

GX 1720

**Ollscoil na hÉireann, Gallimh**  
**National University of Ireland, Galway**

**Semester II Examinations, 2003/2004**

<b>Exam Code(s)</b>	2BA1, 2BA6
<b>Exams(s)</b>	2 <sup>nd</sup> Bachelor of Arts 2 <sup>nd</sup> Bachelor of Arts (Public & Social Policy)
<b>Module Codes(s)</b>	LW305
<b>Module(s)</b>	Constitutional Law II
<b>Paper No.</b>	
<b>Repeat Paper</b> __ <b>Special Paper</b> __	
<b>External Examiner(s)</b>	Prof Colin Harvey
<b>Internal Examiner(s)</b>	Mr. Donncha O'Connell
<b><u>Instructions</u></b>	Answer <b>TWO</b> questions All questions carry equal marks
<b>Duration</b>	<b>TWO</b> Hours
<b>No. of Answer Books</b>	
<b><u>Requirements:</u></b>	
<b>Handout</b>	
<b>MCQ</b>	
<b>Statistical Tables</b>	
<b>Graph Paper</b>	
<b>Log Graph Paper</b>	
<b>Other Material</b>	Bunreacht na hÉireann, 1937
<b>Department(s)</b>	Law

PTO

1. "The Aristotlean conception of equality in Article 40.1 of the Irish Constitution has resulted in a jurisprudence that lacks consistency and hinders the realisation of a more transformative notion of equality". Discuss with reference to decided cases and the Report of the Constitution Review Group 1996.
  
2. Answer (a) OR (b):
  - (a) "The unspecified right to privacy, as judicially developed, is unclear in scope and fails to provide comprehensive protection of privacy thus highlighting the principled objections to the doctrine of unenumerated rights". Discuss;
  
  - OR
  - (b) The Supreme Court in *Re a Ward of Court* [1996] 2 IR 79 based its decision on a variety of constitutional grounds. Outline and critically assess those grounds and deal with the critical points made in the dissenting judgment of Egan, J.
  
3. Caitriona is a 15-year old pregnant girl whose parents wish her to terminate her pregnancy on the basis that she is too young to have a child. They bring her to a pregnancy counselling clinic to discuss the various options open to her and, in the course of that discussion, she is given a list of abortion clinics in the United Kingdom with contact details. Her father becomes concerned that this is not the ideal course of action and discusses the matter with her mother who insists on terminating the pregnancy. In the meantime, Caitriona's boyfriend – who is the father of the unborn child – finds out that she is pregnant and objects vociferously to her having an abortion. He goes to the police and informs them that Caitriona intends travelling to the UK for an abortion against his and her father's wishes in the belief that she is about to perform an illegal act. The police seek the advice of the Director of Public Prosecutions (DPP). Write an opinion for the DPP on the various constitutional issues raised by this case.
  
4. Due to the shortage of new houses for 'first-time buyers' the Government introduce a scheme, on a statutory basis, under which builders are obliged to either provide a certain amount of development land to local authorities for social and affordable housing or, alternatively, pay a variable levy to local authorities in lieu of same. A scheme of compensation – based on a complex formula that allows for compensation at considerably less than the market value of the land – exists for those builders that cede land to the local authority. Those who avail of the option of paying the levy – usually builders with small amounts of development land – are not eligible to apply for compensation. The Small Builders' Confederation believe that this scheme violates a number of their property rights under Articles 40 and 43 of the Constitution. You are asked to advise the Confederation on the basis of decided cases.
  
5. "The Supreme Court decision in *McKenna v. An Taoiseach* (No.2) [1995] 2 IR 10 represents the triumph of unworkable principle over the real politics of holding constitutional referenda". Discuss with reference to other workable alternatives discussed in the Report of the Constitution Review Group.

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