

Law Test Review

Law Exam Cases

- Quebec secession
- Roncarelli
- Firearms act
- Baker
- Dudley and Stephens
- Butler
- Latimer
- Christie v. York
- Delgaukw
- Abdelrazik
- Rizzo
- Mills
- Bliss
- Henrietta Moore Edwards (persons case)

Quebec secession

Facts:

Secession of Quebec:

Constitutional context of law.

Wants to separate from Canada

- Quebec trying to get out of Canada
- case sent to the supreme court of Canada because of Chretien

Issues:

Chretien sought clarification from SCC under what circumstances could Quebec separate – under the constitution of Canada, can the Quebec National Assembly effect the secession of Quebec from Canada unilaterally

Under what circumstances could Quebec separate from Canada?

- what circumstances could Quebec unilaterally get out of Canada
- could any province pull out of Canada

Ratio:

Four constitutional principles:

Federalism(Think of your own province), democracy(High majority), rule of law, minority rights.

Duplessi v. Roncarelli

GET INFOOO

Facts

- Roncarelli was a Jehova's Witness, and
- ran a restaurant in Montreal, until his
- license was cancelled
- Posted Bail for the Jehova's witness and had his liquor license taken away by Duplessi

Issues

- Was Premire Duplessi outside his right of duty for revoking the liquor license for a personal reason?

Ratio

- Was personal act – not simply giving advice as attorney General

Sue personally, he won because duplessi stepped out of his bounds

Firearms act

Facts:

Alberta didn't want the parliament to have full control over firearms and wanted a parliament enacted firearms act to require that guns be registered.

Government of Alberta wouldn't stand by it took it to court, did the fed have jurisdiction to pass this law? Sec 90 was provincial- public law,,, section 91- fed can make this law, crim law which one?

- Parliament enacted firearms act to require that guns be registered
- Alberta wanted jurisdiction over gun laws provincially not federally.

Issues:

- under what right does the federal government have to enact firearms in a province
Qw Fed has constitutional authority to enact
- Is the Gun control act jurisdiction in provincial or federal rights? (Property - Provincially, Criminal - Federal)
- Alberta arguing it was property law (prov)
- Fed argued it was under criminal law (fed)

Ratio

- BNS act tells us what the federal vs provincial government gets control
 - ◊ 1857
- Fed; narcotics, airports
- Prov.: firearms
- Different provinces has difference regulations for specific laws, they have legislature over crim law, POG(peace order government)
- register fire arms but Alberta got pissed
- there is no jurisdiction in federal gov't to in-act firearms registration
- fed has anything to do with all provinces
- its valid criminal law
- Property and civil rights – or criminal law ?
- Valid criminal law purpose pursuant to s.91(27) *Constitution Act, 1867*
- Because the punishments for breaking the gun laws, the consequences are part of criminal law, therefore federal government has jurisdiction over the criminal punishments.

Reference re Firearms Act [2000] 1 SCR 783
p.40
Ratio

Property and civil rights – or criminal law ?
Valid criminal law purpose pursuant to s.91(27)
Constitution Act, 1867

R v. Baker

Facts:

- Baker illegally in Canada 11 years, had 4 children ordered deported
- Baker was born in Jamaica and illegally living in Canada on welfare and had four children while she was living in Jamaica.
- Baker was diagnosed with Schizophrenia and couldn't receive the treatment she needed in Jamaica
- Baker illegally in Canada 11 years, had 4 children in Canada and 4 children in Jamaica, ordered deported

Baker illegally in Canada 11 years, had 4 children ordered deported
Baker was born in Jamaica and illegally living in Canada on welfare and had four children while she was living in Jamaica.
Baker was diagnosed with Schizophrenia and couldn't receive the treatment she needed in Jamaica

[Baker v. Canada \[1999\] 2 SCR 817, p.56](#)

Facts

Issues:

QW Baker should have been exempted on "compassionate or humanitarian considerations"
H&C grounds: her children
QW Baker should have been exempted on "compassionate or humanitarian considerations"

Issues

Ratio

Ratio

H&C factor of children not adequately considered, therefore decision inconsistent with valued underlying grant of discretion.
PC would be a tremendous strain on our social systems for the rest of her life
H&C factor of 4 children not adequately considered, therefore decision inconsistent with valued underlying grant of discretion.
PC would be a tremendous strain on our social welfare systems for the rest of her life. There are no H&C factors other than her 4 Canadian-born children.

Deals with international law --> must focus on children's care.

International Law deals with kids, putting their rights first
Domestic Law: we make our own laws
CANNADA NOT OBLIGATED TO FOLLOW INTERNATIONAL TREATIES

Dudley and Stephens

Facts

- Shipwrecked men kill and eat a sailor
- 3 Sailors and one cabin boy
- Cabin boy was sick and 2 of the sailors wanted to eat the Cabin boy

Issue:

- Does defence of necessity apply
- Was it necessary for them to eat the cabin boy?
- Should government be able to alter decisions made by judges?
- Mischief rule vs. Literal rule

Ratio:

- Necessity does not apply
- No absolute unqualified necessity to preserve one's life
- Death penalty
- Later commuted to 6 months served

R v. Butler

Facts

- Video shop sells hard core pornography
- Charged under obscenity section of the criminal code of Canada
- Obscenity is a moving target – defined in the criminal code
- Test is degradation or dehumanization (nudity is never going to be obscene)
- Does it fail the community standard test?

Issue

Qw parliament can legislate against possession of obscene material

Does charter apply? YES

Section impugned? YES

Qw saved by section 1 charter?

What is obscene too someone may not be obscene to some one else

Qw parliament can legislate against possession of obscene material – s163 CCC

- Does charter apply?(yes)
- Section impugned(yes)
- Qw saved by s1 charter.

What is obscene? Different to everybody [Subjective]

Ratio:

- ★ Only minimal infringement
 - Nonviolent/ non degrading porn OK
- ★ No impact on private possession/viewing
 - Scientific/artistic/ literary porn OK
- ★ Decision not relevant to private use or viewing
- ★ No definition of obscenity- undue exploitation is the appropriate standard

He got charged for EVERRYYTHIIIIINNNG

R v. Latimer

Facts

- Accused murders daughter suffering from cerebral palsy
- Suffering from 5-6 seizures a day.
- She underwent 47 operations.
- Father decided she suffered enough and killed his daughter using carbon dioxide
- Charged with manslaughter

- ★ Killed his daughter, 12 year old that cerebral palsy, had 5-6 seizures everyday
- ★ 47 operations
- ★ Wasn't a necessity because he could have put her in the group home
- ★ Court said 10 years, government appealed it,

Issues

- Whether defence of necessity available

Ratio

- Accused's action not involuntary – he had an option.
- Defense of necessity wasn't allowed.

