National Educational Assessment and Examinations Agency (NEAEA)

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

Academic Year 2012/2013

Part II Public Laws

20 March 2013
Time Allowed: 3 (Three) Hours

Instructions:

This is a closed book exam for all materials except clean copies of THE FDRE CONSTITUTION, THE CRIMINAL CODE, LABOUR LAWS, AND VAT PROCLAMETION 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. MULTIPLE CHOICES (25%): CHOOSE THE BESTANSWER FOR EACH QUESTION FROM THE ALTERNATIVES GIVEN. NOTE THAT THERE IS ONLY ONE BEST ANSWER FOR EVERY QUESTION.

1. One of the following is not true about the purpose punishment under the FDRE Criminal Code.

   A. Deterring criminals from committing further crimes.
   B. Using criminals as means to give lesson to the public that criminal behaviors are not tolerated.
   C. Facilitating the rehabilitation of criminals.
   D. Showing criminals that they deserve penalties for their illegal conducts.
   E. None. *

2. In order to invoke the defense of necessity, the defendant has to explain to a court **that:**

   A. he was forced by another person to take the action he took.
   B. he was obeying the order of his superior.
   C. he was forced to take the measure he took by the force of nature.
   D. though it was not intended, his action averted a more serious and imminent danger.
   E. C and D

3. Which one of the following could be regarded as a special crime under the Criminal Code?

A Theft
B. Terrorism.
C. Incest.
D. Espionage.
E. None.

4. In Ethiopia, if a judge decides to impose death penalty on a criminal who is charged for the commission of concurrent crimes and the death penalty is necessitated because of the seriousness of one the crimes, which one of the following systems of calculating penalty can best justify the judge's sentencing?

A. The System of Aggravation.
B. The System of Absorption.
C. The System of accumulation/adding-up/.
D. All.

E. A and C.

5. Which one of the following actors is outside the scope of international law?

A. **States.**

B. International Organizations

C. Individuals.

D. Multinational Corporations.

E. None.

6. Which one of the following developments marks the emergence of contemporary international law?

A. The rise of the modern nation states.

B. The decline of the church and papacy.

C. The conclusion of the Peace of Westphalia in 1648.

D. The emergence of autonomous, separate and territorially consolidated nation-states.

E. All of the above.

7. Which one of the following requirements of statehood is most affected by the right to self-determination?

A. Permanent population.
B. Defined territory.
C. Government.
D. The capacity to enter into relations with other states.
E. None of the above.

8. Which one of the following is the primary basis for exercising jurisdiction?

A. Territorial Principle.
B. Passive Personality Principle.
C. Nationality Principle.
D. Universality Principle.
E. Protective Principle.

9. Which one of the following is the most frequent means of creating international **rules?**

A. Treaties.
B. International Custom.
C. General Principles.
D. Judicial decisions.
E. Academic Writings.

1

10. Which one of the following is the function of the International Court of Justice (ICJ)?

A. Hearing contentious cases.
B. Delivering advisory opinions.
C. Exercising incidental jurisdiction
D. Hearing Preliminary Objections
E. All of the above.

11. In which one of the following situations is the waging of war tolerated?

A. Collective Self-Defense.
B. Anticipatory Self-defense.
C. Humanitarian intervention.
D. Defense of one's nationals.
E. Wars of national liberation.

12. The principle of efficiency in taxation refers to the idea that:

A. The administrative cost to the tax collecting authority should be kept at minimum.
B. The costs of compliance on the part of taxpayer in discharging their obligation to pay tax should be kept at minimum.
C. The effect of a tax in changing the behavior of tax payers/distortion effect of tax/ should be kept at minimum.
D. All.
E. A and C.

13. Which of the following is not a factor that is used by the law to identify a managerial employee for the purpose of exclusion from the scope the Labor Proclamation No. 377/2003?

A. Power to lay down and execute management policies on behalf of the employer.
B. Power in hiring and firing workers.
C. Direct accountability to the top management.
D. Power to take disciplinary measures.
E. None.

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14. Which of the following situations does not constitute a form of indirect dismissal?

