National Educational Assessment and Examinations Agency (NEAEA)

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

Academic Year 2013/2014

Part IV: Miscellaneous Courses

21 March 2014
Time Allowed: 2:45 Hours

Instructions:

- This is a closed book exam for all materials except clean copies of the FDRE Constitution and Criminal Code of Ethiopia 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!

_____ _____ _____
First Name **Father's Name** **Grandfather's Name**

Registration Number _____

University _____

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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 1 point. Please allocate about 25 minutes to complete this part of the exam.

1. Identify the ***correct*** combination in the classification of laws.

   A. Substantive Law - Evidence Law
   B. Public Law - Administrative Law
   C. Civil Law - Constitutional Law
   D. Public Law - Contract Law
   E. Procedural Law - Family Law

2. The statement that is ***true*** about law making process in Ethiopia is:

   A. Laws could/can be initiated only by the legislative and other ministries during the Imperial, the Derg and current regimes.
   B. International agreements ratified by Ethiopia had/have a lower status than the country's constitution in both the Imperial and the current regimes.
   C. Under the present regime, the executive branch of the government does not have the right to initiate laws.
   D. The Federal Supreme Court of Ethiopia has the power to initiate laws.
   E. The Council of Ministers in Ethiopia has inherent power to enact legislation deemed necessary to promote objectives for which it is established.

3. A rule of interpretation that considers historical background of a given legislation where the language of the law does not reveal the true intention of the lawmaker is:

   A. The Mischief Rule of Interpretation
   B. The Liberal Interpretation
   C. The Logical Interpretation
   D. The Golden Rule of Interpretation
   E. Doctrinal Interpretation

4. A juridical act is:

   A. An act that does not entail legal consequences
   B. An act performed by minors
   C. A mere contract between two or more persons
   D. An act which result in the formation, transfer, alteration and termination of legal relations
   E. A legal consequence that arises from the operation of the law

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5. Which of the following order is, respectively, the first and last step in law making process?

A. Initiation and signature
B. Preliminary reading by the legislature and signature
C. Preliminary reading by the legislature and publication
D. Initiation and enactment
E. Initiation and publication

6. One of the following sentences about Socrates' speech is ***incorrect***.

A. It is just to obey the command of god rather than that of a state.
B. Obey a command as far as it is legal and just.
C. It is unjust to return harm for harm.
D. When the laws unjustly treat you, you can respond to them in a similar fashion.
E. A citizen tacitly agrees to respect laws by continuously living in the country.

7. One of the following sentences is ***not sound***.

A. Legal 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 centre of the legal system.
D. Natural law blends law and morality.
E. Legal realists put the judge at the center of the legal system.

8. Which one of the following statements is ***false*** about Locke's state of nature argument?

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

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9. One of the following is ***not*** the defects of Hart's primary rules.

A. Lack of certainty
B. Being static
C. Absence of dispute settlement mechanism
D. Existence of executive body that enforces the laws
E. Inflexibility of rules

10. Which one of the following is a decisive factor in transforming a given customary practice into customary law?

A. *Opinio juris*
B. Regularity
C. Longevity
D. Repetition
A. Sovereignty

11. The reason for marginalization of customary law systems during the Ethiopian codification projects in 1950s and 1960s could be:

A. Customary law systems were seen as impeding national political unity.
B. Customary law systems were taken as retarding national economic development.
C. Customary law systems were taken as inimical to the country`s modernization project.
D. Customary law systems were seen as lacking uniformity.
E. All of the above

12. The Code of Ethiopia that explicitly and predominately rejected customary rules and practices is:

A. The Civil Code
B. The Commercial Code
C. The Civil Procedure Code
D. A & C are correct
E. The Penal Code

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13. Which one of the following is an attribute of the Ethiopia legal system that existed prior to mid-20th century?

A. Incompleteness of substantive and procedural laws
B. Relatively strong legal institutions
C. Lack of keeping with the then developments in legal science
D. A & C are correct
E. Strong public laws in contrast to weak private and commercial laws

14. Which of the following seems to have ***no contribution*** to Ethiopia`s decision to codify her laws in 1950s and 1960s?

