

國立臺北大學 106 學年度碩士班一般入學考試試題

系（所）組別：法律學系（法理學組、公法學組、民事法學組、刑事法學組、
財經法學組、國際法學組）

科目：英文

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I. Read Comprehensive (30%)

Please find the best answer from (A),(B),(C), or (D) to each question. (每題 3 分、單選不倒扣)

Part 1

Since the 1970s, the South China Sea has been a nest of competing (1) over the island features and ocean spaces by a number of adjacent countries. Included in this is China's nine-dash line, first officially communicated in notes verbale to the United Nations in 2009. In addition, China has recently engaged in, amongst other things, the physical enhancement of many of the small features of the Spratly Islands and enforcement of a moratorium on fishing in the South China Sea.

The decision of the South China Sea Arbitration by a tribunal established pursuant to the UN Convention on the Law of the Sea (UNCLOS) has landed in this cauldron. UNCLOS provides for compulsory adjudication of disputes concerning the interpretation and application of the Convention, subject to a number of exceptions. In 2013, the Philippines commenced the case against China. Although a long-standing party to the Convention, China declined to participate in the establishment of the Tribunal or to appear before it. In deciding not to appear, China has followed a small number of states that have similarly declined to participate in cases before the International Court of Justice (ICJ), as well as the more recent nonparticipation by the Russian Federation in UNCLOS procedures in the Arctic Sunrise Case brought by the Netherlands.

There were fifteen Philippine Submissions dealt with by the Tribunal. The Submissions that have received the most post-decision attention and that are the focus of this Insight include the legal validity of China's claim of rights within the nine-dash line in light of UNCLOS and what—if any—maritime zones appertain to the insular features in the South China Sea. China viewed the principal subject matters in dispute as political and beyond the jurisdiction and competence of the Tribunal. The Philippines characterized the subject matters in dispute as involving the (2) of UNCLOS and thus within the jurisdiction of the Tribunal. As a result of this difference of views, it was necessary for the Tribunal to assess whether it had jurisdiction to deal with the merits of the Philippine submissions.

The Tribunal held that it had jurisdiction to consider the merits of almost all the Submissions made by the Philippines and, overall, accepted the claims and arguments on the merits asserted by the Philippines. China has further stated that it "(3)" the Award. There is a modest practice of states opting (3), and thus not comply with, decisions of the ICJ, the International Tribunal for the Law of the Sea (ITLOS), and a tribunal established pursuant to UNCLOS. In the immediate aftermath, the reactions indicate little hope that the South China Sea Award will result in a period of peaceful management of the tangled disputes within the South China Sea. China has loudly condemned the Award and a joint statement from ASEAN and China did not even mention it. Somewhat more encouraging are the preparatory talks that have taken place between the Philippines and China.

Of final note, concerns about whether the Award and China's rejection of it have undermined confidence in UNCLOS (4) are perhaps misplaced. Subsequent to the commencement of the South China Sea Arbitration, three parties have brought cases before ITLOS and two have commenced UNCLOS, Annex VII arbitration cases.

1. Please choose the correct answer filled in (1) from the following words.

- (A) adequate compensations
- (B) sovereignty claims
- (C) nationality jurisdictions
- (D) litigation and arbitration procedures

2. Which one of the following is the best description fill in (2) ?

- (A) mediation and arbitration
- (B) ratification and adoption
- (C) interpretation and application
- (D) implementation and facilitation

3. Please choose the correct answer filled in (3) from the following words.

- (A) neither accepts nor recognizes
- (B) not only accepts but also recognizes
- (C) between accepts and recognizes
- (D) rather accepts than recognizes

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4. Which one of the following best filled in (4) from the following words.

- (A) substantial development goal
- (B) peace negotiation process
- (C) freedom and justice legitimacy
- (D) dispute resolution procedures

5. Which country does not related to South China Sea dispute?

- (A) Philippine
- (B) China
- (C) Vietnam
- (D) Myanmar

Part 2

A cold rain fell outside Istanbul's Reina nightclub on Friday afternoon, six days after a gunman burst into the crowded bar and killed at least 39 people celebrating New Years' Eve. Heaped against a police barricade at the club's entrance were tributes laid in mourning: Flowers, portraits of the dead, and Turkish flags. A young woman walked up to lay a handful of red flowers on the pile, and then paused in silent prayer.

The public mood in Turkey is turning darker as the rate of internal (6) increases. Days after the club shooting, a car bombing killed at least two people in the coastal city of Izmir, in an attack attributed to Kurdish militants. In December, a deadly car bombing killed more than 40 people at a major Istanbul soccer stadium, and a police officer shot dead Russia's ambassador in Ankara. The bloodshed has become endemic over the past year and a half, as Kurdish separatist militants and Islamic State jihadists have slaughtered hundreds, and an abortive military coup attempt left more than 200 people dead and sparked a wave of repression by President Recep Tayyip Erdogan.

