[project grade: 92%, final grade on course: 97%]

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Introduction to Law

Instructed by Roger O'Donnell

Course Project

Assignment

You will be graded on the following:

- **The Project must:**
  - **Be 3 – 5 pages long (your bibliography does not count as a page);**
  - **Be double spaced;**
  - **Be written in size 12 Time New Roman font;**
  - **Have an introduction, several body paragraphs, and a conclusion; and**
  - **Have a bibliography.**
- **How in depth you analyze the subject matter.**
- **How clear is your discussion on the subject matter.**

Topics to choose from:

- **Systems of Law in Canada**
- **Sources of Law in Canada**
- **Types of Law**
- **Structures of the Canadian Government**
- **The Constitution**
- **The Canadian Charter of Rights and Freedoms**
- **Aboriginal Rights**

- **Administrative Law**
- **The Canadian Court System**
- **Other to be approved by instructor**

Submission

In this project, I will introduce the Canada Interactive Legislature (CIL) and present several federal laws for which the CIL has enacted alternate legislation. I shall then compare these laws for suitability as the first test in court to make the case that: S. 3 *Charter* rights are denied by the government for several years at a time, and allowing a citizen to be subjected to CIL legislation instead of conventional federal legislation may constitute an appropriate and just remedy for the denials of these rights. Concurrently, I shall describe how pursuing this remedy by seeking standing for a case in the public interest may be preferrable to contravening the legislation with notification to authorities so that, if prosecution is executed, the remedy of having one's conduct adjudicated as per CIL laws instead of conventional federal laws can be requested in defence.

The CIL uses an interactive electoral system (IES): Each voter has one vote that can be cast for any candidate at any time that the voter wishes and changed to any other candidate at any time after that, with no deadline nor finish date. S. 3 *Charter* rights are available to be exercised at all times. The House of Commons, on the other hand, uses periodic elections for its representatives to be chosen, which means each voter is only provided the means to exercise these rights once every few years. The CIL *Charter* (Interactive Sovereign Society), in Appendix A (pp. 10-15), presents the reasoning for periods of time when s. 3 *Charter* rights are not available to be exercised to be regarded as denials of these rights. It goes on to cite *Doucet-Boudreau v Nova Scotia (Minister of Education)* (Supreme Court of Canada, 2003), which states

(at para. 25) that a finding of an unjustifiable denial of rights must be addressed by a “full, effective, and meaningful remedy”. Ubi jus, ibi remedium, the Court agrees.

Since the inception of the CIL, four areas of federal law have been addressed by the CIL to create alternate legislation to the better satisfaction of its adherents: federal tax laws, laws banning cocaine sales in the *Controlled Drugs and Substances Act* (S.C. 1996, c. 19), laws in the *Criminal Code of Canada* (R.S.C., 1985, c. C-46) (the “*Code*”) regarding commodification of sexual activity, and laws in the *Code* regarding bigamy.

I have already, over the last few years, personally sent notifications (Frank, 2022) to the Public Prosecution Service of Canada and police departments in Vancouver and Burnaby, British Columbia, advising them of my possession of a substantial quantity of cocaine and the intention to sell it, giving them times and places I intended to sell it, with updates on the quantities I have sold and arguably conclusive evidence that could be used against me in a trafficking prosecution, each such notification also including the full defence provided by the CIL for my actions. After many such sales and updates, authorities have not indicated any intention to intervene.

This may be considered a tacit acquiescence by the Crown to a respectable degree of credibility to the defence I have provided using the CIL’s remedy to the government’s denial of s. 3 *Charter* rights. CIL adherents may generally find it regrettable that Crown servants appear not to agree that the principle of legality may require the Crown to plainly make its position known as to whether the defence that I submitted is the reason for lack of intervention by authorities or whether there is any other reasoning, particularly considering that I can cite cases of people who’ve been in possession of lesser quantities of drugs than I have offered to surrender to police for the purpose of testing the validity of my defence in response to a prosecution, and those other people have been convicted and received criminal records.

A recent example of policy on pursuing trafficking convictions in BC is *R. v. Ellis*, 2022 BCCA 278. Pivot Legal Society, which provided counsel to Ms. Tanya Lee Ellis, the defendant, published an article describing the proceedings at the appeal court level (Pivot Legal Society, 2022). The Pivot Legal Society expresses that, despite its pleasure that the Court agreed that incarceration was inappropriate in the specific case of Ms. Ellis, the society finds it regrettable that the Court appears to maintain that some other marginalized street-based traffickers may expect to nonetheless be incarcerated if detained and charged. The sentencing in this case cited circumstances of poverty and disenfranchisement as contributing to leniency. Essentially, Ms. Ellis had less drugs than I have had in my possession when submitting my confessions, and she experienced substantially disadvantageous life circumstances that were cited by the judge as reasoning for reducing her sentence but which are not even slightly applicable to me, and yet Ms. Ellis was convicted and received a criminal record, while I have not even been charged despite a clearly communicated willingness to surrender a much higher quantity of drugs to authorities than the amount for which Ms. Ellis was convicted of trafficking.

