

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

FINAL EXAMINATION – DECEMBER 2020

LAW 200.002
Indigenous Settler Legal Relations

Professor Darlene Johnston

EXAM PASSWORD: Fe7YyP
RESUME CODE: ABAFE2

TOTAL MARKS: 100

(8:50 AM PST) **PREPARATION TIME ALLOWED: 10 MINUTES**

(9:00 AM PST) **WRITING (INCLUSIVE OF READING) TIME ALLOWED: 2 HOURS**

8:50-9:00 AM Preparation Time (Exam writing not permitted) – This time is given to students to download/print your exam questions once the exam has been made available online on Canvas, to read the Exam Password on this exam coversheet, to enter the Exam Password for the exam in Exemplify, and to progress in Exemplify until you see the **STOP SIGN**, where you will **WAIT until 9:00 AM. DO NOT proceed past the STOP SIGN. DO NOT begin typing your exam answers in Exemplify until 9:00 AM!**

9:00 AM Exam Writing Time – At 9:00 AM, you may proceed past the **STOP SIGN** in Exemplify and begin typing your exam answers. Students are required to calculate and monitor their own time for writing exams. All exam answer uploads will be monitored to ensure that typing of answers only occurred during the allotted Exam Writing Time.

This is an open book examination, meaning that you can refer to all course materials, including assigned readings, class PowerPoints, and lecture notes.

If you think you have discovered an error or potential error in a question on this exam, please make a realistic assumption, set out that assumption clearly in writing for your professor, and continue answering the question. Do not email your professor or anyone else about this while the exam is in progress.

ACADEMIC INTEGRITY

Any exam answers that raise suspicion of breaking any restrictions outlined on this cover page may be subject to being processed through academic integrity software. Students typing exam answers before or after the allocated exam writing time may receive a grade penalty.

CONFIDENTIALITY REGULATIONS – READ CAREFULLY

As this exam is being written off-campus and is unsupervised, any communication whatsoever (including, but not limited to in person, telephone, e-mail, text, social media, etc.) concerning the contents of this examination with anyone (other than the Student Services staff of the Allard School of Law) is strictly prohibited.

In the event any information comes to your attention regarding a breach of these regulations (by others, or inadvertently by you), please immediately contact Student Academic Services (studentservices@allard.ubc.ca) and make full disclosure.

A breach of these regulations may constitute student misconduct, and you may be subject to penalty or discipline under UBC's Academic Misconduct policies.

What Do I Do If:

- **I cannot access the exam questions on Canvas**

If you experience technical difficulties accessing the exam questions on Canvas, email studentservices@allard.ubc.ca and the exam questions will be emailed to you. Please provide your phone number when emailing Student Services.

- **I'm experiencing technical difficulties DURING THE WRITING of the exam**

If you experience technical difficulties with Exemplify at the very beginning or during an exam, you may attempt to solve your problem/reboot your computer **BY YOURSELF**. You are **STRONGLY** encouraged to spend **NO MORE THAN 5 minutes** attempting to do so. You will **NOT BE GIVEN ANY EXTRA TIME** to complete the exam. **If your attempt to solve the problem is unsuccessful**, or if you choose not to make such an attempt, you **MUST** immediately **begin hand-writing** your exam answers with pen on lined paper. **You may NOT type your exam answer in word-processing software.**

When you have finished writing the exam, you must upload the exam answers that you completed in Exemplify (if you are prompted for a Resume Code, it is on the coversheet of the exam questions). Email Bernie Flinn, flinn@allard.ubc.ca, for help with this. Please provide your phone number in the email. Bernie or another IT Support staff person will then help you to upload any answers that you typed in Exemplify.

You must also upload to Canvas your hand-written exam answers into the "Exam Answer File Upload (Word Processor or Hand-written ONLY)" folder. Scan or take a picture of each page (.jpg) of your exam and put them into one folder to upload.

Your answer file should be named, and the coversheet of your answers should be titled with:
Your Exam Code, Course Number, Name of Course, and Instructor Name
i.e., **9999 LAW 100.001 Law of Exam Taking – Galileo**

- **I'm experiencing technical difficulties EXITING and UPLOADING the exam**

If you experience any difficulty exiting and uploading your Exemplify exam answers, you must wait until the allocated time period specified on the coversheet of the exam has ended, then email Bernie Flinn, flinn@allard.ubc.ca, and he or another IT Support staff person will help you to upload your Exemplify exam file. Please provide your phone number in the email.

