

**ETHIOPIAN NATIONAL EDUCATIONAL ASSESSMENT AND
EXAMINATIONS AGENCY (NEAEA)**

**NATIONAL EXIT EXAMINATION FOR LL.B PROGRAMME
STUDENTS OF ETHIOPIAN LAW SCHOOLS
2019/2020 ACADEMIC YEAR**

November 13, 2020

Time Allowed: 3:00 Hours

PART IV: MISCELLANEOUS LAW COURSES

GENERAL INSTRUCTIONS

1. THE EXAM HAS FIVE SECTIONS. ATTEMPT ALL THE QUESTIONS ON THE BASES OF SPECIFIC INSTRUCTIONS INDICATED IN EACH SECTION.
2. IT IS A CLOSED BOOK EXAMINATION.
3. SUPPORT YOUR ARGUMENTS WITH PERTINENT LEGAL PROVISIONS WHENEVER APPROPRIATE.
4. WRITE YOUR ANSWERS IN A SEPARATE ANSWER SHEET PROVIDED.
5. YOU MAY ASSUME FACTS WHEREVER NECESSARY.
6. WRITE LEGIBLY.
7. DO NOT BRING YOUR MOBILE PHONE IN TO THE EXAM HALL.

DO NOT TURN THIS PAGE UNTIL YOU ARE ALLOWED TO DO SO.

SECTION I: MULTIPLE-CHOICES (25%)

CHOOSE THE BEST ANSWER FROM THE GIVEN CHOICES AND WRITE THE LETTER OF YOUR CHOICE IN THE ANSWER SHEET PROVIDED.

1. *A Theory of Justice as Fairness* by John Rawls (1921–2002) has exerted considerable influence on the analysis of the difficult concept of justice. In line with his theory, identify the statement that **correctly** describes the concept of justice.
 - A. Justice emphasizes the act of doing good to friends and doing evil to enemies.
 - B. Justice is guaranteeing the interest of the stronger.
 - C. Justice has a higher priority than questions of happiness or any other moral concerns.
 - D. Justice is a subset of morality.
 - E. Justice is a part of morality and could not be described apart from morality.
2. Which one of the following is the correct correlation of the legal theory with the legal philosopher?
 - A. Law as social fact: Hans Kelsen
 - B. Law as norms: Joseph Raz
 - C. Law as social rules: Ronald Dworkin
 - D. Law as commands: J. Bentham and J. Austin
 - E. Law as interpretation: H. L. A. Hart
3. Whenever there is a conflict between the law of nature and the law of man, Cicero, advises that:
 - A. the law of man should always be overruled by the law of nature.
 - B. the law of nature shall be disregarded if it is contrary to the law of man.
 - C. the law of man which did not conform to 'reason' might still be regarded as valid.
 - D. the law of man is the higher law if it is promulgated by elected officials.
 - E. the law of nature should be subordinate to the law of man.

4. Which one of the following best describes the normative legal theory?
- A. It seeks to explain what the law is, and why, and its consequences.
 - B. It is concerned with what the law ought to be.
 - C. It is all about facts, but not about values.
 - D. It attempts to explain why the law is as it is.
 - E. It is concerned with the consequences that are likely to follow from a set of legal rules.
5. Which statement is **incorrect** regarding the meaning of the concept and the function of law as per both classical and contemporary jurisprudential thoughts?
- A. It consists of a set of universal moral principles in accordance with nature.
 - B. It is simply a collection of largely man-made, valid rules, commands, or norms.
 - C. It has a specific purpose such as the protection of individual rights and the attainment of justice.
 - D. It serves as an instrument to bring economic, political, and sexual equality.
 - E. It attempts to explain why the law of nature is as it is.
6. The feminist legal theory argues that:
- A. women should enjoy unequal rights and opportunities with men.
 - B. law in a society should be made and administered by women.
 - C. law is an instrument which tends to favour male-oriented approach to justice.
 - D. law brought about the substantive equality of women.
 - E. law protects the interests of men and women equally.

