National Educational Assessment and Examinations Agency (NEAEA)

National Exit Examination for

LL.B Programme Students of Ethiopian Law Schools

Academic Year 2012/2013

Part IV: Miscellaneous Courses

22 March 2013
Time Allowed: 2:30 Hours

Instructions:

- This is a closed book exam, you may not refer to any materials.
- 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!

Part I. Multiple-choice questions (25 points)

Choose the best answer from the given choices and write the letter of your choice in the answer sheet provided. Each question carries one point. Please be advised to allocate about 25 minutes to complete this part of the exam.

1. One of the following is **false** about John Rawls philosophy of justice.

A. Rawls first principle of justice has priority over his second principle of justice.
B. In Rawls theory, the people in the veil of ignorance have full information about their interests and status.
C. The original position in Rawls theory is the original social contract.
D. In Rawls philosophy, there is the possibility of unequal distribution of material wealth among the different members of society.
E. None.

2. Which one of the following is **incorrect** about the positivist school of law?

A. The only legitimate sources of law are those written rules, regulations, and principles that have been expressly enacted, adopted, or recognized by a government body.
B. Law should be studied separately from morality and justice.
C. All laws should be written and codified to be predictable.
D. The validity of a law depends on its content.
E. Morality and justice are unimportant in the study of law.

3. One of the following is **false** about Hobbes's state of nature

A. In the state of nature, man lives in state of war.
B. In the state of nature, every man has unlimited right to everything.
C. In the state of nature, creation of private property was possible.
D. In the state of nature, the first law of nature was preserving oneself.
E. The Hobbsian man is evil in nature.

4. Assuming that the Ethiopian House of Peoples' Representatives adopted a proclamation allowing the free practice of abortion and assuming further that lawyers expressed their opinions on such proclamation, one of the following combinations would be **correct.**

A. A judge who recognized the validity of the legislation would be regarded as from the naturalist school of law.
B. A judge who attacked the validity of the legislation would be treated as a legal realist.
C. A judge who admitted such legislation as is must be considered as from historical school of law.
D. A lawyer who argued that the legislation does not reflect current societal interest is from sociological school of jurisprudence.
E. A lawyer who said "let the court decide on its validity!" would be seen as a legal positivist.

5. Assume that country X has recently passed a law that restricts the smoking of cigarette in public places and inside one's premises. Such laws would be strongly opposed by one of the following.

A. H. L. A Hart
B. John Stuart Mill
C. Lord Devlin
D. Leon L. Fuller

E. Friedrich Carl von Savigny

6. The Committee on the Convention on the Elimination of All Forms of Discrimination against Women makes authoritative statements about the meaning of the provisions of the convention in regard to rights of women as well as the obligations of the State Party. Such authoritative statements are referred to as

A. General comment
B. General recommendation
C. Concluding observation
D. Resolution
E. Concluding comment

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7. "The main characteristic of the contemporary Ethiopian legal system is that it does not yet exist as such." This statement made in 1966 is attributed to:

A. R. Sdler
B. N. Singer
C. J. Vanderlinden
D. S. Fisher
E. None of the above

8. Which of the following statement is **not correct** about gender equality?

A. Gender equality refers to the equal rights, responsibilities and opportunities of women and men and girls and boys to access and control social goods and resources.
B. Gender equality implies that the interests, needs and priorities of both women and men are taken into consideration.
C. Gender equality is not an issue referring to women only but it should concern and fully engage men as well as women.

D. Gender equality is seen both as a human rights issue and as a precondition for, and indicator of, sustainable people-centred development.

E. Gender equality refers to the number of women as opposed to the number of men employed by agencies in various field and sectors.

9. Termination of pregnancy is punishable under Ethiopian criminal law if,

A. It is carried out by a pregnant woman who believes that she has already enough number of children that she can raise based on her income.

