


Name:			
Enrolment No:			
UPES End Semester Examination, December 2023			
Course: Judicial Process and Affirmative Action Program: BA.LL.B (Constitutional Law Specialization) Course Code: CLCT5006		Semester: IX Time : 03 hrs. Max. Marks: 100	
Instructions: Read the questions properly.			
SECTION A (5Qx2M=10Marks)			
S. No.		Marks	CO
Q 1	What do you mean by Affirmative Action?	2	CO1
Q2	Explain Distributive Justice.	2	CO1
Q3	Describe Justice as reversibility.	2	CO1
Q4	What do you understand by the Living Tree Doctrine?	2	CO1
Q5	Write a short note on 93 rd Amendment to the Indian Constitution.	2	CO1
SECTION B (4Qx5M= 20 Marks)			
Q1	Discuss the importance of the Mandal Commission report in shaping affirmative action policies in India.	5	CO2
Q2	Does positive law address the evils of systematic suppression in a true sense? Discuss.	5	CO2
Q3	Explain why primitive individuals and groups automatically submit to the domination of customs.	5	CO2
Q4.	Explain the tenets of <i>separate but equal doctrine</i> .	5	CO2
SECTION-C (2Qx10M=20 Marks)			
Q 1.	In the muniments of ancient Indian society, a disquieting reality emerges as one examines the historical evidence of systematic suppression that pervaded various social strata. This practice, deeply rooted in the stratified nature of society, manifested itself in multifaceted ways, leaving an indelible mark on the collective consciousness of the time. Analyze the historical evidence and societal implications of systematic suppression in ancient Indian society. How did this practice manifest	10	CO3

	across different social strata, and what were the factors contributing to its perpetuation?		
Q2	<p>Discrimination in India is deeply rooted in the caste system, with historical legacies of colonial rule exacerbating social hierarchies and religious diversity further complicating the landscape. Affirmative action policies aim to address these disparities. In the United States, discrimination is historically rooted in racial inequality, with the legacy of slavery shaping a deeply entrenched racial hierarchy. The Civil Rights Movement marked a turning point, but racial disparities persist. Both nations grapple with discrimination, but India's caste system and religious diversity contribute unique dimensions, while the United States contends with the enduring legacy of racial discrimination and its ongoing societal implications.</p> <p>While comparing discrimination in India and the United States, explore the historical, cultural, and socio-political factors that have shaped the distinct manifestations of discrimination in each country. Discuss the impact of colonial legacies, caste systems, and religious diversity on discriminatory practices in India, juxtaposed with the historical legacy of racial discrimination and the Civil Rights Movement in the United States.</p>	10	CO3
SECTION-D (2Qx25M=50 Marks)			
Q1	<p>Affirmative action, as a policy framework, is often conceptualized within the framework of compensatory justice. It seeks to rectify historical and systemic inequalities by providing preferential treatment to individuals or groups who have been historically marginalized or discriminated against. The underlying premise of affirmative action is rooted in the recognition that certain communities have faced longstanding disadvantages, hindering their access to educational, economic, and social opportunities. By actively promoting the inclusion of underrepresented groups through targeted policies, affirmative action aims to compensate for past injustices and create a more equitable playing field. While the approach to affirmative action varies across jurisdictions and contexts, the overarching goal remains the cultivation of a society where individuals, regardless of their background, have equal access to opportunities and resources. However, critics and proponents often engage in debates about the effectiveness and ethical implications of affirmative action, highlighting the complex intersection of justice, equality, and societal progress.</p> <p>In the light of the given excerpt discuss in detail:</p>		CO4

	<p>a. To what extent does this illuminate the complexities surrounding policies aimed at rectifying historical inequalities?</p> <p>b. Consider the implications of preferential treatment, the varying interpretations of justice, and the ongoing debates regarding the effectiveness and ethical considerations inherent in affirmative action.</p>	<p>10</p> <p>15</p>	
Q 2	<p>The judicial trend on affirmative action in India reflects a dynamic and evolving landscape shaped by constitutional principles and societal considerations. Affirmative action, commonly known as reservations, has been a constitutional mandate in India aimed at addressing historical social and economic disparities among its diverse population. Over the years, the Indian judiciary has played a crucial role in interpreting and shaping the contours of affirmative action policies. While affirming the constitutional validity of reservations as a tool for social justice, the courts have also grappled with issues and attempted to strike a balance between promoting equality and avoiding reverse discrimination. Various landmark judgments have contributed to defining the scope and limitations of affirmative action in India. The judiciary's approach reflects a delicate balance between recognizing the need for the redressal of historical injustices and ensuring that affirmative action remains a means to foster genuine social inclusion without perpetuating new forms of inequality.</p> <p>In the light of the given excerpt discuss in detail:</p> <p>a. How has the judicial trend on affirmative action in India evolved over time, and what key principles and considerations emerge from landmark judgments in cases addressing reservations?</p> <p>b. In examining the judicial stance, how do Indian courts navigate issues such as the extent of reservations, the application of the creamy layer concept, and the delicate balance between promoting social justice and preventing potential reverse discrimination?</p>	<p>10</p> <p>15</p>	<p>CO4</p>