Christie v. York

Facts: didn't serve man beer, claimed 200\$ for humiliation he suffered,

Issues: QW beer was considered food?

Quebec license act over rode general freedom of converse

Ratio

Beer is not food therefore quebec license act does not apply

Sec. 33 no licence for a restaurant may refuse with out reasonable cause to give food to travellers

Used literal rule, should have used mischief rule

Delgamuukw v. B.C. [1997] 3 SCR 1010 p. 111

Facts:

- Claim for land rights based on oral evidence of occupation and use
- 318 days of testimony
- Natives were trying to prove that this land was their land
- Everywhere is their land
- Their concept of ownership is not a European concept- only use oral evidence
- Couldn't show a deed or any evidence of ever owning their land

Issues:

- Question whether oral histories admissible to establish title
- Trial judge discounted because they were not "literally true" confounded what is belief and what is fact
- He gave no independent weight to these special oral histories because they did not accurately convey historical truth- knowledge of these truths were confined in the communities
- QW D demonstrated requisite degree of occupation for "ownership"

Ratio:

- TJ erred in giving insufficient weight to oral history - requires new trial
- They needed the oral histories in an attempt to establish their occupation and use to distribute territory
- Trial judge found decent (minority opinion aka the judge – don't agree with the other judges ruling)
- SCC said the trial judge erred in not giving sufficient weight to oral history (only history natives could ever bring)

R v. Abdelrazik

November-25-10

12:43 PM

Facts: lived in Canadian embassy in Sudan for five years and prevented to return to Canada, they thought he was terrorist
Abdelrazik lived in Canadian Embassy for 5 years
in Khartoum, Sudan
He was prevented from returning to Canada
On UN's Security Council List

Issues: QW Canada breached sec. 6 (1) of the Charter which prohibits Canada from refusing Canadians rights to enter Canada

QW Canada breached s6(1) of the Charter (prohibits Canada from refusing a citizen's rights to enter Canada), subject to s1 of the Charter

Ratio: applicant's Charter right was breached by failing to issue an emergency passport

- applicant's Charter right breached by failing to issue an emergency passport
- Charter only protects you from your own government

R v. Rizzo

a) *Rizzo v. Rizzo Shoes Ltd*

Facts

- Bankrupt company owe money to employees
- Appeal by former employees of a bankrupt company from an order disallowing their termination pay
- **Bankruptcy stops termination pay**
- Not wrongfully terminated, Company has assets the bank will get first crack at the money.
- **Employees want severance , company wont pay**

Company goes bankrupt
Bank stops

Issues

- **Who gets money? Company because they got bankrupted or employees? *Employment Standards Act(Not to be fired without cause)***
- Whether bankruptcy constitutes dismissal creating entitlement of severance pay obligation under
- Bankruptcy act: you didn't get dismissed, you don't receive severends.

Ratio

People get the severance pay

- Issue of Statutory Interpretation
- Statutes deemed to be remedial, give fair large liberal construction to give act true meaning and spirit
- Termination resulting from bankruptcy therefore, employees owed severance
- Either look at the Statute and interpret it literally, or look at "what the point of the act".
- Reasons for termination have no bearing on ability of the dismissed employee to cope with sudden economic dislocation caused by unemployment
- Should be no distinction in treatment of employees whether terminated as a result of bankruptcy or any other cause
- ESA purpose: Protect employees
- Issue is who gets the money: employees or banks?
- Employees because there should be no distinction for them being dismissed.
- What's the impact of the case: Bad for business.
- Banks could be hesitant to hand out money to companies because they know if anything happens to the company they wont pay them back.

Extra-Notes

Employment Standards Act - If you were anywhere in Ontario (non union) – if you've worked for more than a year you will get a minimum of one week of dollars for every year you've worked. If you worked for 3 years and make 60 grand youll make 15 grand.

R v. Mills

R. V. Mills p.179

Facts:

Bill c46 prevents cross examination on past sexual history

- **Girls should not be questioned because past sex life not relevant**
- Accused convicted of sexual assault, appeals on basis he was denied access to complainant's and witnesses'
- Bill C-46 prevents questioning and cross examination on prior sexual history. Bill C-46 prevents lawyer to ask questions. There's a reason for bill C-46, and we should actually do that. Bill C-46 doesn't take away his constitution.

Issues

- Whether bill C-46 contravenes ss. 7,8, 11 and 15 of the constitution – i.e. does it balance rights of privacy against accused right to make full answer and defence

Ratio

- **Bill c46 still stands but must be examined (women cant be asked)**
- Legislature should be respected
- Legislation should be upheld if can be interpreted as complying with constitution.

Extra-Notes

Definition of sexual assault: Sexual act without consent. Wanted access to her private records (see abortions shes had, past sexual behaviour) – reasonable belief she was consenting. Bill C-46 prevents questioning and cross examination on prior sexual history. Bill C-46 prevents lawyer to ask questions. There's a reason for bill C-46, and we should actually do that. Bill C-46 doesn't take away his constitution.

R v. Bliss

Bliss v. Canada p.213

Facts

- Lady gets pregnant, files for unemployment insurance & she didn't get it.
- Appellant denied unemployment insurance benefits under s46 of the Unemployment Insurance Act, because she was excluded by s30 – not at work during qualifying period
- She just missed qualifying – didn't have the charter (No charter applied – Bill of Rights)
- Appellant denied unemployment insurance benefits under s46 of the unemployment insurance act, because she was excluded s30 not at work during qualifying period (not enough works before pregnancy)

Issues

- Whether s30(unemployment insurance) contravened s1 of the Canadian bill of rights by discriminating by reason of sex, resulting in denial of equality before the law
- Reasons why she was unemployed was because she was pregnant

Ratio

- **no it didnt** Women already have extra rights than men but she didn't qualify for them because she didn't follow guidelines
- S1 CBR does not require that all federal statutes must apply to all individuals in the same manner
- S46 is an integral part of a valid scheme of legislation and to be read in light of additional benefits provided by s30
- Not being denied because she is getting extra benefits.
- Bill of rights had no weight to it.
- Didn't qualify because women were given extra rights men didn't receive the rights (no discrimination)
- s1 CBR does not require that all federal statutes must apply to all individuals in the same manner
- S46 is an integral part of a valid scheme of legislation and to be read in light of additional benefits provided by s30

