THIS EXAMINATION CONSISTS OF 4 PAGES

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THE UNIVERSITY OF BRITISH COLUMBIA

PETER A. ALLARD SCHOOL OF LAW

FINAL EXAMINATION – APRIL 2023

LAW 300

Jurisprudence and Critical Perspectives

Section 2

Professor Goold

**TOTAL MARKS:** 100

**TIME ALLOWED:** 180 MINUTES

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**NOTE:** **1.** This is an **open-book examination**, meaning that you can refer to class notes, articles, textbooks, and other class readings. The use of library books and communications devices such as mobile phones is not permitted.

**2.** The examination consists of **three** **sections**. All candidates must answer **one question from each section** (for a total of three questions).

**3.** Each question is worth **equal marks**.

**4.** No additional marks will be awarded for answering more than three questions, and **only the first three answers will be graded.**

**THIS EXAMINATION CONSISTS OF 3 SECTIONS AND 9 QUESTIONS**

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**LAW 300, Section 2**

**SECTION 1**

**1.** What is the point of studying jurisprudence at a Canadian law school? How might a greater understanding of legal theory – and the different ways legal theorists have approached the “what is law” question – be helpful to law students in 2023? Explain your answer with reference to materials you have studied in this course.

**2.** What do natural lawyers mean when they claim there is “higher law” that exists independently of human-made law? What are the implications of this claim for the legitimacy of law and, in particular, the question of what law is for? Explain your answer with reference to materials you have studied in this course.

**3.** Are the core insights of legal positivists such as John Austin and H.L.A. Hart still relevant to debates about the nature of law in 2023? Should we abandon the study of legal positivism in favour of critical theories that are more directly concerned with the relationship between law and power? Explain your answer with reference to materials you have studied in this course.

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**LAW 300, Section 2**

**SECTION 2**

**4.** Why does Gordon Christie advocate for Indigenous theorising about the law?In what ways might a greater understanding of Indigenous legal theory and Indigenous legal systems help us to address the legacy of colonialism in Canada in 2023? Explain your answer with reference to materials you have studied in this course.

**5.** To what extent have the insights of legal realists and their rejection of legal formalism influenced how contemporary legal scholars view courts, judges, and judicial decision-making? Is it right to suggest that “we are all legal realists” in 2023? Explain your answer with reference to materials you have studied in this course.

**6.** “The critique of orthodox legal scholarship draws upon a more generalized critique of liberalism and thus constitutes one of the major points of unification of critical legal studies. The core of this critique is the contention that the claim made by liberalism to resolve the persistent and systematic conflict between individual and social interests through the mechanism of objective rules within a framework of procedural justice is inherently flawed. Mediation between conflicting interests at best offers only a pragmatic response to social conflict which can achieve nothing other than a set of results which reflects the unequal distribution of power and resources whilst claiming to act in the name of a set of universal social values.”

Alan Hunt

Discuss the claims in this quote with reference to materials you have studied in this course.

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**LAW 300, Section 2**

**SECTION 3**

**7.** “The status quo is the invisible default standard of law. From these observations, feminist philosophers of law have concluded that law makes systemic bias (as opposed to personal biases of particular individuals) invisible, normal, entrenched, and thus difficult to identify and to oppose ... Such systemic bias may be accepted not only by actors within the legal system such as judges but also by its victims as well as its beneficiaries. Primary tasks of feminist philosophy of law are to identify such bias wherever it occurs within the legal system through methodologies such as genealogical analysis, conceptual analysis, or normative critique…”

Leslie Francis and Patricia Smith

Discuss the claims in this quote with reference to materials you have studied in this course.

**8.** What are the central concerns and insights of queer legal theory? How does queer legal theory seek to disrupt the ways that law privileges heteronormative sexualities and gender practices? Explain your answer with reference to materials you have studied in this course.

**9.** “We might understand the Critical Race Theory project as situated directly on this problem: how to affirm a race-conscious frame of analysis against liberal color-blindness, while embracing an anti-essentialist conception of racial identity. One way of engaging this issue has been to focus on the personal and political dilemmas of diverse, multiple, and overlapping identities: on conflicts within the American black community, on ambivalences within members of every social identity group about what their identity signifies, and on the conflicts posed for individuals and social movements by the fact that individuals inhabit multiple identities—black, female, young, and so on.”

Kimberlé Crenshaw, Neil Gotanda, Gary Peller, and Kendall Thomas

Discuss the claims in this quote with reference to materials you have studied in this course.

**END OF EXAMINATION**