NATIONAL EDUCATIONAL ASSESSMENT AND EXAMINATIONS AGENCY (NEAEA)

NATIONAL EXIT RE-EXAMINATION FOR LL.B PROGRAMME STUDENTS OF ETHIOPIAN LAW SCHOOLS
2017/2018 ACADEMIC YEAR

November 10, 2017
Time allowed: 3 Hours

PART IV: MISCELLANEOUS LAW COURSES

GENERAL DIRECTION

1. ATTEMPT EACH SECTIONS ON THE BASIS OF SPECIFIC INSTRUCTIONS INDICATED IN EACH SECTION.
2. **IT IS A CLOSED BOOK EXAMINATION.**
3. PUT YOUR ANSWERS IN A SEPARATE ANSWER SHEET ATTACHED TO THE EXAM.
4. YOU MAY ASSUME FACTS WHERE NECESSARY.
5. WRITE LEGIBLY.
6. SWITCH Off YOUR MOBILE PHONE.

PLEASE DO NOT TURN THIS PAGE UNTIL YOU ARE TOLD TO DO SO.

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SECTION I: MULTIPLE CHOICE (25%)

CHOOSE THE BEST ANSWER AND WRITE THE LETTER OF YOUR CHOICE ON A SEPARATE ANSWER SHEET APPENDED TO THIS EXAM BOOKLET

1. One of the following **is not** included among Lon Fuller's inner morality of law

   A. Generality of laws
   B. Publication of laws
   C. Retroactivity of laws
   D. Consistency of laws
   E. Proactivity of laws

2. Legal positivists **do not** believe in one of the following.

   A. Morality is important for codification of laws.
   B. The only legitimate sources of law are principles and rules that have been expressly enacted by a government body.
   C. Law should be studied separately from morality and justice.
   D. Laws should be written and codified to be predictable.
   E. The sovereign is at the center of a legal system.

3. Which one of the following **is not** the ethical duty of the advocates under the Ethiopian Federal Advocates Code of Conduct?

   A. To maintain a respectful attitude towards the courts
   B. To uphold the honor and dignity of the legal profession
   C. To act with faith and understanding toward other advocates
   D. To assist clients in criminal cases not to plead guilty
   E. To encourage client's case to be resolved by settlement rather than courts

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Under the prevailing regulatory code of conduct, which one of the following legal professionals **is not** prohibited to receive donation from one of the disputing parties in relation to his/her legal services in a judicial proceeding?

A. An advocate
B. A judge
C. A public Prosecutor
D. A court legal Clerk
E. An assistant Judge

5. The rendition of *pro bono publico* services is an advocate's_____.
   A. social duty
   B. legal duty
   C. moral duty
   D. religious duty
   E. ethical duty

6. Which one of the following **is not** the possible outcome in case of violation of an advocate's ethical regulation?

   A. Suspension of the license
   B. Reprimand of the advocate
   C. Revocation of license
   D. Removal of disciplinary record from personal files
   E. Re-sit for advocate's examination.

7. Which of the following attributes of the legal profession best describes the reason for the monopolization of advocacy service?

   A. Authorization
   B. Licensure
   C. Registration
   D. Exit Exam
   E. Licensing and registration

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8. The constitutional right to be represented by a legal counsel **does not** apply to one of the following persons.

A. Accused persons
B. Persons under police custody
C. Indigent defendants in a civil litigation
D. Imprisoned persons
E. Persons who seek asylum for refugee status

9. Which one of the following rights of persons is **more likely** to be affected by partiality of a judge in a trial?

A. The right to equal protection before the law
B. The right to public trial
C. The right to be heard
D. The right to freedom of expression
E. The right to legal counsel

10. Which one of the following statements **is correct** about substantive equality?

A. It implies that every individual is treated in the same manner taking into consideration each individual's peculiar circumstances.
B. It aims at promoting egalitarianism in a society.
C. It supports the view that it is irrelevant to consider socio-economic or physical differences in individuals in determining their access to social amenities.
D. It arises out of the recognition that formal equality may neither be necessary nor sufficient to ensure that women enjoy the same rights as men.
E. It does not differ from formal justice in any meaningful sense.