Henrietta Moore Edwards (Persons case)

Henrietta Edwards v. A.G. Canada (1930 JCPC) p.187

Facts

- Edwards wanted to be member of Senate of Canada
- In 1930 Women couldn't be senators because they weren't considered a 'person'. (s. 24)
- In 1930 if you wanted to complain about the SCC decision, you could appeal to the Privy Council (British court)
- Women weren't considered persons in Canada, but in 1930 you could appeal a SCC decision to the PC

Issues

- Whether Edwards was a "qualified person" pursuant to the - ***BNA Act 1867***
- Canadian court determined that a women wasn't considered a "person"

Ratio

- The word "person" is ambiguous since it appears before the expression "male person" - so could mean male or female person (SEC41 and 84)
- Sometimes there's a word "person" and sometimes there's a term "male person".
- Meant that all women could become a senator of Canada

NAFTA

December-04-10
10:51 PM

NAFTA trade ban North American Free Trade Agreement

- Advantage: no taxes to import and export.
- NAFTA-would benefit unionized workers.
- Disadvantage: bound not by what we want but what other nations want.

Facts:

- gasoline additive enhances octane rating but contains manganese (a neurotoxin)

Issue:

- Whether the ban violated NAFTA
- Whether NAFTA restricts the Government from enacting
- Environmental/health legislation

Ratio:

- negotiated settlement
 - Ethyl gets **\$10M** costs and lost
- profits, drops **\$250M** action against Canada

December-06-10
11:31 AM

Mass Rape: Prosecutor v. Dragoljub Kunaric ICTY 2002, p.53

Facts

- 3 accused charged with:
 - Rape of Muslim women in Bosnia,
 - Torture of Muslim women in Bosnia,
 - enslavement of Muslim women in Bosnia

Issues

- Question whether rape is a “crime against humanity”, and whether accused guilty of that offence

Ratio

- Individual acts of rape were part of a larger policy to terrorize Muslims and evict them from Bosnia, therefore a “crime against humanity”

It's a crime against humanity because the case goes beyond the 3 people

Baker v. Canada [1999] 2 SCR 817, p.56

Facts

Baker illegally in Canada 11 years, had 4 children in Canada and 4 children in Jamaica, ordered deported

- Baker illegally in Canada 11 years, had 4 children ordered deported
- Baker was born in Jamaica and illegally living in Canada on welfare and had four children while she was living in Jamaica.
- Baker was diagnosed with Schizophrenia and couldn't receive the treatment she needed in Jamaica

Issues

- QW Baker should have been exempted on "compassionate or humanitarian considerations"
 - H&C grounds: her children
 - QW Baker should have been exempted on "compassionate or humanitarian considerations"

Ratio

- H&C factor of children not adequately considered, therefore decision inconsistent with valued underlying grant of discretion.
- PC would be a tremendous strain on our social systems for the rest of her life
 - H&C factor of 4 children not adequately considered, therefore decision inconsistent with valued underlying grant of discretion.
 - PC would be a tremendous strain on our social welfare systems for the rest of her life. There are no H&C factors other than her 4 Canadian-born children.
 - Deals with international law --> must focus on children's care.

International Law deals with kids, putting their rights first
Domestic Law: we make our own laws

People as property

Social context

- define relationships – what is/isn't permitted (when you can smoke when you cant)
- maintain order/provide sanctions (what happens when you don't follow rules)(
- Resolve cases
- Imperative of social existence

Conflicts as property

- conflicts become property of courts/lawyers/judges
 - they own it, and you don't, why is that important? Its out of your hands, no control over outcome
- particularly Criminal matters (if you break that code, the whole society has a right to get involved in the matter, STATE HAS INTEREST)
crown/judges/jury/defence counsel/legal aid

Other people getting profit from your problems

Ch.1

December-06-10
11:43 AM

What is the function of law in society?

Dispute resolution: to provide an allocation

Legal studies approach (2 questions on this)

Nils Christy article (page 8) – right in the article

Ch.1 What is law?

Canada's constitution from the UK

Law and morality

Morality; no contraception, good vs bad, morality does not change. Everybody's perception is different.

Law has to be predictable and subjective, needs to be objective you needs to know ahead of time

John Stuart Mill

- ★ "liberty" only interfere with liberty of others for self protection
- ★ You can do what ever you want, but if it bothers me you have to stop
- ★ The only time your going to interfere with liberty of others is for self protection
- ★ Libertinism don't legislate anything because I need to protect

Principle of law making

- ★ Must remain a realm of private morality and immorality which is not the laws business

Positive law

- ★ Law created by judges and legislators in any particular country
- ★ Must conform to natural law
 - Universal moral principles
- ★ Natural law theory → defining which types of law are legitimate or binding
- ★ Natural → Mischief rule
- ★ Rules that are issued from established constitutional or sovereign authority and no other rules or laws are enforceable by the courts

Legal positivism

objective law interpretation, literal does not take into account morals

- ★ Opposition to natural law
- ★ objective law interpretation,
- ★ literal does not take into account morals
- ★ From a reconized sovereign power
- ★ Bentham founded it
- ★ Enlightenment influenced legal theory
 - Preferred law created by legislators not JUDGES
- ★ Rule of law → power is exercised according to laws generated of duly constituted authority (constitution, legislators, judicial precedent)
- ★ No one above private law
- ★ Rules have internal (how people think they ought to behave) and external aspects
- ★ High order rules; provides methods for making, unmaking, changing all other rules
 - Rules of recognition → pg 8

What law is, and what law ought to be, OPPOSITE OF NATURAL LAW

jurisprudence

Interdisciplinary approaches

- ★ Two camps on pg. 10
- ★ Interdisciplinary approaches emphasize examination of the actual practices in the legal system and the roles performed by law in society, matters which tend to be of secondary importance in jurisprudence
- ★ Issues such as social, economic, and political functions or interests served by law

Legal realism

- ★ Law in practice
- ★ Emphasize the failure of legal doctrine to predict practical legal outcomes
- ★ Law as product of experience rather than logic
- ★ Assumptions;
 - Individual are primary actors in society
 - Individuals are autonomous agents who should be free to pursue their own conceptions of the good life
 - Individuals are rational and self interested
 - Individuals are inherently worthy of concern and respect (dignity)
- ★ People of law

DURKHEIM ;

Primitive society →

- no laws, no regulations, chaos
- Serve punishment by community
- Morality comes from religion
- Little to no use of technology

