NATIONAL EDUCATIONAL ASSESSMENT AND EXAMINATIONS AGENCY (NEAEA)

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

Academic Year 2016/2017

April 6,2017
Time Allowed: 3 Hours

PART III: PROCEDURAL LAWS AND SKILLS COURSES GENERAL DIRECTIONS

1. ATTEMPT ALL QUESTIONS ON THE BASIS OF SPECIFIC INSTRUCTIONS INDICATED IN EACH SECTION.
2. **THIS IS A CLOSED BOOK EXAM FOR ALL MATERIALS EXCEPT CLEAN COPIES OF THE CIVIL PROCEDURE CODE, THE CRIMINAL PROCEDURE CODE AND THE FEDERAL COURTS ESTABLISHMENT PROCLAMATION WHICH CANNOT BE LENT TO NOR BORROWED FROM OTHER STUDENTS.**
3. WHENEVER APPROPRIATE, SUPPORT YOU ARGUMENTS WITH PERTINENT LEGAL PROVISIONS.
4. PUT YOUR ANSWERS IN A SEPARATE ANSWER SHET.
5. SWITCH OFF YOUR MOBILE PHONES.

DO NOT TURN THIS PAGE UNTILL YOU ARE ALLOWED TO DO SO.

SECTION I: MULTIPLE CHOICES (25 %)

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

1. Which of the following **may not** be considered as a relevant fact to prove or disprove a fact under inquiry in a given civil or criminal proceeding?

A. A fact which is the occasion, cause or effect of that fact under investigation.

B. A fact which constitutes part of the same transaction with that of the fact under inquiry.
C. A fact which manifests similar characteristics with that of the fact under inquiry.
D. A fact which afforded an opportunity for the occurrence of that fact under inquiry.
E. A fact which shows the motive behind the occurrence of that fact under inquiry.

2. Evidence that an accused person is of bad reputation is:
   A. necessarily relevant even though it is inadmissible to prove the offence with which that person is charged
   B. relevant when the bad character of that accused is a fact in issue
   C. sometimes irrelevant and becomes inadmissible to prove the offence with which that person is charged in such exceptional circumstances
   D. a dependable proof to establish the commission of the offence for which the person is charged
   E. relevant and always admissible to prove the offence with which that person is charged.

3. Which one of the following **is true** under the present criminal justice system of Ethiopia?
   A. Silence of an accused may sometimes be considered as amounting to admitting of the commission of the criminal act in the charge.
   B. An antecedent of an accused may not be disclosed before judges determine the kind and extent of punishment that an accused person has to serve.
   C. An accused may be cross-examined on his statement once s/he gave a statement during her/his defense evidence.
   D. A court may not put any question to an accused who gave a statement on her/his behalf during her/his defense evidence.
   E. An accused may be required to disclose his/her ground of defense and the nature and type of evidence s/he intends to introduce.
4. Which one of the following **may not** be considered as a crucial and legally acceptable factor in the assessment of the credibility of a witness?
   A. Gender of the witness.
   B. Age of the witness.
   C. Personal interest of the witness in the outcome of the case.
   D. Consistency or otherwise of the witness's testimony.
   E. Temperament of the witness.

5. Normally shift (reversal) of burden of proof relates to:
   A. Judicial notice
   B. Evidential burden of proof
   C. Presumption of innocence
   D. Legal burden of proof
   E. Irrebutable presumption of law

6. Under the present civil and criminal justice system of Ethiopia, judges:
   A. can cross-examine witnesses of parties with a view to facilitate the search of truth.
   B. cannot call any witness who is not listed as a witness of either the plaintiff or the defendant.
   C. are passive actors both at the pre-trial and during trial stages.

D. can put any question to the witnesses of parties at any stage of examination of such witnesses when they find it necessary for the just decision of cases at their hand.
E. cannot call any witness before the witnesses of the plaintiff and the defendant are heard.

7. Evidence or any other means of proof is often required to prove or disprove:
A. judicial notice
B. facts in issue or relevant facts
C. presumption of law
D. presumption of innocence
E. formal admission.

