NATIONAL EDUCATIONAL ASSESSMENT AND EXAMINATIONS AGENCY (NEAEA)

NATIONAL EXIT RE-EXAMINATION FOR LL.B PROGRAMME STUDENTS OF ETHIOPIAN LAW SCHOOLS

2016 ACADEMIC YEAR

November 16, 2016

Time Allowed: 3 Hours

PART II: PUBLIC LAWS

GENERAL DIRECTIONS

1. ATTEMPT ALL QUESTIONS ON THE BASIS OF SPECIFIC INSTRUCTIONS INDICATED IN EACH SECTION.
2. LAWS THAT CAN BE BROUGHT TO THE EXAM ROOM **ARE THE FDRE CONSTITUTION, THE CRIMINAL CODE, and THE LABOUR PROCLAMATION (377/2003) WITH ITS AMENDMENTS, INCOME TAX AND VAT PROCLAMATIONS.**
3. WHENEVER APPROPRIATE, SUPPORT YOUR ARGUMENTS WITH PERTINENT LEGAL PROVISIONS.
4. PUT YOUR ANSWERS IN A SEPARATE ANSWER SHEET ATTACHED TO THE EXAM.
5. PUT YOUR MOBILES PHONES OFF

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

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SECTION I: MULTIPLE CHOICE (25%)

CHOOSE THE BEST ANSWER FOR EACH QUESTION FROM THE ALTERNATIVES GIVEN.

1. Which one of the following is **not** true about the scope of the Criminal Code?
   A. It criminalizes some acts which may be considered public immorality
   B. It does not criminalize some acts which may be seen as public immorality.
   C. It uses the *harm to others* principle to determine punishable and non-punishable behaviors.
   D. It criminalizes some acts which do not cause harm to any identifiable victim.
   E. The scope of the Criminal Code may be described as neither too narrow nor too broad.

2. The case of imperfect concurrence is best explained by one of the following expressions.
   A. Hitting a man on his head which causes fracture to his skull and instant death.
   B. Raping one's own brother/sister.
   C. Throwing a bomb on a group of people and killing them all.
   D. Breaking into someone's house and assaulting the occupants.
   E. Refusing to lend possible aid to a person in danger without any danger to oneself.

3. In Ethiopia, the following assertion is **not** correct about causation as regulated under the Criminal Code.
   A. In principle, the Criminal Code adopts the *adequate causation theory*.
   B. The link between cause and effect may be interrupted by intervening adequate cause.
   C. Concurrent causes can be treated as causes, if they are adequate in themselves, in relation to a given criminal result.
   D. One can read the *but-for* (*sine quo non*) *theory* in article 24 of the Criminal Code.
   E. In principle, no single inadequate cause is accepted as a cause.

4. Which one of the following assertions **does not** represent the possible legal consequences of limited responsibility under the Criminal Code?

   A. A person who is partially responsible gets lower punishment.
   B. A person who is partially responsible could be subjected to some forms of measures.
   C. A partially responsible person gets full penalty attached to the crime he has committed.
   D. In some cases, a partially responsible person may be allowed not to serve his penalty.
   E. A person who is partially responsible is entitled to a freely mitigated penalty.

5. Which one of the following assertions is **correct** about the crime of rape in Ethiopia?

   A. A man who compels his wife to submit to sexual intercourse commits rape.
   B. A woman who compels her husband to submit to sexual intercourse commits rape.
   C. Existence of consent is not an exonerating ground in the case of statutory rape.
   D. In order for rape to be committed, both parties must be in marriage relationships.
   E. Rape cannot be committed if the rapist is intoxicated.

6. A statement that is **true** about rigorous imprisonment in Ethiopia is:

   A. It starts from 5 years.
   B. It is imposed for relatively less serious crimes.
   C. It is executed under harsh condition.
   D. It cannot be imposed on pregnant women.
   E. It is not subject to parole.

7. Of the following, one **is correct** about claw-back clauses of the African Charter on Human and Peoples' Rights.

   A. They overlook the legitimacy test of limitation clauses.
   B. They represent derogation clauses in the Charter.
   C. They are akin to 'margin of appreciation' of the European human rights convention.
   D. They fit in with the international human rights obligations of African States.
   E. They do not allow limitation of human rights at all.