ADVANCED SOCIETY;

- Lots of laws, social and economical order
- Technology
- Higher standard of living
- Individuality more important → Multicultural
- Do what you want when you want as long as it doesn't interfere with others

Repressive sanction

- Cruel

restitutive sanction

- Rehabilitation
- Efficient

- Softer

Durkheim:

- scientific approach. (soft science).
- law is what holds a society together.
- social solidarity: a group consciousness
- comparing primitive and modern societies through their laws.
- primitive:
 - repressive in nature. (punishments harsher)
- less advanced technology, no codification, and more based on beliefs and religions, but this is more confined to smaller communities)
- modern:
 - less unified by religion, and tend to be unified by a set of principles instead, codified. Punishment shifts from death to prison.
- Durkheim: organic solidarity: society is run like an organism.
- as a result, our law tends to reflect that; rights have to be infringed as little as possible.
- restitutive sanction: restore it back to normal. (monetary in nature).

law replaces religion; instead of getting morals from religion you get it from law

KARL MARX

- theory; law is tool of capitalism; composed from top- down
- keep workers in line and efficient/ happy
- all law does is maintain power of bourgeoisie
- RIGHTS; makes workers happy

Marx: Law is a theory of oppression.

- law was a power struggle. (\$\$)
- bourgeoisie used law to oppress the proletariat.
- legitimatization of state violence (not just Marx who thought this...) ex: Sanctions.
- Smokescrew: seems like the law is helping everyone, but in reality, it isn't...
 - putting someone in jail in violation?
- 3) Legal domination: authority comes from law. Based on formal rationality. Impersonal. Only shows the masses and assumes everyone in that mass has the same view.

WEBER

- Not just about economics also social influence to law(technology, politics)
- Social conflicts
- Protestants vs Catholics
- Distinguished between three different types of authority
 - Traditional Domination; authority that is always been that way; right of kings
 - Charismatic domination; person being exceptional will succeed
 - Legal domination; authority given by the law, leads to formal legal rationality(System of laws that is formal.)
- focuses on a pluralist theory.
- established three types of authority
 - 1) Traditional domination
 - 2) Charismatic domination: ex hitler, obama, JFK, authority based on and legitimized by an exceptional individual and/or personality.

Ch. 2

December-06-10
2:47 PM

Constitution--> statute, case (judicial decisions), code civil (private civil law in Quebec), legislation

- Literal Rule: (when judge gets legislation to look at they can either read it word for word and apply it)
- Mischief rule (can understand this legislation but understand what it's all about – intention or meaning behind it)
- Stare decisis (stands decided)
- Obiter dicta (other reasoning [doesn't matter, but its used for future cases]) - Judges didn't use it in their case but use the points if they were to do it again. NOT BINDING
- Haebus corpus (to have the body – relevance is that in our country you cant snag someone off the street then charge them. Forces the court to produce the body – let him go on bail, or keep him in on certain conditions, and must charge)
- Ratio decidendi (reasons for deciding – part that's binding)
- Ultra vires (beyond the power of) - beyond the jurisdiction of the court
- Instructive - not binding other judges don't have to follow it.

Statutes are made to be remedial, should try to help people

Sources of law;

- Law in Canada came originally from religious beliefs and the catholic church
- British law influence
- France law influence
- Aboriginal law influence- neglected, treaties broken,

Reception- process where a colony will adopt a European law, Champlain came to Canada this law is a law, there is no law, I can impose European law on this land
International law at the time said if legal order was established then imperial power would have to make contracts and negotiate with the local order

The royal proclamation of 1763-

- 7 years of war, Britain and France were fighting over the rights north America, poor France's land was taken by Britain
- King George make royal proclamation- followed conquest of Quebec
 - Informal- adopting euro law as they see fit
 - Formal- colony grow to certain size demands political proclamation(set up legislator) , adopt British common law
 - To appease the French they kept the French civil law to Quebec (private property matters)

- 1774 formal reception for upper and lower (Quebec)

- \
- **Civil law- Quebec** → statute law, code, based on roman law, goal is to have law for everything

Chapter 2 of Looking at Law

Reception: introduction of law into the colonies; how they take on laws

Royal Proclamation: informal reception of English law in Canada in 1763

-there was already a system in place, but with the growth of Canada, the provinces went through formal reception.

-each province did it at a different time.

-colonies resisted absorbing aboriginal rights.

-only recognized after the Constitution

- **Quebec act of 1774**
 - Quebecs formal reception of Canadian law; but they got to keep their Quebec civil law
- English common law system emerged from the idea that Canadians wanted consistency and predictable law.
 - inductive system (work from the bottom up)
 - work from specific to general
 - deductive
 - effective remedies rather than abstract rights
- **Civil law**
 - systemizing law into a code that you can then follow
 - developed from teaching rather than judge-made law
 - presents law, takes principle and finds solution based on the principle.
- Important that both systems are founded on justice, certainty and fairness.
- Common law in Canada was not applicable to law in England; we made our own laws.
 - therefore: there are 8 sources that Canadian law comes from
 - 1) English law prior to reception
 - 2) Common law-English versions
 - 3) Common law-Canadian versions
 - 4) English statutes prior to reception
 - 5) Imperial statutes prior to 1931 (Statute of Westminster)
 - employed by Britain and forced upon all the colonies
 - 6) Statutes from Canadian parliaments
 - 7) Statutes from the provinces
 - 8) Constitution
- International law:
 - continually expanding, starting to regulate the relationships between individuals and their gov as much as between states.
 - Gives a lot more pressure and shows how individual accountability is more important.

Page 28 of Looking at Law (IV)

- 2 kinds of legislation:
 - sovereign: made by authority of parliament
 - subordinate: by a subordinate body (p.29)
- -Canada's parliamentary system is based on Westminster System in England
- -Process by which we make laws in Canada
 - a bill is introduced into the House of Commons by an NP
 - 1st reading
 - 2nd reading
 - debate, specifically about the principles
 - goes to the standing committee (smaller group of people who debate, talk and propose to amend it)
 - send it back to the house revised
 - 3rd reading
 - debate, specifically about the amendments proposed
 - voted on
 - if it passes, it goes to the Senate and goes through the same process again
 - if it is NOT passed, it goes back to the House
 - if it IS passed by the Senate, the gov general signs it and gives it assent.
 - either comes into force now or the date put forth

- Provincial legislatures don't have a senate, it goes straight to the royal governor to be assented (no second House)

- **Bills can be a number of different things:**

- platform specific: whatever the party in power wants to do
- response to public outcry
- ideology specific

Private member bills

- very rare
- allotted a specific amount of time in the House for debate
- usually used to introduce an issue into the House-usually gets put in with another one

- **Private Bills**

- usually from the Senate
- usually about corporation liability
- until 1800s, you had to get a private bill from the senate to get a divorce

- **Judges often called upon to interpret statutes, why?**

- give it practical application through the times
- to make sure they know it
- make sure the wording and definition and clarified.
- law doesn't usually think about future problems.

