National Educational Assessment and Examinations Agency (NEAEA)

National Exit Examination for LL.B Programme Students of Ethiopian Law Schools

Academic Year 2013/2014

Part II: Public Laws

19 March 2014
Time Allowed: 3 (Three) Hours

Instructions:

- This is a closed book exam for all materials except clean copies THE FDRE CONSTITUTION, THE CRIMINAL CODE, AND THE LABOUR PROCLAMATION (377/2003) WITH ITS AMENDMENTS which can neither be lent to nor borrowed from other students.
- The Exam has five sections. The grades allotted for each are indicated beside the title of the section.
- Whenever Appropriate buttress your arguments with pertinent legal provisions
- You are expected to allocate your time based on the marks allotted per question.
- Write your answers in the answer sheet provided.
- Switch off your mobile phone.

Please do not turn this page until you are told to do so!

_____ _____ _____
First Name **Father's Name** **Grandfather's Name**

Registration Number _____

University _____

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SECTION I. MULTIPLE CHOICES (25%): CHOOSE THE BEST ANSWER FOR EACH QUESTION FROM THE ALTERNATIVES GIVEN. NOTE THAT THERE IS ONLY ONE BEST ANSWER FOR EVERY QUESTION.

1. One of the following is not recognized as an element of the principle of legality in the Criminal Code.

   A. No law, no offence.
   B. No law, no punishment.
   C. Enforcement of punishment in a prescribed manner.
   D. Creation of offence and punishment by analogy.
   E. None.

2. In principle, which one of the theories of causation does the Criminal Code recognize?

   A. *Sin quo non* (but-for) theory.
   B. Proximate cause theory.
   C. Adequate cause theory.
   D. Last act theory.
   E. None.

3. Material concurrence is best explained by one of the following expressions.

   A. Raping a man at a public place.
   B. Shooting a man on his chest which causes bleeding and then death.
   C. Throwing a bomb on a group of standing people and killing them all.
   D. Breaking into someone's house and assaulting the occupants.
   E. None.

4. An accessory after the fact is:

   A. A principal participant in the commission of a crime.
   B. A secondary participant in the commission of a crime.
   C. Liable to punishment provided for the crime the assisted person commits.
   D. A crime against administration of justice.
   E. None.

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5. Which one of the following crime is not a special crime?

A. Perjury.
B. Murder.
C. Desertion.
D. Corruption.
E, Homosexuality.

6. Which one of the following is not true about death penalty?

A. It can be imposed on all criminals that have committed crimes carrying death penalty.
B. It is the ultimate penalty for a criminal.
C. It is the most symbolic reminder of the power of a state to punish its citizens.
D. It is the most draconian criminal sanction.
E. It is one of the most divisive issues in the field of criminal law.

7. Which of the following statements is true about termination of Employment relationship?

A. Termination of employment relationship invariably results in the payment of severance payment for the worker.
B. Most serious behavioral misconducts of workers are grounds for ordinary dismissal.
C. In case of extra-ordinary resignation, workers are not required to give advance notice to the employer.
D. As per the Ethiopian Labour Proclamation, all instances of lawful termination must be preceded by period of notice of appropriate duration given to the worker.
E. None.

8. Which of the following does not constitute the obligations of an employer for a worker who is a victim of an employment injury?

A. Paying compensation to the employee proportionate to the degree of disability.
B. Providing first aid service at the place of accident.
C. Covering the medical expenses of the injured worker.
D. Covering the funeral expenses of a worker deceased as a result of employment injury.
E. None.

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9. From the following types of leaves identify the one that is not a conditional leave.

A. Annual leave.
B. Union leave.
C. Leave for special purposes.
D. Maternity leave.
E. Sick leave.

10. Which of the following category of workers is treated differentially but not preferentially under the Ethiopian labour proclamation?

A. Young workers.
B. Non-Ethiopians.
C. Female workers.
D. Workers with disabilities.
E. None.

11. One of the following is **not** a sufficient ground for federal government to declare an emergency law under the FDRE Constitution.