If you have approved accommodations to type your answers using Word Processing Software, and experience difficulties uploading your exam answer file to Canvas, email your exam answer file to studentservices@ubc.ca.

- **I fall ill in the middle of an exam, or am otherwise interrupted such that I'm unable to continue writing my exam**

Please stop writing, note the time that you stopped, and email studentservices@allard.ubc.ca immediately to notify them and discuss options. Please provide your phone number when emailing Student Services.

INFORMATION AND INSTRUCTIONS

1. This exam counts for 70% of your final grade for this course.
2. This exam is divided into two parts. Each part is worth 50 marks out of the total of 100 marks.
3. Part A consists of a choice of four short-answer questions from which you must choose two questions to answer. Each question in Part A is worth 25 marks. You should allow 30 minutes for answering each of the questions that you choose.
4. Part B consists of a choice of two reflective writing questions from which you must choose one question to answer. Each question in Part B is worth 50 marks. You should allow 60 minutes for answering the question that you choose.
5. You can refer to authors by using their surnames. For reports and legislation, use the full title the first time you cite it and supply an acronym, e.g. Final Report of the Missing and Murdered Indigenous Women and Girls Inquiry (MMIWG). For subsequent citations, use the acronym. Page numbers from sources are not required unless you are using a direct quotation.

LAW 200, Section 2**PART A: SHORT ANSWER QUESTIONS**

(30 minutes suggested time each, 25% of final exam each)

Choose 2 of the 4 questions below. Clearly indicate which you are answering.

- 1) In her article, “Rethinking the ‘Crisis’ of Indigenous Mass Imprisonment”, Efrat Arbel argues the language of “crisis” insufficiently characterizes the nature of Indigenous mass incarceration. Why does Professor Arbel make this contention? Why is the discourse of “crisis” unhelpful in understanding the nature of Indigenous mass incarceration?

- 2) In Chapter 1 of its final report, the National Inquiry into Missing and Murdered Indigenous Women and Girls identified four pathways that maintain colonial violence. The first pathway is described as historical, multigenerational, and intergenerational trauma. Discuss three colonial processes that have given rise to this trauma and the extent to which redress, if any, is being achieved.

- 3) The Truth and Reconciliation Commission has stated that “the United Nations Declaration on the Rights of Indigenous Peoples is the framework for reconciliation at all levels and across all sectors of Canadian society.” Describe the ways UNDRIP can act as the framework for reconciliation in Canada with specific reference to provisions you think are critical to advancing this objective.

- 4) Through various iterations of the *Indian Act*, the federal government sought to eliminate hereditary governance systems. Discuss the legislative provisions used to achieve this goal. Recent initiatives, both in negotiations and legislation, have gestured towards recognition of hereditary governments. Identify two initiatives and explain the mechanisms by which hereditary governments can be engaged.

PART B: REFLECTIVE WRITING QUESTIONS

(60 minutes suggested time, 50% of final exam)

Choose 1 of 2 questions below. Clearly indicate which you are answering.

- 5) In her article “Thinking about Indigenous Legal Orders”, Val Napoleon writes:
- “Basically, how we think about law is shaped by our experiences and history. As Indigenous peoples, much of our current understanding of law derives from our experiences with the western legal system in Canada. We know this system through its courts, legislation, and enforcement, and by its treatment of our peoples, lands, and resources. Given this, many Indigenous peoples have come to associate ‘law’ with power, punishment, hierarchy, and bureaucracy.” (p. 230)
- Reflect upon this passage by considering the ways in which the colonial legal system has given rise to this perspective of Canadian law among Indigenous peoples. What counter narratives do Indigenous legal systems provide?

OR

- 6) In her article “Reconciliation and Ethical Lawyering: Some Thoughts on Cultural Competence”, Pooja Parma writes that “self-awareness is increasingly seen as an essential component of cultural competence training.” (p. 534) Reflect on the ways in which this course has contributed to self-awareness of your position within the colonial legal system and your potential to be part of reconciliation or decolonization.

END OF EXAMINATION