NATIONAL AGENCY FOR EXAMINATIONS

A NATIONAL EXIT EXAMINATION PREPARED FOR STUDENTS OF ETHIOPIAN LAW SCHOOLS

2014 ACADEMIC YEAR

PART II: PUBLIC LAWS

INSTRUCTIONS:

1. ATTEMPT ALL QUESTIONS ON THE BASIS OF SPECIFIC INSTRUCTIONS INDICATED IN EACH SECTION.
2. TIME ALLOWED: 3 HOURS.
3. LAWS THAT CAN BE BROUGHT TO THE EXAM ROOM ARE THE FDRE CONSTITUTION, THE CRIMINAL CODE, THE LABOUR PROCLAMATION (377/2003) WITH ITS AMENDMENTS, AND INCOME TAX PROCLAMATION.
4. DO NOT TURN THIS PAGE UNTIL YOU ARE ALLOWED TO DO SO.
5. WHENEVER, APPROPRIATE BUTTRESS YOU ARGUMENTS WITH PERTINENT LEGAL PROVISIONS.
6. PUT YOUR ANSWERS IN A SEPARATE ANSWER SHEET ATTACHED TO THE EXAM.

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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 correctly depicts the order of stages involved in the commission of intentional crimes.
   A. Preparation-bad thought-attempt-commission of the crime.
   B. Attempt-bad thought-preparation-commission of the crime.
   C. Bad thought-attempt- preparation-commission of the crime.
   D. Bad thought- preparation-attempt-commission of the crime.
   E. Bad thought-commission of the crime-arrest-conviction.
2. One of the following criminal law defenses can be an example of justifiable acts.
   A. Infancy.
   B. Intoxication.
   C. Necessity.
   D. Superior order
   E. All the above
3. Identify a statement that is correct about a moral offender.
   A. A moral offender is regarded as a principal criminal.
   B. A moral offender is more dangerous than an accomplice.
   C. In principle, a moral offender is liable to the same punishment with a material offender.
   D. A moral offender is a participant in the commission of a crime.
   E. All of the above.
4. Adherence to "due process of law" is encouraged in order to avoid one of the following.
   A. Arbitrary decisions.
   B. Lengthy parliamentary debates.
   C. Slavery.
   D. All of the above.
   E. None of the above.

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5. As per the Ethiopian constitution, one of the following is different from others.
   A. Supremacy of the constitution.
   B. Gender equality.
   C. Secularism.
   D. Transparency and accountability of public institutions.
   E. All of the above.
6. One of the following is true about a constitution.
   A. It is a political document.
   B. It is a legal document.
   C. It limits the power of basic organs of government.
   D. All of the above.
   E. None of the above.
7. Which one of the following countries does not have a federal structure?
   A. India.
   B. Canada.
   C. France.
   D. Mexico.
   E. Nigeria.
8. Of the following statements, which one is true about constitutions in Ethiopia?
   A. The first written constitution was introduced in 1931.
   B. The first written constitution came into force in 1955.
   C. The FDRE constitution, which came into force in 1995, is the second written constitution of Ethiopia.
   D. Ethiopia had no written constitution prior to 1987.
   E. B and C.

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9. Which one of the following statements is incorrect?
   A. Existence of Employers' association is an essential precondition for collective bargaining
   B. Collective bargaining on matters that are regulated in the Labor Proclamation, such as safety working conditions, is not necessarily prohibited.
   C. The Labor proclamation does not recognize collective bargaining for non-unionized workers.
   D. Sometimes, a trade union or an employer may be forced into collective bargaining.
   E. A collective agreement remains valid despite the fact that the trade union which was the party to the collective agreement is dissolved.
10. Which one of the following statement is false about severance payment?
   A. Severance payment is qualified under Ethiopian labor law.
   B. The amount of severance payment to be paid to a worker whose contract is terminated is less under the Ethiopian Labor Proclamation compared to the one under the Federal Civil Service Proclamation.
   C. Termination of contract of employment is always a necessary precondition to get severance payment.
   D. Termination of contract of employment by the worker due to his fault does not give rise to severance payment right.
   E. None of the above.
11. Which of the following propositions does explain the development of labor law as a distinct body of law to govern employee-employer relationship in profit making undertakings?
   A. Restraining the strong bargaining power of the employer to protect the employee.
   B. The need to ensure industrial peace.
   C. The personal and relational nature of the employment relation.
   D. The master-servant nature of the employment relation.
   E. All of the above.

