NATIONAL EDUCATIONAL ASSESSMENT AND EXAMINATIONS AGENCY

(NEAEA)

NATIONAL EXIT EXAMINATION FOR LL.B PROGRAM STUDENTS OF ETHIOPIAN LAW SCHOOLS

2017/2018 ACADEMIC YEAR

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11 May 2018

Time allowed: 3 Hours

PART IV: MISCELLANEOUS LAW COURSES

GENERAL INSTRUCTIONS

1. ATTEMPT EACH SECTIONS ON THE BASIS OF SPECIFIC INSTRUCTIONS INDICATED IN EACH SECTION
2. **IT IS A CLOSED BOOK EXAMINATION.**
3. WRITE YOUR ANSWERS IN A SEPARATE ANSWER SHEET ATTACHED TO THE EXAM.
4. WRITE LEGIBLY
5. 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 BEST ANSWER AND WRITE THE LETTER OF YOUR CHOICE ON A SEPARATE ANSWER SHEET APPENDED TO THIS EXAM BOOKLET.

1. Which statement is **incorrect** regarding the resurgence of natural law theory?
   A. The revival of the natural law theory has direct relation with the *Nazi* war atrocities of the Second World War.
   B. The theory gained support as a result of the question raised by jurists over the adequacy of the positive law to protect human kind.
   C. The theory gained much acceptance for advocating that legal rules derive their legitimacy from universal moral principles.
   D. The theory advocates that law is based upon the desire of the sovereign.
   E. Natural law theory received much acceptance for it advocates that natural law is superior to all other laws.

2. The theory of legal positivism by contrast to natural law theory holds that:
   A. Law exists before the existence of any state.
   B. There exists a necessary connection between law and morality.
   C. Law owes its existence to the higher moral principles.
   D. We should focus not upon what the law *ought to be*, but up on what the law *is*.
   E. Custom, religion and morality are the sources of law.

3. One of the following thinking is **NOT** valid regarding legal realism:
   A. It states that legal rules are capable of yielding uniquely correct answer in any of the cases that come before the courts.
   B. It holds that there are so many different rules potentially relevant to any legal case that there is always support for both sides in a legal argument.
   C. It assumes that there are always conflicting ways of interpreting precedents and statutes.
   D. It holds that judges should focus on the economic and social consequences of their decision.
   E. It confirms that judicial choices should be informed by research in disciplines such as sociology and economics.

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4. Which one of the following statement is **incorrect** regarding the idea of law of Stoic philosophy?

   A. Law is the highest reason, implanted in nature, which commands what ought to be done and forbids the opposite.
   B. True law is right reason in agreement with nature.
   C. To curtail the true law is unholy, to amend it illicit, to repeal it impossible.
   D. Law summons to duty by its commands, and averts from wrong doing by its prohibition.
   E. Law is what the judges do in courts.

5. The theory of critical legal studies, like legal realism, claims that:

   A. Law is created by the legislature.
   B. The ultimate source of a given law is morality.
   C. If a given law fails to be backed by reason, then it shall be disregarded.
   D. True law is right reason in agreement with nature.
   E. Law is a tool of injustice, and that the liberal values underlying the law are neither coherent nor desirable.

6. From the given alternatives identify the **wrong** comparison between analytical school and historical school.

   A. For analytical school, law owes its existence to state while historical school believes that law existed before any state.
   B. For analytical school legislation is the sources of law but for historical school custom is the source of law.
   C. Analytical school states that law is found not made whereas for historical school law is command of the sovereign and it is made as a result of the king's free will.
   D. Analytical school states that law is upon the desire of the ruler, but for historical school law conforms to popular consciousness.
   E. Analytical school advocates for legal reform through legislation in contrast historical school discourages creative legal reform.

