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Reg. No. :

Name :

Second Semester LL.M. Degree Examination, February 2024

Core Paper

PAPER V : JUDICIAL PROCESS

(2021 Admission Onwards)

Time : 3 Hours

Max. Marks : 60

Instructions : (1) Answer all questions.

(2) All questions carry equal marks.

1. (a) "Judges are not commissioned to set aside existing rules at pleasure, in favour of any other set of rules which they may hold to be expedient or wise," opines J. Cardozo. Critically comment.

OR

- (b) Historically, examine the role played by courts in maintaining social order and interpreting laws for the purpose of achieving such social order.
2. (a) "For interpreting a dynamic constitution as the Constitution of India is, a creative attitude is necessary. If such an attitude is not adopted Indian Constitution will cease to be a social document which it is." In your opinion, is the above statement a justification for judicial lawmaking? Clarify your position.

OR

- (b) "That state of things, when judicial decisions conflict, so that a citizen is always at a loss in regard to his rights and his duties, is a very serious evil". How do legal systems seek to rectify this evil by ushering in certainty and predictability to judicial pronouncements?

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3. (a) "The illusion of certainty in legal doctrine is a stubborn obstacle to a reasonable adaptation of law to social conditions." What role does the social philosophy of a judge play in overcoming such obstacles, in order to achieve social justice?

OR

- (b) "A judge is to exercise a discretion informed by tradition, methodized by analogy, disciplined by system, and subordinated to the primordial necessity of order in the social life", opines J. Cardozo. Clarify the significance of objectivity that is to be observed by the judges, even while exercising discretion.

4. (a) "Judges are bound by settled principles, and, thus, the scope of their creativity is limited". Is this statement true from the Indian perspective? Substantiate.

OR

- (b) "Legislatures have sometimes disregarded their own responsibility, and passed it on to the courts." Critically evaluate this statement. What are the options available to the courts, in the event of such contingency? Give examples to clarify your position.

5. (a) "An independent judiciary is necessary for a free society and a constitutional democracy." Elucidate.

OR

- (b) "Judicial independence is a dual concept. It not only means freedom from extraneous influences but it also means an independent approach by the individual judges, who must be able to think for themselves". Clarify this statement.

(5× 12 = 60 Marks)