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. The National Policy on Ethiopian Women was adopted by the Transitional Government of Ethiopia in the year _____.

A. 1994
B. 1995
C. 1993
D. 1991
E. 1992

12. Which one of the following human rights instruments **is not** ratified by the Ethiopian Government?

A. The Convention on the Elimination of Discrimination Against Women
B. The Convention on the Rights of the Child
C. The African Charter on the Rights and Welfare of the Child
D. The Maputo Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa
E. The African Charter on Human and Peoples` Rights

13. Which one of the following statements **is not** a manifestation of contemporary patriarchy?

A. Women remain under-represented in the vast majority of legislatures around the world.
B. Despite the formal equality of women in the employment sector, women continue to earn less than men.
C. There is a reluctance to criminalize rape within marriage.
D. There has been a push towards holding men accountable for their words and actions so that they can make positive influences in the world.
E. Harmful customary practices are uncommon in developing countries.

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14. One of the following **is not** a response mechanism for violence against women?

A. Engagement of the health sector
B. Rehabilitation services through shelters
C. Reintegration of survivors
D. Introducing dressing code to women
E. Comprehensive sex education

15. One of the following statements **is incorrect** about the Convention on the Elimination of all forms of Discrimination against Women.

A. It was adopted by the United Nations General Assembly in 1978.
B. It requires states to take action 'in all fields' for the purpose of guaranteeing women the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.
C. It has been used worldwide by state actors to revise their respective constitutions.
D. It has no enforcement authority.
E. Its implementation is complicated by a lack of political will.

16. Which of the following **is not** a valid ground for the employer to terminate an employment relation under the Ethiopian Labour Law?

A. Employee's conviction elsewhere for an offence that casts doubt over his trustworthiness in his work place
B. Employee's refusal to undertake HIV/AIDS test.
C. Employee's absence from work for consecutive seven months due to sickness
D. Persistent refusal of the employee to use safety tools
E. Employee's manifest loss of productivity

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17. Which of the following instances of termination of employment **does not** entitle the employee to claim severance pay?

A. Resignation from work due to recurrent sexual harassment at workplace
B. Termination due to dissolution of the employing organization
C. Termination as a disciplinary measure for indulging in covert move to form trade union
D. Termination due to the worker's unwillingness to relocate together with the employer to a new locality
E. Termination due to the worker's loss of capacity to work as a result of employment injury

18. As per the Ethiopian Labour Law, which one of the following classes of contracts is mandatorily required to be in written form?

A. Fixed-term employment
B. Employment of foreign nationals
C. Employment of persons with disabilities
D. Engagement as apprentice
E. Employment of young workers

19. Which of the following statements **is correct** about probation period as per Labour Proclamation No. 377/2003?

A. It is a mandatory first stage in the employment relationship.
B. It lasts for a period freely agreed by the employer and the worker.
C. It allows the employer to terminate the employment without any formality.
D. It can be wrapped up before the expiry of the set period by giving the worker permanent employment letter.
E. It can be extended as long as the employer finds it necessary.

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20. Which one of the following remedies **is not** available for a worker wrongfully dismissed as per the Ethiopian Labour Law?

A. Reinstatement to work
B. Severance pay
C. Payment in lieu of notice period
D. Jobless indemnity
E. Compensation for unlawful termination

21. Which of the following category of employees in a given business enterprise **is not** governed by the Labour Proclamation No. 377/2003?

A. Chief legal advisor
B. Daily laborer
C. Secretarial service provider
D. Chief engineer
E. Fixed-term contract employee

22. Which one of the following matters **does not** come within the jurisdiction of the Labour Relations Board as per the Labour Law of Ethiopia?

A. Issues pertaining to workers' disciplinary measures
B. Compensation claim for employment injury
C. Disputes relating to the introduction of new code of conduct for workers
D. Disputes relating to standards of occupational safety at the workplace
E. Disputes relating to collective bargaining

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23. Identify the wrong statement about the nature of law as advocated by natural law school of law.

