

# LAW AS A SOCIAL SCIENCE

## Class activities\*

### Class 1, Sep. 6: Introduction

#### Discuss the following questions

1. Does the world need so many lawyers? Does Canada need so many lawyers?
2. What is the role of lawyers in society?
3. What do lawyers do?
4. Are lawyers a scourge?
5. Do you want to go to Law School after finishing university? Why or why not?
6. Analyze the following cartoon.



#### Bio and Picture

Write a short bibliographical note about yourself, including your interests, future plans, major concerns about college. Is this your first year in college? Do you come straight from High School? Did you do other studies? Do you work? If so, what do you do? What are your hobbies? What TV shows do you like the best? Films? Music groups? What are your objectives for this course? Have you studied Law before? Bring this note to class and include a picture of yourself

## **Class 2, Sep. 11: Notions of Law**

### **Discuss the following questions**

1. What is Law?
2. What is the purpose of Law?
3. Have social media transformed the concept of law?
4. Where does Law come from? Who makes the Law?
5. Have you ever had any personal -formal or informal- experience with the justice system?

## **Class 3, Sep. 13: Functions of law**

Prepare a short presentation about one of the following types of dispute resolution

- Courts
- Arbitration
- Mediation
- Negotiation
- Conciliation
- Private tribunals (rent a judge)
- Restorative Justice
- Med-arb
- Mini-trial
- Other types of dispute resolution

Answer the following questions about the videos shown in class.

- Is it law? Why or why not? What notion of law predominates?
- What is the main function of the law?
- Can you identify any dysfunction of law?

## **Class 4, Sep. 18: Legal Anthropology & Sociology of Law**

## Malinowski's Legal Anthropology

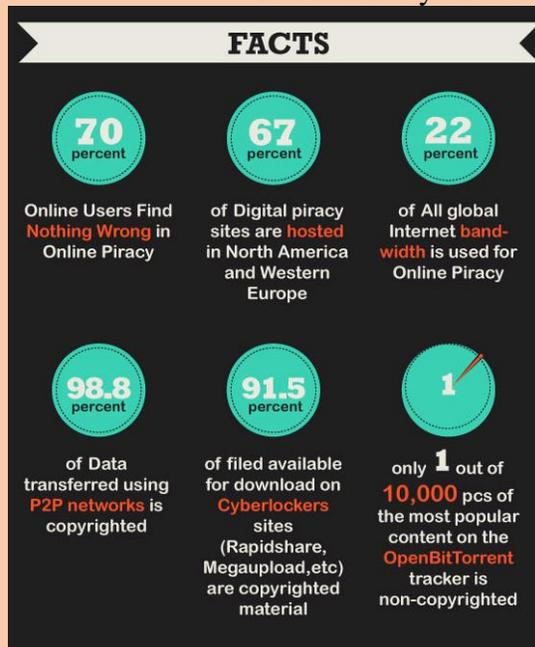
Following Malinowski's argument, identify the rules of custom as they function in actual life from the videos shown in class.

### Class 5, Sep. 20: Notions of Law

#### Scenarios

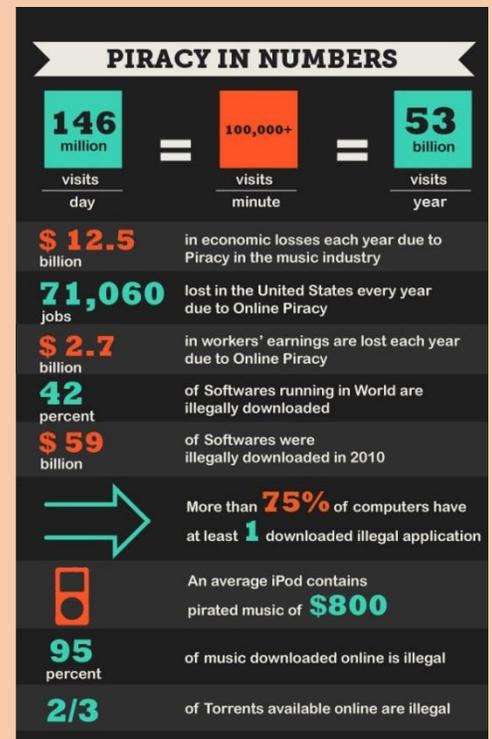
Identify whether the situations in the following scenarios constitute law for (i) Positivism; (ii) Legal Anthropology; (iii) both Positivism and Legal Anthropology; or (iv) neither Positivism or Legal Anthropology. Additionally, where appropriate, identify the legal rule. If the scenario does not explicitly state the legal rule, where appropriate, please infer it.

1. Parliament adopted a new bill dealing with consumer protection. Under the new bill, the government will create a website with information about consumers' rights in English, French, Spanish, Chinese, Arabic, and Italian.
2. The Canadian Criminal Code punishes murder with life in prison. According to Statistics Canada, the country's homicide rate fell last year to 1.44 victims for every 100,000 people, its lowest level since 1966.



3. The US Copyright Act and other laws punish online piracy with severe fines and lengthy prison terms.

4. According to the Canadian Criminal Code, nudity in a public place is punished as a summary conviction (fine and prison time). So



according to the law, women are permitted to wear a bra and panties to school and work. No woman in Canada wears only a bra and panties to work or school.

