

UNIVERSITY COLLEGE LONDON

University of London

EXAMINATION FOR INTERNAL STUDENTS

For the following qualifications :-

LL.B.

LL.B. Part II: Civil Liberties and Human Rights in The United Kingdom

COURSE CODE : LAWSII35
DATE : 21-MAY-02
TIME : 14.30
TIME ALLOWED : 2 hours 30 minutes

02-N0187-3-50

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TURN OVER

CIVIL LIBERTIES AND HUMAN RIGHTS

Answer **THREE** questions.

1. “Inherent rights theories suffer from subjectivity in selecting the rights to be protected, while instrumental rights theories are vulnerable to criticism that they are specific to particular political systems.”

Discuss.

2. Why and how do cultural claims conflict with the concept of universal human rights? Can they be reconciled?

3. “Legislation has provided protection for numerous specific civil and political rights in the UK, but has failed until now to constitutionalise those rights. It is the common law which in recent years has elevated a number of rights to the status of constitutionally protected rights.”

Discuss.

4. How should the courts determine whether a body is a public authority, or a private body exercising public functions, under Section 6 of the Human Rights Act? Ought the courts to develop private law so as to provide protection against breach of rights under the European Convention on Human Rights by private bodies exercising private functions? How could they do so?

5. “There has for many years now been a mis-match between the protection of human rights by the European Community and Union, and by the European Convention on Human Rights, which the European Union Charter of Fundamental Rights will not necessarily resolve.”

Discuss.

6. “The failure of UK law to protect personal privacy, and the need for reform to provide such protection, has long been recognised. It is regrettable that the first case to recognise a right to privacy concerned the commercial value of exclusive publicity rights, which have little to do with the interests which privacy rights should seek to protect. It is to be hoped that subsequent cases will focus on those interests.”

Discuss.

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7. "Freedom of expression is so widely restricted in the UK that it is difficult to believe that there will not soon be conflicts between domestic law and Article 10 of the European Convention on Human Rights, under the Human Rights Act 1998."

Discuss.

8. "Existing UK anti-discrimination law (including EU and ECHR law) is limited in scope. What is necessary to remedy this is the recognition in law of a general right to equality."

Discuss.

9. "It is arguable that the expansion of the content of the right to a fair trial, and the extension of the range of interests now protected and procedures now covered by that right, has put at risk the efficiency and effectiveness of wide areas of public administration."

Discuss.

10. "The advantage of linking the several different types of violation under Article 3 of the European Convention on Human Rights is that there is a scale of severity which provides flexibility of application. The disadvantage is that the absence of any right to restrict or derogate applies rigidly to all types of violation, even the least serious, of Article 3."

Discuss.

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