8. Which one of the following statements **is true** regarding hearsay evidence?
A. Dying declaration is admissible in every criminal case.
B. Any hearsay evidence is admissible in every civil case.
C. Some hearsay evidence could be admissible in civil as well as criminal cases in common law systems.
D. Hearsay evidence is necessarily admissible in civil as well as criminal cases in civil law systems.
E. Hearsay evidence relates only to oral evidence.

9. Which one of the following could be considered at trial as a form of real evidence?
A. Exhibits.
B. Laboratory test.
C. Confession or informal admission.
D. DNA test.
E. Inscription found on a tombstone.

10. In Ethiopia, a foreign judgment may be executed where some conditions are fulfilled. Identify which one of the following **is not** a condition.
A. The judgment is rendered by duly established court.
B. The judgement debtor was given the chance to defend him/herself.
C. The judgment is final.
D. The judgment is enforceable.
E. The judgment is contrary to public morals.

11. In tort laws of European countries, the rule that applies to issues that arise in relation to immovable property is_____.
A. *lex foci*
B. *lex usus*
C. the law of the resident of the owner
D. *lex situs*
E. the nature of rules.

12. In an adversarial system of criminal procedure, the responsibility for gathering and presenting evidence rests with:
A. the jury

B. the parties
C. the trial judge
D. the investigative judge
E. the grand jury

13. One of the following **is not necessarily relevant** in determining the amount of bail:
A. The seriousness of the crime
B. The criminal record of the accused
C. The financial status of the accused
D. The financial status of the guarantors
E. The social ties of the defendant

14. Which one of the following rights is directly affected by the interrogation stage:
A. The right to silence
B. The right to bail
C. The right to disclosure
D. The right to appeal
E. The right to confrontation.

15. Identify the **correct order** in examination of witnesses:
A. Cross examination , Examination-in-chief, Re-examination
B. Cross examination, Re-examination, Examination -in-chief
C. Examination-in-chief, Re-examination, Cross examination
D. Examination-in-chief, Cross examination, Re-examination
E. Re-examination, Cross examination, Examination-in-chief

16. The Law of Criminal procedure **does not have** close connection with:
A. Constitutional Law
B. The Law of Criminal Evidence
C. The Law of Torts
D. Human Rights Law
E. Criminal Law.

17. A procedural device that allows an indigent plaintiff to institute a civil case in a court of law without paying a court fee is:
A. Public interest litigation
B. Pauperism
C. Legal aid
D. Class action
E. Joinder

18. The rules on venue of courts are procedural. This means:
A. A court which lacks proper venue cannot give a valid judgment
B. Objection to venue of courts is not a waivable defence
C. A court which lacks proper venue may still give a valid judgment
D. The rules are also jurisdictional

E. Interlocutory appeal is admissible.

19. The monetary value of a civil claim on the date of institution of a suit is relevant to determine:
A. Local jurisdiction of the court
B. Whether the claim falls under federal or state court jurisdiction
C. Pecuniary jurisdiction of the court and the amount of court fee due
D. Subject-matter jurisdiction of the court
E. Whether or not the decision of the court is appealable.

20. A petition for review by cassation bench of the Federal Supreme Court should be filed within_days of a final judgment.
A. 60 days
B. 30 days
C. 90 days
D. 10 days
E. 20 days

21. When a defendant fails to appear on the first hearing of a civil suit despite effective and timely service of summons:
A. he is deemed to have admitted the suit against him
B. the court shall order a new summons to be served on him
C. the court may dismiss the suit
D. the court shall proceed *ex-parte* without prejudice to the defendant's right to take appeal against the *ex-parte* decree
E. the court may proceed *ex-parte* but the defendant does not have the right to take appeal against the *ex-parte* decree

22. The distinguishing feature of a summary procedure under the Ethiopian Civil Procedure Code is that:
A. it is the only fast-track procedure recognized in Ethiopia
B. it can be employed to prosecute any civil claim so long as the pecuniary value of such claim is known
C. a defendant's right to defend is not automatic
D. it can be employed at an appellate level
E. it can be employed to have a company dissolved

23. Which **procedural irregularity** is a jurisdictional issue?
A. Misjoinder of a party
B. Misjoinder of a cause of action
C. Non-joinder of an indispensable party
D. Non-joinder of a cause of action
E. Splitting of claim.