A. An external invasion.
B. A break-down of law and order which endangers the constitutional order and can be controlled by the regular law enforcement agencies and personnel.
C. A natural disaster or an epidemic.
D. A and C
E. A and B

12. Which of the following rights cannot be derogated from in Ethiopia even in emergency situations?

A. Right to life.
B. Immunity from torture.
C. Right to be recognized as a person before the law.
D. B and C.
E. All.

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13. Which one of the following statements is true about the right to self- determination?

A. Secession is an inevitable aspect of the right to self-determination.
B. The right to self-determination is an important minority protection mechanism.
C. In Ethiopia, the right to secession can only be initiated by a regional state council.
D. A and B.
E. A and C.

14. Which one of the following institutions has the power to amend regional constitutions in current Ethiopia?

A. The Regional State Council.
B. The Regional Administrative Council.
C. The Federal Supreme Court.
D. The Regional Supreme Court.
E. The Regional Justice Bureau.

15. Federalism works best where there is:

A. broad respect for rule of law.
B. culture of tolerance and accommodation between population groups.
C. embracing diversity as what defines a country for stability of federation.
D. significant elements of shared identity.
E. All.

16. Of the following one is not the defining feature of human rights.

A. Human rights are the birth rights of all human beings.
B. Human rights are founded on the respect for human dignity and worth of human person.
C. Human rights are entitlements which can be given or taken away.
D. Human rights are inviolable.
E. None

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17. Which one of the following historical documents contributed to evolution of human rights?

A. *Magna Carta* which was adopted in 1215 in England.
B. The American Declaration of Independence (1776).
C. The French Declaration on the Rights of Man and Citizens.
D. All.
E. None.

18. A violation of one right will often affect other rights. This assertion goes in line with the concept of:

A. The principle of indivisibility
B. The principle of universality
C. The principle of inviolability
D. The principle of inalienability
E. All.

19. One of the following is not true about the Ethiopian human rights system.

A. Ethiopia has ratified various international human rights instruments.
B. Ethiopia has established national human rights institutions.
C. Ethiopia has recognized human rights comprehensively in its Constitution.
D. All.
E. None.

20. Which of the following is **false** about the International Criminal Court (ICC)?

A. The ICC has '*complementary jurisdiction*'- a court of last resort.
B. The ICC is part of the United Nations System.
C. The ICC has jurisdiction over war crimes, crimes against humanity, genocide, and conditionally crimes of aggression.
D. B and C.
E. None.

21. Which one of the following reservations is impermissible?

A. Reservations incompatible with the object and purpose of a treaty.
B. Reservations incompatible with peremptory norms.
C. Reservations not authorized by the treaty in question.
D. Reservations which are incompatible with customary international law.
E. All.

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22. Taxes are instrumental for a government:

A. To reduce consumption of harmful goods and services.
B. To control the level of price of goods and services/inflation/.
C. For encouraging saving and investment.
D. All.
E. None.

23. The classification of taxes into direct and indirect taxes is based on:

A. The ability of taxpayers to pay tax.
B. Whether the source of revenue is from home or abroad.
C. Whether the tax is implicitly shiftable or not.
D. A and B.
E. None.

24. The administrative cost to the tax collecting authority and the costs of compliance on the part of taxpayer should be kept at minimum. Which one of the following principles is best explained by this idea?

A. Efficiency.
B. Equity.
C. Certainty.
D. Flexibility.
E. None.

25. Which one of the following is incorrect about allocation of tax power under the Constitution of the Federal Democratic Republic of Ethiopia?

A. Taxes not specifically allocated to the federal government are always left to the regional states.
B. Income tax from individual traders is under taxation power of regional states.
C. Income tax from companies and partnerships is under concurrent power of taxation.
D. Sales tax on federal enterprises exclusively belongs to the federal government.
E. None.