5. In Canada, most university students write final exams on the scheduled day within the final examination period and hand in papers and other assignments by the deadline set by their professors. Some students ask for an extension. If professors understand that there is a compelling reason for the extension, they generally grant it.
6. Last Monday evening, a middle aged man sat next to the one person alone in an empty movie theater (Sault Galaxy). Visibly upset, this person moved to another row.



7. It's illegal to chew gum in Singapore. According to Singapore's law, illegal chewing gum attracts a fine of \$500. This ban is strictly enforced and highly adhered to.

8. In Canada, when travelling in an elevator, people face the elevator door.

9. The Help America Vote Act (HAVA), a United States federal election law signed in by President Bush in 2002, encourages states to replace punch card and lever voting machines. So far, only a handful of states adopted the federal standards.

10. All school boards in North America sanction cheating and plagiarism with severe penalties, including expulsion. The Josephson Institute Center for Youth Ethics surveyed 43,000 high school students in public and private schools and found that: (i) 59% of high school students admitted cheating on a test during the last year (34% self-reported doing it more than two times); and (ii) one out of three high school students admitted that they used the Internet to plagiarize an assignment.

11. In a friendly soccer match between Argentina and Haiti, a Haitian defender fouled Aguero inside the penalty area. The referee awarded a penalty kick for Argentina. Lionel Messi scored the penalty.



12. Parliament passed a law that encourages provinces to elect potential senators for the Prime Minister to consider.

13. An International Law treaty to combat impunity encourages states to allow victims of crimes to institute and participate in criminal proceedings.

14. The Moms Opportunity to Access Help, Education, Research and Support for Postpartum Depression Act, or MOTHERS Act, a US federal law sponsored by U.S. Senators Robert Menendez, allocates funds for mothers and their families to access education programs about postpartum depression. The legislation includes two grants to help better educate healthcare providers to identify and treat PPD.

15. According to the United States Constitution, Federal Congress must approve war and other conflicts involving the US. It has only done so 11 times out of the over 200 armed conflicts.

16. Section 16 of the Canadian Charter of Rights and Freedoms literally reads that “English and French are the official languages of Canada and have equality of status and equal rights and privileges as to their use in all institutions of the Parliament and government of Canada.”



17. Section 3 of the Canadian Criminal Code states that

“unless otherwise provided or ordered, anything done by a court, justice or judge is effective from the moment it is done, whether or not it is reduced to writing.”

18. The act of charging a player is a challenge for space using physical contact within playing distance of the ball without using arms or elbows. It is an offence to charge an opponent in a careless manner, in a reckless manner, and using excessive force. Sanctions go from a free direct kick to send off.
19. Section 2 of the Quebec Civil Code states that “every person is the holder of a patrimony. It may be the subject of a division or of an appropriation to a purpose, but only to the extent provided by law.”
20. In *State v Donley*, Justice Albright of the Supreme Court of Appeals of West Virginia held that “the doctrine holding that if a statute or treaty is left unenforced long enough (desuetude) the courts will no longer regard it as having any legal effect even though it has not been repealed.”
21. The trial judge found Oscar Pistorius guilty of culpable homicide for the fatal shooting of his girlfriend Reeva Steenkamp.
22. Michael Gunn, an English undergraduate, was expelled from the University of Kent at Canterbury after a routine review of his work "revealed extensive plagiarism from internet sources". Michael Gunn, 21, claims he had no idea that his methods –cutting and pasting material from the internet without attribution- constituted plagiarism.

## **Class 6, Sep. 25: Law in the news**

### **Analyze the following newspaper articles**

The following questions may help you with the analysis

- 1) What is the article about? What happened?
- 2) What is the legal issue or legal problem?
- 3) What do you think about this issue or problem?

- 4) Do you agree with this legal issue and/or with the resolution of this legal issue or problem?  
Why or why not?

## **Class 7, Sep. 27: Branches of Law**

### **Scenarios**

1. Josh and Jenna have been dating for over three years. Josh proposed to Jenna, and she agreed. They will be getting married soon.
2. Nelly sold her iPhone X on eBay to a buyer in Detroit, Michigan.
3. Paul works for IBM in Toronto. He was fired. He wants to sue IBM for wrongful termination.
4. Calvin wants to open a bar in the Sault. He needs to apply for a permit from the City to serve alcohol.
5. Laura did not shovel the snow that blocked her sidewalk after a storm. Vanessa, a pedestrian, fell down and broke her leg. Vanessa wants to sue Laura.
6. Metro bought 100 pounds of mango from a company in Dominican Republic.
7. Jack raped Jill, and then stabbed her with a knife.
8. Paul was speeding along Queen St. and ran over Peter, who was crossing the street. Peter broke two ribs and twisted his leg.
9. A police officer searched Marissa's house without a warrant.
10. Rachel and Ross are getting married. Rachel lives in Toronto; and Ross, who is originally from Sault Ste. Marie, is in New York finishing a Ph.D. in Paleontology. He will come to the Sault for his wedding. He will work on his thesis at Algoma University and return to New York for the oral defence.
11. John and Julia separated. Julia is seeking full custody of their children.
12. Edward bought a ticket to fly from Toronto to New York. The flight was cancelled. Edward demands a full refund from Air Canada.
13. Essar Steel's local shareholders decided to challenge a decision of the Board of Directors.
14. Rueben advertised a room to rent. Paola, a South American recent immigrant to Canada, wanted to rent the room. Rueben turned her down because she is not white.

