NATIONAL EDUCATIONAL ASSESSEMENT AND EXAMINATIONS AGENCY (NEAEA)

NATIONAL EXIT EXAMINATION FOR LL.B PROGRAMME STUDENTS OF ETHIOPIAN LAW SCHOOLS 2016 / 2017 ACADEMIC YEAR

APRIL 7, 2017 TIME Allowed: 3 Hours

PART IV: MISCELLANEOUS LAW COURSES

GENERAL DIRECTIONS

1. ATTEMPT ALL QUESTIONS ON THE BASIS OF SPECIFIC INSTRUCTIONS INDICATED IN EACH SECTION.
2. **IT IS A CLOSED BOOK EXAMINATION.**
3. WHENEVER APPROPRIATE, UPPORT YOUR ARGUMENTS WITH PERTINENT LEGAL PROVISIONS.
4. PUT YOUR ANSWERS IN A SEPARATE ANSWER SHEET.
5. YOU MAY ASSUME FACTS WHERE NECESSARY.
6. PUT YOUR MOBILE PHONE OFF.

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

SECTON I: MULTIPLE CHOICES (25 %)

CHOOSE THE BEST ANSWER FOR ECH QUESTION FROM THE ALTERNATIVES GIVEN.

1. Choose the **wrong** statement from among the following.

   A. Social habits do not have internal aspect of law.
   B. Social habits do not have external aspect of law.
   C. Primary rules are not effective without secondary rules.
   D. John Austin's and Thomas Hobbes' sovereigns are similar in nature.
   E. Natural law has been revived in the 20th century.

2. Among the many philosophers, one is **responsible** for creating the separation thesis (is and ought) under positivist school of jurisprudence.

   A. John Austin
   B. David Hume
   C. Jeremy Bentham
   D. H.L.A. Hart
   E. Hans Kelsen

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

   A. Man lives in state of war.
   B. Every man has unlimited right to everything.
   C. Creation of private property was possible.
   D. The first law of nature was preserving oneself.
   E. The Hobbitian man is evil in nature.

4. Which one of the following statements is considered as a **criticism** made against natural law principle?

   A. Natural law does not put restraints on absolute power of sovereigns.

B. Natural law is not detectable unless written down in codes.
C. Natural law completely undermines state law.
D. Natural law mixes up value and reality.
E. Natural law is impracticable.

5. One of the following sentences about Socrates' speech is **not correct.**

A. It is just to obey the command of god rather than that of a state.
B. Obey a command as long as it is legal and just.
C. It is unjust to return harm for harm.
D. When the laws unjustly treat you, respond in kind to make justice.
E. A citizen has an implied agreement with the laws by continuously living in the country.

6. Which one of the following statements is **false** in connection with John Locke's state of nature?

A. His state of nature is a perfect state of equality and freedom.
B. In his state of nature, men were judges in their own case.
C. Locke favors an absolute sovereign.
D. In his state of nature, creation of private property was possible.
E. The sole purpose of establishing a state is to protect private property.

7. Which one of the following is **not** the contribution of the Stoics natural law philosophy?

A. They contributed towards the application of Roman law to all men around the world.
B. The idea of international law
C. The need for country Eased and specific laws

D. The conception of universal law under which all men are equal

8. E. The fact that reason and human nature became guiding principles in problem solving

Which one of the following is **not** one of the principles of the Convention for the Elimination of All forms of Discrimination against Women?

A. Elimination of discriminatory laws
B. Promotion of equality between men and women in the legal system
C. Establishment of legal processes and bodies to protect women from discrimination
D. Call for state regulation of family life
E. Discrimination is socially constructed rather than 'natural'

9. Which one of the following **cannot** be consider as a ground for sex discrimination?

A. Sex
B. Pregnancy status
C. Breast feeding
D. Gender identity
E. Religion

10. Which one of the following statement **should not be** taken into account in defining rape?

A. The burden of proving a lack of consent or that the assailant knew that the complainant had not consented should be placed on the complainant.
B. A clear definition of "consent" should be provided to prevent ambiguity and subjective interpretations of the term.
C. The burden of proving lack of consent should not be placed on the complainant.
D. Although both violence or coercion and lack of consent are inherent to rape, legislation should not require that the victim demonstrate both of these elements in conjunction for the purposes of a legal definition.

