National Educational Assessment and Examinations Agency (NEAEA)

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

Academic Year 2012/2013

Part I: Private Laws

19 March 2013
Time Allowed: 3 (Three) Hours

Instructions:

- This is a closed book exam for all materials except clean copies of THE CIVIL CODE OF ETHIOPIA AND THE FEDERAL FAMILY CODE OF ETHIOPIA 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!

SECTION I: CHOOSE THE BEST ANSWER (25%, 1% EACH)

1. One of the following is different from others.

   A. A property acquired by the spouse through succession.
   B. A property acquired by the spouse through donation.
   C. A property the spouse own before the conclusion of the marriage.
   D. A sum of money a spouse acquired by alienating a personal property.
   E. An income originated from personal property.

2. Indentify the false statement about dissolution of marriage.

   A. Violations of essential condition of marriages do not automatically result in dissolution of marriage.
   B. The divorce of a customary marriage may be effected in accordance with rules of a given custom.
   C. The various grounds of dissolution of marriage may not require judicial intervention.
   D. Effects of dissolution of marriage are similar despite variation on the grounds thereof.
   E. Effects of dissolution of marriage can be regulated by agreement of the spouses.

3. If a creditor lends money to one of the spouses but the maturity date of payment is after dissolution of marriage and liquidation of pecuniary relationships, what is the option available for the creditor to recover his money?

   A. He can claim payment from any of the ex-spouses.
   B. He should demand the ex-spouses to pay his money in proportion to a share they received from partition of property.
   C. He can claim payment from the indebted ex-spouse.
   D. All.
   E. None.

4. Which one of the following is false about irregular union?

A. It is similar to marriage except that the man and the women did not go through celebration of marriage.
B. The act of consistent and frequent sexual intercourse between a man and a woman is one indicator for the existence of irregular union.
C. Proof of marriage by possession of status is identical to proof of irregular union by possession of status.
D. It shall create relationship by affinity between a man and the relatives of the woman and vice-versa for the purpose of prohibition of marriage.
E. It has the same effect as marriage from the perspective of filiation of children.

5. _____ does **not** affect the validity of adoption agreement.

A. The age of the adopted.
B. The age of the adopter.
C. Number of children of the adopter.
D. Approval of the court.
E. None.

6. As per article 193 of the Revised Family Code, the court shall ensure that the adoption is beneficial to the child prior to approving inter-country adoption. Which one of the following do you think is the least relevant factor to the court to determine whether the suggested adoption is to the best interest of the child?

A. The financial capability of the prospective adopter to raise the child.
B. The religion of the adopter.
C. The health condition of the adopter.
D. The fact that adopter has never been convicted of a crime.
E. The written consent of the lawful spouse of the adopter on the adoption.

7. _____ are preferred heirs at law when the deceased is not survived by descendants.

A. Siblings.
B. Grandparents.
C. Parents.
D. Children.
E. Uncles and aunts.

8. A legal obligation to supply maintenance doe **not** arise between _____.

A. The adopter and his/her adopted child.
B. Spouses
C. The husband and his mother-in-law.
D. A person and his/her nephew.
E. A person and his great grandparents.

9. A person does **not** lose his capacity to succeed owing to unworthiness where_____.

A. He is pardoned for what he did by the deceased.
B. He committed the crimes that give rise to unworthiness before the death of the deceased.
C. He committed the crimes that give rise to unworthiness against the brother of the deceased.
D. He is accused of committing the crimes that give rise to unworthiness against the spouse of the deceased.
E. All.

10. One of the following is **not** true about essential conditions of marriage.

A. The violation of these conditions renders the marriage void.
B. Marriage among consanguinal relatives is invariably prohibited.
C. A man or a woman should not remarry within the next one hundred and eighty days following the dissolution of his/her former marriage.
D. All
E. None.

11. The law does **not** regulate the personal and pecuniary effects of marriage where:

A. The contract of marriage is invalid.
B. There is no contract of marriage.
C. The contract of marriage is in harmony with mandatory provisions of the law.
D. The contracting spouses are incapable of entering into such contracts.
E. All.

12. An irrelevant condition for the application of the rule *paterna paternis materna maternis* is_____.

A. The will of the testator.
B. The fact that deceased must die intestate.
C. The fact that the deceased does not have surviving descendants.
D. The immovable nature of the property.
E. The issue of whether property must be acquired by the deceased from either paternal or maternal lines by way of succession or donation.

