

考試科目	專業英文	所別	法科所	考試時間	3月15日 星期六 第二節
<p>一、閱讀測驗與作文 (60%)</p> <p>請詳讀以下文章後，以英文（限答案卷一頁以內）撰寫您的讀後心得。</p> <p>Consider two current controversies in American law and politics: the first is whether the expansion of copyright, trademark, and other forms of intellectual property conflicts with the free speech principle; the second is whether government collection and use of racial data (in the census or in law enforcement) violates the antidiscrimination principle. What do these controversies have in common? Both involve constitutional challenges that call into question the legitimacy of existing practices. More importantly, these examples teach us something about how constitutional principles operate. In each case, controversy arises as people apply a longstanding principle to a longstanding practice—a practice that heretofore has not been understood to be implicated by the principle. People exercise creativity by applying the principles to these previously uncontroversial practices, and as they do, they can reshape the meaning of both the principle and the practice.</p> <p>The claim that a longstanding practice violates a longstanding principle draws into question not only the legitimacy of the practice, but also the authority and the scope of the principle. While some argue that the free speech principle delegitimizes expansion of copyright terms and other intellectual property rights, others insist that the challenged practice is fully consistent with the free speech principle: restrictions on infringement of intellectual property rights regulate conduct, not speech, and the fair use defense and the idea/expression distinction adequately protect free speech interests in copyright law. While some think that the use of racial data (in the census or in law enforcement) violates the antidiscrimination principle, others contend that the principle does not apply to data collection or does not apply when the government collects racial data from private parties (witnesses to crimes or people who voluntarily report their race to the census).</p>					
備	考	試題隨卷繳交			
命題委員：				(簽章) 97 年 3 月 7 日	

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考試科目	專業英文	所別	法學院	考試時間	3月15日 星期二	第二節
<p>Does the free speech principle call into question copyright or does copyright raise disturbing questions about the scope and meaning of the free speech principle? Does the antidiscrimination principle call into question the census and suspect descriptions or do the census and suspect descriptions raise disturbing questions about the scope and meaning of the antidiscrimination principle? As these examples illustrate, when advocates apply constitutional principles in new ways, they can create conflicts between longstanding principles and longstanding practices so that one customary understanding calls into question the other.</p> <p>二、翻譯（英翻中）（40%）</p> <p>Critical scholars have recognized that their specific experiences and histories are relevant to jurisprudential inquiry. They reject narrow evidentiary concepts of relevance and credibility. They reject artificial bifurcation of thought and feeling. Their anger, their pain, their daily lives, and the histories of their people are relevant to the definition of justice. "The personal is the political," we hear from feminists, and "Everything is political," we hear from communities of color. Not much time is wasted in those communities arguing over definitions of justice. Justice means children with full bellies sleeping in warm beds under clean sheets. Justice means no lynching, no rapes. Justice means access to a livelihood. It means control over one's own body. These kinds of concrete and substantive visions of justice flow naturally from the experience of oppression.</p>						
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