8. E. A person consents if he or she agrees by choice and has freedom and capacity to make that choice.

11. Any conduct that makes another person feel constantly unhappy, miserable, humiliated, ridiculed, afraid or depressed or to feel inadequate or worthless can be considered as_ .

A. Sexual abuse
B. Psychological abuse
C. Physical abuse
D. Economic abuse
E. Marital abuse

12. Any form of unwanted verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment is_____.

A. Sexualabuse
B. Sexual harassment
C. Sexual violence
D. Sexual exploitation
E. Sexual assault

13. Which one of the following forms of violence against women or girls is **not prohibited** under the Ethiopian criminal law?

A. Prostitution of another for gain
B. Early marriage
C. Trafficking women and children
D. Abduction
E. Foot binding

^14/ Of the following types of claims that can be made by a worker which one has the **shortest period of limitation** as per Labour Proclamation No. 377/2003?

A. Payment for overtime work
B. Compensation for employment injury
C. Claim for reinstatement in case of wrongful dismissal
D. Claim for severance pay
E. Claim for payment of unutilized annual leave in the event of redundancy

15. The contract of employment, collective agreement, work rules drawn up by the employer, and the Labour Proclamation No. 377/2003 are the main legal instruments that govern the rights and obligations of the employer and the employee. Which of these legal instruments has primacy of application to a particular labour case?

A. A collective agreement
B. Labour Proclamation No. 377/2003
C. A contract of employment
D. Whichever is beneficial for the worker
E. Whichever is agreed by the employer and the worker

16. Which of the following matters relating to employee-employer relationship is **not** left for the employer's discretionary action as per the Labour Proclamation No. 377/2003?

A. Promotion standards.
B. Salary scale.
C. Setting grounds for dismissing workers.
D. Appraising workers' performance.
E. Demanding workers to take part in sponsored skills development trainings.

17. Because of its special position as employer, the Labour Law recognizes extensive prerogative powers of the employer in the employment relationship, spanning from setting work rules to deciding on incentives for workers. What is the fundamental requirement provided by the Ethiopian Labour Law that the employer **cannot** disregard in exercising these prerogative powers?

A. Maximizing profit
B. Equal treatment of workers irrespective of their sex, religion or marital status
C. Economic efficiency
D. Increasing productivity
E. Enhancing workers' skills

18. Which of the following features of employment relationship is **not** addressed by the Federal Civil Service Law?

A. Occupational safety
B. Employment security
C. Collective employment relation
D. Maximum working hours
E. Maternity protections

19. An **essential requirement** for engaging in collective bargaining as per the Ethiopian Labour Law is_____

A. existence of employers association
B. willingness of the employer for collective bargaining
C. permission from the Ministry of Labour and Social Affairs
D. drawing up rules of procedure of the bargaining process
E. appointment of a neutral third party mediator to facilitate negotiation

20. Of the following propositions regarding occupational safety at the workplace, the one that does **not** apply to the worker is

A. Observe safety and accident prevention protocols
B. Give aid when accident occurs at the workplace
C. Report any workplace risks of accident to the employer
D. Properly use safety appliances
E. Acquire safety protection tools

21. According to Article 12 (5) of Proc. No. 684/2010, “A federal judge who wants to be an advocate after his/her tenure is terminated is legally required not to appear before any bench in a federal court in which he served as a judge representing litigants for a period of two years.” What purpose do you think this provision serve?

A. To limit the right of judges not to freely' engage in the profession of their own free choice
B. To discourage problems of termination of judges from judicial service
C. To discourage the rendition of professional services in matters on which he/she participated in substantially
D. To discourage the use of his/her reputation as former judge to solicit potential clients
E. To discourage other legal professionals from becoming a judge in the future

22. Mr. Y, a judge in Dire Dawa Federal Eligh Court frequently contacts with Mr. Advocate X, who had been his Law School classmate, in social gatherings. Which one of the following judicial ethics Mr. Y would most likely to have violated?