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12. Which of the following is false about strike under the Labor Proclamation?
    A. Workers have to try to settle their difference with the employer through negotiation before resorting to strike.
    B. The decision to go on strike is a matter to be decided by trade union representatives.
    C. Strike may take the form of slowdown of production by the workers.
    D. Workers need to give advance notice for the employer before they go on strike.
    E. It is not allowed for workers to accompany strike with physical violence.
13. Of the following one makes human rights different from other types of rights such as contractual rights.
    A. Unlike contractual rights, human rights do not emanate from the consent of human persons.
    B. Unlike contractual rights, human rights can be assigned to third party.
    C. Human rights are entitlements of every human person while contractual rights are claims of the contracting parties.
    D. All of the above.
    E. A and C.
14. Of the following Conventions one does not deal with the protection of certain category of persons who need special protection.
    A. The Convention on the Rights of the Child.
    B. The Convention on Elimination of All Forms Discrimination Against Women.
    C. Convention on the Rights of Persons with Disabilities.
    D. The Convention for the Protection of All Persons from Enforced Disappearance.
    E. None of the above.

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15. Of the following one is not true about the United Nations Charter.
    A. The Charter has given recognition to the notion of equality, dignity and worth of each and every human person.
    B. The Charter has made reference to human rights without real articulation of human rights.
    C. Human rights provisions of the Charter can be described as scattered, terse and cryptic.
    D. All of the above.
    E. None of the above.
16. Mechanisms established by the Commission on Human Rights and assumed by the Human Rights Council to address either specific country situations or thematic issues in all parts of the world are said to be:
    A. Individual Complaint.
    B. Special Procedures.
    C. State report.
    D. Shadow report
    E. None of the above.
17. Which one of the following rights is recognised under the FDRE Constitution as absolute right?
    A. The right of the security of person.
    B. The right not to be tortured.
    C. The right not to be held in slavery.
    D. All of the above.
    E. B and C.
18. Which one of the following marks the emergence of international law?
    A. The decline of the church and papacy.
    B. The emergence of the secular modern sovereign state.
    C. The Peace of Westphalia.
    D. Increasing contact between states.
    E. All of the above.

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19. Which one of the following needs to be shown by a country seeking the extradition of a suspect?

A. The crime alleged is sufficiently serious.

B. The existence of a *prima facie* case against the individual sought.

C. The extradited person can reasonably expect a fair trial in the recipient country.

D. The likely penalty will be proportionate to the crime.

E. All of the above.

20. 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.

21. Which one of the following principles is the most common basis of state jurisdiction?

A. Territorial Principle.

B. Passive Personality.

C. Nationality Principle.

D. Protective Principle.

E. Universality Principle.

22. Which one of the following is an indirect tax?

A. Customs duty/tariff/.

B. Rental income tax.

C. Income from games of chance such as lottery.

D. Property tax.

E. None.

23. Which of the following can be the objective of excise tax imposition:

A. The need to discourage excessive consumption at the expense of saving.

B. The need to discourage consumption of certain harmful products.

C. The need to discourage consumption of luxury products.

D. All of the above.

E. None.

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24. Which one is incorrect?

A. In a federal arrangement, it is advisable that taxes on mobile factors of production such as labor are vested to state governments.

B. Ethiopian tax law adopts nationality as bases of determining income tax jurisdiction.

C. Gift/donation may be deductable expense for the purpose of schedule "C" income tax.

D. All of the above.

E. None of the above.

25. Value added tax is not appropriate for the government aiming at:

A. Reducing income disparity.

B. Discouraging consumption.

C. Reducing tax evasion.

D. All.

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. Non-rivalry nature of public goods	A. Taxable under schedule A
2. Thematic mandate for human rights	B. No universal moral justification
3. Claw back clauses	C. Less favorable treatment
4. Relativism	D. Human Rights' Committee
5. Accomplice	E. Schedule B income
6. Demotion from one's rank	F. Principal punishment
7. Employment income	G. Limitation on enjoyment of human rights
8. Primary source of international law	H. International Custom
9. Foreign workers	I. Lending intellectual help
10. Regulation of national security	J. States' jurisdiction in federations
	K. Addressing specific human right issue
	L. Universalism
	M. Simultaneous consumption by everyone
	N. Derogation of human rights
	O. Federal jurisdiction in federations
	P. Secondary penalty
	Q. Treaty