- **3 ways to interpret a statute:**

- 1) Mischief Rule: Take into consideration parliaments intention in passing the law, look at context
- 2) Literal rule: very narrow reading of the statute, protects parliamentary supremacy, gives judge discretion as to whether or not the law applies, and takes away some of the judges power by making them follow the words of the laws made by parliament
- 3) Golden Rule: same thing as literal with focus on the words.

- Interpretation is not meant to fundamentally change the law

- **Common Law**

- judge-made law
- works around legislation
- can be used to fill in the gaps in legislation
- comes from when judges used to go around in small areas and look at cases in places without courts
- comes from the idea that judges would always give the same decisions...
- all knew each other in the littler cities and towns so would talk about their choices, so that was where the idea of precedents came in...
- to keep things consistent, decisions then were written, and other judges read about them...
- much more gradual change
- retroactive and reactive
- judge-made law is a problem because they have a biased opinion because they are appointed by someone, and not elected.

- When judges interpret laws passed by parliament, what are they doing?

- clarifying them.

- -If the issue isn't covered by precedent, we can look at legislation and common law.

- -Stare Decis: Stands decided.

2 types of precedents:

- 1) binding precedent: must be followed
 - 2) persuasive precedent: may be followed-usually followed by courts anyways.
- laws made by other provinces are sometimes considerent persuasive precedent.

-Higher courts bind lower courts.

- -Supreme Court was bound by Privy Council until 1949, had to listen to the house of lords until 1959 and decided they were no longer bound by their own decision in 1975- which allows them a lot more discretion.

-Respond better to social changes

- -Binding part of a legal decision is the reasoning for the decision.

- (?) Legislation responds quicker to social changes, employ experts.

-law can be proactive, or can be reactive.

-Made by legislature elected into their position (pick them to make laws based on what we want

Common law- looks at cases

- Judge made law
- Precedent – binding of previous cases
- “Liked cases are judged liked” same cases same judges
- Came from England
- Introduced in 1066 – battle of Hastings conquest , romans had judges with the principle that things in common should be given the same ratio

Types of law

Legislation

→ introduced bill to either federal(criminal code)/ provincial/municipal, there it will be read, amended sent to a committee , re read then to senate, followed by the governor general then the Queen → equal law

→ Britain has house of commons/house of lords/Queen

How judges interpret the law

Literally → interpret literally- most common

Mischief → judge looks at attention of legislation; try's to decide what the issue government trying to deal with and makes judgment accordingly

Common law

→ case law- like cases are decided alike

- Similar ratio

PRECEDENT

→ is the higher arky of courts (lower court bond to higher courts) supreme court top!

→ whats the aurthoriy to the case, what are the core principles, are they applied to current case?

Ch.3

December-06-10
2:50 PM

Statute → criminal law,

How do judges interpret statutes?

- When a judge looks at law he looks at it laterally or mischief view (activist, not good thing)
- How does a judge know the intent of law?

Pg. 35 precedent; distinguish

Pg.36. Why its important scare decisis

What is rule of law?

- ★ Rule of law is when majority is not always right/fair so law is needed.
- ★ Everybody is equal under law, no one above it

How is it applied?

- ★ Through courts, lawyers, judges, attorney general, and premiere

Rule by law?

- ★ The government uses law because it's the most convenient way to govern
- ★ Instead of dictating use they create rules
- ★ Opposite of rule of law
- ★ Government changes law to suit their needs

Flexible constitution

- o Laws can be easily amended, not written constitution

Rigid constitution

- o Cannot be changed so easily, needs to have special procedures

- Human rights law more easily changed than charter

Legislated makes laws

Administrated/ executive enforce law

Judiciary resolving disputes, balancing law, always independent from legistater and executive/administrated branch so that they can remain impartial, enforces rule of law

Parliamentary supreme:

- highest law other than the supreme court
- can make, amend or repeal whatever law it likes
- limits;

s. 91 defines federal power; national defence, trade, foreign affairs, criminal law

s.92, provincial: property of civil matters; education, law enforcement. Peace order and good government clause:

anything that the government didn't think of fall under the federal jurisdiction

cant legislate outside your jurisdiction

federalism, power falls into the central power(states)

canadian const

INTERNATIONAL LAW

- (human rights, charter of human rights, The GATT)
- hard to enforce
- in the Hague, nether lands

Relationshoip to domestic law

- countries must agree with them for them to be valued
- canadas law would trump international law
- to be formally accepted it has to go through legislative

british north American act; 1867- guidelines, private property Divided powers between the province

- ★ The fed got peace order

Canadian constitution

- Constitutional Law(constitution is federal statue; sets out the charter protects your from the state)

- ★ 1982 by Trudeau
- ★ Protection of citizens from the government
- ★ Didn't have to go to britan to partriet law
- ★ Charter of rights and freedoms
 - o security from government, not from eachother
- ★ cant be revoked, changed very easily
- ★ sec.1.
 - o freedom of speech
 - o sec 7 over thows sec.2
- ★ Oakes test
 - o Law has to be written done- cant be vague
 - o Limiting factor must be *rationaly* linked to objective
 - o Balancing of public interests v. individual rights
 - In our interests to have a society free of child porn AND individuals rights

****What is justifiable in free and democratic society****

Sec 33

- ★ Where government fucks with our rights
- ★ Only covers 2 and 7 to 15
- ★ Not with standing clause
 - o Alows a statue to stand even though it violates chapter eg. Limit freedom of speech
- ★ Renewed every 5 years → re evoke sec 33

doesn't apply to democratic or mobility laws

How does it work?

Is there some right of mine that the government is cutting back on? Freedom of speech.

Is there a right that is impugned? Yes freedom of speech

Proportionality- what right is being cut back and

What is on the constitution

Constitution act is the same as the BNA act (1867)

Does it apply?

Can the infringement be justified in society

Do you have some right the government has impugned?

Understand the Canadian constitution (separates prov. from fed.)

