

## APPENDIX C

# Glossary

**Aboriginal law** an area of Canadian law that applies to Indigenous people through various Canadian legal instruments

**act** either a federal bill that has been passed by both the House of Commons and the Senate or a provincial/territorial bill passed by the legislature; also called an annual statute, unrevised statute, enacted version, or session law

**advocacy** the process by which a lawyer persuasively advances the client's position

**affiant** a person who makes an affidavit

**affidavit** an affiant's written statement of facts, made under oath before a person with authority to administer an oath or affirmation

**amending statute** a statute that is created to alter some aspect of an existing statute and that may (1) change some of its wording, (2) replace or repeal sections or entire parts of it, or (3) repeal it entirely

**analogous case** a case whose facts and legal issues closely resemble those of the client's case

**authoritative sources of law** government publications, other than those that disseminate statutes or judicial decisions, that are sources of legal authority (e.g., *Debates*)

**backdating** research method used to locate the historical origins either of a statute in its entirety or of a particular section of a statute

**bill** the form in which a prospective statute is first introduced to Parliament or a provincial/territorial legislature

**binding authority** a legal principle established by a higher court that a lower court, within the higher court's jurisdiction, is bound to apply

**Canadian Abridgment** a multi-function case digesting service and research tool, available in print and online

**Canadian Encyclopedic Digest** a multi-function legal encyclopedia, available in print and online

**CanLII** a free online resource for legal research that provides unrestricted access to domestic primary law

**case analysis** the process of selecting and interpreting the principles from judicial decisions

**case brief** a summary of a judge's written decision that includes the case facts, the issues, and the legal reasoning

**case comment** analysis of a case, published in legal journals and in some commercial law reporters

**CIF (coming-into-force) information statement** statement that communicates the essential details about a statute's coming into force, sometimes referred to as the effective date

**civil law system** system of law that provides the basis for the provincial legal regime in the province of Quebec

**client-centred lawyering** lawyer–client interactions that centre on active client decision-making

**closing letter** a letter from the lawyer to the client confirming that the client–lawyer relationship has concluded and that the lawyer's work is complete

**coming into force (CIF)** the final step in the process of a bill becoming law (i.e., becoming an act); acts may come into force or take effect immediately upon receiving royal assent, on proclamation, on specific dates, or in accordance with certain conditions; also known as commencement or entry into force

**committee** a committee of Parliament (House of Commons or Senate) or of a provincial/territorial legislature that has a particular mandate or area of expertise

**committee bill** a category of public bill that is introduced by the chair of the committee that produced the bill when considering the effect of prospective legislation during the bill passage process

**common law system** a system of law in which principles arising from decided judicial cases are commonly applied to future cases

**conflict of laws** a body of law that concerns how to resolve issues arising from conflicts between laws of different jurisdictions

**consolidated version of a statute** the current version of a statute, including all amendments to it

**counterargument** viewing a client's case from the perspective of the other side of the dispute in order to identify weaknesses in the client's position (*see also* legal argument)

**cultural competence** being aware of the influence that cultural differences may have on legal decision-making

**debates** discussion of a bill during its passage through Parliament or through the provincial legislatures

**Debates of the House and Senate** transcripts of discussions held in Parliament and in the provincial/territorial legislatures during a bill's passage

**digest** a brief summary, ranging from one to several paragraphs, that explains a court's decision

**dissent** the opinion on the part of a judge or judges who disagree with the majority decision of the court

**distinguishable cases** prior cases whose precedents will not be followed because their facts and issues differ materially from those of the case at hand

**enabling act** the act from which the authority to make regulations is derived

**fact analysis** a process of analysis that involves (1) discovering the facts and (2) sorting and organizing the facts and classifying them as either relevant or irrelevant to the dispute

**factum** the formal document filed with the court that sets out the facts, statutes, and case authorities that a party relies on in support of its legal arguments

**finding of fact** a determination that an allegation made by one party to an action is true, even though that allegation is denied by another party; the finding must be based on a reasonable assessment of the evidence in the action

**first-reading stage** stage at which a new bill is introduced to Parliament or a provincial/territorial legislature and is thus made public

**foreign law** laws of a foreign country, which Canada's judiciary is not bound to apply to a domestic legal dispute

**Gazette** the official government newspapers in Canada that publish information about the federal, provincial, or territorial governments' business, including recently enacted statutes and regulations, statutory orders, statutory instruments, and proclamations