Yet rather than unite the country in mourning and solidarity, the recent wave of attacks appears to have deepened internal divisions between secular and more (7) conservative citizens, as well as between minority Kurds and Turkish nationalists. The acceleration of violence deals a blow to an already reeling economy, and hands the government more ammunition to pursue its clampdown on critics. "Both on ISIS' part and on PKK's part, they're trying to force Turkey to snap, snap between multiple things here, so it could be the populace snapping against Ankara. It could be Ankara snapping," says Selim Sazak, a researcher with The Century Foundation think tank. "I just think they want to force the system to fail, turn the heat up."

The parallel series of (8) by ISIS and by the Kurdistan Workers Party (known by the acronym PKK) have unfolded according to separate patterns and strike different targets. Kurdish militants have primarily targeted the security forces and state institutions, although civilians have also died in their attacks. ISIS' campaign of terror is indiscriminate, hitting tourist sites, a peace rally, and Istanbul's main airport. But both groups share the goal of undermining the country's stability.

ISIS claimed responsibility for the Jan. 1 attack on the nightclub, marking the first time the group acknowledged its operations inside Turkey, a country it has taken advantage of in years past to transport fighters into Syria and for elaborate smuggling operations. In August 2016, Turkey sent its armed forces across the border into Syria, expelling the ISIS fighters from a swath of the border they previously controlled, severing the group's most important artery to the world outside its self-proclaimed caliphate. As its territory shrinks under pressure from Turkey as well as operations by Syrian and Iraqi forces, ISIS continues a long established pattern of striking (9) targets far from the battlefields of Syria and Iraq. In December, an ISIS propaganda chief called specifically for attacks on Turkey.

Down the street from the Reina nightclub on Friday afternoon, a few dozen men assembled in a somber march of defiance. Riot police lined up in the road running parallel to the Strait of the Bosphorus, the waterway that runs through Istanbul and divides Europe from Asia. The demonstrators chanted "Allahu Akbar!"—God is great! They paused near the police to sing the Turkish national anthem. They carried a black banner reading, "May our blood run dry if we forget."

6. Please choose the correct answer filled in (6) from the following words.

- (A) violin
- (B) violence
- (C) vacation
- (D) volcano

7. Please choose the correct answer filled in (7) from the following words.

- (A) religious
- (B) regulations
- (C) reliable
- (D) regular

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8. Which one of the following best fill in (8) ?
(A) cold wars
(B) armed conflicts
(C) terror attacks
(D) civil wars
9. Which one of the following best fill in (9) in this article?
(A) combat
(B) military
(C) explicit
(D) civilian
10. What is the best topic for this short article?
(A) Brussels Terror Attacks Bring Guerrilla War to the Heart of Europe
(B) Paris terrorist attacks spread fear from Stade de France
(C) A Relentless Cycle of Terror Threatens to Tear Turkey Apart
(D) Truck Terror Attack in Jerusalem Follows Mounting International Pressure on Israel

II. English Writing (20%) Please answer in English

Please use no more than 500 words discuss the following topic:

What is "Brexit"? How is the Brexit bringing the changes for the UK, the European Union, and the rest of the world?

III. Please find the best answer from (A), (B), (C) or (D) to each question. (14%).

1. A false statement treated as a promise by court when the listener had relied on what was told to him/her to his/her disadvantage is _____.
(A) promissory estoppel
(B) mutatis mutandis
(C) caeteris paribus
(D) culpa in contrahendo
2. Which of the following requirements can have the effect of mitigating the problem of information asymmetry between insiders of a company and the general public?
(A) The one share on vote requirement
(B) The stare decisis requirement
(C) The fiduciary duty requirement
(D) The disclosure requirement
3. Under what circumstances should a manufacturer be responsible for the damage caused to the consumer?
(A) The consumer intentionally uses the product in a way that is contrary to the user's manual instruction.
(B) The manufacturer has exercised due diligence in preventing the damage.
(C) The production, manufacturer, processing or design of the product conforms to the contents of the manual or advertisement.
(D) The damage to the consumer is caused by normal use of the manufacturer's products.
4. A *bona fide* third party in a fictitious expression made by a person in collusion with the other party should be able to claim that the contract is valid or invalid. A *bona fide* third party in this sense is a third party _____.
(A) with fictitious intention
(B) in good faith
(C) with secretive intention
(D) insane

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接背面

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5. A person _____ may be arrested without a warrant by any person.
(A) hiding
(B) in flight
(C) in flagrante delicto
(D) who is summoned
6. _____ refers to a procedure for obtaining a judicial determination of the legality of an individual custody.
(A) Habeas Corpus
(B) Verdict
(C) Dictum
(D) Decree
7. Which one of the following has the highest standard of burden of proof?
(A) clear and convincing evidence
(B) beyond the reasonable doubt
(C) preponderance of evidence
(D) probable cause

IV. Reading Comprehension (8%)

Obergefell v. Hodges, 135 S. Ct. 2584 (2015).