Oakes test determines if an infringement on a constitutional right is justified

act of settle ment, and any other fundal mental statues are in the consituition

Legislators cannot go outside their juristicion to make laws

BILL OF RIGHTS NOT IN CONSTITUION
Oonly applied to federal law

- ❖ What is on the constitution
- ❖ Constitution act is the same as the BNA act (1867)

CHARTER:

1. Does it apply?
2. Do you have some right the government has impugned?
3. Can the infringement be justified in society

- ❖ Understand the Canadian constitution (separates prov. from fed.)
- ❖ Oakes test determines if an infringement on a constitutional right is justified

Customs, conventions and laws

Constituition;
1867 when Canada was founded
Charter in place, 1982
Sucession of minister was 1931, not with standing clause, gave Canada jurisdiction over its own laws.

Federal law;
Crim law
Property
Sec 91
Ex. Narcotics act

Provincial law;
Sec. 92
Education
POGG → police order good government

Difference

December-06-10

3:45 PM

The constitution merely establishes the branches of the state and the divisions of power within the **federal government** and among the **Provinces**. In other words, it sets up a governmental framework.

The Charter of Rights establishes the rights and liberties of the people against the powers of the state

Bill of rights And charter

the Bill of Rights is a law that was enacted by **Parliament**. As a result there are limits to its usefulness. For example, it could be changed simply by an amendment through Parliament. Because it is a **federal law**, it had no power over what the provinces did.

The Charter was entrenched in the **Constitution**. In order to change it, the Constitution needs to be amended - a formula that requires most provinces representing a high majority of the population to vote for the amendment. As it is part of the Constitution, the Charter also has authority over provincial laws.

Ch.4

December-06-10
2:49 PM

s. 91 defines federal power; national defence, trade, foreign affairs, criminal law
s.92, provincial: property of civil matters; education, law enforcement. Peace order and good government clause:
anything that the government didn't think of fall under the federal jurisdiction
can't legislate outside your jurisdiction
federalism, power falls into the central power(states)

Ways in which Laws are classified: Federal and Provincial
IN CANADA; anyone can request a fight through the arbitrator
Legislation; written down law, made by MP's(elected officials); statute law
Judge made law; precedent
Common law; collection of all judgement
Legislation and Judge-made Laws (based on precedent)
Legal Systems: Common Law and Civil Law

- o Criminal Law: dealing with punishment.
- o Civil Law: dealing with rights and compensation.

Federal law;
Crim law
Property
Sec 91
Ex. Narcotics act

Provincial law;
Sec. 92
Education
POGG- police order good government

Indigenous and Customary Systems

Domestic national Laws and International Laws

International Law deals with kids, putting their rights first

Domestic Law: we make our own laws

Policy behind the case: WHY can't Canada just ignore the 4 kids?

International vs. Domestic

Canada is now required to ensure congruence between domestic law and international law

Issue is democracy:

- Canada must remain in control of its own legislative process
- Sovereignty requires no foreign control over Canadian Law

Canada adopts dualist approach to international law

- i.e protects Canadians from intrusions of international law

- Domestic law: law inside country eg Canadian law

- o International Laws: govern relationships between states involving treaties, conventions, and the rules set by organizations.

- Domestic-International law (relationship):

- Canada doesn't have a formalized system to bring international law.
- Legislature doesn't have a big role in creating international law.

- International law

United Nations are the binding force.

Treaty: governed by the Vienna Convention. Force that is binding upon Nations.

monist system: International law is automatically binding.

dualist system: have their own system but follow international law. (Canada).

reservation: "we like this treaty, except for THIS".

- Precedents are not always followed directly

-Mass Rape case (chapter 4)

->ICTTY created a separation between gender and issues such as enslavement.

Custom (alternative method to creating international law) has to be accepted by:

-international community

-theorists.

-maintaining international peace and security.

- Domestic-International law (relationship):

-Canada doesn't have a formalized system to bring international law.

-Legislature doesn't have a big role in creating international law.

- Canadian law

Magna Carta (1215): Rule of law, limits on crown power.

BNA Act (1867): Set up our constitution when Canada was first founded.

Statute of Westminster(1931): When Canada was declared as a sovereign country.

JCPC(1949): Ruling body before the Supreme Court. 1949-last time before we went to Supreme Court.

Constitution (1982), also called the Canada Act. Repatriation of the constitution.

-Severed all tied with England.

-

- Comparing the two systems

Codification: process by which we write down out laws-concrete. Legislature instead.

Does Britain have codification: No.

Does Canada: Yes.

Sets down in words and phrases the process the country has to follow.

So, how does Britain keep control: Parliamentary sovereignty. Democracy! If you don't like the laws, you elect a new government.

Canada uses 2 ways to limit gov power:

1)charter of Rights and freedoms

2)Constitution

→(sec. 52)

How are judges impartial in Britain?

They have tenure. They used to be appointed by the Kings.

- How are judges impartial in Canada?

They have tenure

- Charter

All levels of gov are affected by the charter.

Governs relations between citizens and the government?

Charter should not be used narrowly.

Limits: applies to police, government actors (regulatory boards)

broader interests: limit infringements.

- Two stages to interpreting the charter:

1) infringement → to be demonstrated by the individual

2) can the infringement be justified → decided by the government act?

a) section

b) Oakes test (precedent) gov has to prove that there's a distinct law.

proportionally test: determine intent of the legislation.

Section 33- Notwithstanding clause. Suspended after 5 years but it can be renewed. Very high political cost because it goes against the charter rights.

Common Law

-judge-made law

-works around legislation

-can be used to fill in the gaps in legislation

-comes from when judges used to go around in small areas and look at cases in places without courts

-comes from the idea that judges would always give the same decisions...

-all knew each other in the littler cities and towns so would talk about their choices, so that was where the idea of precedents came in...

-to keep things consistent, decisions then were written, and other judges read about them...

- much more gradual change
- retroactive and reactive
- judge-made law is a problem because they have a biased opinion because they are appointed by someone, and not elected.
- When judges interpret laws passed by parliament, what are they doing?
- clarifying them.
- If the issue isn't covered by precedent, we can look at legislation and common law.
- Stare Decisis: Stands decided.
- 2 types of precedents:
 - 1) binding precedent: must be followed
 - 2) persuasive precedent: may be followed-usually followed by courts anyways.
 - laws made by other provinces are sometimes considered persuasive precedent.