**government bill** a public bill that is introduced by a member of the Executive Council (i.e., the Cabinet)

**Halsbury's Laws of Canada** a multi-function legal encyclopedia-style reference; available in print and online

**Hansard** official published report of the debates of Parliament and the provincial/territorial legislatures

**headnote** a case summary or digest provided by the editorial staff of a case reports publisher; not primary law and not to be cited as legal authority

**inclusive writing** writing that is free of discrimination based on sex, gender, sexual orientation, race, ethnicity, disability, or any other identify factor

**Indigenous law** the reasoned principles and processes that Indigenous societies used and still use to govern themselves

**Indigenous legal order** includes the structure of an Indigenous society and the organization of its legal traditions, including its laws, legal institutions, and legal processes

**Indigenous legal traditions** the protocols, legal processes, and laws of Indigenous societies, as well as their worldviews, aspirations, pedagogies, and practices

**instrument of ratification** a country's formal written confirmation of its intent to be bound by a treaty

**IRAC** an acronym (Issue, Rule, Analysis, and Conclusion) that outlines one procedure for undertaking legal analysis

**Journals of the House of Commons** formal record of House of Commons business for a given day, organized by legislative session number, that includes (but is not limited to) the following information: committee reports; the first, second, and third readings of a bill; and other significant dates of a bill's progress; journals also provide records of government business for provincial/territorial legislatures

**Journals of the Senate** formal record of Senate business for a given day, organized by legislative session number, that includes (but is not limited to) the following information: committee reports; the first, second, and third readings of a bill; and other significant dates of a bill's progress

**judicial decision** the written record of a court's judgment

**judicial notice** a rule of evidence that allows a decision-maker to accept certain commonly known, indisputable, and uncontentious facts without requiring that they be proven with evidence

**legal argument** the identification of the relevant legal principles, applied to the facts, that support a party's position (*see also* counterargument)

**legal citation** identification, by an established reference form, of primary and secondary sources of law

**legal competency** legal skills, abilities, and knowledge that can be applied to legal tasks

**legal issue** a question that arises from the specific facts of a client's legal problem

**LEGISinfo** an online tool from the Library of Parliament that tracks and provides information about bills in progress

**legislation** the creation of law; the statutes, regulations, and bylaws passed by bodies of elected representatives or their delegates

**Legislative Assembly** an elected body of provincial/territorial legislators, also referred to as the legislature, with the authority to create provincial/territorial legislation

**legislative comment** critical analysis of specific legislation; frequently published as commentary in legal journals

**legislative session** a period during which sittings of Parliament and the provincial legislatures are held

**letter of opinion** a letter, usually to a client, that summarizes the lawyer's legal opinion about the issue for which the client is seeking advice

**memorandum of law** a document, usually internal to the law firm, that summarizes the relevant law as it applies to the facts of a client's problem

**motion** an application to a court or a judge for the purpose of obtaining an order directing that some kind of relief be granted to the party making the motion

**neutral citation** a standard citation, added by the court before the case is disseminated, that includes the year of the decision (without brackets or parentheses), an acronym signifying the jurisdiction and court level, and a document number

**noting up** the process of determining the history of a case—for example, verifying whether it is still relevant or has been reversed on appeal, or whether it has been criticized or overruled by subsequent cases

**obiter dictum (pl. obiter dicta)** commentary in a judicial decision that does not constitute a legal principle but that may provide a useful context for the decision

**objective legal writing** legal writing that is done in a neutral style, intended to inform rather than persuade the reader

**official case reporters** published records of judicial decisions, prepared by the court and published by the King's Printer

**official source of law** a government or court publication that disseminates legislation or judicial decisions and that is the original source of the legal rules and interpretations of the law

**operator** a computer function command that allows researchers to connect words and phrases in order to refine an online search

**ordinances** laws enacted by the northern territories, similar in content to provincial and federal statutes

**period-in-time (point-in-time) research** research that locates the version of legislation that appeared at a particular period or point in time

**periodical index** an index that provides citations to secondary sources of law, including articles and books

**persuasive authority** a legal principle from a case arising in another jurisdiction or a lower court in the same jurisdiction that is not binding but that a court finds convincing and incorporates into its decision

**persuasive legal writing** a style of legal writing meant to both inform and persuade the reader, not merely inform

**plain language** a style of writing that avoids jargon and uses various techniques to enhance clarity

**precedential value** the value of a case based on the extent to which subsequent judges have endorsed its legal reasoning

**predictive writing** outcome-predicting memorandum, based on an analysis of facts and law, regarding what will happen should a given matter be heard at court