15. Nicholas broke his right arm. His physician operated Nicholas' left arm, which had no problem.
16. Quebec wants to secede from the rest of Canada. The Prime Minister consults the Supreme Court to determine if this is legal.
17. Payton, a single, 80-year old man from Sudbury, wrote a holographic testament leaving all his estate to his nurse.
18. The United States declared war against Irak.
19. Gaston sold his condo and bought a house in Montreal.
20. Lauren appealed a decision from the court, which had denied her a request involving her pension.



Identify the main branch of law in the videos shown in class

**Class 8, Oct. 2: Test**



## Classes 9 & 10 Oct. 4 & 16: Sources of Law

Identify the type of source

### Source 1

BOOK ONE

PERSONS

TITLE ONE

ENJOYMENT AND EXERCISE OF CIVIL RIGHTS

1. Every human being possesses juridical personality and has the full enjoyment of civil rights.
2. Every person has a patrimony. The patrimony may be divided or appropriated to a purpose, but only to the extent provided by law.
3. Every person is the holder of personality rights, such as the right to life, the right to the inviolability and integrity of his person, and the right to the respect of his name, reputation and privacy. These rights are inalienable.
4. Every person is fully able to exercise his civil rights. In certain cases, the law provides for representation or assistance.
5. Every person exercises his civil rights under the name assigned to him and stated in his act of birth.
6. Every person is bound to exercise his civil rights in good faith.



**Source 2**

**LEGISLATIVE POWER**

**17.** There shall be One Parliament for Canada, consisting of the Queen, an Upper House styled the Senate, and the House of Commons.

**18.** The privileges, immunities, and powers to be held, enjoyed, and exercised by the Senate and by the House of Commons, and by the members thereof respectively, shall be such as are from time to time defined by Act of the Parliament of Canada, but so that any Act of the Parliament of Canada defining such privileges, immunities, and powers shall not confer any privileges, immunities, or powers exceeding those at the passing of such Act held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland, and by the members thereof.

## Source 3

### Definitions

**1.** In this Act,

“prescribed” means prescribed by the regulations; (“prescrit”)

“regulations” means the regulations made under this Act; (“règlements”)

“Review Council” means the Justices of the Peace Review Council continued by section 8. (“Conseil d’évaluation”) R.S.O. 1990, c. J.4, s. 1; 1994, c. 12, s. 50; 2006, c. 21, Sched. B, s. 1.

### Appointment of justices

**2.** (1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint full-time justices of the peace. 2006, c. 21, Sched. B, s. 2.

### Part-time justices

(2) A person appointed as a part-time justice of the peace before subsection (1) came into force continues in office as a part-time justice of the peace. 2006, c. 21, Sched. B, s. 2.

### Change to full-time

(3) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may change a person’s appointment as a part-time justice of the peace to an appointment as a full-time justice of the peace. 2006, c. 21, Sched. B, s. 2.

### Consultation

(4) Before making a recommendation under subsection (3), the Attorney General must obtain the recommendation of the Chief Justice of the Ontario Court of Justice on the matter. 2006, c. 21, Sched. B, s. 2.

### Justices of the Peace Appointments Advisory Committee

**2.1** (1) A committee known as the Justices of the Peace Appointments Advisory Committee in English and Comité consultatif sur la nomination des juges de paix in French is established. 2006, c. 21, Sched. B, s. 3.

### Function

(2) The function of the Advisory Committee is to classify candidates for appointment as justices of the peace and to report on the classifications to the Attorney General. 2006, c. 21, Sched. B, s. 3.

### Composition

(3) The Advisory Committee is composed of seven core members as follows:

1. A judge of the Ontario Court of Justice appointed by the Chief Justice of the Ontario Court of Justice.

2. A justice of the peace appointed by the Chief Justice of the Ontario Court of Justice.

3. A justice of the peace appointed by the Chief Justice of the Ontario Court of Justice who is either the Senior Justice of the Peace Responsible for the Ontario Native Justice of the Peace Program or another justice of the peace familiar with aboriginal issues or, when the justice of the peace so appointed is not available to act as a member of the Advisory Committee, another justice of the peace familiar with aboriginal issues who is designated by the Chief Justice of the Ontario Court of Justice.

4. Four persons appointed by the Attorney General. 2006, c. 21, Sched. B, s. 3.

#### Regional members

(4) In addition to the core members appointed under subsection (3), the Advisory Committee shall include the following regional members in respect of its functions in a particular region:

1. The regional senior judge of the Ontario Court of Justice for the region or another judge of the Ontario Court of Justice from the same region designated by the regional senior judge.

2. The regional senior justice of the peace for the region or, when he or she is not available to act as a member of the Advisory Committee, another justice of the peace from the same region who is designated by the regional senior judge.

3. Not more than five other persons appointed by the Attorney General.

4. A member of the bar in the region appointed by the Attorney General from a list of three names submitted to the Attorney General by the Law Society of Upper Canada. 2006, c. 21, Sched. B, s. 3.

