



NATIONAL COMMITTEE ON ACCREDITATION

SAMPLE EXAMINATION

FOUNDATIONS OF CANADIAN LAW

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Time: Three (3) hours (open book)**Instructions**

1. The duration of the examination is three (3) hours. The exam consists of four (4) pages (including this page). There are three (3) Parts to the exam. You must answer all Parts. If the Parts have sub-headings, or sub-issues, then all of those headings or issues must be answered.
2. Think carefully about your work before you start writing. Credit will be given for concise, clear and well-organized answers.
3. The number of points allocated to specific questions in each Part of the exam is indicated, as is the time you should devote to each question. Be sure to allocate your time accordingly. If you run out of time to answer the whole examination, no points will be awarded for unanswered questions.
4. Time constraints require that you address your answers succinctly and directly to the specific questions posed. No points will be awarded for addressing questions other than those posed.
5. Throughout the exam, points will be awarded for accurately setting out the relevant legal rules; citing as authority the relevant statutory provisions, cases, and readings listed on the syllabus; applying the relevant legal rules to the facts and precise provisions at issue; and articulating clear conclusions on the questions posed.
6. Candidates should attribute any direct quotes from authors or judgments to their source. Lengthy quotations from the Craik text, the assigned readings, or court rulings are inadvisable as the exam is testing your ability to undertake an independent analysis, based on the principles set out in those sources, of the specific questions posed.
7. Please double-space your answers.

**YOU MUST RETURN THIS EXAM WITH YOUR ANSWERS.
FAILURE TO DO SO WILL RESULT IN AN AUTOMATIC EXAM FAILURE.**



PART I: (30%, approximately 54 minutes including reading time)

The Canadian Charter of Rights and Freedoms is often hailed as one of Canada's greatest achievements; a bill of rights entrenched within the Canadian Constitution that guarantees certain rights and freedoms to all persons within Canada.

However, it has also been said that the Canadian Charter of Rights and Freedoms is an encapsulation of "white, middle class values". Critically discuss this through the lens of feminism and/or other critical legal perspectives.

PART II: (45%, approximately 81 minutes including reading time)

It is said that judicial independence (and the rule of law) is the cornerstone of the legal system in Canada, and elsewhere. Yet no one is quite certain of who "owns" the judgments written by judges. Some have argued that legal judgments are owned by the judges themselves, some argue that the legal judgments are owned by the court, and yet others argue that legal judgments are owned by the Crown.

- a) Briefly discuss the importance and main features of judicial independence, in general; and
- b) Explain, at length, the implications for judicial independence (and the rule of law) if judgments are held by:
 - i. The Crown;
 - ii. The Court itself;
 - iii. Judges themselves.

For the purposes of this question, no knowledge of copyright law is expected or presumed. Candidates should simply assume that a legal judgment is an original work of copyright (akin to a book or a journal article) that is "owned" by someone. The question is not intended to examine issues of ownership from a copyright perspective; rather, the question seeks to examine the importance of ownership in terms of judicial independence (and the rule of law).



PART III: (25%; approximately 45 minutes including reading time)

A senior lawyer for the Department of Citizenship and Immigration has come to you for some advice. It has come to her department's attention that a high-ranking member of the Red Panthers is in Canada. Until 2007 the Red Panthers were engaged in an armed struggle against the Government of Pandora but also served as a de facto government in the southern region of the country. The Red Panthers were well-known for committing terrorist acts, particularly suicide bombings that killed civilians.

The alleged member of the Red Panthers is Marco, and he is a citizen of Pandora. He came to Canada with his wife and two young children in 2007. In 2009, when their case for asylum was rejected, they applied as a family to remain in Canada on the basis of a "humanitarian and compassionate" application. In view of the national security concerns associated with the case, the immigration officer reviewing Marco's humanitarian and compassionate application referred the file to the Ministry of Public Safety.

A note from an official with the Ministry of Public Safety was included in the file as follows:

This man is good for NOTHING and a TERRORIST to boot. We have in our possession evidence from a reliable source in Pandora that Marco was seen at a meeting of senior Red Panthers advisors held in a private club in Xenon (Pandora's capital) in 2006. I recommend that Marco and his family be arrested immediately and deported as soon as possible. This is no case for humanitarianism!!

You have been asked to write a memorandum setting out the legal basis for not disclosing the contents of this note to Marco nor even alerting him to its existence. In drafting your memorandum be sure to identify and respond to any countervailing arguments and include reference to pertinent case law.

Do NOT reproduce the above noted facts in your memorandum – focus on the legal issues arising from the facts as stated.

Note: no actual knowledge of Immigration legislation is assumed or required to answer this question. Your memorandum need not conform to any particular form or style – just be sure to organize your response in a clear and coherent manner.