

**NATIONAL EDUCATIONAL ASSESSMENT
AND EXAMINATIONS AGENCY (NEAEA)**

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

2018/2019 ACADEMIC YEAR

ALE

25 April 2019

Time Allowed: 3:00 hours

PART IV: MISCELLANEOUS LAW COURSES

GENERAL INSTRUCTIONS

1. THE EXAM HAS FIVE SECTIONS. ATTEMPT ALL QUESTIONS ON THE BASIS OF SPECIFIC INSTRUCTIONS INDICATED IN EACH SECTION.
2. IT IS A CLOSED BOOK EXAMINATION.
3. SUPPORT YOUR ARGUMENTS WITH PERTINENT LEGAL PROVISIONS WHENEVER APPROPRIATE.
4. PUT YOUR ANSWERS IN A SEPARATE ANSWER SHEET ATTACHED TO THE EXAM PAPER.
5. YOU MAY ASSUME FACTS WHERE NECESSARY.
6. WRITE LEGIBLY.
7. DO NOT BRING YOUR MOBILE PHONE INTO THE EXAM HALL.

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

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SECTION I: MULTIPLE-CHOICE (25 %)

CHOOSE THE BEST ANSWER FROM THE GIVEN CHOICES AND WRITE THE LETTER OF YOUR CHOICE IN THE ANSWER SHEET PROVIDED.

1. The theory of historical school of jurisprudence in contrast to that of the analytical school holds that
 - A. custom is the source of law.
 - B. custom has no place in law.
 - C. law depends upon the desire of the ruler.
 - D. law owes its existence to higher moral principles.
 - E. law owes its existence to the state.

2. A school of jurisprudence which considers judges as the true law makers is
 - A. Legal positivism.
 - B. Stoicism.
 - C. Legal realism.
 - D. Feminist legal theory.
 - E. Natural law theory

3. Which one of the following stipulation is **FALSE** about the idea of law of Stoic philosophy?
 - A. Law is the highest reason implanted in nature.
 - B. Law is the highest product of the human mind.
 - C. True law is right reason in agreement with nature.
 - D. Curtailing the true law is unholy.
 - E. Amending or repealing the true law is impossible.

4. Which one of the following does **NOT** justify the need for having regional human rights protection and monitoring systems?
 - A. Financial capacity and commitment.
 - B. Accessibility, legitimacy, effectiveness and mandate.
 - C. Extraterritoriality and universal jurisdiction.
 - D. Legal pluralism and independence.
 - E. Similarity in terms of cultural, political and economic contexts.

5. Identify the statement that is **NOT** sound.
- A. As per the teaching of the natural law theory, law is more than the mere exercise of power by the ruler over the ruled; it may simply be objective principles of morality and justice.
 - B. Legal positivists insist that we should focus on what the law *ought to* be, but not on what the law *is*.
 - C. The purpose of the philosophy of law is to explain the real laws of the expositors not the criticism of the censors.
 - D. The theory of critical legal studies sees law as a tool of injustice, and believes that liberal values underlying the law are neither coherent nor desirable.
 - E. Radical feminists focus on the equality between men and women believing in the capacity of law to achieve justice.
6. An umbrella term for people whose gender identity and/or gender expression differs from the sex they were assigned at birth is
- A. transgender.
 - B. transsexual.
 - C. lesbian, gay, bisexual and transgender.
 - D. bisexual.
 - E. sexual orientation.
7. An approach that seeks to balance the gender equation by giving women access to information, skills, services, and technology and encouraging their participation in decision making is
- A. protectionist approach.
 - B. transformative approach.
 - C. participatory approach.
 - D. women's empowerment approach.
 - E. equality approach.

8. Which of the following rights is least related to rights of safe motherhood?
- A. Reproductive self-determination.
 - B. The right to life.
 - C. Right to equality and non-discrimination.
 - D. The right to work.
 - E. The right to health.
9. Each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth is
- A. gender expression.
 - B. gender identity.
 - C. sexual orientation.
 - D. trans-sexuality.
 - E. gender mainstreaming.
10. Ethiopian criminal law necessarily punishes one of the following EXCEPT
- A. forced marriage.
 - B. underage marriage.
 - C. bigamy.
 - D. female genital mutilation.
 - E. adultery.
11. One of the following belongs to employment rights of women EXCEPT
- A. maternity leave.
 - B. equal pay for equal work.
 - C. right to health.
 - D. right to promotion to management position.
 - E. freedom from sexual harassment.