24. Which one of the following statements is **not true** about execution of a decree under Ethiopian Civil Procedure:

A. Not all assets of the judgment-debtor are subject to attachment.
B. A court may transfer its decree to another court for execution.
C. Property of the debtor encumbered by pledge or mortgage of a third party is exempted from attachment.
D. Appeal by a judgment-debtor does not of itself entail stay of the execution of the decree.
E. A judgment-debtor may be arrested and detained.

25. A instituted a suit against B to recover damages for breach of contract. On the day fixed for first hearing, A did not appear to court because he was sick. The court then dismissed his suit, as B denied A's claim against him. What remedy is available for A?
A. Appeal against the court's order
B. Instituting a fresh suit
C. Petitioning the same court for order to set aside the dismissal
D. Petitioning the president of the court for judicial impropriety
E. Review by cassation.

SECTION II: MATCHING (10 %)

CHOOSE THE BEST MATCH FOR THE ITEMS UNDER A FROM TFIE ITEMS UNDER B

SECTION II: MATCHING (10 %)

Column A		Column B
1. Primary documentary evidence **2.** Copies made from the original **3.** Real Evidence **L-** **4.** Public privilege **5.** Confession j **6.** Legal burden of proof ft. **7.** Judicial notice \L **8.** The opinion rule jO **9.** Preliminary determinations of the weight of evidence **10.** Adversarial system Q	■9	/k. Irrebutable presumption ft. Burden of persuasion **C.** Standard of proof ft. Patient-doctor privilege fe. Public interest immunity **F.** Equivalent to plea of guilty **G.** Ordinary witnesses must testify only as to fact, not the inferences they draw from the facts **H.** Burden of going forward with evidence **-I.** Carbon copies of a document signed by relevant parties A Facts which the courts may take as proved without requiring the introduction of evidence fe. Secondary documentary evidence JU^Material objects produced for examination by tribunal **M.** Case to answer or no case to answer N. Informal admission A system led by litigating parties in which the judge does not have a major role in the selection, presentation and examination of evidence **P.** Estoppel Inquisitorial system

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SECTION V: HYPOTHETICAL CASES (30 %)

READ THE FOLLOWING CASES VERY CAREFULLY AND ANSWER THE QUESTIONS THAT FOLLOW.

5.1. HYPOTHETICAL CASE I (15%)

A brought a suit against B before a first instance court of competent jurisdiction. The case involved claims for damages for non-performance of contract. B raised a number of preliminary objections and substantive defenses on the merit of the case. The court conducted first-hearing, framed issues on the merit of the case, heard the respective evidence of both A and B without first ruling on B's objections. At the end of the trial of the case, however, the court dismissed A's suit by sustaining B's objection on period of limitation of ten years under Ethiopian contract law. The court did not decide on the merit of the case. A then appealed the decision to an appellate court of competent jurisdiction challenging the lower court's decision. Assume that you are the appellate court judge, and both A and B argued before you, and that A has convinced you that the lower court's decision on period of limitation is wrong and A's suit is .not barred by any period of limitation. You have all the records of the lower court (including all the evidence produced by both parties) on your table.

What course of action will you take as an appellate judge under the Ethiopian Civil Procedure Code?

5.2. HYPOTHETICAL CASE II (15%)

D is a judgment-debtor to C in which the court decided that D must pay C the amount of money in the statement of claim. D has just received court summons in an execution proceeding instituted by C. But, D does not have enough cash to pay the amount payable to the judgment-creditor although he owns movable as well as immovable assets.

He has heard from friends and family that the court can take certain measures against his property to force him pay the debt. D is worried if there are enough procedural guarantees that safeguard and protect his interest as a judgment-debtor during the execution process that might involve the sale of his property.

Write a brief legal opinion to D, clearly outlining at least three procedural safeguards that protect his interests if his property is going to be sold by court order.