13. The court may invalidate a will made under undue influence having regard to_____.

A. The conditions of the testator.
B. The identity of the person who exerts the undue influence on the testator.
C. The gravity of the influence.
E. A and B.
D. All.

14. Which one of the following does **not** vitiate consent with respect to will?

A. Fraud.
B. Duress.
C. Error.
D. Undue influence
E. None.

15. Where Ato Ayalew, in his will, ordered a legacy in favor of his friend, Adamu, he ordered the legatee to change his religion as a requirement to take the legacy. Which one of the following is true about this legacy?

A. Adamu can benefit from the legacy only after complying with the requirement.
B. Adamu can benefit from the legacy even without complying with the requirement.
C. The liquidators should ensure the accomplishment of the requirement.
D. A and C.
E. None.

16. One of the following is **not** a condition to ascertain paternity through legal presumption.

A. DNA test of the child and the alleged father.
B. Conception or birth of the child in a legally recognized cohabitation.
C. Acceptance of the alleged father by the mother of the child.
D. All.
E. A and C.

17. A common ground of the nullity for both public and holographic wills is_____.

A. Failure to reduce the will in writing.
B. Failure to write the will in the presence of witnesses.
C. Failure of the testator to write the entire will by himself.
D. The testators' incapability to read what are included in the will.
E. The will contains additions in the margins or between the lines.

18. Balcha bequeathed the only ox he had to Ayana in his first will. Later, however, he made another will through which he bequeathed the same ox to Chaltu. Who is the right beneficiary of the ox?

A. Both Ayana and Chaltu.
B. Ayana.
C. Chaltu.
D. None of them.
E. The State.

19. _____ does not in any way result in the lapse of will.

A. Dissolution of marriage after the will is made.
B. The death of the legatee before the testator.
C. The birth of a child after the will is made.
D. Faure to deposit a public will in a court.
E. None.

20. Which one among the following is the legal consequence of the merger of the property of the inheritance with the personal property of the heirs?

A. It negatively affects the interests of creditors of the deceased.
B. It is more advantageous to creditors of the deceased.
C. It negatively affects the interests of the personal creditors of the heirs.
D. A and B.
E. A and C.

21. One of the following is **in**correct about acceptance or renunciation of succession.

A. An heir may accept or renounce the succession through his/her agent.
B. Creditors of an heir who renounced a succession to their disadvantage do not have a legal right to apply to the court for the invalidation of the renunciation.
C. Acceptance is legally unacceptable unless it is reduced in writing.
D. The heir is at liberty to make conditional renunciation or acceptance.
E. All.

22. Which one of the following is true about personal creditors of the heirs and creditors of the deceased?

A. Pending liquidation, personal creditors of the heirs have a right to claim from the properties forming part of the succession.
B. Creditors of the deceased cannot claim payment from the properties forming part of the succession after the closure of liquidation.
C. Creditors of the deceased can claim payment from the properties forming part of the succession after the closure of liquidation.
D. Post-liquidation creditors of the inheritance may claim payment from legatees by universal title even beyond the value of property the legatee has received as his share from the succession.
E. A legatee by singular tile has an equivalent status as joint guarantor in the law of contracts in relation to post-liquidation creditors of the inheritance.

23. Identify a choice that is incorrect about opening of succession.

A. It shall open after the closure of liquidation.
B. It shall open just forty days following the death of the deceased.
C. It shall open at the main residence of the deceased at the time of making a will.
D. It shall open at the main residence of the legatees and heirs.
E. All.

24. By analogizing irregular union with marriage, identify the choice that is **not** a prerequisite for the legal acceptability of irregular union.

A. Absence of existing irregular union.
B. Capacity/age.
C. Consent
D. Period of widowhood.
E. None.

25. For presumption of paternity to apply, a child is deemed to be conceived in marriage or irregular union:

A. If the child is born 180 days after the celebration of the marriage.
B. If the child is born 210 days after the celebration of the marriage.
C. If the child is born within 180 days after the dissolution of the marriage.
D. If the child is born within 300 days after the dissolution of the marriage.
E. All.