7. Which of the following is **sound** about gender socialization?

A. It is an intermittent process that helps one to learn the normative behaviors of identifying gender roles in a community.
B. It is a continuous process that hinders one from learning to the normative behaviors of identifying gender roles in a community.
C. It is a simple process of interaction through which the individual learns via participation in social groups and communities.
D. It is a process where an individual learns about norms, expectations and different roles to be played in a community.
E. It is not affected by political, economic, cultural, social, religious, ideological and environmental factors.

8. One of the following is **incorrect** about substantive model of equality:

A. It takes into consideration the biological and gender differences between women and men to ensure real equality.
B. It recognizes different treatment of men and women in order for them to benefit equally through providing enabling conditions.
C. It lays a duty on a state to show results, not just stop at enacting frameworks of equality that are strong on paper.
D. It requires that socially constructed differences between men and women that see women as inferior need to be changed.
E. It is manifested in a gender-neutral framing of policy or law and ensures women to enjoy the same rights as men.

9. Identify the **false statement** about criminalization of domestic violence.

A. There are social, political, and economic aspects of domestic violence that cannot be addressed within the criminal justice system itself.
B. Recognizing domestic violence as a crime will both improve victim safety and secure community denunciation.
C. In developing countries it is the reality of many women that the incarceration of their spouses means destitution and homelessness for their families.
D. While the response of the criminal justice is separating the batterer from the victim, the reality is that many victims cannot afford separation.
E. Involving the criminal justice system in domestic violence matters always creates peace, advantages and gratification for women.

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10. Which of the following is the difference between the 1957 Penal Code of Ethiopia and the 2004 Revised Criminal Code of Ethiopia concerning the criminalization of abortion?

A. Under the 2004 Criminal Code intentional termination of pregnancy is not considered as a criminal act while the 1957 Penal Code criminalized it.
B. Under the 1957 Penal Code intentional termination of pregnancy was not considered as a criminal act while the 2004 Criminal Code criminalizes it.
C. According to both Codes intentional termination of pregnancy is considered as a criminal act under some exceptional circumstances.
D. The exceptional situations where intentional termination of pregnancy was allowed had been put in wider context in the 1957 Penal Code than under the 2004 Criminal Code.
E. The exceptional situations where the intentional termination of pregnancy is allowed have been put in wider context in the 2004 Criminal Code than the 1957 Penal Code.

11. In respect of which of the following working conditions is a minimum requirement **NOT** provided by the Labor Law?

A. Hours of work
B. Rest and leisure
C. Occupational safety
D. Wage
E. Employment security

12. Which one of the following remedies is available for an employee lawfully terminated but **without** being given the appropriate notice period?

A. Severance pay
B. Reinstatement to work with back pay
C. Payment in lieu of the salary for the notice period
D. Compensation for termination of employment
E. Criminal liability of the employer

13. Severance payment is due to a worker, whose contract of employment is terminated on any of the following grounds, **EXCEPT**:

A. dismissal on ground of participation in trade union related activities.
B. expiry of the period for which the worker is employed.
C. when the worker is forced to resign as a result of employer's misdeed to him.
D. when the worker is reduced as per Article 29 of the Labor Proclamation.
E. when the worker retires without pension or provident fund benefits.

14. Which of the following instances of injury sustained by a worker **is NOT** a case of employment injury?

A. Injury sustained due to a third party's action at the workplace.
B. Injury sustained while carrying out employer's activities during normal hours of work.
C. Injury sustained while on board a transport service vehicle provided by the employer.
D. Injury sustained while carrying out employer's activities outside normal hours of work.
E. Injury sustained by worker while travelling to work on board a public transport vehicle.

15. Which of the following factors **is irrelevant** for the purpose of distinguishing an employee from an independent contractor for the purpose of application of Labor Proclamation No. 377/2003?

A. Supply of tools and raw materials necessary for the work.
B. The kind of work performed.
C. Mutuality of obligation between the parties.
D. The degree of control to which the service rendering party is subject to.
E. The personal nature of the obligation assumed by the party rendering service.