A. Natural law is discoverable by human reason without reference to specific legislation.
B. Natural law principles are superior to the laws made by man.
C. If state law is in conflict with principles of natural law, obey state law and save your life.
D. Natural law is valid irrespective of space and time.
E. The validity of human law depends upon its harmony with principles of natural law.

24. Identify the **correct statement**.

A. For sociological school of law, the law in action is livelier than the law in books.
B. Realists do not accept the separation thesis.
C. For historical school of law, law originates from religion.
D. Positivism and realism have nothing in common.
E. Realists attack the common law on the account of its unpredictability.

25. One of the following sentences **is incorrect**.

A. Realists give emphasis to statutes more often than to the judge's beliefs.
B. Natural law school believes in the existence of some higher moral values.
C. Positivists put the sovereign power at the center of the legal system.
D. Natural law blends law and morality.
E. Realists put the judge at the center of the legal system.

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SECTION II: MATCHING (10 %)

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

Column "A"	Column "B"
1. Privilege	A. Involuntary recusal
2. Removal of a judge	B. An advocate`s exemption not to testify against his client
3. Obedience	C. Obeying a superior order
4. Sexual democratization of rape	D. Gender neutral rape laws
5. Battered women syndrome	E. Domestic violence
6. Infibulations	F. Female genital mutilation
7. Severance pay	G. Good faith
8. Collective bargaining	H. Redundancy payment
9. Rule of recognition	I. Secondary rule
10. Historical school of law	J. F. Von Savingy

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ECTION III: SHORT ANSWERS (15 %)

PREPARE A SHORT NOTE ON EACH OF THE THREE PHRASE(S) PROVIDED BELOW. YOUR NOTE SHOULD IN EACH CASE INCLUDE MEANING, IMPORTANCE AND KEY JUSTIFICATION BEHIND THE PHRASE(S).

3.1. Identify models of legal ethics embodied in the Ethiopian Federal Advocates Code of Conduct (5%)

3.2. Harmful traditional practices (5%)

3.3. Mention the only requirement under Ethiopian labour law that an employee should fulfill to terminate his employment for personal reasons. (5%)

SECTION IV: ESSAY TYPE QUESTIONS (25 %)

WRITE SHORT ESSAYS TO THE FOLLOWING QUESTIONS. YOUR ANSWERS ARE EXPECTED TO BE ANALYTIC, CRITICAL AND COMPREHENSIVE.

4.1. Explain the validity of the assertion that "Impartiality cannot exist without independence but independence can exist without impartiality." (12.5%)

4.2. Explain the justifications for making the employer liable for injuries sustained by workers at the workplace. (12.5%)

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SECTION V: HYPOTHETICAL CASE PROBLEMS (25 %)

ANSWER THE FOLLOWING TWO QUESTIONS, EACH BASED ON A HYPOTHETICAL CASE. YOUR ANSWER SHOULD BE BASED ON REASON AND AUTHORITY.

5.1. Hypothetical Case I (10 %)

Banu lives in her country, the Republic of Murbo. Due to the dominant religious ideology in Murbo, girls and boys are not allowed to go to the same school. Accordingly, Banu goes to girls` high school in her city but recently has noticed that some subjects such as technical drawing, wood and metals works have been excluded from the girls` high school curriculum, even though the subjects are being given in the boys high school.

Banu has also noticed that her country has ratified most of the international human rights instruments including the Convention on the Elimination of all forms of Discrimination against Women (CEDAW). The country has also a clear provision on equality rights in its constitution that proscribes discrimination on the basis of sex.

Banu is now looking for a legal expert who can provide her a learned opinion on whether she and the rest of high school girls in Murbo are receiving less favourable treatment in terms of education at a public high school and if this can be considered as sex discrimination according to the provisions of CEDAW.

Provide Banu with a written legal opinion on the matter (10 %).