SECTION II: MATCH THE ITEMS UNDER 'A' WITH THOSE UNDER 'B' (10%, 1% EACH)

A	B
1. Contract of marriage	A. Inheritor by law
2. Legatee	B. An action of contesting maternal filiation.
3. Personal effect of marriage	C. Marriage
4. Certificate of marriage	D The duty to cohabitation.
5. Disowning	E. Legatee by singular title.
6. Heir	F. *Actio Pauliana*
7. Pecuniary effect of marriage	G. *Petitio haereditatis*
8. An action by the true heir against a fake heir	H. Common property
9. Ambulatory juridical act	I. Proof of marriage.
10. *Ipso jure* liquidator of	J. An action of disclaiming legal presumption paternity.
	K. Governs effects of marriage
	l. Will
	m. Legatee by universal title
	n. Inheritor by will.

SECTION III: ANSWER THE FOLLOWING QUESTIONS IN NOT MORE THAN FOUR LINES (15%, 3% EACH)

1. Is marriage a contract? If not, list some of the major differences between marriage and other ordinary contracts.
2. What is the consequence of failure to require registration of marriage as stated in article 28 of the Revised Family Code?
3. What is the difference between unworthiness to succeed and a disheirsion of a legal heir?
4. What is the difference between the partition of an estate made based on per head (capita) and partition made based on "Per Stirpes"?
5. Why do you think is the law so strict in the adoption agreement of the child when the adopter is a foreigner?

SECTION IV: WRITE SHORT ESSAYS FOR THE FOLLOWING QUESTIONS IN NOT MORE THAN 10 LINES (20%, 5 % EACH)

1. One student told to his friend the following. "The violations of all essential conditions to marriage entail the dissolution of marriage." Explain the validity or other wise of this assertion in the light of relevant provisions of the Federal Family Code.
2. Cite and explain at least three provisions of the Civil Code that limit the testator's testamentary freedom of disposing his/her property with a view to protecting the interests of legal heirs.
3. Evaluate the rules applicable for the succession of an adopted child when he is not survived by descendants?
4. As we know, part of the Civil Code dealing with family matters has been repealed by the federal and other regional family laws. One of the reasons that necessitated family law reform is to ensure equality of men and women at the time of conclusion of marriage, during marriage and up on dissolution of marriage. Cite three provisions governing personal effects of marriage that guarantee equality of the spouses during marriage?

SECTION V: CASES (30%)

V.I. HYPOTHETICAL CASE ONE

Ato Tiberga and W/o Zinash were living as husband and wife in Addis Ababa since 1994 E.C. after performing a rite that constitutes valid marriage under the Guraghe people's custom. In the contract of marriage, among other things, it was agreed that the Mercedes Benz plate No. 02 – AA 00034 to be the personal property of Ato Ṭiberga. In fact, both of them used the car to travel to and from work place.

In 2000 E.C., Ato Tiberga borrowed 13,000 birr from his uncle, Ato Tigistu, to repair the normal wear and tear that occurred on the above mentioned car. The debt was to be paid back on sene 2004 E.C. As soon as the car was out of garage, Ato Tiberga donated it to his younger brother on the occasion of his graduation with Great Distinction from Addis Ababa University.

After the due date of the debt, the creditor demanded the payment of his money from the common property of the spouses. W/o Zinash strongly protested against such demand saying that it is personal debt and it should not be paid from the common property.

Ato Tigistu wants to take the matter before court of law; but, before that he wants to know if he has any legal ground for his claim. Avail yourself of your family law knowledge and give him your well considered legal opinion on the matter. (10%)

V.II. HYPOTHETICAL CASE TWO

Ato Negede and W/ro Fikre did not conclude marriage as required by the law. However, they behave as husband and wife. And they are considered by their families and the community as married couple. After they have lived since Ginbot 2002 E.C. in such way, their relationship was terminated upon the insistence of Ato Negede. On the discontinuance of the union:

a. W/ro Fikre wants to bring a legal action claiming compensation for the damage she sustained as a result of the termination of the union. Will she succeed? Why/why not? (5%)
b. W/ro Fikre claims partition of a building that Negede managed to build in kiremit 2002 E.C as common property. Will her claim be acceptable by the court? Why/why not? (5%)
c. Assume that W/o Fikre gave birth to a child four months after the commencement of the cohabitation and also imagine that Ato Negede died of HIV/AIDS without making a will a month after he had deserted Fikre, Can the child succeed Negede? (10%)