B. It is carried out by a woman whose pregnancy is the result of rape or incest.

C. The continuation of the pregnancy endangers the health or life of the mother. " .

D. The pregnant woman is physically as well as mentally no fit to bring up the child.

E. None of the above.

10 A form of social organization in which females are dominated by males is termed

A. B. 0-Matriarchy Oligarchy Patriarchy Egalitarian

C. D. None of the above

E. *t*

11. What type of feminist theory holds that gender equality can be realized only by eliminating the cultural notion of gender itself?

A. Liberal feminism
B. Conservative feminism
C. Radical feminism
D. Socialist feminism
E. None of the above

12. Which of the following procedures is a correct order in law making process under the FDRE Constitution?

A. Preliminary' reading by the legislature —♦ Initiation —>Study by a standing committee —^Enactment —^Signature —► Publication.

B. Initiation —» Preliminary reading by the legislature —* Study by a standing committee —► Enactment —^Signature —► Publication.

C. Preliminary reading by the legislature —► Study by a standing committee —►Initiation —► Enactment —►Signature —* Publication.

D. Initiation —» Study by a standing committee —> Preliminary reading by the legislature —* Enactment —►Signature —♦ Publication.

E. Initiation —* Preliminary reading by the legislature —> Study by a standing committee -* Promulgation —> Signature -* Publication.

13. The normative feature of law refers to_____.

A. A general statement applicable to a number of specific cases

B. The creation of obligations and rights by prohibiting, ordering or allowing social behavior

C. The intimate relationship of the law with the state

D. The command of the state and its consequences in the event that the

command is violated

E. The obligation of individuals to abide by the rules of the state

14. One of the following act constitutes a juridical act

A. Declaration of Will.

B. Commission of an act which gives rise to extra-contractual liability.

C. Commission of a crime. *J*

D. A and B

E. B and C

15. One of the following organs does not have the power to initiate laws in Ethiopia.

A. The Ministry of Justice

B. A group composed of twenty members of the House of Peoples" Representatives
C. The Federal Supreme Court
D. The House of Federation
E. The Ethiopian Human Rights Commission

16. A mechanism of interpretation of law which states that legal terms should be given their literal meaning provided they do not lead to absurd interpretation is

A. Liberal interpretation
B. Contextual interpretation
C. Historical interpretation
D. The golden rule of interpretation
E. Mischief rule of interpretation

17. Where an advocate renders *pro bono publico* service to an indigent as required under Article 49 of Regulations No. 57/1999, such_____.

A. advocate treats the indigent as a means.
B. advocate treats the indigent as an end.
C. indigent treats the advocate as a mere means.
D. indigent treats the advocate as a means.
E. advocate treats the indigent as a mere means.

18. If a public prosecutor likes to "treat an accused person only in ways that she is willing to be treated in the same exact situation," then she will

A. Do her level best to obtain acquittal of the accused person.
B. Use false evidence to obtain conviction of the accused person.
C. Unfairly treat the accused person.

D. Receive bribe to obtain conviction of an accused person.

E. Prosecute the accused person on the bases of law and evidence.

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19 The purpose of requiring license to practice law is to

A. Ensure compliance of the society with laws and regulations
B. Protect advocates from unfair competition
C. Protect members of society from crimes
D. Ensure provisions of high quality advocacy service
E. • Maintain effective procedure of issuing advocacy license.

-20. If Judge X who is a Federal High Court Judge criticises a lower court judge as

'"incapable of being a judge" while reversing judgment containing grave error of fact and law, then Judge X is said to have violated his ethical duty of

A. Competence
B. Civility
C. Accountability
D. Confidentiality
E. Does not violate any ethical duty

21 One of the following is false about Ethiopian Environmental Policy.

A. It errs on the side of caution when a compromise between short-term economic growth and long-term environmental protection is necessary.
B. It ensures uninterrupted and continuing access to the same piece(s) of land.

C. It requires development projects to externalize the cost of rehabilitating natural resources resulted due to its implementation.