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

1. What are the differences between suspension of employment contract and termination of employment contract? (7%)
2. Article 38(1) of the Statute of the International Court of Justice stipulates that "international custom" is one of the sources of international law. What are the requirements that rules need to fulfill to become part of customary international law? (8%)

SECTION IV: ESSAY PART (20%)

1. Apart from the UN human rights system, regional human rights systems have been developed under the auspices regional intergovernmental organizations. Write a short essay (**in not more than 15 lines**) on the advantages of having regional human rights systems in the presence of international system. (10%)
2. Write a short essay (**in not more than 15 lines**) describing the concept of retaliatory dismissal and its legal effect(s) under Ethiopian labor law. (10%)

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

Case I (20%)

Wondimu is an Ethiopian businessman. He owns several hotels in Addis Ababa, Mekelle, Bahir Dar and Jimma. One of his Hotels in Addis Ababa, which is found around Bole, is frequented by foreigners. On one occasion, in 2000 E.C., two German tourists and one American investor complained about the quality of the services they were given and they let Wondimu know about it. Then, Wondimu called the American investor, Thomas Down, to his office to know what exactly went wrong with the services of his hotel. Mr. Thomas informed him that the quality of food, the treatment given by the hotels' workers, the sanitation in the bedrooms, and other things were sub-standards for the hotel of its kind. Although Wondimu's initial intention was to get comments and make corrections,

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he did not like the sweeping criticism made by Mr. Thomas. This led the two to start a bitter argument which finally lead to a quarrel. Wondimu's son, a 15 years old boy at the time, wanted to settle the problem but the two started fighting. When the son saw that Thomas was winning the fight, he started helping his father. Then, the poor American investor received sufficient assault from the two and sustained a serious bodily injury. The next day, he left the country to get better medical treatment in the US and he never came back again. A year after the assault took place, Wondimu went to the US were he unfortunately meet Mr. Thomas, who caused his arrest. In two months time, Wondimu was charged and convicted for causing serious bodily injury to an American citizen and was given 4 years imprisonment. In 2006, Wondimu came back to Ethiopia, after serving his sentence fully. Sadly again, he was charged in Ethiopia, together with his son, for the same crime. Last week, both of them were given a jail term of 7 years as per article 555(1) and article 32(3) of the Criminal Code. However, Wondimu was told by the court sentencing him that he will serve only 3 years as he was already jailed for 4 years in the US. Assuming that you are a well known criminal law lawyer, answer the following questions based on the above facts.

A. If Wondimu wants to challenge the whole process-charging and sentencing-based on the principle of prohibition of doubt jeopardy, can he do that? (10%)
B. On what ground can Wondimu's son, who is now 21 years old, challenge the sentence passed against him?(10%)

Case II (10%)

Currently, the Ethiopian government is planning to revise the existing labor proclamation to, among other things, encourage investment and the employment of women. In this regard, the committee entrusted with this task has prepared a draft proclamation which introduces many significant changes. One of such changes relates to maternity leave which is regulated under article 93 of the draft proclamation. The draft article reads:

Article 93: Maternity Leave

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1) An employer shall grant leave to a pregnant woman worker without deducting her wages.
2) A pregnant woman worker shall, upon the recommendation of a medical doctor, be entitled to a leave with pay.
3) A woman worker shall be granted a period of 30 consecutive days of leave with pay, 10 days preceding the presumed date of her delivery and 20 days after her delivery.

The Ethiopian Women Lawyers' Association, an NGO, sees sub-article 3 of this draft law as unfair and unconstitutional. As a result, it plans to challenge article 93(3) of the draft law during a public discussion, to be held next week. If you were the head of the Association, which constitutional provision do you think is put at stake by article 93(3) and why and how? **(10%)**

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