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16. Which of the following material facts **is NOT** relevant for the purpose of determining existence and extent of employer's liability for injury to a worker?

A. Time when injury is sustained.
B. Place where injury is sustained.
C. Degree of worker's disability.
D. The fact that the injured worker is engaged as an apprentice.
E. The fact that the employer has taken all accident preventing measures.

17. Which of the following is common to all forms of lawful termination by the employer?

A. Severance pay.
B. Compensation.
C. Notice of termination.
D. Period of notice.
E. Misconduct of employee.

18. From among the following stipulations incorporated in Labor Proclamation No. 377/2003, identify the one that **is NOT** the consequence of the recognition of the long term nature of the employment relationship.

A. Rules on modification of contract of employment.
B. Stipulations on occupational safety.
C. Rules on suspension of contract of employment.
D. Stipulations as to probation period.
E. Stipulations on leave and rest for employee.

19. The Marxists like the positivists and realists agree that law is:

A. God made.
B. Human made.
C. Unnecessary evil created to protect private property.
D. There to serve only the highest class in the society.
E. Found not made.

20. The Sociological School of Jurisprudence holds that:

A. We should look more to the abstract content of the law than to its function.
B. We should attach great importance to legislative action than judicial action.
C. Law does not need to confirm to popular consciousness.
D. We should be concerned not with "law in books" but with "law in action".
E. The source of law is super natural being.

21. One of the following **is NOT** a factor affecting the ethical conduct of judges.

A. Extra judicial activities
B. Remuneration
C. Over qualifications
D. Resource of the court
E. Case backlog

22. One of the following **is NOT among** the grounds which entail liability to a public prosecutor under federal prosecutor's administration regulation.

A. Persistent borrowing of money
B. Taking or soliciting bribes
C. Falsification of documents
D. Serving expeditiously
E. Showing negligence at work

23. One of the following **is NOT among** grounds of public dissatisfaction with legal profession.

A. Abuses of adversary system
B. Commercialization of the profession
C. Securing public trust and confidence
D. Demanding unfair payments
E. Disrespect among advocates

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24. Which among the following **is incorrect** regarding prohibitions under the Federal Code of Judicial Conduct?

A. It prohibits ex-parte communication.
B. It prohibits judges from discussing the merits of a case pending before a court.
C. Judges cannot give any opinion on the case pending before the court to the media.
D. Judges can communicate the merit of the case with presiding judges in the same case.
E. Judges can communicate the merit of the case with colleague judges in other benches.

25. Which among the following **is a correct** statement concerning an advocate`s ethical responsibility based on Federal Advocates' Code of Conduct?

A. He/she should always win a case by whatsoever means.
B. He/she should always serve for consideration.
C. He/she can present dilatory arguments to a court.
D. He/she should participate in community service activities.
E. He/she should act detrimental to the justice system

SECTION II: MATCHING (10 %)
MATCH EACH ITEM UNDER COLUMN "A" WITH ITS BEST CORRESPONDING ITEM UNDER COLUMN "B"

	COLUMN "A"		COLUMN "B"
1.	Logic	A	Outside the scope of application of the Labor Proclamation
2.	Domestic servant	B	Strike not allowed
3.	Gender roles	C	Non-discrimination
4.	H.L.A Hart	D	Fixed or contingent
5.	Collective labor dispute	E	The study of reasoning and argument
6.	Formal equality	F	Expected duties and responsibilities of men and women
7.	Essential public service workers	G	Pro bono service
8.	Advocate`s fee agreement	H	Jeremy Bentham
9.	Utilitarianism	I	Labor Relations Board
10.	Advocate`s free legal aid duty	J	Law as a system of primary and secondary legal rules

SECTION III: SHORT ANSWER (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 Battered women syndrome (**5%**)

3.2 Collective agreement (**5%**)

3.3 Judges' independence vis-à-vis accountability in Ethiopian legal system (**5%**)

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SECTION IV: ESSAY TYPE QUESTIONS (25%)

