NOTE: 1. This is a closed book examination. Candidates may, however, bring in one page of typed or hand-written notes (double sided). Communications devices such as mobile phones are not permitted. Candidates are not permitted to write during the 15 minutes reading time, but are allowed to underline words and use highlighters to annotate the paper.

2. Candidates who have previously elected to submit a written assignment will have 120 minutes to complete the paper, and must answer two questions. All other candidates will have 180 minutes to complete the paper, and must answer three questions.

3. Each question is worth equal marks.

THIS EXAMINATION CONSISTS OF 10 QUESTIONS
1. How might asking the "what is law" question help us to be better lawyers? Explain your answer.

2. Are the central concerns of natural law still relevant to our understanding of law in 2015? Explain your answer.

3. "Whether a society has a legal system depends on the presence of certain structures of governance, not on the extent to which it satisfies ideals of justice, democracy, or the rule of law. What laws are in force in that system depends on what social standards its officials recognize as authoritative; for example, legislative enactments, judicial decisions, or social customs." (Leslie Green)

   Discuss.

4. What is the function of the doctrine of precedent in the Common Law? Given the willingness of the courts to distinguish or over-rule past decisions, should the doctrine of precedent be modified or abandoned? Explain your answer.

5. "According to the formalists, judges apply the governing law to the facts of a case in a logical, mechanical, and deliberative way... Legal realism, on the other hand, represents a sharp contrast. According to the realists, judges follow an intuitive process to reach conclusions which they only later rationalize with deliberative reasoning." (Guthrie, Rachlinski, Wistrich)

   How did the legal realist's rejection of formalism change the way we think about law and judicial decision-making? Are the insights of legal realism still relevant to our contemporary Canadian legal system?
6. HLA Hart has suggested that American jurisprudence "is marked by a concentration, almost to the point of obsession, on the judicial process, that is, with what courts do and should do, how judges reason and should reason in particular cases." What do you think produces this focus, and how can the effects of that focus be seen in American legal theory? In answering this question, you may choose to concentrate on American legal realism or critical legal studies – please make it clear which of these fields you are addressing.

7. "[M]uch feminist legal theory proceeds on two levels: one pragmatic, concrete, and particular, and the other conceptual and ultimately visionary." (Leslie Francis and Patricia Smith)

What produces the dual approach to legal theory identified by Francis and Smith, and what effects does this dual approach have on the feminist legal theory project? Explain your answer.

8. "[C]olonialism is not a strong place to rest the foundation of Canada's laws. It creates a fiction that continues to erase Indigenous legal systems as a source of law in Canada". (John Borrows)

How might legal theory permit a more complete recognition and incorporation of Indigenous legal traditions within Canadian law?

9. Should the legal system have regard to the social value of moral beliefs when deciding whether to incorporate morality into law? How might this social value be assessed? Explain your answer

10. How might an understanding of rights theory inform the evolution of doctrinal law in a field such as criminal law, constitutional or administrative law? In answering this question, describe the theory of rights that you consider most helpful to that evolution.

END OF EXAMINATION