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8. Which one of the following is **wrong** about the Convention on the Protection of the Rights of All Migrant Workers and Members of their families?
   A. The Convention provides for the establishment of a committee to monitor its implementation.
   B. The Convention applies only to migrant workers who have legal entitlement to work within a country.
   C. The Migrant Workers Committee is mandated to receive individual complaints of alleged violation of the Convention.
   D. The Convention does not apply to refugees.
   E. In principle, the Convention applies to families of migrant workers.

9. One of the following is **wrong** about the Universal Declaration of Human Rights (UDHR).
   A. The UDHR has enshrined freedom of speech and belief, and freedom from want and fear as the highest aspiration of all people.
   B. The UNGA has proclaimed the UDHR as a common standard of achievement for all peoples and all nations.
   C. The UDHR provides for the creation of Commission on Human Rights.
   D. The UDHR was adopted after the adoption of the American Declaration on Rights and Duties of Man.
   E. The UDHR is still a very important human rights document.

10. One of the following is a prerequisite for permissible derogation of human rights. Which one?
   A. Derogation measures may be discriminatory on a certain ground.
   B. Derogation measures may go beyond the extent required by the situation.
   C. A state of emergency must be declared.
   D. Derogation measures must include the moratorium of all derogable rights.
   E. When adopted, derogation measures must cover all right.

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11. Of the following one **is not** the component of the right to privacy.

A. Information Privacy

B. Bodily privacy

C. Privacy of communications

D. Territorial privacy at public place

E. Privacy of residence.

12. One of the following **is not** an issue of employee-employer relationship in respect of which parties' freedom to contract is limited?

A. Choice of employee by the employer.

B. Duration of contract of employment.

C. Termination of contract of employment.

D. Working hour.

E. Annual leave.

13. Which of the following entities is **not** in principle considered employer for the purpose of the Labour Proclamation no. 377/2003.

A. Public enterprises

B. Government owned hospitals.

C. Privately higher education institutions (colleges).

D. Business institutions operated by religious institutions.

E. Private limited companies.

14. Which of the following is **not** a protection extended to workers with disability under Ethiopian law?

A. Protection against discrimination.

B. Right to affirmative action.

C. Entitlement to reasonable accommodation.

D. Reversal of burden when an act of discrimination is alleged by a person with disability.

E. Right to participate in trainings without any conditions.

15. Which of the following **does not** necessarily 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.
    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. Covering all medical expenses the victim who gets medical services abroad incurs.

16. Which of the following employment relationships **does not** come within the scope of application of Labor Proclamation no. 377/2003?
    A. Contract of apprenticeship.
    B. Contract of employment of Ethiopians abroad.
    C. Contract of employment of a foreigner by a business organization in Ethiopia.
    D. Home-based work contract.
    E. Young workers employment.

17. What is the relationship between the sources of international law?
    A. Rules created by means of custom are superior than those created by treaty
    B. Rules created by means of treaties are superior than those created by custom
    C. Rules created by means of general principles are superior than those created by treaty
    D. Rules created by means of judicial decisions are superior than those created by treaty
    E. There is no hierarchy between custom and treaties

18. Which one of the following is the traditional subject of international law?
    A. Components of federal states
    B. International Non-Governmental Organizations
    C. Individuals
    D. Multinational Enterprises
    E. States

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19. The continuity principle of state succession does **not** apply in one of the following situations?
    A. Territorially grounded treaties
    B. Localized Treaties
    C. *Uti Possidetis*
    D. Human Rights Treaties
    E. Political or Personal Treaties

20. Which one of the following is the most elementary means of settlement of disputes?
    A. Arbitration
    B. Conciliation
    C. Mediation
    D. Good Offices
    E. Negotiation

21. Which one of the following requirements of statehood is most affected by the principle of self-determination and significant international recognition?
    A. Permanent Population
    B. A defined territory
    C. Government
    D. Capacity to enter in to relations with other states
    E. Foreign residents of the state affected.

22. One of the following **is not** a mandatory requirement for foreign tax credit according to the Ethiopian Income tax laws?
    A. The taxpayer must be resident of Ethiopia
    B. The income must be derived outside of Ethiopia
    C. The taxpayer must first pay tax in foreign land
    D. If the tax payer is an individual, he/she must be citizen of Ethiopia
    E. The tax-payer could be non-Ethiopian as long as he/she resides in Ethiopia.

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23. Identify the **false** statement regarding the objectives of taxation?