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

4.1. Gender quota and enabling environment have been proposed as two key enabling strategies to promote women's participation in political governance structures with the view to redressing gender inequality in societies. Identify the contents and explain mechanisms of the two enabling strategies. (12.5%)

4.2. Two arguments are raised on the nature of the legal profession. Some argue that the legal profession is a commercial/business activity, but others counter-argue that the legal profession is not a pure business. Illustrate both arguments based on Ethiopia`s Federal Court Advocates' Code of Conduct and other pertinent laws. (12.5%)

SECTION V: HYPOTHETICAL CASES (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 (12.5%)

In 2017, the Federal Democratic Republic of Ethiopia House of Peoples' Representatives deliberated on the draft law (Bill) to amend Article 545 of the Country's 2004 Criminal Code.

According to the Bill, women are given an exclusive right to make choice on the issue of abortion. Hence, every woman has the right to access legal abortion services. The Bill was said to be a response to increasing demand of the advocates of the rights of women.

Yet, the issue of abortion has always been there and is still the cause for contention among various groups. The practice of abortion has been receiving both support and opposition from various groups internationally and at home. More importantly its legal and human rights implications on the rights of women have always been the beginning and the end of the subject. It never seems to be easing but only multiplying and remains divisive in public life, with recurring arguments to liberalize or to restrict access to legal abortion services.

However, many agree that the abortion debate seems like an irresolvable conflict of rights: the right of women to control their own bodies, the right of children to be born. And now, the big question still is, can one both support women's rights and oppose abortion? The rule has been questioned by many legal scholars and the concern started being a cause of conflict among various groups. Many have been voicing their concern by citing various theories from jurisprudence which explicitly recognizes the right of everyone to life, including the un-born child. They argued that conventionally the right to life has been understood as encompassing the right to life of the fetus.

Provide your reasoned opinion on the issue in relation to the major legal theories, particularly showing how consonant is the Bill with such theories. (12.5%s)

5.2. Hypothetical Case II (12.5%)

Aschalew is a driver who works for Origin Tour and Travel Agency which is headquartered in Addis Ababa and operates throughout Ethiopia. Aschalew's duty is mainly driving tourists to various tourist attraction destinations across Ethiopia.

Recently he has been to Afar driving tourists and unfortunately on his return to Addis he fell seriously ill. His medical examination at Amibara Hospital, a privately owned hospital in Addis Ababa, revealed that he has contracted malaria. It was medically ascertained that he contracted the disease in the time when he was on his mission in Afar. His condition was so serious that the doctor who examined him ordered that he take 10 days off from work to rest and follow up his medication.

Aschalew, accordingly, stayed at home taking his medication and occasionally checking with his doctor. At the end of the medically prescribed rest period he reported for work at his regular place of work. He was immediately presented from the manager of the organization with a letter of termination of his employment for being absent from work for more than five days.

On his part Aschalew told the manager that he has been sick for over a week and presented the medical certificate issued to him from Amibara Hospital attesting that he has been prescribed ten days of rest from work and medical follow up. The manager on his part noted to Aschalew that his organization accepts medical certificates only from government medical institutions or private medical organizations with which Origin Tour and Travel Agency has agreement and said that he would not accept the medical certificate issued by Amibara Hospital as it is a private hospital with which the Agency has no agreement.

Aschalew is dissatisfied with this decision. He also thinks that the cost of his medication at Amibara Hospital should be reimbursed to him by Origin Tour and Travel Agency since he contracted malaria while carrying out the duty assigned to him by the organization. So, Aschalew is now considering bringing legal action against his employer but first wants to be advised on the likelihood of winning in his claims.

5.2.1 Is the decision of the employer (the manager) to reject the medical certificate presented by Aschalew lawful? Why /why not? (5.5%)

5.2.2 Is Achalew entitled to reimbursement of the cost of his medication at Amibara Hospital from his employer? Why /Why not? (7%)

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