

G 5604



00005604

Reg. No.....

Name.....

LL.M. DEGREE EXAMINATION, MAY 2024

First Semester

Paper II—JUDICIAL PROCESS

(2018 to 2020 Admissions—Mercy Chance)

Time : Three Hours

Maximum Marks : 75

*Answer any **five** questions.
All questions carry equal marks.*

1. “It may be little more than an inclination to do as others have done before, or it may be the outcome of a positive obligation to follow a previous decision in the absence of justification for departing from it.” Comment explaining the doctrine of precedent.
2. “Cases do not unfold their principles for the asking. They yield up their kernel slowly and painfully For the thing adjudged comes to us of ten times swathed in obscuring dicta, which must be stripped off and cast aside.” Discuss, explaining the method of determining ratio.
3. “It is not everything said by a judge when giving a judgment that constitutes a precedent The reason why it is not everything said by judge in the course of his judgment that constitutes a precedent is that among the propositions of law enunciated by him, only those which he appears to consider necessary for his decision are said to form part of the ratio decidendi and thus to amount to more than an obiter dictum.” Comment, explaining how ratio decidendi differ from obiter dictum.
4. “Although there are important differences between them, the French legal system may be taken as typical of those of Western Europe From the stand point of strict legal theory, French law is not based on case law at all. The Civil and Penal Codes are theoretically complete in the sense that they are supposed to cover every situation with which the ordinary courts are concerned.” Critically examine and evaluate the position of precedent in common law and civil law countries.
5. Discuss the nature of Judicial Process as propounded by Cardozo adopting the method of judicial interpretation, based on the role of philosophy.
6. Explain judicial creativity and its exceptions adopting the view of Cardozo on “Judge as Legislator”.
7. Comment on Judicial process in Indian legal system and the operation of precedent in India, examining the Constitutional position and the decisions of the Apex Court, upholding the Doctrine of stare decisis.





G 5604

8. Write short notes on any *three* :

- (a) Basic Structure Theory and Limitations to Constitutional Amendments.
- (b) Judicial activism vis-a-vis Judicial self restraint.
- (c) Judicial process in a Statute free zone.
- (d) Prospective over ruling and the Supreme Court.

(5 × 15 = 75)

