

Foundations of Canadian Law – Practice Question and Answer

Session: Indigenous People and The Law

Topic: Aboriginal Rights and Title

Recommended time: 75 Minutes

Score: 100 Marks

Author: **Manuel Akinshola**

Question

It is well-settled principle of Canadian constitutional law that the Crown must consult, and possibly accommodate, an aboriginal claim when the Crown desires to take an action or make a decision that will adversely affect the aboriginal claim.

With sufficient reference to judicial authorities, answer the following questions:

1. When does the duty to consult arise?
2. What are the general contents of Crown's duty in Aboriginal claims?
3. Are there differences between the content of the duties owed by the Crown before and after the Aboriginal title to land is established?

Note:

This is another question on Aboriginal rights and titles which looks at a different principle of law in relation to Aboriginal rights generally. Here, the question deals with the general principles regarding the duty to consult Aboriginal people. Answer to the first question clarifies the elements that must be present before the Crown's duty to consult is triggered.

You must know that there are different principles that apply to the Crown's duty, depending on the circumstances. Answer to the 2nd question deals with this.

Lastly, different principles also apply to the duty owed by the Crown before and after Aboriginal title is established. These are explained in the 3rd question.