A. Taxes can be used to enhance saving and capital accumulation in the country

B. Regressive taxes are suitable for income and wealth distribution

C. Taxation can used to fight macro-economic problems like inflation

D. Taxes can be used to discourage the consumption of goods

E. Tax can be used to generate income for government.

24. Identify the **wrong** statement about public goods and services?

A. Excludability is absent in case of public goods

B. Public good and services are non-rival in their nature

C. Private investors are willing to provide public goods and services

D. Taxes are the main source of finance for public goods

E. There is low interest to invest in provision of public goods.

25. One of the following **cannot** be considered as a supply of goods according to Ethiopian VAT laws?

A. Goods at hand during cancellation of registration.

B. Supply of goods by an employer to his employees.

C. Salary payment to employees

D. Provision of gas

E. Sale of industrial raw materials.

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SECTION II: MATCHING (10%)

CHOOSE THE BEST MATCH FOR THE ITEMS UNDER A FROM THE ITEMS UNDER B.

A	B
1. Point of no return	A. One mechanism to address human rights issues
2. Habitual offender	B. Common feature of federations
3. Country mandate	C. Collection of tax from different sources
4. Progressive realization	D. Immunity
5. Leave without pay	E. Recall of elected representatives by people
6. Something in return	F. Maternity leave
7. Canon of Diversity	G. Foreign tax credit
8. Bad debts	H. Margin of appreciation
9. Two tiers of government	I. Indirect tax
10. House of Representatives	J. Attempt
	K. Quid Pro quo
	L. Lenient penalty
	M. Suspension of employment contract
	N. Special aggravating circumstance
	P. A deduction for Uncollectable credits
	Q. Immediate duty to meet human rights needs

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SECTION III: SHORT ANSWER (15%)

GIVE SHORT ANSWERS TO THE FOLLOWING QUESTIONS.

3.1. Mention three responsibilities of the UN High Commissioner for Human Rights (10%).

3.2. What is the concept used to refer to a deduction allowed for a business organization that invests parts of its profit in order to raise the basic capital of another company? (5%)

SECTION IV: ESSAY TYPE (20%)

4.1. Write a short essay of 15 lines outlining the possible benefits 16 years old boy gets if he commits a crime defined by the Criminal Code. **(10%)**

4.2. Write a short essay of 15 lines analyzing the different grounds for criminal jurisdiction under international law. (10%)

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SECTION V: HYPOTHETICAL CASES (30)

READ THE FOLLOWING CASES VERY CAREFULLY AND ANSWER THE QUESTIONS THAT FOLLOW.

5.1. HYPOTHETICAL CASE I (15%)

Abyssinia Hotel and Spa is an enterprise that is established as private limited company (plc) by a group of twenty businessmen. The Hotel, established in the beautiful city of Hawassa, caters for high income visitors and tourists and provides a range of hospitality service including spa and tour operation. It has 160 employees working in various capacities. With the thriving city life and booming business, Abyssinia Hotel and Spa has been performing well, yielding high returns for the shareholders until one unfortunate night when a fire that broke out in its kitchen blazed the hotel building resulting in loss of life and injury to employees and major damage to the hotel building. It took three months to finalize the restoration work and resume business. In the meantime, relation between employees and management of the Hotel has become rough. The employees blame the management of the Hotel for not putting in place appropriate safety tools, rules and mechanism that could have helped avert the fatalities. Decision by the management of the Hotel to make all of the employees on an unpaid leave for the duration of the restoration work of the Hotel has further adversely affected the employee-management relationship. The employees firmly demanded that they should be paid for the duration they were away from work and they have decided to take their case to the appropriate disputes settlement body.

5.1.1. What is the appropriate labor disputes settlement body to which they should take their case? (5%)

5.1.2. If the case is brought to you, what would your ruling be? Why? (10%)

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5.2. HYPOTHETICAL CASE II (15%)

Assume that state A enacted a criminal law in 1980 E.C. One of the provisions of this law provides for three months imprisonment for failure to register the birth of a child in one month. As per this law, and in 2015, a man called Ato Markos was accused because it took him three months to register the birth of his first child. The case of Ato Markos is now pending before a court of law. However, at the beginning of 2016, State A amended its 1980 criminal law and the amendment raises penalty for the same criminal act to one year. Following the amendment, the prosecutor handling the case applied to the court to entertain the case under the new law and the court has accepted the application. Assuming that State A has exactly the same constitution with the Constitution of Ethiopia:

5.2.1. Can Ato Markos challenge the constitutionality of the court's decision to treat his case under the new law? (10%)

5.2.2. Would it be unconstitutional to use the new law if provided for a lesser penalty? (5%)

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