

Comparative Constitutional Rights & Adjudication

Time : 3 Hrs

Maximum Marks: 50

Answer any 5 questions. Each question carry Ten marks (5\*10 =50 Marks)

1. The social contract includes certain duties which members assume upon entry and certain other duties on the state to protect its citizens. Examine this aspect of social contract theory in the light of obligations on the state and limitation of state action.
2. *The trimester test laid down in Roe v Wade is more appropriate in comparison to the undue burden test brought out in later cases.* Comment . Examine the right of a woman to privacy in matters of reproductive choices as opposed to compelling state interest in protection of life of the fetus by drawing a comparison between India, USA and ECtHR.
3. Examine the concept of burden of proof with respect to Affirmative Action cases in the US and protective discrimination cases in India. Is affirmative action and protective discrimination one and the same and can the terms be used interchangeably?
4. The Hicklin test is inappropriate as it restricts free speech rather than protect free speech. Examine the statement in the light of recent trends in the standards of obscenity as seen in USA, India and Canada
5. Hate speech that has now become a fashion and a short cut to get publicity, poses vexing and complex problems for contemporary constitutional rights to freedom of expression.” Examine the statement in the light of cases in USA and South Africa.
6. Write short notes on
  - a. Transformative constitutionalism
  - b. Negative rights and positive rights
7. Discuss the Hohfeld theory of rights. What is the difference between positive fundamental rights and negative fundamental rights? Draw a comparison between the Indian and the South African Constitution.
8. DPSPs are not enforceable . What is the position of DPSPs in India today with respect to fundamental rights . Draw a comparison with the south African constitution with respect to the position of political rights and socio economic rights within the constitution .

\*\*\*\*\*