7. According to Aristotle, there are two types of laws; one is natural law, and the other man-made. What will happen if the two laws conflict?
- A. In case of conflict between the two, Aristotle urges us to resort to the natural law.
 - B. In case of conflict between the two, Aristotle advises us to resort to the man-made law.
 - C. There is high probability that there is no conflict for both laws are one and same.
 - D. The natural law must be disregarded for it is immutable and beyond human touch.
 - E. It seems that Aristotle accepted that there exists no conflict between the two for there is no such a thing as natural and universal right and wrong.
8. The theory of critical legal studies, like legal realism, claims that:
- A. law is created by the legislature.
 - B. the ultimate source of a given law is morality.
 - C. if a given law failed to be backed by reason, then it should be disregarded.
 - D. true law is right reason in agreement with nature.
 - E. law is a tool of injustice, and that the liberal values underlying the law are neither coherent nor desirable.
9. Which of the following is a peculiar feature of civil servant law in Ethiopia?
- A. Conditions of work are rigorously regulated.
 - B. It has enormous room for collective bargaining and agreement.
 - C. It stipulates minimum conditions of work for civil servants.
 - D. It does not lay down special form to conclude employment contract.
 - E. It governs relationship between public enterprises and their employee.
10. One of the following is a legal ground for termination of contract of employment with prior notice:
- A. deceitful or fraudulent conduct during carrying out duties.
 - B. cancellation of the post of the worker for good cause.
 - C. intentional misappropriation of employer's property or fund.
 - D. brawls or quarrels at workplace, taking into account its gravity.
 - E. refuse to submit himself/herself for medical examination.

11. One of the following categories is taken as a temporary employee pursuant to the Federal Civil Servants Proclamation No 1064/2017.
- A. Ministers, deputy or director generals or persons with that rank or above.
 - B. Members of the House of Peoples' Representatives.
 - C. Foreigners employed in governmental offices.
 - D. Judges and public prosecutors.
 - E. Persons in the armed forces or police.
12. Which statement best describes the term 'undertaking' under Ethiopia's present Labour Proclamation?
- A. A governmental office established to serve the whole society.
 - B. A legal entity established to conduct lawful activity.
 - C. An institution established to deliver religious activity.
 - D. A legal entity that serves society with armed force.
 - E. Any branch which enjoys operational or organizational autonomy shall not be separate undertaking.
13. Among the following rights one is a special right of young workers.
- A. The right to earn wage at proper time.
 - B. The right to work in safe work environment.
 - C. The right to get service certificate free of payment.
 - D. The right to be dignified and honored.
 - E. The right not to be engaged in overtime work.
14. Which one of the following disputes is subject to labour division appellate court jurisdiction?
- A. Claims of employment injury, transfer, promotion, training and other similar issues.
 - B. Claims related to issuance of certificate service and clearance.
 - C. Objection on question of jurisdiction.
 - D. Disciplinary measure including dismissal.
 - E. Claims related to termination of employment contract.

15. Which one of the following criminal law defenses is **not** related to gender?
- A. Premenstrual syndrome
 - B. Battered women syndrome
 - C. Insanity defense
 - D. Sexual intercourse in marriage
 - E. Honor killing
16. When you focus more on 'women' than 'gender',
- A. you re-evaluate the entire structure of the society.
 - B. you re-evaluate the relations between men and women.
 - C. you understand that women will be fully empowered if the institutions in the society are revised.
 - D. you understand that equality of men and women is beneficial to all.
 - E. you perceive that reasonable accommodations for women are unfair on men.
17. Which one of the following statements is **not** true about gender equality?
- A. Responsibilities shall not depend on sex at birth.
 - B. Opportunities shall not depend on sex at birth.
 - C. Gender equality is one of the indicators of sustainable development.
 - D. Gender equality requires affirmative action for one of the sexes.
 - E. Gender equality is all about promoting women's rights.
18. One of the following categories is considered as being exposed to double vulnerabilities by international law **except**
- A. rural women.
 - B. women in politics.
 - C. disabled women.
 - D. displaced women.
 - E. older women.