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SECTION II. MATCHING (10%): CHOOSE THE BEST MATCH FOR THE ITEMS UNDER A FROM THE ITEMS UNDER B. THERE IS ONLY ONE BEST MATCH FOR THE ITEMS UNDER A FROM THE ITEMS UNDER B.

A.	B.
1. Instigation	A. Socio-economic Rights
2. Exclusion from Labor Proclamation	B. *Uti Possidetis juris*
3. Federations formed by coming together	C. Duty to keep book of accounts
4. Always federal jurisdiction in federations	D. Convincing a person to commit a crime
5. Progressive realization	E. Domestic servants
6. Human Rights NGOs	F. Income from business activities.
7. Using boundaries of former colonies	G. Rental income.
8. No derogation allowed	H. Accomplice.
9. Category A tax payers	I. Sanitation
10. Income taxable under Schedule C	J. Canada, United States, Australia
	K. *jus cogens*
	L. Employment Income
	M. Power to regulate currency
	N. Lobby for human rights' enforcement

SECTION III: GIVE SHORT ANSWERS TO THE FOLLOWING QUESTIONS. (15%)

1. How does the African Charter on Human and Peoples' Rights differ from other human rights treaties? (9%)
2. Fiscal imbalance is an inevitable consequence of decentralization. Hence, sub-national governments substantially depend on central government's support or else they will fall far short of their annual budget need. What are the possible reasons for the inevitability of fiscal imbalance when decentralization takes place? (6%)

SECTION IV: ESSAY PART (20%)

1. Write a short essay (**in not more than 15 lines**) on the fundamental principles governing international relations. **(12%)**
2 Write an essay of **one paragraph** on the meaning and elements of the doctrine of separation of powers as propounded by the French philosopher, Montesquieu. **(8%)**

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SECTION V. CASES (30%): READ THE FOLLOWING CASES VERY CAREFULLY AND ANSWER THE QUESTIONS THAT FOLLOW.

Case I (15%)

Alem and Gifti are second year psychology students in one of the public universities in Ethiopia. They are also classmates. Last December, they both attended a get-together party with first year psychology students. On the occasion, Gifti consumed too much alcohol and got drunk. As a result, she lost many of her belongings including her *Samsung Galaxy Note* cell-phone. The next day, she told Alem that she lost her cell-phone and asked her if she had seen it. Alem frankly informed Gifti that she had not seen the cell-phone. Nevertheless, two days later, Alem discovered Gifti's cell-phone in her bag but she decided not to give it back to Gifti. On the other hand, last month, Gifti discovered that her cell-phone was with her friend, Alem. As a result, she reported the case to the nearby police station. Then, the process went on until Alem was finally charged under article 665 of the Criminal Code for stealing her friend's cell-phone. Based on the above facts, answer the following questions.

1. If you were Alem's lawyer, what would your defence be against the charge for the crime of theft? **(10%)**
2. If you were a prosecutor, not a defence lawyer, what crime would prosecute Alem for? **(5%)**

Case II (15%)

'Wuchale Bank' is a private commercial bank engaged in banking services. It has its headquarter in Addis Ababa and branches in various cities across Ethiopia. Overall, it has over 5,000 employees. For a long time since its establishment it has been yielding high return for its shareholders. In its recent meeting, the Board of Directors of the Bank has instructed the General Manager of the Bank to take series of measures that would enhance the efficiency of the Bank and, hence, help maximizing profit. In view of this, the Bank introduced Core Banking Solution, banking software that fully automates banking service delivery and does all the data generation to be used for management decision making purpose. Accordingly, 57 employees of the Bank from across all branches who used to do the data generation from the day-to-day paper works were rendered redundant. Then, immediately, the management of the Bank terminated their employment contracts despite the fact that they have all served the bank for at least six years. Assuming that the 57 employees have approached you for legal advice, answer the following questions:

1. What remedy do they have under the relevant law? **(10%)**
2. Which disputes settlement organ is empowered to entertain their case? Why? **(5%)**

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