A. Employer's failure to react to a female worker's complaint to sexual harassment at the work place by colleagues.
B. Employer's negligence to pay wages duly.
C. If worker is unable to give service due to employer's failure to properly provide work to be done.
D. Employment injury sustained at the place of work due to employer's failure to take precautionary measures to avoid the danger.
E. None of the above.

15. Which of the following category of workers is treated differentially but not preferentially under the Ethiopian Labor Proclamation?

A. Young workers.
B. Foreign workers.
C. Female workers.
D. Workers with disabilities.
E. None.

16. One of the following does not describe the nature of human rights?

A. All human rights are applicable equally in all countries.
B. Rights are considered equally important and there is no hierarchy in terms of importance.
C. The existence of human rights does not depend on the socio-political system of a state.
D. Compared to other subjects, the advent of human rights is relatively recent.
E. All of the above

17. One of the following is a non-derogable right under the FDRE Constitution?

A. The right to life.
B. Freedom from torture.
C. The right to bail.
D. Freedom of expression.
E. None.

18. One of the following is not true about the Ethiopian Human Rights system?

A. The Ethiopian Human Rights Commission is the only organ legally empowered to implement human rights.
B. The FDRE Constitution guarantees the three generations of human rights.
C. The FDRE Constitution allows the application of international human rights instruments.
D. Economic and social rights are constitutionally recognized.
E. None of the above.

19. One of the following is not one of the cardinal principles of the rights of the child?

A. Affirmative Action.
B. The principle of non-discrimination.
C. The best interests of the child.
D. The right to life, survival and development.
E. Respect for the views of the child.

20. One of the following is not true about the African Human Rights system?

A. Socio-economic rights are justiciable under the African Charter on Human and Peoples' Rights.

B. The African Commission on Human and Peoples' Rights has the competence to receive individual communications.

C. Third generation human rights are recognized under the African Charter on Human and Peoples' Rights

D. The African Commission on Human and Peoples' Rights can give binding Decisions

E. All of the above are not true.

21. The ideal model of a consensual society is_____.

A. The one in which the people value, accept and use the government according to widely accepted and internalized rules.

B. The one that has a government which operates either under no rule or under rules that are not as such valued or accepted.

C. The one in which the individual either does not want to use or is unable to make use of or impede governmental actions for solving his problems.

D. The one in which the state relies upon outright force.

E. C and D.

22 Which one of the following is not a basic feature of constitution?

A. It is permanent as compared to ordinary laws.
B. It is general for it contains basic and general principles.
C. It is a supreme law.
D. It is a political document for it contains the program and regulations of a political party.
E. It establishes basic organs of the government and defines the power thereof.

23. Under the FDRE Constitution, sovereign power resides in .

A. The House of Peoples Representatives.
B. the Nations, Nationalities and Peoples of Ethiopia
C. The Prime Minister.
D. The Council of Ministers.
E. C & D .

24. One of the following is different from others.

A. Free and fair election
B. Democracy
C. Good governance
D. Dictatorship
E. Accountability

25. Constitutional Law is different from Administrative Law in that

A. - it defines government power in detail.
B. it is a public law.
C. it is a basis for Administrative Law
D. A&B.
E. B&C.

A

1. Instigation **L**
2. Accessory after the fact **G**
3. Universal jurisdiction **Q**
4. . Progressive realization **N and T**
5. Shadow report **J**
6. National call **A** labour18(4)
7. Decides self-determination issues **R**
8. General Trade Union **K**
9. Incomes not subject to taxation **B**
10. Immunity for government acts **P**

B

A. Suspension of contract of employment.
B. Exemptions. Called exclusion
C. Participation in the Commission of a crime.
D. African Human Rights System.
E. Restrictive Immunity.
F. Termination of Employment Contract.
G. Crime against the administration of Justice

H. Multiplicity of Unions

I. Loss carry forward.

J. Non-Governmental Organizations

K. Association of workers working under different Employers.

L. Convincing a person to commit a crime.

M. Termination of contract of employment by law.

N Socio-economic rights

O. Ombudsman

P. Immunity from criminal responsibility.

Q. Convention against Torture.

R. House of the Federation.

S. Absolute Immunity.

T. Socio-economic rights.

SECTION III: GIVE SHORT ANSWERS TO THE FOLLOWING QUESTIONS IN NOT MORE THAN EIGHT (8) LINES (15%)