## Source 4

Concerning the only ground in its second limb:

Considering Article 623 of the Commercial Code,

Given that the judgement of dismissal under attack declared the Commercial Court incompetent and the Civil Court (“Tribunal de Grande Instance”) competent to hear a claim for reimbursement of sums paid into savings account and for damages brought by Khafi against the Caisse Régionale de Crédit Agricole Mutuel de la Gironde (“C.R.C.A.M.”) on the grounds that (i) even if the opening and management of a savings account may be carried out in the course of banking activities, such a transaction cannot be considered to be a commercial act (“acte de commerce”) within the meaning of Article 632 of the Commercial Code and is entirely of a civil nature when it is carried out, as in the present case, by a not-for-profit organisation, which is not a trader (“commerçant”); and (ii) since it did not involve the making of profit by speculation on money and credit, such a transaction did not fall into the business of banking;

Given that the Court of Appeal has not given a legal basis to its decision since it came to this conclusion without enquiring whether, pursuant to the provisions of Article 645 of the Rural Code, which empowers the Caisses de Crédit Agricole Mutuel to receive by way of deposit from any person deposits of funds and securities, and to those of Article 1 of the Law of 13 June 1941 relating to the banking profession, the opening and management of the savings account of Khafi by C.R.C.A.M. was not a banking transaction within the meaning of Article 632 of the Commercial Code;

FOR THESE REASONS....

QUASHES AND ANNULS.....

## Source 5

*Per* Dickson C.J. and Lamer, La Forest, L'Heureux-Dubé, Gonthier, Cory and McLachlin JJ.: Section 7 of the *Charter* accords a detained person a pre-trial right to remain silent, and the scope of that right extends beyond the narrow formulation of the confessions rule. The rules relating to the right to remain silent adopted by our legal system, such as the common law confessions rule and the privilege against self-incrimination, suggest that the scope of the right in the pre-trial detention period must be based on the fundamental concept of the suspect's right to freely choose whether to speak to the authorities or remain silent. This concept, which is accompanied by a correlative concern with the repute and integrity of the judicial process, is consistent with the right to counsel and the right against self-incrimination affirmed by the *Charter*. It is also consistent with the *Charter's* approach to the question of improperly obtained evidence under s. 24(2) and with the underlying philosophy and purpose of the procedural guarantees the *Charter* enshrines -- in particular in s. 7. That section imposes limits on the power of the state over the detained person and seeks to effect a balance between their respective interests. Under s. 7, the state is not entitled to use its superior power to override the suspect's will and negate his choice to speak to the authority or to remain silent. The courts, therefore, must adopt an approach to pre-trial interrogation which emphasizes the right of a detained person to make a meaningful choice and which permits the rejection of statements which have been obtained unfairly in circumstances that violate that right of choice. The test to determine whether the suspect's choice has been violated is essentially objective. The focus of the inquiry under the *Charter* will be on the conduct of the authorities *vis-à-vis* the suspect. Further, since the right to remain silent under s. 7 is not an absolute right but must be qualified by considerations of the state interest and the repute of the judicial system, the *Clarkson* standard relating to waiver of a *Charter* right does not apply to the right to silence.

The scope of the right to silence, however, does not go as far as to prohibit police from obtaining confessions in all circumstances. The proposed approach to the s. 7 right to silence retains the objective approach to the confessions rule and would permit the rule to be subject to the following limits. First, there is nothing that prohibits the police from questioning an accused or a suspect in the absence of counsel after he has retained counsel. Police persuasion, short of denying the suspect the right to choose or of depriving him of an operating mind, does not breach the right to silence. Second, the right applies only after detention. Third, the right does not affect voluntary statements made to fellow cell mates. The violation of the suspect's rights occurs only when the Crown acts to subvert the suspect's constitutional right to choose not to make a statement to the authorities. Fourth, a distinction must be made between the use of undercover agents to observe the suspect, and the use of undercover agents to actively elicit information in violation of the suspect's choice to remain silent. Finally, even where a violation of the suspect's right is established, the evidence may, where appropriate, be admitted. Only if the court is satisfied that its reception would be likely to bring the administration of justice into disrepute can the evidence be rejected under s. 24(2) of the *Charter*. Where the police have acted with due care for the suspect's rights, it is unlikely that the statements they obtain will be held inadmissible.

Here, the accused exercised his choice not to speak to the police and the police violated his right to remain silent under s. 7 of the *Charter* by using a trick to negate his decision. Section 1 of the *Charter* was inapplicable because the police conduct was not a limit "prescribed by law" within the meaning of that section.

## Source 6

**322.** (1) Every one commits theft who fraudulently and without colour of right takes, or fraudulently and without colour of right converts to his use or to the use of another person, anything, whether animate or inanimate, with intent: (a) to deprive, temporarily or absolutely, the owner of it, or a person who has a special property or interest in it, of the thing or of his property or interest in it; (b) to pledge it or deposit it as security; (c) to part with it under a condition with respect to its return that the person who parts with it may be unable to perform; or (d) to deal with it in such a manner that it cannot be restored in the condition in which it was at the time it was taken or converted.

