

特色入試サンプル問題

法学部

【小論文】

1. 配点 100点満点
2. 解答時間120分
3. 英語の文章を題材に、読解力、論理的思考力、日本語による表現力などについて評価します。

課題文を読んで、以下の全ての問いに答えなさい（解答は横書き、句読点・括弧も1字分として計算する）。

問 1

課題文 1 は議会選挙を投票ではなくくじ引きにより行うことの利点をどのように説明しているか。400 字程度で述べなさい。

問 2

課題文 1 および課題文 2 の見解を踏まえ、以下のような法律を制定することの是非について、あなた自身の見解を 1000 字程度で論じなさい。

「国会は全国民成人名簿を基にくじ引きで選ばれる議員から構成される。国会では、審議を尽くした後、議員は必ず 2 日間の休暇を取り、その後それ以上の審議なしに議決を行う。議員は、休暇中に公務を一切行ってはならない。」

【課題文 1】

Over the past ten years or so, a lively debate has developed about the modalities^{*1} of democratic elections and, to a lesser extent, the considerations that should guide citizens when voting. However, just as the ethics of voting has become an interesting subset of the political theory literature on democracy, another new literature suggests that voting in elections is not really a democratic way to select people for positions of power and authority at all. Instead, elections should be replaced in whole or in part by random selection or ‘sortition’^{*2}. If this is correct, there would be no gain to democratic theory or practice in considering whether voting should be secret, mandatory^{*3}, or strategic, and whether it should be focused on the common good of one’s country rather than on other moral or political considerations.

[...]

In *The Principles of Representative Government*, Bernard Manin^{*4} reminded his readers that the association of representative government with democracy is relatively new, not simply because elections with universal suffrage^{*5} and equally weighted votes are a recent phenomenon, but because the ancient and Renaissance republics considered elections to be an aristocratic, not a democratic, way to select people for political office. Elections were considered aristocratic because they enabled voters to select the people that they thought best qualified to rule, and to choose them again and again, if they so wished. By contrast, Manin explained, lotteries were

thought of as democratic selection devices because they gave everyone the same chance of holding office and, when repeated, were likely to favor the rotation of people in power, thereby militating against^{*6} the creation of a political elite. However, until recently no one seems to have concluded that elections, even with universal suffrage, are less democratic than sortition, or that it would be a gain for democracy if people replaced one or more of their legislative bodies with a chamber^{*7} created by sortition, or random selection.

So, what can be said in favor of the democratic credentials^{*8} of sortition—bearing in mind that lotteries, often in conjunction with elections, were used to prop up^{*9} oligarchical^{*10} regimes in the Renaissance republics of Venice and Florence and, even as late as the nineteenth century, in Swiss cantons like Berne? The obvious point, and one repeatedly cited by contemporary fans of random selection, is the idea that lotteries, when suitably constructed, answer to the democratic idea that people are equally entitled to participate in politics, and to take part in ruling, as well as being ruled. The equal opportunity to hold office created by unweighted lotteries^{*11}, as well as the rotation in office that they promise, seems to speak directly and in an intuitively^{*12} appealing way to the idea that citizens are each entitled to take part in the government of their society and are, in principle, equal, even interchangeable, in their claims on office. When it is impossible to share a good equally, random selection among claimants^{*13} preserves the commitment to treating them as equals by avoiding invidious^{*14}, destructive, and unfair comparisons among them. Importantly, unequal rewards justified by lot rather than choice do not impugn^{*15} the virtues, capacities, status, needs, or desires of those who lose out, and therefore provide no grounds for arrogance or preening^{*16} on the part of winners, or self-abasement^{*17} on the part of losers. In that sense, the inequality of rewards created by lotteries seem more likely to maintain people's sense of themselves as peers than the inequality of rewards based on choice. Hence, it might seem that unweighted lotteries are the democratically ideal way to distribute goods, including political office, to which all have equal claim but which it is impossible or undesirable to share among everyone at once.

Some additional considerations about randomization are also relevant to recent arguments in favor of its democratic credentials. Where the randomly selected body is sufficiently large relative to the total population, and where everyone selected participates, unweighted lotteries create assemblies that are a microcosm of the larger population. That is, the randomly selected assembly, though smaller than the whole population, will be made up of different groups in proportion to their numbers in the population as a whole. This will be true of the invisible as well as the visible attributes of citizens, and it will therefore be possible to treat the smaller group as an exact replica of the larger one, and as an accurate replacement for it for certain purposes. Although

randomization with smaller bodies is likely to result in clusters, meaning that the smaller group will not be a microcosm of the larger one, as long as the assembly is large enough relative to the total population such problems will disappear—for the same reason that, over a large enough number of coin tosses, heads will fall face up 50 percent of the time, although for smaller stretches of time tails may dominate, or vice versa^{*18}. Randomization then can be compatible with microcosmic selection, or ‘mirror representation,’ as Pitkin^{*19} called it, and ‘descriptive representation,’ as it is now usually called.

[...]

Sortition has many virtues as a way to distribute benefits and burdens among equals where rotation or sharing are neither possible nor desirable. Its unpredictability makes favoritism^{*20} difficult, even impossible—and this can be true even when weighted lotteries^{*21} are used to distribute benefits and burdens among a large group of people. Unweighted lotteries give everyone the same chance of being selected, and that can be appealing if it is publicly important to insist on an inclusive conception of equality before the law in the face of past prejudice, second-class status, and exclusion. Weighted lotteries enable the patterning of outcomes, which can be appealing when formal equality of opportunity is less significant democratically than the ability to combat those forms of marginalization^{*22}, exclusion, coercion^{*23}, and cultural imperialism that formally equal political rights do not touch. In short, lotteries can be a helpful way to distribute scarce goods and opportunities, as well as unwanted burdens, when self-selection alone, or in conjunction with selection by others, is likely to be unfair.