22. Which
19. Which one of the following is **not** sex based discrimination?
- A. A rule which states that a marriage to a foreigner shall automatically lead to change of nationality.
 - B. A rule which provides that a change of nationality of one of the spouses shall automatically result in change of nationality of the other spouse.
 - C. A rule which stipulates that property in a marriage can be registered in the name of the husband or in the name of both spouses.
 - D. A rule which stipulates that a child shall take the nationality of his/her mother.
 - E. A rule which stipulates that a wife can acquire the nationality of her husband.
20. _____ refers to an approach that seeks to balance gender equation by giving women access to information, skills, services, and technology and encouraging their participation in decision making.
- A. Protectionist approach
 - B. Transformative approach
 - C. Participatory approach
 - D. Women's empowerment
 - E. Equality approach
21. The act of an advocate to be faithful and understanding towards other advocates under the Federal Advocates Code of Conduct is an act of _____.
- A. legal duty
 - B. ethical duty
 - C. legal and ethical duty
 - D. religious duty
 - E. legal and religious duty

22. Which one of the following is correct under the prevailing regulatory professional code of conduct in Ethiopia?
- A. An advocate is not prohibited to receive donation from his client while providing advocacy services.
 - B. It is not professionally prohibited if a judge provides some money to an indigent client in the proceeding to help him with the cost of written court application.
 - C. It is not a violation of Public Prosecutors Code of Conduct if a public prosecutor provides par-time legal services to a business company with the payment of commensurate fee for his service.
 - D. It is not morally reprehensible if a court legal clerk receives a 'mobile card' in order to facilitate the timely delivery of the paper works of court orders.
 - E. An assistant judge should not be subject to the judicial code of conduct until appointed as a full judge of the court of law.
23. Providing free legal aid services in civil matters to poor members of the community under the prevailing professional code of conduct in Ethiopia is:
- A. the public duty of the public prosecutor.
 - B. the legal duty of licensed advocates.
 - C. the moral duty of any lawyer even if not licensed to practice law in Ethiopia.
 - D. the religious duty of an advocate provided that the person in need of free legal aid has same religious background as the advocate.
 - E. the ethical duty of a judge in the proceedings of the court provided that such person is not represented by an advocate when the other opposing party does.

24. A federal judge who wants to be an advocate after the termination of his/her tenure is **not** legally required to produce one of the following under the prevailing professional code of conduct in Ethiopia.
- A. Evidence that such previous judge was not previously convicted of any crimes.
 - B. Evidence that such previous judge is loyal to the supremacy of the law of the land.
 - C. Evidence that such judge has taken exit exam before graduating from a school of law under the new curriculum.
 - D. Evidence that such previous judge graduated in law degree from a recognized higher educational institution.
 - E. Evidence that such previous judge waited for the lapse of two years after termination of his work as a judge.
25. Which of the following is **not** a primary characteristic which distinguishes the legal profession from business?
- A. A duty of public service of which emolument is a by-product, and in which one may attain the highest eminence without making much money.
 - B. A relation as officer of the court to the administration of justice involving thorough sincerity, integrity, and reliability.
 - C. A relation to client in the highest degree of fiduciary duty.
 - D. A relation to colleagues characterized by candor and fairness.
 - E. A willingness to resort to current business methods of advertising and encroachment on their practice, or dealing directly with their clients.

SECTION II: MATCHING (10 %)

MATCH EACH ITEM UNDER COLUMN "A" WITH ITS BEST CORRESPONDING ITEM UNDER COLUMN "B".

<u>COLUMN A</u>	<u>COLUMN B</u>
1. David Hume (1711–76)	A. <i>Summa Theologiae</i>
2. Lock-out	B. The duty of the judge to respect professional colleagues
3. Male domination	C. The 'inner morality of law'
4. Affirmative action	D. Exemption of the advocate not to testify against his client
5. Lon L. Fuller (1902–78)	E. Transferring an employee to another institution temporarily
6. Civility	F. Patriarchy
7. Immunity	G. Treatise of Human Nature
8. St. Thomas Aquinas (1225–74)	H. Collective agreement
9. Secondment	I. Corrective measure
10. Collective relation	J. Industrial action

SECTION III: SHORT ANSWERS (15%)

PREPARE A SHORT NOTE ON EACH OF THE THREE QUESTIONS PROVIDED BELOW.