A. Consultative Committee set up to evaluate laws in light of the standards of humanity, justice and equal treatment of foreigners with citizens
B. The Consular Courts established to adjudicate cases having a foreign element using foreign laws
C. The dominance of the legal system by customary laws
D. Presence of elites in the Imperial Government with western education.
E. None of the above

15. Legal malpractice may result from violating advocate's ethical duty of

A. Competence and diligence
B. Independence and confidentiality
C. Independence and propriety
D. Impartiality and honesty
E. Loyalty and secrecy

16. A sitting-judge who prepares contracts and other legal documents for payments only on weekends:

A. Violates Advocates' Code of Conduct
B. Commits a crime punishable with imprisonment
C. Violates ethical duty of equality
D. Exercises his freedom of profession
E. None of the above

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17. An advocate who causes damage for reckless handling of a client's case may be subject to:

A. Payment of damages determined by the Advocates' Disciplinary Council.
B. Criminal prosecution by the Ministry of Justice.
C. Payment of damages determined by the Minister of Justice.
D. Payment of fine determined by the Advocates' Disciplinary Council
E. Downgrading for violation of an ethical duty.

18. Which one of the following conduct may result in revocation of advocate's license?

A. Charging excessive fee.
B. Paying fair compensation to individuals for case referrals.
C. Accepting cases concerning law of insurance only.
D. Practicing before state courts.
E. Attending conferences prepared by judges.

19. Which one of the following statement could be an example of indirect discrimination against women?

A. A policy requires only women to obtain the consent of their spouses as a precondition for medical treatment.
B. A policy requires an adult to obtain the consent of his/his parent as a condition for obtaining access to contraceptive services.
C. A policy requires everyone to pay for medication he/she received.
D. A and B are correct.
E. All

20. Which one of the following can be a factor for achievement of gender equality to be constrained?

A. Lack of accurate, timely and cross-country comparable data that can provide adequate benchmarks and serve as the basis for monitoring the implementation of development program.
B. Absence of a proper understanding of mainstreaming and the lack of technical capacity for gender analysis, and the design, implementation and monitoring of program.
C. Inadequate resources and lack of political support in realizing the mandate designated for national focal points for advancing the status of women.
D. A and B are correct.
E. All of the above

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21. Which one of the following statements is ***true*** about gender equality?

A. Women and men have to become the same.
B. Men's and women's rights, responsibilities and opportunities will not depend on whether they are born male or female.
D. Fairness of treatment for women and men, according to their respective needs.
D. All of the above
E. None of the above

22. Which of the following statement is ***incorrect***?

A. Many violations of the rights of women occur in situations that remain outside the regulatory framework of the state.
B. Many economic activities performed predominantly by women are not regulated by the state
C. Increasingly, infringements of human rights take place because of the actions of non-state actors
D. All
E. None

23. Identify the ***false*** statement about the interrelationships of international and national environmental laws?

A. International environmental law is a body of law distinct from national law.
B. The range of approaches to adoption of international environmental law varies across national legal system
C. Monism is a view that international and national laws are interconnected as a single system
D. Dualism depicts international law and national law as two independent and separate legal systems that exist in a variety of interrelationships with each other.
E. Relationships between international law and domestic law occur at points between the polar extremes of monism and dualism in Ethiopia

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24. One is ***not*** the reason behind the failure story of climate change negotiation:

A. Emerging developing world is becoming major emitters and major economic competitor of the traditional west.
B. Actions will have a detrimental effect on major economic sectors.
C. Developed world do not want to assume full historical responsibilities to the many effects of it.
D. Recent decrease in greenhouse gasses concentration in the atmosphere slowed actions.
E. Industrial lobbying groups succeeded in influencing national government and politics.

25. Courts may award any of the following remedies for an environmental case ***except*** one:

A. Injunctive relief to halt the harmful activity
B. Extradite the accused from the nation
C. Imprison the accused if found guilty
D. Shut down pollution source factory
E. Forfeiture of illegally imported restricted items

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Part II. Matching (10 points)

Select a term/phrases from column 'B' that best match with a term/phrases under column 'A' and write the letter of your choice in the answer sheet. Each question carries 1 point. Please budget about 10 minutes to complete this part.