Moreover, randomly selected assemblies are democratically attractive in so far as they enable citizens to deliberate^{*24} with strangers as equals on matters of collective importance, with the help and support of a variety of experts. Given how scarce such opportunities are, and how seldom we get to discuss politically relevant information in a critical but supportive environment, such randomly selected assemblies are invaluable, especially for those who are not members of an organized public body. Where consensus is impossible, assemblies can clarify the nature and depths of disagreement, which is democratically valuable in itself and may help to structure future legislative debates and decisions constructively. At present, the norm is to produce a single assembly report made up of recommendations that all could accept, but there is no reason why this should be the case. Where deliberative consensus^{*25} among randomly selected citizens is possible, and substantiated^{*26} over time, it can enable politicians to take difficult decisions that they might otherwise be reluctant to make and push them to recognize the gap between their claims to reflect and serve the public and the reality of their distance from it. In short, citizen

told you that the secret to making the right choice might lie in not thinking about it at all?

The Science Behind the Strategy

In 2011, Dutch psychologist Ap Dijksterhuis^{*1} and his colleagues conducted a fascinating experiment. Participants were asked to choose the best apartment from twelve options, each with a mix of positive and negative features. The results were surprising. Participants who had to make an immediate decision chose the best option only 15% of the time. Those who had four minutes to consciously contemplate^{*2} each apartment did better, choosing the best option 29% of the time.

But here's the kicker. Participants distracted with a word puzzle after receiving the apartment information also chose the best apartment 30% of the time. And those who spent two minutes consciously contemplating each apartment, followed by a two-minute distraction period, chose the best apartment a whopping^{*3} 58% of the time.

The Four-Step Formula

This experiment reveals a powerful strategy for decision-making: flexibly using both conscious and unconscious thinking.

Here's a simple four-step formula:

Mindful Contemplation: Spend a small amount of time consciously contemplating the situation. This is when you gather information, weigh the pros and cons^{*4}, and consider your options. For example, if you're deciding on the perfect destination for a romantic getaway, this might involve researching exotic locations, reading reviews of luxury resorts, and reflecting on your partner's interests and shared desires.

Pause: Once you've done your initial analysis, stop. This might seem counterintuitive, but it's a crucial step. It's like taking a half-time break in a soccer match, giving your mind a chance to rest and regroup.

Distraction: Engage in an unrelated activity. This serves as an incubation^{*5} period, allowing your unconscious mind to process the information you've gathered. This could be anything from a triceps^{*6} workout, playing pickleball^{*7}, or reading an essay by David Foster Wallace^{*8} on why cruise ships suck.

Decision: After the distraction period, make a decision. Trust that your mind did the work, both

consciously and unconsciously. You might find that the best choice seems to ‘pop’ into your mind, or that you feel a gut instinct towards one option. Great, now you are someone who appreciates rational thinking AND intuition.

The Power of Unconscious Thinking

Harnessing^{*9} the power of unconscious thinking can lead to decisions that are not only more satisfying but effective. It’s a secret weapon in our decision-making toolkit, one that allows us to navigate the uncertainties of life with a bit more ease and a lot more confidence.

Consider buying a car. You’ve done your research, test-driven a few models, and weighed the pros and cons. Now, instead of obsessing over the details, you take a break. Take an outdoor shower, watch a Korean zombie movie, or experience flow with an adult coloring book. Let your unconscious mind do the heavy lifting. When you come back to the decision, you might find that the right choice seems to ‘pop’ into your mind.

This isn’t just a formula for decision-making. It’s about learning to trust ourselves, value our instincts, and embrace our unconscious intelligence and creativity. When we account for the wide range of powers in our possession, something amazing happens. We don’t just make better decisions. We become better decision-makers.

Imagine you’re contemplating a career change. You’ve weighed the pros and cons, considered options, and now you’re stuck. Instead of agonizing over the decision, you take a break. When you return to the decision, you might find that your unconscious mind has already made the choice for you. Will you listen? Or try to override it with that highly educated overconfidence?

Provocations

Are you ready to give your unconscious mind a seat at the decision-making table? How might this four-step formula change the way you approach decisions in your life?

Consider a decision you’re currently facing. Maybe it’s choosing a romantic partner, deciding whether to stay at your job or leave, or choosing a response to someone who wronged^{*10} you. How could you apply this formula to your decision-making process? And how might your life change if you trusted your unconscious mind a little more?

(出典) Todd Kashdan, “The 4-Step Formula That Will Revolutionize Your Decision Making: How to Score Goals with Your Unconscious Mind”, 17 October 2023.

<https://toddkashdan.substack.com/p/the-4-step-formula-that-will-revolutionize>

ただし、出題にあたって一部省略・改変した箇所がある。

- (註) *1 Ap Dijksterhuis オランダの心理学者 (1968-)
- *2 contemplate ~について深く考える
 - *3 whopping びっくりするほど大きい (多い)
 - *4 pros and cons 長所と短所
 - *5 incubation (卵のように) 考えを温めること
 - *6 triceps 上腕三頭筋
 - *7 pickleball ボールとラケットを用いて競技するテニスのような球技
 - *8 David Foster Wallace アメリカ合衆国の作家 (1962-2008)
 - *9 harness (扱いにくいものを) 使いこなす
 - *10 wrong ~に対して不当な扱いをする