D. It recognizes the fact that restoring degraded natural resource is onerous.

E. It protects occurrences of irreversible damage to resources.

22. Which one of the following is false about the principle of subsidiarity?

A. The principle dictates that decisions over environmental and resource utilization should be made at the lowest possible level of government.

B. The principle presupposes that institutions very close to the natural resource are well equipped to make decisions over it.

C. The principle concedes that the quality of the decision should not be compromised under the disguise of subsidiarity.

D. The principle prescribes that natural resource related decisions should always be made in the *Kebele* levjel.

E. The principle suggests that top-down decision making may not bring the desired result.

23. What is the current status of developing countries in international climate change regime?

A. They have assumed binding responsibility in curbing greenhouse gas emissions from industries.
B. They are leaders in contributing funds towards climate financing.
C. They are the most affected by climate externalities.
D. They are leaders in green innovations and research.
E. They have been significantly neglected in the climate negotiation process.

24. Which one of the following represents the correct chronological order?

A. The Greek Legal System-The Roman Legal System-The Mesopotamian Legal System
B. The Roman Legal System-The Greek Legal System-The Mesopotamian Legal System

C. The Mesopotamian Legal System-The Roman Legal System-The Greek Legal System

D. The Mesopotamian Legal System-The Greek Legal System-The Roman Legal System

E. None of the above

25. Is it not an absurd and terrible thing that what is true in one village is false in another? What kind of barbarism is it that citizens must live under different laws?" When you travel in this kingdom you change legal systems as often as you change horses. ' One of the following figures has made this remark about the state of pre-codification legal system of France:

A. Francois Marie Arouet (Voltaire)

B. Napoleon Bonaparte

C. Jean Rousseau

D. John Locke

E. None of the above

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art II: Matching (10 points)

Select a term/phrase from column that best matches with a term/phrase under column 'A' and write the letter of your choice in the answer sheet provided. Each

Column A"		Column 'B'	
1.	Rule of Recognition	**A.**	Analogy
2	Negative freedom	**B.**	Isaiah Berlin
3	Sex-disaggregated data	**C.**	The XII Tables
4	*Inter vivos* juridical act	**D.**	Enacted in 450BC

5 Harvard Framework
6 A "barbarized" Roman law
7 Argument for a similar reason
8 Confidentiality
9 Unauthorised practice
10 *Amicus curiae*

E. John Stuart Mill
F. Acts that produce effect while the person is aliv
G. Primary rules
H. Secondary rule
I. Acts that produce effect after a person's death
J. Argument for stronger reason
K. Admixture of Germanic tribal laws with indigenous Roman legal institutions
L. Passed in 1750BC
M. The law that governed the relations of Roman citizens
N. Commentators
O. Friend of the court
P. A reason for an advocate to refuse to testify against his/her own client.
Gender analysis framework
R. Gender sensitive indicator
S. The case where a lawyer without a license represents a client for a fee
T. Gender in Development
U. Gender equity

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Part III: Short answer questions (15 points)

Give short answers to the following three questions. Your answer(s) to each question shall not exceed ten lines. An answer to a question beyond these lines will not be marked. Each question carries 5 points. You should allot about ten minutes to attempt each question.

1. Separation thesis

2. Gender mainstreaming

3. Global legal divergence

Part IV: Essay-type questions (25 points)

Answer the following two questions each in not more than one page. Your answers to each of these questions beyond one page will not be marked. Your answers are expected to be analytic, critical and comprehensive. Question no. 1 carries 15 points while the remaining points go to question no. 2. Please allocate about 20 minutes for each question.

1. Compare and contrast the civil law tradition and the common law tradition and show as to which category the Ethiopian legal system falls under.

2. Identify and explain two major remedies (one civil and one criminal) courts could give in connection with environmental cases. Give also specific instances that will trigger such decisions leading to each of the two remedies.