- Higher courts bind lower courts.
- Supreme Court was bound by Privy Council until 1949, had to listen to the house of lords until 1959 and decided they were no longer bound by their own decision in 1975- which allows them a lot more discretion.
 - Respond better to social changes
- Binding part of a legal decision is the reasoning for the decision.
- (?) Legislation responds quicker to social changes, employ experts.
 - law can be proactive, or can be reactive.
 - Made by legislature elected into their position (pick them to make laws based on what we want)

Religious Laws:

- Canon law(new testament) , Rabbinical, Islamic NONE BINDING IN CANADA
-

Substantive Law: tells us what our rights and duties are.

- Guidelines;
 - o **Substantive Criminal Law:** establishes offences that prohibit certain activities

Procedural Law: tells us how these rights and duties may be enforced. Enforcement and prosecution of it.

- o **Law of Criminal Procedure:** regulates the enforcement, prosecution, and the trial of those who break the criminal law.

Substantive Law is "primary" as a statement of legal rule, while Procedural Law is "supplementary"

Contract Law: regulates the ways in which legal claims concerning these rights and obligations are pursued in courts. Any kind of deal; with oral contracts you have to prove it,

The Law of Evidence: comprises rules about what facts may be admitted in court, what sort of proof is required, and what sort of questions may be put to witnesses.

- o Deals with matters like:
 - The service of writs
 - Drafting of pleadings
 - Methods of Appeal

SUBSTANTIVE LAW

Public Law: deals with public issues. It regulates the institution of the state, their relations with one another and their relations with the citizen. STATE AND SOMEBODY.

- o Includes:
 - Constitutional Law(constitution is federal statute; sets out the charter protects your from the state)
 - Administrative Regulations that govern various activities of the state. (boards)
 - Criminal Law (where the state prohibits activity in the interests of public safety)

Private Law: deals with private issues. It is primarily concerned about individual interests or those organized interests that serve private purposes.

People vs people

- o Includes Laws regulating matters of:
 - Contract
 - Tort(negligence, trespassing, deformation, nuisance- any interference with the reasonable usage of land; crops ruined by neighbors pesticide)
 - Property

FORMS OF PRIVATE LAW

1. **Tort Law:** A tort is a private or civil wrong
 2. Accident, hit someone by mistake
 - Intentional Law:** assault and battery
 - Unintentional Tort Law:** negligence
2. **Contract Law:** forms the basis of the laws of commerce. Any legally binding agreement; eg between businesses
3. **Property Law:**

Realty and Personality

Real property (REALTY): lands and houses

Personal Property (PERSONALITY): money and goods intangible property

(Intangible: right to a job)

4. **Family Law:** deals primarily with 3 things:
 - The founding of a family by marriage
 - The ending of a marriage by a divorce
 - The rights and duties of family members with respect to one another both during the marriage and after it has broken down

Family Private matters that may be considered under **Public Law:**

- o Labor
- o Health and Safety
- o Consumer and Environmental protection
- o Human Rights
- o Tax

Criminal Law: lays down many of the most important rules used to establish order and safety of society and to distinguish between conduct that is deemed acceptable (permissible) and conduct that is unacceptably harmful or anti-social (prohibited/punishable).

Dictates what excuses, justifications, and defenses are allowed for otherwise prohibited activity.

"An act does not make you guilty unless your mind is guilty too"

Administrative Law: deals with the relations between the institutions of the state and the individual.

- o Regulates day to day operations of state officials and institutions and a wide range of public disputes.
- o Questions decisions of authority
- o Did they have the right to act, was the persons rights respected during the

Constitutional Law: provides the ground rules for the main institutions of the state and the operation of its legislature, executive, and courts.

- o Sets out the basic framework.

Substantive law; rights and duties;
procedural

Chapter four

Substantive law

- public and private law
- tells us what are rights and duties are
- tells you what you can and cannot do
 - Kill someone

Public substantive law

- citizens v. government and their interactions with each other

Criminal code

Special- defences and punishments

General- jurisdiction for criminal offences and liabilities and defences (mentally insane, necessity)

Ex. Crazy kills someone- not criminally liable – insanity

Excuses (duress – gun to head,

Exemptions (

Administrator law

Day to day law of officials

Outlines the actions of officials

Constitution law

Lays basic framework of administrator law

Private substantive law

→ individual v. individual (me v. cicely)

1. torte → sueing people (harm)
2. contract law → agreement of two people that lay out rights, obligations of the various parties
3. property law → divided in to reality (houses land) mortgages, copyrights, patents, trade marks
4. family law → marriage divorce, custody,

Procedural law

→ tells you how you will be enforced

→ procedure that follows the law

- ★ Burdon of truth → criminal → who has to prove what, ex. Crown has to prove you did crime
- ★ evidence very important part//// facts+ law = decision
 1. Oral evidene → from witness
 2. Documents
 3. Real evidence → weapon, pictures, DNA
- ★ Non demisable evidence
 - ★ Charter evidence- evidence based on character, no prior criminal history, if they have a good character or not
 - ★ Opinion – personal view
 - ★ Hearsay – he did this, I head that katy uttered death threats

Leading question → putting words in the witness's mouth

Facts+ law = decision

Some laws include both substantive and procedural laws.

Eg teach punches cicely;

private- cicely sues him for assault

Public; criminal charge; charged by police

→ Criminal law

Burdon of truth, beyond reasonable doubt

- ★ law that has to do with crimes
- ★ to get into the criminal justice you have to commit crime → you are arrested
- ★ most cases you will get out on bail with insurances that you will go back (before a judge)
 1. pre luminary trial you will either be dismissed, or put before a real trail
→ decides whether or not the trial goes on or not
 2. trail- defende pleads guilty or not guilty, witness brough forth again, acquitted or sentence
 3. appeal- new evidence brought forth, you can reopen a trail, error of law → judge mis interprets the law, excess of jurisdiction- judge over steps the bounds
- ★ two catergy
 - o summary offences → smaller crimes, less serious crimes generally fine less than 2000 dollars and 6 months
 - o Indictable → serious crimes, eg. Killing, treason.
 - o Hybrid → its up to the crown whether or not its indictable or summary, mixture of two other categories

→ Civil law- two parties NOT THE STATE more beurocratic

- ★ Some one files for law suite
- ★ Letters go back and forth between lawyers
 - o Send documents
- ★ Pleadings are made
- ★ Trail the same as criminal, cross examined, judgement
- ★ 1. Defandant will do or do not do something, or to pay money or property
- ★ Burdon of truth , balance of probability, less certainty

Britian no criminal code, they based on criminal law based on common law

Different types of law

Substantive law

Legal Systems: Common Law and Civil Law

- Criminal Law: dealing with punishment.
- Civil Law: dealing with rights and compensation.

