

B.A. LL.B., (Hons.) DEGREE NINTH SEMESTER EXAMINATIONS, NOVEMBER 2023

COMPARATIVE CONSTITUTIONAL RIGHTS ADJUDICATION

Time: 3 Hrs.

Maximum Marks: 50

ANSWER ANY 5 QUESTIONS. ALL QUESTIONS CARRY 10 MARKS.

1. 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
2. X is a very famous artist that is known for radical thoughts and ideologies. He hosted an art exhibition in Mumbai with an entry fee of Rs 2000 for an adult. Only people who are 21 years and above were allowed to enter after showing valid ID proof. Various paintings and installations were exhibited. The general theme of the exhibition was to create awareness about Child sexual harassment. Many paintings and installations, therefore had callous, graphic, disturbing depictions of young boys and girls with old men and women in several sexual positions. Apart from this, there was one painting that showed young Krishna (God) being molested by the demoness Putana. There was a huge public uproar against the exhibition, and therefore the premises was closed down by the local Police under the Bombay Police Act. The said provision gave powers to prohibit public performances and exhibitions if it disrupted the peace and tranquillity of the State. X challenged the said provision as being unconstitutional and against his right to freedom of speech and expression. Sit as a division bench of the Supreme Court and decide the matter, citing decisions from foreign jurisdictions and India.
3. How have the social contract theorists such as Locke , influenced the bill of rights in the USA, and Part III under the Indian Constitution? What is the difference between Part III and Part IV of the Indian Constitution
4. Write short notes on
 - a) Constitutionalism and transformative constitutionalism
 - b) Constitutional morality
5. What is the difference in the standard of review of affirmative Action and Protective discrimination cases. Answer taking the examples from the US, South African and Indian jurisdictions
6. Critically analyze the *Dobbs v. Jackson Women's Health Organization* decision by the US Supreme Court. Give due importance to the dissenting judgment
7. A, is a school teacher in a public school. He teaches history for grade 8. In one of his classes, he gives an assignment to the students and asks them to write their views about the Jewish community and how the entire World War II was a shield to gain sympathy for the world so that the Jews can ultimately take over the world. A Jewish parent filed a criminal complaint and registered an FIR against this teacher for hate speech. The teacher challenged the constitutional validity of the said legislation. Answer the question, as a constitutional court, in the USA and India.
8. Write Short notes on –
 - (a) Pornography and obscenity
 - (b) Harm Principle and free speech