12. Abortion is criminalized under present Ethiopian criminal law in one of the following cases
- A. Pregnancy which is a result of rape.
 - B. Pregnancy that is a result of incest.
 - C. Pregnancy which endangers the life of the mother.
 - D. Pregnancy that jeopardizes the life of the child.
 - E. Pregnancy of a divorced woman.
13. The incorporation of gender considerations into the analysis, formulation, and monitoring of strategies and activities is
- A. gender equality.
 - B. gender justice.
 - C. gender construction.
 - D. gender bias.
 - E. gender mainstreaming.
14. Which of the following is true?
- A. Dominance theory inquires whether a rule or practice serves to subordinate women.
 - B. Child marriage affects both sexes equally.
 - C. Marriage, not betrothal, of girls and boys is prohibited under international laws.
 - D. Some international human rights instruments do not consider psychological abuse to be one form of violence against women.
 - E. Intimate partner violence happens in both private and public spheres.
15. An aspect of the employment relationship that is regulated under the Federal Civil Service Law but **NOT** under the labor law is
- A. hours of work.
 - B. annual leave.
 - C. occupational safety.
 - D. collective labor relation.
 - E. employment security.

16. Under which of the following circumstances of termination of employment relationship is a notice period necessary?
- A. Completion of the work for which the worker is employed.
 - B. Dismissal of a worker due to his/her misconduct at the place of work.
 - C. Terminations of employment because a worker is found unfit for the job due to his/her health.
 - D. Resignation of a worker as a result of his/her employer's misdeed to him/her.
 - E. Termination of employment due to retirement of the worker.
17. Suppose that Aster, who used to work in water bottling company, is forced to resign from her job due to the incessant sexual harassment she faced in her place of work and which her supervisors were not able to stop. Which of the following entitlements is **NOT** due to Aster under the circumstance?
- A. Payment in lieu of unutilized annual leave.
 - B. Compensation.
 - C. Certificate of service.
 - D. Severance payment.
 - E. Payment in lieu of notice period.
18. Which one of the following facts absolves the employer from liability for injury sustained by a worker at the workplace?
- A. Absence of fault of the employer.
 - B. That the employee is in a probation period.
 - C. Fault of the employee that caused the injurious accident.
 - D. Injury is a result of fault of fellow worker.
 - E. The fact that the employer has put in place all the necessary precautionary measures and safety tools.

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19. As per the Ethiopian Labor Law, which of the following issues relating to the employment relationship can NOT be subject to negotiation at the time of conclusion of contract of employment?

- A. Wage and allowances.
- B. Maximum working hours.
- C. Liability for employment injury.
- D. Supply of work tools.
- E. Annual leave.

*equalizing opportunity internet of labor
also - equal terms is not to be
negotiated at a contract*
*I have explained the necessity of state act
to secure h.v of women & men
needs to ensure equality
of result*

*It adopted collective agreement
the worker is free*

20. Which one of the following is a correct course of action in legal profession according to the application of rule utilitarianism?

- A. An act of advocate during his/her professional service is right only if it produces the best interest of the client.
- B. Telling lie before a court of law may be right as long as it is done to protect the best interests his client.
- C. Any action of the advocate that fails to protect the best interest of his/her client is wrong.
- D. An action of the advocate is right only if such action is done in conformity with the advocate's code of conduct regulation.
- E. The rightfulness of any act of the advocate during his/her legal service should be judged based on the greatest balance of happiness over unhappiness it produces to his/her client.

21. Which one of the following is correct about advocate-client relationships?

- A. The existence of written contract is a mandatory requirement for establishing advocate-client relationship.
- B. An agreement restricting the civil liability of the advocate due to the client's failure to provide relevant evidence to the advocate could not be valid in case of controversy.
- C. Advocate-client relationship may be established when a client tells the facts of the case to an advocate.
- D. The obligation of professional confidentiality of an advocate may cease to exist when an advocate reveals personal information to defend himself/herself or claim his/her interests in a controversy with the client.
- E. An advocate may disclose confidential information of his/her client unless there exists a clear and written advocacy contract.

