that the forum's private international law norms are not immune from human rights scrutiny. […]

*ECtHR: European Court of Human Rights

# 外 国 語

B－2

## 英 語

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(ハ)

At first glance, moral disagreement about the permissibility of capital punishment appears to have the same general contours as many other debates about the permissibility of killing or severely harming human beings, such as those regarding war, state-sanctioned torture, or euthanasia. In each of these debates, there are inevitably some absolutists who believe that the practice in question is always wrong, arrayed against those who believe that the practice is sometimes justified or even required. Moreover, the absolutists in these debates tend to support their categorical stances on deontological grounds—that is, on grounds that the practice in question is wrong as a matter of principle regardless of its potentially good consequences—while their opponents tend to argue for the conditional permissibility of the practice in question on consequentialist grounds. This rough sketch (deontological, categorical ban v. consequentialist, conditional permissibility) does not capture all the nuances of any particular debate, but the general shape of the central dispute is surely recognizable. At a very general level, this description captures the death penalty debate as well: a core of absolutists relies on the inherent wrongness of state killing, in contrast to proponents who urge that the beneficial social functions of capital punishment (usually deterrence of murder, but also incapacitation of the perpetrator and "closure" for the families of murder victims) justify its imposition, at least in some circumstances.



(ニ)

Data itself is a human artifact, and data collection is not neutral. We've seen how when certain groups are underrepresented in the data used to train the model, then predictions about them will be inaccurate. By its very definition, a majority population has more data to be studied. Governments have a responsibility to foster wider access to data but also to facilitate study of that data to the greatest extent possible. We've seen how, sometimes, scrubbing to neutral (e.g., deleting gendered and racial identifiers or associations) can produce better results in algorithmic processing, but we've also seen that neutralizing identity is often impossible – and, even more importantly, undesirable. We saw early in the book that, counterintuitively, the best way to prevent discrimination may be to authorize an algorithm to *consider* information about gender and race.[…] An algorithm that knows the characteristics of the individuals it screens can self-monitor to detect disparity. What types of inputs should be allowed and what should be forbidden is a normative decision that will vary. For example, we might want to use gender and race as identifiable inputs to detect ongoing bias or to correct past wrongs. These are policy choices that we need to reexamine given evolving capabilities. … A focus on fair and equitable *outcomes* – as opposed to restricting inputs or constraining algorithmic learning – is likely to be the most impactful strategy most of the time. The frontier for AI is not only to detect discrimination, but also to address and correct for ongoing social patterns of inequality.