

東吳大學 109 學年度博士班招生考試試題

第1頁，共1頁

系級	法律學系博士班	考試時間	100 分鐘
科目	法學英文	本科總分	100 分

※一律作答於答案卷上(題上作答不予計分)；並務必標明題號，依序作答。

一、名詞解釋: 請以 100 字以內之中文解釋下列名詞，每題 5 分 (40%)

1. Sovereign Immunity
2. Beyond Reasonable Doubt
3. Promissory Estoppel
4. Joint and Several Liability
5. *Habeas Corpus*
6. Statute of Frauds
7. Fiduciary Duty
8. *Forum non conveniens*

二、英翻中 (每題 20 分，60%)

1. “The insanity defense sits at the juncture of medical views of mental illness and moral and legal theories of criminal culpability—two areas of conflict and change. Small wonder that no particular test of insanity has developed into a constitutional baseline. And it is not for the courts to insist on any single criterion moving forward. Defining the precise relationship between criminal culpability and mental illness requires balancing complex considerations, among them the workings of the brain, the purposes of criminal law, and the ideas of free will and responsibility. This balance should remain open to revision as new medical knowledge emerges and societal norms evolve.”
2. “The issue of same-sex equality has deeply polarised society. Taiwan’s constitutional court made a landmark ruling in 2017 to legalise gay marriage and ruled its decision should be implemented within two years. Conservative and religious groups mobilised to oppose amending the civil code and won a series of referendums last November in which voters rejected defining marriage as anything other than a union between a man and a woman. Same-sex couples could currently only adopt their partners’ biological children and could only marry foreigners from countries where gay marriage is also recognised.”
3. “Countries dealing with the economic and public health-related impacts of COVID-19 have adopted a markedly nationalist approach to their response. More than 80 governments have placed restrictions of some sort on the export of personal protective equipment and medication necessary to treat those affected by the virus. Bans or explicit limits on the quantity of a good which may be exported or imported are Quantitative Restrictions, covered directly by Art XI of the General Agreement on Tariffs and Trade (GATT). As a general rule, Art XI disallows such measures, directly affecting the legality of the export bans and limits introduced in response to COVID-19. This rule, however, is subject to exceptions contained in four provisions of the GATT itself – Art. XI:2, Art. XII, Art. XX and Art. XXI.”