A. Independe
B. Propriety
C. Integrity
D. Impartialit
E. Loyalty

23. Which one of the following would be less likely to influence the professional independence of advocates?

A. Sharing of legal fees with non-lawyers
B. Partnership with non-lawyers in non-legal practice
C. Sharing of fee with other lawyers who are not partners
D. Acting in professional capacity when dealing with professional activities
E. Contracting with a client for the sale of the latter's property

24. Which of the following **is correct** about the conduct of a public prosecutor?

A. Persistent borrowing money from members of the public
B. Refusing superior order to ensure his/her professional independence
C. Receiving rewards from the public bodies for his/her efficient services
D. Disclosure of confidential information in the interest of the public
E. Disobeying superiors whose order violates prosecutors' code of conduct

SECTION II: MATCHING (10 Pts)

2%) Which one of the following **is correct** about the regulation of advocates in Ethiopia?

A. The Federal General Attorney centrally regulates advocates' professional conduct.
B. Foreign law firms can provide legal services in Ethiopia through the retention of Ethiopian advocates.
C. Professional indemnity insurance is a requirement to acquire advocacy license in federal courts.
D. It is legally permissible for an Ethiopian to practice in all levels of states courts with a first level federal advocacy license.
E. Ethiopian Lawyers Association prepares examination for advocates.

CHOOSE THE BEST MATCH FOR THE ITEMS UNDER A_FROM THE ITEMS UNDER B

Column "A"	Colli **III n "B-"**
1. Man is inherently evil	Hans Kelsen
2. Pure theory of law *A*	Ethics of self-interest
3. Historical school of	*J£*. Thomas Hobbes
4. Occupational disease ;T	D. Ethics of reciprocity
5. Infibulations p	E. Aristotle
6. Disability benefits *fA*-	F. A non-jurist in Ancient provided legal service
7. Managerial employee	–6: Lucius Seneca
8. Egoism	H. A jurist in Ancient Rome appeared before tribunals
9. Patroni *g*	Karl von Savigny
10 Rescual G"	-*A*— Disqualification
	K: John Finnis
	L. Immunity
	Employer's liability
	N. A mild form of female circumcision
	0. Exempt from taxation
	JPr An extreme form of female circumcision
	Excluded from the ambit of Labour Proclamation
	R. Collective Labour Action
	s. Employer is exonerated

liability

SECTION III: SHORT ANSWER (15 %)

PREPARE A SHORT NOTE ON EACH OF THE THREE CONCEPTS PROVIDED BELOW. YOUR NOTE ON EACH CASE INCLUDES MEANING, IMPORTANCE AND KEY JUSTIFICATION BEHIND THE CONCEPTS.

3.1. Marital rape (5%)
3.2. Gender mainstreaming (5%)
3.3. Judicial independence versus judicial accountability (5%)

SECTION IV: ESSAY-TYPE (20 %)

ANSWER THE FOLLOWING QUESTIONS BASED ON THE GIVEN CONTEXT.

4.1. Examine Ronald Dworkin's major criticisms against H. L. A. Hart's positivism. (10 **%)**

4.2. Identify and concisely explain four criteria that help to distinguish an 'employee' from 'independent contractor' for the purpose of application of Labour Proclamation No. 377/2003. (10 %)

READ THE FOLLOWING CASES VERY CAREFULLY AND ANSWER THE QUESTIONS BASED ON REASON AND AUTHORITY.

5.1. CASE I *(15%)*

Tegibar, Aida, Minishu, Olana and Tirhas were employees of Atlas University College, a private higher education institution. For over 8 years they were serving the University College as campus security personnel protecting the property and security of the University College. Recently, however, the management of the University College, as part of its new strategy to improve operational efficiency and minimize cost, has decided to outsource the security affair of the University College to a private company. Following this management decision, the President of the University College notified all five employees in writing of its decision to terminate their contract of employment, indicating that it has decided to entrust the protection of campus security to a private security services company.