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2. Hypothetical Case II (15 %)

Axumite Marble Primate Limited Company is a private enterprise that is engaged in the production of machine-cut flooring and wall tiles, slabs, stair steps, and related products from metamorphic rock. The technology for producing these products requires high electric power. Unfortunately, there was a shortfall in electric power production and the Ethiopian Electric Utility has introduced power shading scheme. Following this, the Axumite Marble Primate Limited Company has been told by the Ethiopian Electric Utility not to use electric power for its manufacturing operation for a period of two months, until the hydropower dams catch enough water to enable full capacity power generation.

As a result, the enterprise has been forced to suspend production. Since doing otherwise means loss to the enterprise, the management of the enterprise decided not to pay salary and other benefits for its employees for the duration the manufacturing work is suspended as a result of the power shading and rationing. The workers have strongly protested this decision of the management of the enterprise.

Is the decision of the enterprise sustainable in law? Why? Why not?(15 points)

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National Educational Assessment and Examinations Agency (NEAEA)

Law Exit Re-Examination (Nov. 2017)

Answer Keys and Model Answers

Part IV: Miscellaneous Law Courses

Part I. Multiple-Choice Questions (25%)

1. E
2. A
3. D
4. A
5. B
6. D
7. E
8. C
9. A
10. C
11. C
12. D
13. D
14. D
15. D
16. B
17. D
18. D
19. D
20. D
21. A
22. B
23. C
24. A
25. A

Part II. Matching (10 points)

1. B
2. A
3. C
4. D
5. E
6. F
7. H
8. G
9. I
10. J

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Part III. Short answer questions (15 points)

1. The three models of legal ethics embodied in the Ethiopian Federal Advocates Code of Conduct are:
    a. The duty of advocate to the client (autonomy model) (1.5 point),
    b. The duty of advocate to court (deontological model) (1.5 point) and
    c. The duty of advocates to the society (socialist model) [responsibility to assist the organs of the administration of justice and attainment of justice and responsibility to uphold the honor and reputation of the profession] (2 points).

2. Harmful traditional practices are forms of violence (1.5 point) which have been committed primarily against women and girls in certain communities and societies (1.5 point) for so long that they are considered, or presented by perpetrators, as part of accepted cultural practice (2 points).

3. The only legitimate ground that the employer can discriminate persons with disability in employment or promotion is *an inherent requirement of the job (genuine occupational requirement).* (5 points)

Part IV. Essay-type questions (20 points)

1. Impartiality and independence are mutually reinforcing duties of judges (2 points). When one says impartiality cannot exist without independence, it means that independence is the necessary prerequisite for attaining impartiality (4 points). However, independence can exist without impartiality in the sense that an independent judge who is free from any influence whether from other wings of government (executive & legislature) or any other persons could be partial due to his own perception or interest (4 points).

2. a) The employer is economically in a better position than a salaried employee and thus can absorb the cost of compensating the employee (4 points).

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b) The employer has the means to distribute the cost of compensating the injured worker through price on its products or service to the public (3 points).

c) It is equitable/in accordance with notion of natural justice to make the employer compensate the worker while serving the employer (3 points).

Part V Case-type questions (30 points)

1. Banu has received unfavorable treatment because she does not have access to the subject matters that are taught in the boys' High School. These subjects provide a better opportunity to seek employment than the subjects offered to Banu at the Girls' High School (5 points). This is tantamount to discrimination which limits the choice of women in education and is unlawful according to the international human right instruments signed by Murabo and its constitution as well (5 points). This case should serve as a wakeup call for the Murabo government to carefully consider how it could promote gender equality through its subject offerings (5 points).

2. The specific issue that the case raises is whether it is possible to suspend rights and obligations arising from employment contract (2.5 points). The ruling on this issue should be in favour of the employer; this is because the interruption of electric power supply is a force majeure, since it is beyond the companies control and which it cannot foresee (4 points). And as per Article 18(5) of the Labour Proclamation the occurrence of force majeure that interrupts the activities of the employer for more than 10 days is a ground for suspending rights and duties arising from the contract of employment. As such the company can avoid paying salary to its employees, and that is lawful (6 points). But, the company has to report the matter to the Ministry of Labour and Social Affairs as per Article 19 of Labour Proclamation (2.5 points).

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