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PART V: Hypothetical Case Questions (25 points)

Read the following three hypothetical cases and answer the questions that follow. Please allow 45 minutes to attempt such questions. The 25 points allocated to this part of the examination are distributed as indicated in the parenthesis, which in turn will be assigned to various sub-issues you are expected to raise in your answers. Your answers are expected to be analytic, critical and comprehensive. Your answers to these questions

should not exceed a total of three pages. Answers exceeding such page limit will not be marked.

Hypothetical Case One

Fitewrari Habte Giorgois who was regarded as a wise Minister of War during the reign of Emperor Menelik said to have rendered the following decision in a case involving two friends who were collecting fruits from a tree. While one of them was on the tree to collect fruits, the other was receiving the fruits from below on the ground. Suddenly the person on the tree had fallen over his friend on the ground that died immediately because of the impact. The relatives of the deceased person demanded the death of the killer. A lower court judge was in dilemma to sentence the killer since he believed that the accused did not commit the act intentionally. And yet, since the applicable law of the time required the judge to apply "an eye for an eye" principle, he had no choice but to sentence him to death. The accused appealed to the Supreme Imperial Chilot which was presided over **by** Fitewrari Habte Giorgis. Upon hearing the case, the Fitewrari was saddened by the nature of the case and advised the accusers to settle the case through reconciliation and compensation. But, the accusers

refused and insisted on the death of the killer as per the decision of the lower court judge. Then, the Fitewrari gave the following decision: "Let one of you climb onto a tree and fall upon the accused and kill him accordingly." No one among the accusers had the gut to do that and they resorted to settle the issue through reconciliation and compensation.

Did the Fitewrari deviate from the governing principle of the time? Why? Why not? (9 points)

Hypothetical Case Two

Assume a Proclamation on Mineral Development was enacted in 1993 (the 1993 Mining Proclamation). A year later a Mining Regulations was enacted (the 1994 Mining Regulations) with a view to properly implementing the 1993 Mining Proclamation. The 1993 Mining Proclamation has been expressly repealed by the Mineral Development Proclamation of 2010 (the 2010 Mining Proclamation).

However, the 2010 Mining Proclamation does not expressly repeal the 1994 Mining Regulations nor has a new regulation been enacted.

Do you think the repeal of the 1993 Mining Proclamation by the 2010 Mining Proclamation will automatically lead to the repeal of the 1994 Mining Regulations? If your answer is yes, what do you think should a government do if it wants the 1994 Regulations to be enforced until another regulation is issued? (8 points)

Hypothetical Case Three

W/ro Elizabeth has been practicing in federal courts for several years. Her Law Office is located in Addis Ababa, close to the Federal High Court in Lideta. Measured in terms of number of clients served in a year and annual income derived therefrom, she is the third top lawyer in the country. Her success is mainly attributed to use of case referral networks which she has maintained since she obtained her license. She usually pays 10% of her fees to a person who refers a case to her.

Engineer Maria collected a down payment for referring Mr. Ali to W/ro Elizabeth. Mr. Ali, a famous businessperson, wanted to sue a giant share company for two million Birr in damages. Since Mr. Ali and W/ro Elizabeth signed their contract for advocacy service, they have developed close business relationship. Their confidence in each other resulted in conclusion of interest free loan agreement in which W/ro Elizabeth agreed in writing to lend Mr. Ali half a million Birr.

Despite their close relationship, Mr. Ali's case did not go well in court. Due to her recklessness, W/ro Elizabeth committed a grave mistake during the trial and, consequently, Mr. Ali lost his case. On appeal, the decision of the trial court has been confirmed although W/ro Elizabeth gave judges in the appellate court a huge amount of money on instigation and request of Mr. Ali.

3.1. Would W/ro Elizabeth be liable to pay damage to Mr. Ali for losing the case? Why? Why not? (4 points)

3.2. Is the contract of loan between Mr. Ali and W/ro Elizabeth valid? Why? Why not? (4 points)

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