## Source 7

## AIRCRAFT AND EQUIPMENT AT AIRPORTS

### PART I

#### OPERATION OF MOTOR VEHICLES

##### PROHIBITION

5. (1) No person shall operate a motor vehicle on an airport unless

(a) he holds all licences and permits that he is, by the laws of the province and the municipality in which the airport is situated, required to hold in order to operate the motor vehicle in that province and municipality; and

(b) the motor vehicle is registered and equipped as required by the laws of the province and the municipality in which the airport is situated.

(2) For the purpose of these Regulations, a provincial certificate of motor vehicle registration shall be *prima facie* proof of ownership of the motor vehicle.

##### TRAFFIC SIGNS AND DEVICES

7. (1) The Minister may mark or erect or cause to be marked or erected on any airport traffic signs or devices

(a) prescribing the rate of speed;

(b) regulating or prohibiting parking and designating parking, loading or restricted areas;

(c) prescribing load limits for any motor vehicle or class of motor vehicles;

(d) prohibiting or regulating the use of any road or place by any motor vehicle or class of motor vehicles, or by persons or animals;

(e) designating any road as a one-way road;

(f) stopping motor vehicles;

(g) regulating pedestrian traffic; and

(h) directing or controlling in any other manner traffic on the airport.

(2) Except as authorized by subsection (1), no person shall mark or erect any traffic sign or device on any airport.

## Source 8

Dubois v. The Queen, [1985] 2 S.C.R. 350

**Daniel Dubois** Appellant; and

**Her Majesty The Queen** Respondent.

File No.: 18608.

1984: October 25; 1985: November 21.

Present: Dickson C.J. and Estey, McIntyre, Chouinard, Lamer, Wilson and Le Dain JJ.

on appeal from the court of appeal for Alberta

*Constitutional law -- Charter of Rights -- Self-incrimination -- Retrial -- First trial taking place prior to proclamation of Charter -- Incriminating evidence given by accused at first trial not admissible against him at second trial -- Protection against self-incrimination guaranteed by s. [13](#) of the Canadian Charter of Rights and Freedoms.*

*Criminal law -- Evidence -- Admissibility -- Self-incrimination -- Retrial -- Accused's evidence at first trial not admissible against him at second trial -- Canadian Charter of Rights and Freedoms, s. [13](#).*

Appellant was convicted by a jury of second degree murder but the Court of Appeal granted a new trial on grounds of misdirection to the jury. At the second trial, held after the proclamation of the [Canadian Charter of Rights and Freedoms](#), the Crown introduced as evidence appellant's testimony given voluntarily at his first trial. Defence counsel objected arguing that it was contrary to s. 13 of the *Charter* which provided that "A witness who testifies in any proceedings has the right not to have any incriminating evidence so given used to incriminate that witness in any other proceedings...." The trial judge ruled that the protection against self-incrimination guaranteed by s. 13 did not apply as the *Charter* came into force after appellant had testified in his first trial. Appellant was again convicted. His appeal, on the sole ground that his first trial testimony should have been excluded, was dismissed. The Court of Appeal held that the second trial was not "any other proceedings" within the meaning of the section and therefore appellant could not invoke s. 13 under these circumstances.

*Held* (McIntyre J. dissenting): The appeal should be allowed and a new trial ordered.

*Per Dickson C.J. and Estey, Chouinard, Lamer, Wilson and Le Dain JJ.:* Section 13 of the *Charter* precludes the admission at the second trial of the evidence given by the appellant at his first trial. The purpose of s. 13, when the section is viewed in the context of s. 11(c) and (d) -- the right of non-compellability and the presumption of innocence -- is to protect individuals from being indirectly compelled to incriminate themselves. This protection inures to an individual at the moment an attempt is made to utilize previous testimony to incriminate him. The time at which the previous testimony is given is irrelevant. Thus, no issue of retrospectivity arises in this case since the attempt to use appellant's testimony occurred after the coming into force of the *Charter*.

## Source 9

WHEREAS: 1.THE COMPANY desires to secure the services of a Brand Manager.  
2. CONSULTANT represents to THE COMPANY that it has the technical competence necessary for carrying out all the services, duties and obligations specified in this contract on the part of CONSULTANT to be and has agreed to carry out the same in accordance with the terms and conditions hereinafter set forth.

NOW THEREFORE, the parties hereby agree as follows:

### ARTICLE 1: SCOPE OF SERVICES:

Develop and manage brand team (where applicable) to support strategic direction; Establish and drive brand volume, share, and profit objectives; Anticipate situations and develop approaches that maximise the business opportunities; Integrate all marketing efforts (advertising, promotions, experiential, marketing assets) within a consistent overall brand plan, including Division and SBU Specialist Support teams; Define marketing DME requirements and proper allocation across the Marketing mix elements; Ensure all brand strategies and plans are consistent with SBU deliverables and business objectives; Actively observe and ensure adherence to quality standards across all brand initiatives across the Franchise; Ensure advertising executions meet agreed success criteria across Division/SBU; Provide support to countries/territories/clusters (where applicable) in planning and implementation; apply all agreed KO Marketing Process and Procedures; tactical plans are developed and monitored for delivery against strategy; marketing plans implemented, monitored and evaluated in line with Brand Plan; Tracks and analyses brand performance and initiatives.