The right to marry is a fundamental right inherent in the liberty of the person, and under the Due Process and Equal Protection Clauses of the Fourteenth Amendment, couples of the same-sex may not be deprived of that right and that liberty. Same-sex couples may exercise the fundamental right to marry. *Baker v. Nelson*, 409 U.S. 810 (1972) holding that the exclusion of same-sex couples from marriage did not present a substantial federal question is overruled. The State laws challenged by the petitioners in these cases are held invalid to the extent they exclude same-sex couples from civil marriage on the same terms and conditions as opposite-sex couples.

There may be an initial inclination to await further legislation, litigation, and debate, but referenda, legislative debates, and grassroots campaigns; studies and other writings; and extensive litigation in state and federal courts have led to an enhanced understanding of the issue. While the Constitution contemplates that democracy is the appropriate process for change, individuals who are harmed need not await legislative action before asserting a fundamental right. *Bowers v. Hardwick*, 478 U.S. 186 (1986), in effect, upheld state action that denied gays and lesbians a fundamental right. Though it was eventually repudiated, men and women suffered pain and humiliation in the interim, and the effects of these injuries no doubt lingered long after *Bowers* was overruled. A ruling against same-sex couples would have the same effect and would be unjustified under the Fourteenth Amendment. The petitioners' stories show the urgency of the issue they present to the Court, which has a duty to address these claims and answer these questions. Respondents' argument that allowing same-sex couples to wed will harm marriage as an institution rests on a counterintuitive view of opposite-sex couples' decisions about marriage and parenthood. Finally, the First Amendment ensures that religions, those who adhere to religious doctrines, and others have protection as they seek to teach the principles that are so fulfilling and so central to their lives and faiths.

1. In order to acknowledge "the right to marry" as a constitutional right that should be enjoyed by every citizen regardless of his/her sexual orientation, which of the following normative ground did the majority invoke?
(A) Physical Liberty
(B) Substantive Due Process of Law
(C) Freedom of Religious Belief
(D) Equity

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2. According to *Obergefell*, which of the following statement may **not** be true?

- (A) Same-sex couples may now exercise the fundamental right to marry in all States.
- (B) There is no lawful basis for a State to refuse to recognize a lawful same-sex marriage performed in another State on the ground of its same-sex character.
- (C) *Bowers v. Hardwick* is a pro-gay rights case that overturned the State's law criminalizing the homosexual sodomy.
- (D) Democracy provides the channel for social changes but the human right issue may not be necessarily determined through the democratic process.

V. Please choose the word/phrase that best filling in each blank from the words/phrases listed below. (12%)

THE WHITE HOUSE Office of the Press Secretary

Statement on the Appointment of Dana Boente as Acting Attorney General (January 30, 2017)

The acting Attorney General, Sally Yates, has betrayed the Department of Justice by refusing to enforce a ____ (1) ____ designed to protect the citizens of the United States. This order was approved as to form and legality by the Department of Justice Office of Legal Counsel.

Ms. Yates is an Obama ____ (2) ____ appointee who is weak on borders and very weak on illegal immigration.

It is time to get serious about protecting our country. Calling for tougher vetting for individuals travelling from seven dangerous places is not extreme. It is reasonable and necessary to protect our country.

Tonight, President Trump ____ (3) ____ Ms. Yates of her duties and subsequently named Dana Boente, U.S. Attorney for the Eastern District of Virginia, to serve as ____ (4) ____ until Senator Jeff Sessions is finally ____ (5) ____ by the Senate, where he is being wrongly held up by Democrat senators for strictly political reasons.

"I am honored to serve President Trump in this role until ____ (6) ____ Sessions is confirmed. I will defend and enforce the laws of our country to ensure that our people and our nation are protected," said Dana Boente, Acting Attorney General.

* Words / Phrases:

Senator	dismissal	relieved	executive order
authorized	President	Administration	obeyed
disapproved	Executive	statute	legal order
acting Attorney General	confirmed	acting District Attorney	House of Representatives

VI. Translation (16% , 英翻中、中翻英)

- 1. Civil Law System
- 2. beneficiary under a will
- 3. ex post facto law
- 4. summary judgment
- 5. 公民與政治權利國際公約

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