- 3.1 Define the concept of triangular employment relationship. (5%).
- 3.2 Indicate reasons why the situation of domestic workers in Ethiopia is a gender issue. (5%).
- 3.3 State the *raison d'être* behind *pro bono publico* legal services under the Federal Courts Advocates Code of Conduct. (5%).

SECTION IV: ESSAY-TYPE QUESTIONS (25%)

ANSWER THE FOLLOWING TWO QUESTIONS. YOUR ANSWERS ARE EXPECTED TO BE ANALYTIC, CRITICAL AND COMPREHENSIVE.

- 4.1 Discuss what the universalism-relativism argument in human rights means to issues of human rights of women. (12.5%)
- 4.2 Compare and contrast the independence of the judiciary and independence of the judge. (12.5%)

SECTION V: HYPOTHETICAL CASE (25%)

ANSWER THE FOLLOWING HYPOTHETICAL CASES. YOUR ANSWER SHOULD BE BASED ON REASON AND AUTHORITY.

5.1. HYPOTHETICAL CASE I (12.5%)

The deadly COVID-19 pandemic that broke out in February 2020 is claiming the lives of hundreds daily. As the virus is spreading fast, it is feared the figures will surge. Nations across the globe are passing various measures, including laws, to curb the spread and treat the infected. Italy suffered over 900 (nine hundred) deaths per day with its hospitals overwhelmed with patients. Although health professionals are working round the clock, the nation's health system could not provide treatment to all the patients. As the system is reported to be on the brink of collapse, the Provincial Council (PC) of one of the hardly stricken regions, *Lombardy*, drew up a controversial Rule. According to this Rule, whenever there are too many patients, those above the age of 80 (eighty) should not be provided access to intensive treatment and ventilators. Hospitals were told to prioritize patients below the age of 80 for intensive care treatments and ventilators. As the medics are advised to ration care to patients based on their age, a non-governmental organization advocating for the rights of the elderly objected the Rule and brought an action against the implementation.

5.1. *Write a succinct argument on the issue showing whether the Rule is in line with the natural law theory and legal positivism. (12.5%).*

5.2. Hypothetical Case II (12.5%)

Selam Company is water pump and related materials production factory. W/t Eldana was employed as a marketing officer in Selam Company in 2011 with 15000 birr monthly salary with profit based bonus. Some of the obligations of W/t Eldana include assessing market, preparing sample quotations, concluding contract with actual buyers and facilitating delivery of sold materials. Selam Company is among the most profitable companies; for this W/t Eldana has been awarded five successive prizes. In 2020, the Company has been enhancing its production capacity and has rearranged its organizational structure. Accordingly, the Company hired Dr. Hebrom as Department Head of the Marketing Office. Keeping her status, W/t Eldana continues her performance energetically with synergy.

However, Dr. Hebrom started to force Eldana to work overloads. At different times, he insulted, assaulted, mugged and even ordered her to leave her work. The reason for these all acts was, he was being told to improve his weak leadership. W/t Eldana could not tolerate his usual assaults. Thus, she complained to the Board of Selam Company. The Board could not decide her case within 30 days but the mugging continued unabated. She terminated her work without notice. After termination, Dr. Hebrom became aware that W/t Eldana broke a drawer. He immediately wrote a notification letter which says "W/t Eldana is dismissed from her employment because she broke the property of the Company." Following the letter, W/t Eldana was summoned in person.

5.2.1. Assuming that you are W/t Eldana's attorney, advise her on possible legal solutions of the case. (7%)

5.2.2. Can Selam Company raise the breakage of the drawer as a ground of lawful termination? Why or why not? (5.5%)

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