## Source 10

## CONVERGENCE OF CIVIL LAW AND COMMON LAW CONTRACTS IN THE SPACE FIELD

*Julian Hermida\**

*This article explores the evolution of civil law and common law towards convergence, briefly addressing the history of the theoretical and philosophical perspectives that contributed to shape evolution and change within these two systems. The article analyses general features of the central aspects of contract theory in civil law and common law jurisdictions. As an example of convergence in the commercial contract realm, the article focuses on the analysis of the structure, characteristics and main clauses of the commercial space launch services agreements in both systems, stressing their similarities in structure, treatment and consequences.*

### **Introduction**

Common law and civil law contracts have been traditionally seen as distinctive and fairly diverse.<sup>1</sup> Each belongs to a tradition that has been regarded as quite different.<sup>2</sup> However, in several areas common law and civil law have been increasingly marching toward convergence.<sup>3</sup> The purpose of this article is to show that commercial space agreements constitute an area where there is a clear convergence between these two systems. Underlying this premise is our conception that despite the view of the majority of authors, common law, especially as applied in the United States, and civil law should

## **Class 11, Oct. 18: Law and Popular Culture**

### **That's My Spot**

Prepare and argue the appeal for Sheldon Cooper's contempt of court.

## **Classes 12 & 13, Oct. 23 & 25: Contracts**

### **Scenarios**

1. Natasha asks Amanda to tell Julian that he will be late because he has an appointment off campus. Amanda agrees. But she completely forgets; and Julian penalizes Natasha for not coming to class, even though she came at 2.50 pm instead of at 2.30 pm. Natasha wants to sue Amanda for breach of contract.
2. Paula hired Samantha and Frances to decorate her house for \$1000. They all agreed and executed a contract in writing. They were to start on Monday. Samantha and Frances bought supplies (\$300). On Monday, they went to Paula's house. She told them that she had changed her mind. She refused to pay them any money. Samantha asked Corey if they could decorate his house. He agreed. But he told them that he could only pay them \$50.

Samantha and Frances agreed. They want to sue Paula. Can they do so? If so, what can they claim as damages?

3. Gregg Popovich, Head Coach of the San Antonio Spurs (Julian's favorite team), came to Algoma U to scout new players. He saw a game between Thunderbirds and Cougars. Popovich is impressed with Tirus. He wants him to play together with Manu Ginobili. Gregg Popovich offers Joseph a three-year contract. His annual salary is US\$ 1,000,000 per season. Tirus agrees; and they sign the contract. When Tirus tells his coach that he will leave Algoma, the coach convinces Tirus that he should finish his studies first. Tirus tells Gregg Popovich that he will not join the Spurs. San Antonio Spurs want to sue Tirus for breach of contract. Can they sue Tirus? If so, how much can they claim from him?



4. Wile E. Coyote contracts with Acme Anvils for the purchase of some of its products for



delivery by the following Monday evening. Acme delivers the Anvils to Wile E. Coyote on the following Tuesday morning. Can Wile E. Coyote sue Acme for breach of contract?

5. Assume now that the contract between Wile E. Coyote and Acme stated clearly and explicitly that "time is of the essence" and the anvils MUST be delivered on Monday. Acme delivers after Monday. Wile E. Coyote refuses to pay for the Anvils. Acme sues Wile E. Coyote for lack of payment. Wile E. Coyote sues Acme for breach of contract.

6. Obi offered \$45,000 for Mohammed's house. He agrees verbally. But then Mohammed changes his mind and refuses to sell Obi his house. Obi is upset and wants to sue Mohammed. Can he do so? If so, what can he claim as damages?
7. Julian says to the class. "I will give you an A (100) to the first student that can tell me what consideration means in contract law. Raad says: "It is a bargained-for exchange between the parties to the contract –something of some value passing from one party to the other. Each party to the contract will gain some benefit from the agreement and will incur some

obligation or detriment in exchange for that benefit.” Julian congratulates Raad for a perfect answer. Raad is happy that he will not have to write the midterm and do the final take home. He sees Julian in his office, because he wants to make sure that he will get an A in the course. Julian says that he will only get an A if he does well in the midterm, take-home, and continues participating in class. Alex is very upset and wants to sue Julian.

8. Julian hired Zakia to make photocopies for all his classes. He told her he would pay her \$ 10 the hour. He hired her to work a minimum of 20 hours. Zakia agreed. Three weeks later, Julian told her that he would not need any photocopies, because the University hired a new full-time assistant. Zakia is upset and wants to sue Julian. What can she claim as damages?
9. Seif wants to buy a new watch. He goes to Amazon.com and orders a Seiko Men's Watch SGG480. The picture shows a watch with a brown leather strap. Amazon sends him the watch, but it has a black leather strap. Is there a breach of contract? Can Seif sue Amazon for breach of contract?
10. Neve Campbell and Netflix signed a contract for her to have a recurring role in the whole Season 3 of a show, i.e., a total of 13 episodes for \$ 1.3M. After shooting 5 episodes, Netflix decides to cancel the show. Neve Campbell gets a role on a Broadway show. She is paid \$ 400,000. She spends \$ 10,000 moving from Los Angeles to New York to work on the play. Is there a breach of contract? If so, what can the non-breaching party claim as damages?
11. KPMG’s CEO offers Laura an annual salary of \$100,000 to work in the legal department when she finishes Law School in 2021. Laura agrees. In 2021, Laura goes to KPMG, but the CEO tells her that he has long changed his mind and hired someone else. Can Laura sue KMPG?