Column 'A'	Column 'B'
26. Formal source of Law	A. Leon Fuller
27. Corrective justice	B. Hans Kelsen
28. Absolute sovereign	C. Procedural validation
29. Inner morality of law	D. Thomas Hobbes
30. The 1930 Penal Code of Ethiopia	E. Description of human conduct
31. The *Corpus Juris Civilis*	F. A law that seeks to remedy wrong
32. Articling	G. A law that aims at fair distribution of benefits and burdens
33. UN Declarations and Resolutions	H. John Finnis
34. Accountability	I. Came into force in 8th century AD
35. Gender dynamics	J. The tripartite division of offenses
	K. The Commentators
	L. Recognition of *guma* (blood money)
	M. Up-to-date knowledge of the law
	N. Responsibility for violation ethical duties
	O. Relationships and interactions between men and women
	P. Serving the public
	Q. Hard laws
	R. Internship
	S. Soft laws
	T. Unequal treatment of a person based solely on that person's sex

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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 should not exceed seven lines. Your answers to each question beyond these lines will not be marked. Each question carries 5 points. Write legibly. You should allot about ten minutes to answer each question.

36. Explain the role of court decisions as a source of law in contemporary Ethiopia.

37. Enumerate requirements necessary to obtain federal courts advocacy license.

38. Indicate mechanisms of holding federal court judges accountable under the present Ethiopian legal system.

Part IV. Essay-type questions (15 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. Write legibly. Each question carries 7.5 points. Please allocate about 15 minutes for each question.

39. Compare and contrast legal norms and non-legal norms.

40. The Ethiopian Environmental Policy seeks, among others, to "... err on side of caution when a compromise between short-term economic growth and long-term environmental protection is necessary..." Identify and explain the characteristics of the principle behind the above quotation.

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Part V Case-type questions

Answer the following three questions, each based on a hypothetical case. Your answer should be based on reason and authority. Write a concise, complete, organized and relevant answer. Your answer to each of these questions may not exceed one page and shall not be corrected beyond that should you write more than one page. Allocate about 70 minutes to answer the three questions.

Case I

F is a country situated in the Horn of Africa. The country is heavily reliant on agriculture which contributes to the lion's share of the country's economy. Thus, access to farmland has been viewed as one of the most important issues in the country. Accordingly, land laws have been passed to address land related issues. The country is a home of diverse ethnic and cultural groups with varied interests. With a view to accommodating such interests, the country has put in place a system of federal government in which federal and regional governments possess respective legislative, executive and judicial powers as delineated in the country`s constitution. The federal government and one of the regions, 'Region A', have recently enacted their own respective land laws to regulate access to and control over farmlands. However, these two laws contradict each other in a significant way. The federal government has held the view that the land laws enacted by 'Region A' should be consistent with federal land laws while 'Region A' maintains that it has every right to enact land law even when it contradicts with federal land laws.

41. *Which position do you support assuming that F`s constitution and land laws are identical to the constitution and land laws of the Federal Government of Ethiopia? Why? (10 points)*

Case II

The Ethiopian Constitution forbids the sale of land under Article 40 of the FDRE Constitution. Nonetheless, a good number of farmers who reside in the surroundings of cities and towns throughout the country engage in the practice of transfer of their landholdings to land speculators and genuine land seekers - those who lack other alternatives to access land for housing. The farmers sell their land in an anticipation that future expropriation of their land due to town expansions would result in small compensation amount as compared to the sale value they are actually collecting via these informal arrangements. Buyers are also entering into these informal land deals in the hope that their landholdings would be regularized one day. Those involved also claim that these informal contracts are binding and are often enforced by customary practices and informal institutions. But frequently, city administrations bulldoze informal settlements which spring up as a result of these practices leading to eviction of people who bought land and constructed houses on it.

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42. *Identify and explain two contrasting legal theories each justifying the claims of the people who have obtained land without the blessing of the government and that of the government authorities. You are also expected to indicate the way forward based on these two theories. (15 points)*

Case III

Nania is a 17 years old woman married to 37 years old man named Chacha. They have two children. For the past four years, Nania has been subjected to regular domestic violence and threats by Chacha. He possesses a firearm and has threatened to kill her and the children. Some months ago, Chachu moved in with a new female partner and left the family home, taking most of the furniture and household items with him. He also stopped paying child support. Hoping to protect herself and the children, she has changed the lock on the door of the family's house. However, when Nania refused to allow in, he forcibly entered the house and had severely bitten her that led to her hospitalization. To escape his further assaults, she would have loved to go to shelter with her children, but there is no shelter for victim of violence in the area. Nania has reported to the local police twice concerning two incidents of battery and assault causing her bodily harm. However, Chacha has not been detained at any time in this connection and that no action has been taken by the local police office.

43. *Dispose the case assuming that it is brought before a court in which you are a judge. (Consider both civil and criminal aspects of it). (10 points)*

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