Assume that, feeling helpless by the measure taken by their employer, they have approached you for advice if they have any legal remedy.

Give them your advice on whether or not the termination is lawful. State also the reasons for your position in this regard (15%).

5.2. CASE II *(15%)*

Ato Balew is a suspected fugitive on a run from federal police for the alleged crime of bank robbery in Addis Ababa on the 20 January 2015. Ato Balew is tired of 'hide and seek game' and wants to surrender to the nearby police station. However, before

doing that he planned to talk to an advocate that will properly defend him in later stage of the criminal proceeding. Accordingly, Ato Balew covertly approached advocate Birara in his law office to solicit legal advice and representation.

The face of Ato Balew is not new to Birara since local newspapers carry the photo of Ato Balew in the list of "Wanted Persons". Confused what to do in the situation, Birara opted to patiently listen to the confession stories of bank robbery narrated by Ato Balew for an hour. Birara in the course of the interview discovered that Ato Balew had previously robbed huge money from two other banks that is completely unrelated to the present bank robbery. With the consent of Ato Balew, advocate Birara made a tape recording of Ato Balew's confession on the unrelated bank robberies. Wondering to know about the whereabouts of the robbed money from the two banks, Birara requested Ato Balew to show him the remote locations of the hidden money of the unrelated robberies on a map. Ato Balew promised to Birara that he is willing to share half of the money for his professional service. Ato Balew also told Ato Birara that he is willing to pay 25,000 Birr as a down payment. The police have not found those robbed sums of money from the two banks, and Ato Balew is not a suspect in either crime except the recent one. Ato Balew strictly warned Birara not to disclose his confession to whosoever.

Assume that the public prosecutor opened a preliminary hearing based on the confession of Ato Balew given at the police station and no other evidence has been produced.

Argue whether Ato Birara is required under the law to disclose his knowledge of the two prior bank robberies and the location of the hidden money to the

26. ***court or the police.*** Provide reason(s) Which one of the following would be less likely to influence the professional independence of advocates?

F. Sharing of legal fees with non-lawyers

SECTION II: MATCHING (10 %)

G. Partnership with non-lawyers in non-legal practice
H. Sharing of fee with other lawyers who are not partners
I. Acting in professional capacity when dealing with professional activities
J. Contracting with a client for the sale of the latter's property

27. Which of the following **is correct** about the conduct of a public prosecutor?

F. Persistent borrowing money from members of the public
G. Refusing superior order to ensure his/her professional independence
H. Receiving rewards from the public bodies for his/her efficient services
I. Disclosure of confidential information in the interest of the public
J. Disobeying superiors whose order violates prosecutors' code of conduct

28. Which one of the following **is correct** about the regulation of advocates in Ethiopia?

F. The Federal General Attorney centrally regulates advocates' professional conduct.
G. Foreign law firms can provide legal services in Ethiopia through the retention of Ethiopian advocates.
H. Professional indemnity insurance is a requirement to acquire advocacy license in federal courts.

I. It is legally permissible for an Ethiopian to practice in all levels of states courts with a first level federal advocacy license.

J. Ethiopian Lawyers Association prepares examination for advocates.

CHOOSE THE BEST MATCH FOR THE ITEMS UNDER A_FROM THE ITEMS UNDER B

Column "A"	Colli **III n "B-"**
1. Man is inherently evil	Hans Kelsen
2. Pure theory of law *A*	Ethics of self-interest
3. Historical school of	*J£*. Thomas Hobbes
4. Occupational disease ;T	D. Ethics of reciprocity
5. Infibulations p	E. Aristotle
6. Disability benefits *fA-*	F. A non-jurist in Ancient provided legal service
7. Managerial employee	–6: Lucius Seneca
8. Egoism	H. A jurist in Ancient Rome appeared before tribunals
9. Patroni *g*	Karl von Savigny
10 Rescual G"	-*A*— Disqualification
	K: John Finnis
	L. Immunity
	Employer's liability
	N. A mild form of female circumcision
	0. Exempt from taxation
	JPr An extreme form of female circumcision
	Excluded from the ambit of Labour Proclamation
	R. Collective Labour Action
	s. Employer is exonerated

liability

SECTION III: SHORT ANSWER (15 %)