#### **Class 14, Oct 30: Constitutional law and Charter rights**

Identify all violation of Charter rights in the following passage.

Paul has had a huge crush on actress Sarah Jessica Parker ever since he was a teenager. Last weekend, Paul travelled to Winnipeg, where Sarah Jessica Parker was shooting some scenes on the street for a new TV series. When she had a break, Paul jumped over a gate and shouted that he loved her. A police officer came and arrested Paula. Visibly mad, Paul asked why he was arrested and the police officer said to him: “Shut the f\* up and come with me. I am the only one

who asks questions here.” Paul, who knows his Charter legal rights, replied that he wanted to see a lawyer. The police officer ignored him and asked him why he shouted at Ms. Parker. Paul replied “because she’s hot.” The police officer did not like his reply and thought that Paul was trying to be smart. So, the officer arrested and booked him.

A few days later, Paul was formally charged with an indictable offence by a judge who was a good friend of the police officer’s. In his bail hearing, the presiding judge denied bail. Paul complained and asked why. The judge simply replied: “because it is obvious that you are guilty.” While still detained, Paul received a notification to testify as a witness in R. v. Paul. The trial was scheduled for August 9, 2022.

### **Class 15, Nov. 1: Test**



### **Class 16, Nov. 6: Feedback**

### **Class 17, Nov. 8: Legal research**

1. Find the name of a case decided by the Supreme Court of Canada on Criminal Law in 2018.
2. Find the complete citation of the Owens case.
3. Find and cite a 2014 case that cites R. v. Sault Ste. Marie, [1978] 2 SCR 1299, 1978 CanLII 11 (SCC).

4. Find and cite a Supreme Court of Canada case that deals with mens rea.
5. Find and cite a federal case dealing with “satellites”.
6. Find and cite an Ontario case dealing with stalking.
7. Find the decision, i.e., whether the appeal was dismissed or not, in *Perez v Canada (Public Safety and Emergency Preparedness)*, 2018 CanLII 61862 (CA IRB).
8. Find and cite a 2018 decision from the Competition Tribunal, which is a federal tribunal.
9. Find the correct citation for Armand de Mestral’s paper “Investor-State Arbitration between Developed Democratic Countries”.
10. Find the complete citation of Sault Ste. Marie Airport Zoning Regulations.

**Classes 18 & 19, Nov. 13 & 15: Academic reading**

**Differences between reading a High School text and an academic text**

	High School text	Academic text
Information	You read to find information.	The information is not always found in the text. Information is implicit, it is presupposed, it is taken for granted.
Meaning	The text means what it says.	You need to recreate or co-create the meaning of the text, together with the author. Reading an academic text does not simply involve finding information on the text itself. You need to work with the text. You can only achieve this if you can use a series of categories of analysis.

Working with the text	Pay attention to the information given in the text.	Working with a text and recreating its meaning entails finding <b>the main claims of the text, the different positions used by the author, the arguments used to hold these positions, and the counter-arguments.</b>
Connections to other texts	Minimal to nonexistent.	Reading an academic text means <b>making connections to other texts, and figuring out non-immediate consequences of the arguments used by the author.</b>
Evaluating and challenging the author of the text	This is not usually done. Nor is it always necessary.	Additionally, critically reading an academic text involves <b>evaluating the effectiveness of the text.</b>

### Strategies to read an academic text

- Understand why you read the text.
  - o Why do you read the text? What is the purpose of your reading?
  - o What do you need this text for? Try to formulate the purpose in the form of questions.
  - o What information are you looking for in the text?
- Understand the context of the text.
  - o Who is the author? Is she a critical author? Does the author's opinion reflect the mainstream school of thought?
  - o When was the text written?
  - o Where was it published? US? Canada? Europe?
  - o Who is the audience?

- Find the thesis of the text and the main claims of the text.
  - o What are the main claims dealing with the issues you are interested in?
  - o What does the author intend to do? Does she intend to challenge an existing position? Does he want to consider a variable that previous researchers have missed? Apply a theory or a concept in a new way?
- Find the arguments used to support these claims.
  - o What are the different positions used by the author?
  - o What are the arguments used to hold these positions?
- Find any –explicit or implicit- counter-arguments.
  - o What are the counter-arguments?
- Deconstruct the assumptions hidden in the text.
  - o Are there any assumptions hidden in the text?
  - o Are there any concepts taken for granted? If so, look for these concepts in the textbook, an encyclopedia, or other reference book.
  - o Are there some debates that are taken for granted?
  - o Is the author responding to another article or book? If so, briefly read that other article or book.
- Assess the strength or validity of the author’s argument.
  - o What is the strength or validity of the author’s argument?
  - o Don’t take the author's argument at face value. Try to evaluate the argument’s effectiveness in making its claims.
  - o What evidence does the author offer in support of her claim? How convincing is the evidence?
  - o What logical reasoning, if any, does the author use?
  - o Is there consistency of thought?
  - o Are the examples and evidence relevant?
- Analyze the policy implications and social consequences of the author’s thesis and claims. Figure out the non-immediate consequences of the arguments used by the author.
  - o What are the non-immediate consequences of the arguments used by the author?
  - o What are the implications of the author's thesis?
  - o What are the applications of the author's thesis?