**preventive lawyering** lawyering that focuses on ways to prevent legal risks from becoming legal problems

**primary law** the governing legal rules, derived from both legislation and judicial decisions

**private bill** a bill that grants powers, benefits, or exemptions from the general law to specific individuals, corporations, or local authorities

**private member's public bill** a type of public bill that is introduced by a member of Parliament or of a provincial legislature who is not a Cabinet minister and is not acting on behalf of the Executive Council

**pro bono** abbreviation of a Latin term, *pro bono publico*, meaning “for the public good,” used where legal services are provided without remuneration, as a public service

**procedural history** summary of how a case was decided at every level of court at which it was heard

**professional legal identity** the professional image of a lawyer that is projected through their manner of practice, service to clients, and efforts in the public interest, as well as through their written work

**public bill** a bill that proposes laws in the public interest and is of general application

**public international law** the law between and among nations, primarily based on treaties and on international judicial decisions

**question of law** a question of what law applies or how to apply or interpret the law in the circumstances of a case; in both jury and non-jury trials, questions of law are determined by judges

**questions of fact** a factual dispute; in jury trials, questions of fact are determined by the jury; in non-jury trials, questions of fact are determined by the trial judge

**ratio decidendi** the governing legal principle or rule on which a judge's decision in a case is based

**regnal year** formerly the means of identifying the date of legislation's enactment, the regnal year signified the number of years since the reigning monarch ascended the throne

**regulation** the subordinate legislation whose existence and authority are derived from a governing statute but that performs important functions of its own and has the same force in law as a statute

**research log** a record of the specific steps taken during research

**research plan** a plan setting out the research to be done and the research processes to be used

**reservation** in the context of international law, a unilateral statement, made by a state when signing, ratifying, or acceding to a treaty, that purports to exclude or modify the legal effect of certain of the treaty's provisions with respect to its own obligations

**revised statutes** a consolidation and revision of annual statutes, undertaken when authorized by legislation

**royal assent** the final stage of the legislative process by which a bill becomes law after having passed all six readings in both the House and the Senate or, in the case of a provincial/territorial bill, three readings in the legislature

**rules of statutory interpretation** interpretive aids to statutory interpretation

**second-reading stage** the stage of the legislative process where a draft of a bill is read for the second time; may be followed by debate

**secondary sources of law** sources of law that locate primary sources of law and that interpret its meaning or application

**stare decisis** the common law principle that lower courts must follow precedent cases emanating from the higher courts in the same jurisdiction unless they are distinguishable

**statement of claim** a document prepared and filed by a plaintiff in a lawsuit that initiates the court action

**statement of defence** a legal document, filed by the defendant, that provides a response to the statement of claim

**Statutes of Canada** the compilation, published annually, of all the federal acts of Canada passed by the Parliament of Canada; abbreviated as SC in legal citations

**Statutory Instrument** a regulation, order, or other instrument that is authorized by an act of Parliament; frequently referred to as an SI and first published in the *Canada Gazette*, Part II

**Statutory Orders and Regulations** a statutory instrument as defined in the *Statutory Instruments Act*; frequently referred to as SOR and published in the *Canada Gazette*, Part II

**style of cause** the name of the case or title of the proceeding, consisting of the names of the parties to the dispute

**substantive statute** a statute created to regulate some aspect of the law; in contradistinction to an amending statute, which is created to alter some aspect of a substantive statute

**Table of Proclamations** a listing of the acts that have been proclaimed in force during a specific time period, which provides the date and statutory instrument number reference to locate the CIF of an act



**Table of Public Statutes** a list of substantive statutes in force on the date that the Table was compiled; provides citations to amending statutes and their CIF dates

**third-reading stage** the final review of a bill in the House or Senate before it is sent to the other chamber for review, or a provincial/territorial legislature's final review of a bill before enactment

**transfer of learning** transferring knowledge acquired in one setting to another setting

**treaty accession** the process by which a country that is not party to the original treaty expresses its intention to be bound

**treaty succession** process by which a newly formed country, whose predecessor state acceded to a treaty, assumes the obligations that its predecessor assumed

**unofficial case reporters** full texts of noteworthy judicial decisions, published in case law reporters by commercial publishers of legal information

**unofficial source of law** a source of law, such as a web-based or commercial publication, that is not official

**unreported decisions** judicial decisions that have not been published in commercial reporters but may be located by accessing the court file from the registry office where the case was originally heard