The above efforts to defend against criminal prosecution to demonstrate the legitimacy of the s. 3 *Charter* arguments described herein (or lack thereof) seem likely to fail as a strategy due to the apparent unwillingness of authorities to see the relevant precedential questions (Do periods of inaccessibility of s. 3 *Charter* rights qualify as denials? Can these denials be demonstrably justified as per s. 1?) ruled upon by a court. It is possible that a more expeditious way to receive authoritative affirmation as to the validity of these precedential questions may be to seek standing in a hearing of public interest. In that case, of the several laws listed, the appropriate choice may be the one that garners the least heated and numerous public opposition amongst the general Canadian electorate, so as to optimise the public support for the IES as it gains

legitimacy. Due to the modern public atmosphere of supportiveness in Canada toward 2SLGBTQI+ issues, the general attitude of CIL adherents is to predict that bigamy (as in s. 290 of the *Code*) would be the most suitable choice.

According to *British Columbia v. Council of Canadians With Disabilities* ("*CCD*" herein) (Supreme Court of Canada, 2022), there are three factors that must be considered by a court in deciding whether to give public standing to a party (paras. 28-55): "(i) whether the case raises a serious justiciable issue, (ii) whether the party bringing the action has a genuine interest in the matter, and (iii) whether the proposed suit is a reasonable and effective means of bringing the case to court".

On the first question in assessing public standing, it may be important to distinguish that the justiciable issue in question here may be less whether it is acceptable for an interactively elected legislature to decide bigamy laws, but more rather whether it is demonstrably justifiable in a free and democratic society for a legislature that enacts criminal laws (the House of Commons) to deny fundamental democratic rights of citizens for several years at a time.

On the second question, I can certainly testify that I am one of several people in Canada who might consider enjoying a marital bond if I knew that neither I nor any spouse of mine would be threatened with intimidating and severe consequences if one of us were to wish to choose an additional spouse. I believe that the desire for the privacy of spousal privilege with domestic partners may constitute genuine interest in the matter. More importantly though, if there is no other known legislature that makes s. 3 *Charter* rights available to citizens of Canada at all times as a remedy to the systemic denial of these rights by the House of Commons, then the adherents of the CIL may be the people with the most genuine interest in seeing the questions of law, as denoted herein, answered by judicial authorities.

CCD states that one component of the third requirement for public standing is that the principle of legality is served. Para. 33 states that "there must be practical and effective ways to challenge the legality of state action". If the question (whether denials of democratic rights by the House of Commons for several years at a time is demonstrably justifiable in a free and democratic society) is not able to be brought before a court as a criminal defence (by providing authorities with evidence of contravention of legislation in a way that should make prosecution an irrefutable success if not for the validity of these constitutional arguments), then there may be no other way to challenge the legality of relevant state action other than through public standing for a court to be asked whether or not a person using a section 3 *Charter* defence to criminal laws such as bigamy may expect to be acquitted on those grounds. People who exercise their marital liberty in this way may live in uncertainty and/or fear due to apparent avoidance by state actors from being subjected to judgment as to the congruency of their exercise of authority with the supreme law, to whose devotion they have given either oath before God or affirmation of the greatest solemnity, by authorities properly constituted for making such judgments.

If public standing is granted to CIL adherents to test whether CIL adherents may be subjected to CIL bigamy laws instead of ss. 290 and 291 of the *Criminal Code of Canada*, then the principal questions that may be considered by the court may be:

- Do periods of time when s. 3 *Charter* rights are not available to be exercised in relation to the House of Commons qualify as denials of these rights as per s. 24?
- If yes to the 1st question, then can these denials be justified under s. 1?
- If no to the 2nd question, then is it an appropriate and just remedy to the denials of these rights to allow dissenters to these denials to have their actions adjudicated as per

the laws enacted by the CIL, which never denies section 3 *Charter* rights, instead of the relevant laws enacted by the House of Commons?

The answers to these questions may be applicable to all CIL-enacted legislation, which includes tax, cocaine, commodification of sexual activity, and bigamy.

Bibliography

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