

Write Your Exam Code Here: _____

Return this exam question paper to your invigilator at the end of the exam before you leave the classroom.

THIS EXAMINATION CONSISTS OF 4 PAGES (INCLUDING THIS PAGE)
PLEASE ENSURE THAT YOU HAVE A COMPLETE PAPER

THE UNIVERSITY OF BRITISH COLUMBIA
PETER A. ALLARD SCHOOL OF LAW

FINAL EXAMINATION – April 2019

LAW 300

Jurisprudence & Critical Perspectives

Section 3

Marcus Moore

TOTAL MARKS: 300

TIME ALLOWED: 3 hours (180 minutes)

Note:

This is an open book examination. Candidates may bring in and refer to written/typed notes and the course material. Laptops are permitted only for use in completing the computerized exam with Exemplify. Other communications devices are not permitted.

THIS EXAM CONSISTS OF 2 PARTS. THE FIRST PART HAS ONE REQUIRED SECTION. THE SECOND PART HAS 2 REQUIRED SECTIONS.

PART I – SHORT ANSWER QUESTIONS

- **This Part of the exam is worth 1/3 of the total exam marks (100 marks out of 300).**
- **This Part of the exam has 5 total questions.**
- **You must answer ALL of the questions within Part I of the exam.**
- **Students are strongly advised to take ample time to think through their answer, and plan and structure it, before writing it.**
- **Suggested time allocation for Part I of the exam is 1 hour (60 minutes).**

MARKS**Short Answer (100 marks in total)**

- 20** 1. What does Bix mean when he describes legal theorists “talking past one another”? Why do legal theorists so often end up doing this?
- 20** 2. Explain what distinguishes “Critical” Legal Pluralism from ‘Traditional’ Legal Pluralism.
- 20** 3. What are three argumentative *techniques* used by CLS scholars to critique or destabilize prevailing legal doctrine? Explain how these techniques operate to accomplish this.
- 20** 4. What weaknesses does Mill’s “harm principle” have as the proposed line delimiting justifiable legal restraints on liberty? What does Sunstein and Thaler’s choice to brand their theory as “*Libertarian Paternalism*” suggest as far as possible reasons for the enduring popularity of the harm principle, despite its evident weaknesses?
- 20** 5. List and explain three insights which Indigenous Legal Theory could potentially contribute that would be valuable to Western legal theory? Justify your answer.

PART II – FULL-LENGTH ANSWERS

- This Part of the exam is worth 2/3 of the total exam marks (200 marks out of 300).
- This Part of the exam is divided into 2 compulsory Sections: Section A & Section B: **YOU MUST ANSWER ONE QUESTION FROM EACH OF SECTION A & B**
- EACH answer in Part II is, on its own, worth 1/3 of the total marks for this exam (100 marks each out of 300).
- Students are strongly advised to take ample time to think through their answer, and plan and structure it, before writing it.
- Suggested time allocation for Part II of the exam is 2 hours (120 minutes); suggested time for Section A is 1 hour (60 minutes) and for Section B 1 hour (60 minutes).

SECTION A

Answer ONLY ONE of the following two questions in Section A:

MARKS

100 6. What is the relationship between law and justice?

OR

100 7. “No man sees law whole who ever forgets one inherent drive which is a living part even of the most wrongheaded and arbitrary legal system is a drive—patent or throbbing faint-pulsed, impatient or sluggish, but always present—to make the system, its detail and its officials more closely realize an ideal of justice”

(Question 7 continued)

(Llewellyn) How does this compare with other views covered in this course of the connection between law and justice? Which account is most convincing?

SECTION B

Answer ONLY ONE of the following two questions in Section B:

MARKS

- 100** 8. Joan was stopped by police for speeding on the Sea-to-Sky highway, one of the most dangerous highways in North America. The area where she was speeding is a relatively safe section of the highway, where the posted speed limit is 100 km/h. The police radar registered her driving 110 km/h. In practice, the police in that area have a policy—which is common knowledge to locals, including Joan—not to stop drivers for speeding unless they are going at least 120 km/h. However, an exception to that is that the local police force, which is entirely male, is known to stop young women driving inexpensive cars, especially Indigenous women like Joan, for any and all technical violations, and then pressure the women into sex acts in order to be let go. Joan refused to perform the sex act, and was given a speeding ticket. At trial, there is evidence that the government-licensed driver training program told trainees, including Joan, to drive the normal speed of traffic (which is 110 km/h in that area, due the usual police practice), because it is dangerous to disrupt traffic flow by driving slower than the other cars on the road. You are working as a law clerk to the judge hearing the case. Drawing on relevant legal theories covered in this course, write a legal memorandum to the judge, concerning: (A) in what ways the law could be interpreted and applied to the question of whether Joan is guilty of speeding in these circumstances (80% of marks for this question); and (B) whether the fixed fine of \$2,000 for speeding anywhere on the Sea-to-Sky highway, classified as a dangerous highway under the new Dangerous Driving on Dangerous Highways Act, necessarily applies in this case (20% of marks for this question).

OR

- 100** 9. Reflecting on the material you have learned in this course, and its relationship to your personal values, how should the success of a person's legal career be

(Question 9 continued)

measured? Justify your answer with reference to specific elements of the material from this course, as they relate to those values.

***** End of Examination*****