1. What are the two main schools of thought relating to recognition of states? (Include their distinguishing features in your answers). (5%) Constitutive theory, recognition by other states consent and declaratory theory by factual situation no need consent of others
2. What does ***conscientious objection*** mean? Is this concept/principle included in the FDRE Constitution? (5%) 18(4/b)
3. What are the legal prerequisites to get refugee protection in international human rights law? 5%

Well ground fear of being execution, non-penal, emanate from religion, race, social group, etc……

SECTION IV: WRITE A SHORT ESSAY OF NOT MORE THAN FIFTEEN LINES (15) ON THE FOLLOWING ASSERTION (20%)

According to some people, "the assignment of the power to levy value added tax (VAT) to the federal government under the guise of undesignated

tax is unconstitutional. VAT is not undesignated tax; rather, it is a sales tax already designated and allocated to the federal and the regional states depending on the source." Write an essay in which you reflect on the validity or otherwise of this assertion. FDRE con…96(3) (and 97(4)

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

Case I: (15%)

Getahun is the head of the Yeka Sub-City of Addis Ababa City Administration. He has been at the post for the last 7 years. Indeed, he is one of the most diligent heads of the sub-cities in Addis Ababa. Consequently, the clients and workers of the Sub-City respect him a lot. On

the other hand, Getahun is a highly corrupt public official. Indeed, there is ample evidence that shows his engagement in corrupt practices, in particular, receiving bribes from the clients of his Sub-City. It is, however, interesting to note that he does not receive the bribes by himself. Instead, he uses two ***Lada*** (a small taxi) drivers who work around the Sub-City. In fact, these two drivers are the ***liaison*** between Getahun and the clients giving bribes (otherwise called ***corrupt clients).*** Without them, it is difficult for Getahun to get his bribes. Equally, without the help of the two drivers, it is difficult for the ***corrupt clients*** to get to Ato Getahun with their bribes. For the drivers, they receive 15% of the bribes as a commission for thep work. In any case, with the available evidence, it is clear that Getahun could be prosecuted for committing the crime of corruption. In this regard, the concerned public prosecutor, a lady with three years of experience as a prosecutor, has completed her preparation to charge him in the coming two weeks. However, she is not sure for which

crime to charge the two drivers, that is, corruption or accomplice. As a result, she approaches her boss for advice on the matter. If you were her boss (and also a senior prosecutor), which crime would you advise her to charge the drivers for? (15%)

The drivers are subject to the Criminal code Article 429.- Acting. as a go-between. Whoever, even without receiving any consideration for himself, accepts money, a valuable thing, a service or some other benefit from another

Case II (15%)

Atlas Floriculture Enterprise is one of the companies that are engaged in growing and exporting flowers in Ethiopia. At the moment, it has 135 employees, with contracts for definite and indefinite periods. So far, the Enterprise has been doing very well in the market and yielding satisfactory returns for its shareholders. However, in order to increase the performance of the Enterprise and its competitiveness at the global market, its

management board decided to undertake series of cost reduction measures. Besides, the board decided to modernize and mechanize the Enterprise. As a result, the board has put in place, among other things, a fully computerized system for the unit that mixes chemicals with fertilizers and pumps same into the flower growing yards. Unfortunately, this measure has rendered five employees in the unit unnecessary. Consequently, the personnel manager of the Enterprise has handed over letters of termination of employment contracts to the five workers. Based on these facts, answer the following two

Questions

A. Is the termination lawful? Why/why not? (6%)

B. What rights do the workers have, under the Labor Proclamation, against the Enterprise? (9%)

Answers

A. Lawful as per Labor proc…28(2).
The following grounds relating to the organizational or operational requirements of the undertaking, shall constitute good cause for the termination of a contract of employment with notice;

B. notice payment as per their experience of year, severance payment,
Unused annual leaves,
Certificate,