Indigenous and Customary Systems

Domestic Nation Laws and International Laws

- International Laws: govern relationships between states involving treaties, conventions, and the rules set by organizations.

Religious Laws: Canon, Rabbinical, Islamic

Substantive Law: tells us what our rights and duties are (Sets out guidelines) – Private & public law

- Substantive Criminal Law: establishes offences that prohibit certain activities

Procedural Law: (Criminal law – if you screw up the cops are allowed to take you in & civil law – tonight you leave the classroom and someone assaults you, you're allowed to sue.)
tells us how these rights and duties may be enforced.

- Law of Criminal Procedure: regulates the enforcement, prosecution, and the trial of those who break the criminal law.

Substantive Law is “primary” as a statement of legal rule, while Procedural Law is “supplementary”

Contract Law: regulates the ways in which legal claims concerning these rights and obligations are pursued in courts.

The Law of Evidence: comprises rules about what facts may be admitted in court, what sort of proof is required, and what sort of questions may be put to witnesses.

- Deals with matters like:
 - The service of writs
 - Drafting of pleadings
 - Methods of Appeal

Public Law: deals with public issues. It regulates the institution of the state, their relations with one another and their relations with the citizen.

- Includes:
 - Constitutional Law
 - Administrative Regulations that govern various activities of the state (Boards – Liquor licence, drivers license, etc.)
 - Criminal Law (where the state prohibits activity in the interests of public safety)
 - State and individual

Private Law: deals with private issues. It is primarily concerned about individual interests or those organized interests that serve private purposes. (Just between people)

- Includes Laws regulating matters of:
 - Contract - Any legally binding agreement
 - Tort (Negligence – fall below a standard of care, slander, trespassing,

- nuisance)
- Property
- Family
- Individual v individual
- ALSO CIVIL

Private matters that may be considered under *Public Law*:

- Labor
- Health and Safety
- Consumer and Environmental protection
- Human Rights
- Tax

Criminal Law: lays down many of the most important rules used to establish order and safety of society and to distinguish between conduct that is deemed acceptable (permissible) and conduct that is unacceptably harmful or anti-social (prohibited/punishable).

Dictates what excuses, justifications, and defenses are allowed for otherwise prohibited activity.

“An act does not make you guilty unless your mind is guilty too”

Administrative Law: deals with the relations between the institutions of the state and the individual.

- Regulates day to day operations of state officials and institutions and a wide range of public disputes.

Provides a legal mechanism for the analysis and control of administrative powers conferred by legislation

- Did the agency or official have the authority to act as they did?

Constitutional Law: provides the ground rules for the main institutions of the state and the operation of its legislature, executive, and courts.

- Sets out the basic framework.

FORMS OF PRIVATE LAW

1. Tort Law: A *tort* is a private or civil wrong
 - Intentional Law: assault and battery
 - Unintentional Tort Law: negligence
2. Contract Law: forms the basis of the laws of commerce.
3. Property Law: Realty and Personality
 - Real property (REALTY): lands and houses
 - Personal Property (PERSONALITY): money and goods intangible property
(*Intangible*: right to a job)
4. Family Law: deals primarily with 3 things:
 - The founding of a family by marriage
 - The ending of a marriage by a divorce
 - The rights and duties of family members with respect to one another both during the marriage and after it has broken down

Jepordy Questions:

December-04-10

10:51 PM

Roncarelli – no one is above the law, everyone is equal under the law (rule of law)

s. 91 – federal

s.92 – provincial

An offer acceptance of said offer – contract

*****Dispute resolution***** – Say what you can and can't do.

Section 2 pertains to all Canadians

Aboriginal law – Law before the Europeans

s. 33 (notwithstanding clause) – 1982 5 years restraining.

Oakes test - test whether an infringement on a right is justified (Chapter 3)

Dudley and Stevens –

Civil law – law derived from Statutes

Make the international laws into our laws (pass through government) – Ratification

Regulation between individuals is not a role of this legislation – Constitution On the exam

Notwithstanding clause does not apply to this part of the charter – democratic or mobility rights (make laws that infringe on your rights for up to 5 years.

- Applies to 2 and 7-15

Government can be a party to this type of dispute but not this one – public and private

Public law – people and the state

Delgamuukw vs. B.C- judge didn't give sufficient weight to the oral history therefore should be sent back down to trial.

This was the issue in r v firearms - Whether firearms act constitutes parliament had the right to control firearms

This is the issue in recession v quebec - whether states can unilaterally separate from Canada without consent from the rest of Canada.

This question pertains the rights of Canada - Section 2

Section 91 and 92 pertained the provision of these powers - 91 is Federal, 92 is Provincial

This was the sentence in Dudley - Death.

R v butler looked to clarify the criminal code of Canada definition- Obscene

Procedures is not an example of what type of law - Substantive law

Examining the laws relationship to society - Legal studies

This section of the constitution allows for a period of 5 years - section 33: Notwithstanding

clause

This section pertains to the fundamental freedoms of all Canadians - s. 2

This test determines if an infringement upon a right is justified - Oakes Test

Public law regulates these types of relationships - States and individuals.

This conception of law in society causes a cosmological and was well established before the settlers in Europe - Aboriginal law

Notwithstanding clause does not apply to this section of Charter of rights and Freedoms - Democratic rights / mobility rights *Does apply to 2 and 7-15*

Providing an authoritative allocation to rights and obligations is characteristic of the legal process acting as a method to this - Dispute resolution

This is a central principle to Stare Decisis - Precedent

The BNA act is also known as - Constitution

Integrating approaches from many disciplines is known as this - Legal studies

Negligence is known as this type of law - Tort law

Imminent peril, proportionality of law - Defense of necessity

This is the courts reasoning in addition to the material of facts - Obiter dicta

Canada ratifies international law by this - Ratify it through our own parliament by passing it as a Canadian law.

The idea that some sections in the BNA act that people use male persons is the justifications used in this case - Persons case (Henrietta Edwards)

This law is derived from statutes - Civil law

This law focuses on deterrence - Criminal law.

An offer acceptance of said offer - Contract

Custody, access to kids - family law

This decision had the potential of euthanization- Latimer

The regulation of private dispute is not a role of this piece of legislation - Constitution

This section of the charter applies to mobility of Canadians - Section 6

This was the rationale behind the Baker v Canada Decision - H & C that the mother was allowed to stay in Canada due to her children. The court failed to exorcize the humanitarian and compassionate grounds for her to stay in Canada.