- Make connections to other texts.
  - o What connections can you make to other texts?
  - o How does this relate to other topics you learned about?
  - o Can you relate the author's thesis or arguments to your own experience?

### **Categories of analysis for academic legal texts**

- Determine the approach to the legal argument (e.g., positivism, socio-legal, etc.).
- If positivist, determine the validity (e.g., look at the jurisdiction) and currency of the argument (e.g., law repealed).
- Evaluate the structure or rationality of the reasoning behind the legal argument (e.g., authority, logical, none).
- Identify the legal theory underlying the argument.
- Legal tradition (e.g., common law, civil law, Islamic law, etc.).
- Contrast the thesis to the solutions in Comparative law.
- Analyze the policy implications and social consequences of the author's thesis and claims.

**Read the article entitled “Key Objections to the Moon Treaty” and discuss the following questions**

- How did you find the article? Was it easy to understand? Useful?
- Who is the author? What is the context of the text?
- What is the main thesis of the text?
- What is the common heritage of mankind principle? Why is this important?
- Suppose Canada wanted to extract mineral resources from the Moon, would this be legal? Or should it ask the International Regime to do so? What steps do you need to take to make sure that you read this text academically?

#### **Key Objections to the Moon Treaty**

by *Glenn Harlan Reynolds*, Professor of Law, University of Tennessee-Knoxville

**“Common Heritage of Mankind” Language:** Article XI of the Moon Treaty provides that “the Moon and its natural resources are the common heritage of mankind, which finds its expression in the provisions of this Agreement, in particular Paragraph 5 of this Article.”

Like the identical language contained in the Law of the Sea Treaty, the “common heritage” language of the Moon Treaty constitutes a finding that all nations of the world - whether or not they expend any effort or risk any capital - have rights to Lunar resources. This means that any effort to develop resources would require the consent of all nations, a process that would be slow, cumbersome and prone to blackmail.

**Ban on Property Rights:**

That this is the goal is made clear by Paragraph 3 of Article XI, which provides that: “neither the surface nor the subsurface of the Moon, nor any part thereof or natural resources in place, shall become the property of any state, international intergovernmental or non-governmental organization, national organization or nongovernmental entity or of any natural person.”

Without property rights, economic development of the Moon would be frustrated - unless it were conducted by the special monopolistic regime that the treaty contemplates in Article XI, Paragraphs 5 & 7.

**The International Regime:**

According to Paragraph 5 of the Treaty, there will be established “an international regime, including appropriate procedures, to govern the exploitation of the natural resources of the Moon as such exploitation is about to become feasible.”

Paragraph 7 provides (among other things) that the regime shall promote “orderly and safe development [of lunar resources], rational management [of them and the] equitable sharing by all states parties in the benefits derived from those resources.”

Although the Moon Treaty itself provides little guidance on what these terms mean, the very similar Law of the Sea Treaty interprets them to involve the creation of an international authority to govern or conduct all resource extraction, with a hefty share of the proceeds going to less-developed countries regardless of whether they have any investment in the activity or not. That would discourage - if not outright prevent - the development of Lunar resources any time soon.

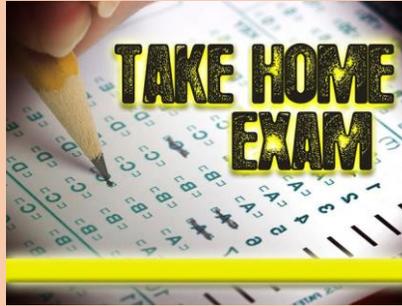
**Other Problems:**

Although styled the “Moon Treaty,” this agreement by its terms also extends to other celestial bodies, including near-Earth asteroids and Mars (Article I). The Moon Treaty is silent on the question of human rights in space, except to deny them in the case of property rights (see above) and privacy rights (Article XV). And it limits use of the Moon to “scientific purposes” until an international regime is established pursuant to Article XI (Article IV). This might even prohibit space tourism or space power systems, or other beneficial but non-scientific uses of the Moon and other celestial bodies.

In short, the Moon Treaty could pose a serious barrier to space development. It’s up to us to keep that from happening.

**Class 20, Nov. 20: Make-up test**

**Class 21, Nov. 22: Distribution of final take-home**



## **Class 23, Nov. 29: Submission of final take-home**

### **\* TRIGGER WARNINGS**



Some materials in this course may be sensitive. Course materials, including lectures, class activities, hypotheticals, scenarios, examples, court cases, and films shown in class, may have mature content, including violent, sexual, and strong language content.

### **Disclaimers**

Except for newspaper articles and court cases, all class activities are hypothetical and fictitious. Any resemblance to actual persons, institutions, or events is purely coincidental. The views and opinions expressed in the articles assigned for reading in this course, as well as those expressed in videos shown in class, are those of the authors or the individuals who made those opinions and do not necessarily reflect the position of the course professor. Questions, follow-up questions, examples, and comments made within the context of class activities do not purport to reflect the opinions or views of the course professor. All such articles, comments, questions, examples, and activities are meant solely to facilitate the discussion and study of Law. They are not meant to

advocate or promote any crime or unlawful action. Neither are they meant to advance any ideological perspective. Discretion advised before signing up for this course.