

NATIONAL UNIVERSITY OF IRELAND, GALWAY
FACULTY OF LAW

SEMESTER II EXAMINATIONS – SUMMER 2000

LL.B. – SECOND, THIRD & FOURTH YEARS
B.A. (LEGAL SCIENCE) – THIRD YEAR
OCCASIONAL STUDENTS

COMPARATIVE LAW (FREEDOM OF SPEECH)(LW376)

Professor C. Warbrick
Mr. D. Driscoll

Time Allowed: **TWO** hours. Erasmus students have 2 1/2 hours and may use a language dictionary.

Please answer **THREE** questions.

1. *"...(T)he peculiar evil of silencing the expression of an opinion is that it is robbing the human race, posterity as well as the existing generation – those who dissent from the opinion, still more than those who hold it. If the opinion is right, they are deprived of the opportunity of exchanging error for truth; if wrong, they lose, what is almost as great a benefit, the clearer perception and livelier impression of truth produced by its collision with error."*

In your opinion, is this the best argument for promoting freedom of speech as a value?

2. Ann has written her first novel. The novel is an account of the first twenty-four hours in the life of two young people who meet in a pub, have a long conversation and then become lovers that evening. While most of the novel is about their feelings for each other seen in the light of their confused emotional lives, Ann's description of their love-making is graphic. She uses their intimate details of their physical love-making to explore other dimensions of their lives.

An American friend tells Ann that her descriptions are so graphic that she does not stand a chance of getting such a novel published in Ireland because of legal restrictions on sexually explicit material, but that she should try the United States, where the regime is more liberal.

Ann asks you about her friend's advice. Explain to her the restrictions on sexually explicit speech which exist in Ireland and in the United States.

3. Compare and contrast the ways in which Ireland, England and the United States deal with *either* the problem of racist speech *or* the problem of seditious speech.
4. Outline the proposed EU regime for dealing with comparative advertising.
5. *"The conservative-moralist, feminist, and liberal perspectives are normative theories that guide expectations about what effects sexually explicit communications will have on the individual and society. These theories stem from conceptual definitions that focus on different aspects of sexually explicit communications. The conservative-moralist focuses on the **obscene**: that which is offensive, disgusting, shameful, and contrary to an accepted standard for sexual behaviour. The feminist perspective views many sexual depictions as **pornography**: literally, descriptions of acts of prostitutes, or the portrayal of women as such. The liberal holds that many sexually explicit depictions are **erotic**, referring to sexual expression between consenting adults."*

Briefly outline the research evidence supporting each viewpoint. Which viewpoint, in your opinion, should guide legislators when they attempt to deal with the issue of restrictions on sexually explicit speech?

6. *"In its 1996 report, the Constitution Review Group considered the constitutional reference to blasphemy, and concluded that its retention as a constitutional offence was inappropriate ... It is submitted that the concept of a blasphemy law has such archaic and discriminatory undertones that it should have no place in the contemporary Irish legal order."*

Discuss.