PREPARE A SHORT NOTE ON EACH OF THE THREE CONCEPTS PROVIDED BELOW. YOUR NOTE ON EACH CASE INCLUDES MEANING, IMPORTANCE AND KEY JUSTIFICATION BEHIND THE CONCEPTS.

3.4. Marital rape (5%)
3.5. Gender mainstreaming (5%)
3.6. Judicial independence versus judicial accountability (5%)

SECTION IV: ESSAY-TYPE (20 %)

ANSWER THE FOLLOWING QUESTIONS BASED ON THE GIVEN CONTEXT.

4.3. Examine Ronald Dworkin's major criticisms against H. L. A. Hart's positivism. (10 **%)**

4.4. Identify and concisely explain four criteria that help to distinguish an 'employee' from 'independent contractor' for the purpose of application of Labour Proclamation No. 377/2003. (10 %)

READ THE FOLLOWING CASES VERY CAREFULLY AND ANSWER THE QUESTIONS BASED ON REASON AND AUTHORITY.

5.1. CASE I *(15%)*

Tegibar, Aida, Minishu, Olana and Tirhas were employees of Atlas University College, a private higher education institution. For over 8 years they were serving the University College as campus security personnel protecting the property and security of the University College. Recently, however, the management of the University College, as part of its new strategy to improve operational efficiency and minimize cost, has decided to outsource the security affair of the University College to a private company. Following this management decision, the President of the University College notified all five employees in writing of its decision to terminate their contract of employment, indicating that it has decided to entrust the protection of campus security to a private security services company.

Assume that, feeling helpless by the measure taken by their employer, they have approached you for advice if they have any legal remedy.

Give them your advice on whether or not the termination is lawful. State also the reasons for your position in this regard (15%).

5.2. CASE II *(15%)*

Ato Balew is a suspected fugitive on a run from federal police for the alleged crime of bank robbery in Addis Ababa on the 20 January 2015. Ato Balew is tired of 'hide and seek game' and wants to surrender to the nearby police station. However, before doing that he planned to talk to an advocate that will properly defend him in later stage of the criminal proceeding. Accordingly, Ato Balew covertly approached advocate Birara in his law office to solicit legal advice and representation.

The face of Ato Balew is not new to Birara since local newspapers carry the photo of Ato Balew in the list of 'Wanted Persons'.

Confused what to do in the situation, Birara opted to patiently listen to the confession stories of bank robbery narrated by Ato Balew for an hour. Birara in the course of the interview discovered that Ato Balew had previously robbed huge money from two other banks that is completely unrelated to the present bank robbery. With the consent of Ato Balew, advocate Birara made a tape recording of Ato Balew's confession on the unrelated bank robberies. Wondering to know about the whereabouts of the robbed money from the two banks, Birara requested Ato Balew to show him the remote locations of the hidden money of the unrelated robberies on a map. Ato Balew promised to Birara that he is willing to share half of the money for his professional service. Ato Balew also told Ato Birara that he is willing to pay 25,000 Birr as a down payment. The police have not found those robbed sums of money from the two banks, and Ato Balew is not a suspect in either crime except the recent one. Ato Balew strictly warned Birara not to disclose his confession to whosoever.

Assume that the public prosecutor opened a preliminary hearing based on the confession of Ato Balew given at the police station and no other evidence has been produced.

Argue whether Ato Birara is required under the law to disclose his knowledge of the two prior bank robberies and the location of the hidden money to the

court or the police. **Provide reason(s) for your position (15%).**

* * *

for your position (15%).

* * *