22. One of the following is a judicial misconduct of a judge outside the judicial court.
- A. A judge may make an *ex parte* communication with one of the parties if he/she deems it necessary.
 - B. A judge may discuss about the merits of the pending case with other judges sitting in the same bench.
 - C. A judge may not communicate the merits of the pending case with other judges in the same court.
 - D. A judge may receive gifts from friends during his birth day celebrations.
 - E. A judge may comment on social media to express his/her personal opinions without manifesting bias towards certain ethnic groups.
23. One of the following ethical duties is **NOT** the common ethical and legal duty of advocates, judges and public prosecutors in the conduct of their professional legal service?
- A. The duty not to accept gift.
 - B. The duty to uphold the honor of the legal profession.
 - C. The duty not to borrow money from one of the parties in litigation.
 - D. The duty to assist the proper administration of justice.
 - E. The duty of civility towards each other.
24. Which one of the following is correct about the public prosecutors' legal duty of obedience?
- A. That a prosecutor all times should exhibit good behavior and conduct within and outside the office in order to win the respect and confidence of the public.
 - B. That a prosecutor shall devote his/her whole energy and ability to providing public service in the interest and for the benefit of the government.
 - C. That a prosecutor shall perform his/her assigned duties by obeying the orders of his/her superior unless it is clearly contrary to the law.
 - D. That a prosecutor shall perform his/her assigned duties to benefit the government by obeying the orders of his/her superior even if it is contrary to the law.
 - E. That a prosecutor shall perform his/her assigned duties by obeying the orders of his/her superior that are contrary to the law since the superior is responsible for the legality of his/her orders.

25. Which one of the following is proper about ethical duties of public prosecutors under the relevant federal public prosecutors law?

- A. That a public prosecutor may disclose to any person any information gained in the case of his/her official duties if ordered to do so by his/her superior.
- B. That public prosecutor may disclose any information gained in the case of his/her official duties after personally evaluating the importance of such information.
- C. That a public prosecutor may supply relevant information about a crime committed which, in accordance with practice, has been declared a classified matter in debriefing journalists.
- D. That a public prosecutor is at liberty to disclose information to the public acquired in the discharge of his/her duties or in any other way after resignation from his/her public office.
- E. That a public prosecutor may borrow money from a member of the public with whom the prosecutor has a contact in discharge of his/her official duties unless such borrowing is persistent.

concerning problematic
practice and cases
of dissemination of the public
information - into the legal
matter - into the issues

an employee is do the work based on
the the instructions of employer but
contractor have a right to do by his
own or provide about the work
the interests of a boss

SECTION II: MATCHING (10 %)

SELECT A TERM/PHRASE FROM COLUMN 'B' THAT BEST MATCHES WITH A TERM/PHRASE UNDER COLUMN 'A' AND WRITE THE LETTER OF YOUR CHOICE IN THE ANSWER SHEET.

- | <u>A</u> | <u>B</u> |
|------------------------------|---|
| 1. Hans Kelsen | A Libertarian theory |
| 2. Lon Fuller | B Out right exclusion from coverage of the Labor Proclamation |
| F 3. Young workers | C Propriety during court proceedings |
| 4. Robert Nozick | D The inner morality of law |
| 5. Managerial employee | E Collective labour dispute |
| E 6. Labor Relations Board | F Seven hours maximum working hours per day |
| I 7. Sexual harassment | G <i>Grundnorm</i> |
| 8. Decorum | H Process whereby judges are required to undergo competence and integrity tests |
| H 9. Subjective impartiality | I Unwelcome sexual advance |
| J 10. Judicial vetting | J Perceived impartiality |

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SECTION III: SHORT ANSWER QUESTIONS (15 %)

PREPARE A SHORT NOTE ON EACH OF THE THREE QUESTIONS PROVIDED BELOW.

- 3.1 List down three criteria that distinguish an employee from an independent contractor for the purpose of application of the present Labour Proclamation of Ethiopia.
- 3.2 Define economic abuse in the context of gender based violence.
- 3.3 Indicate two reasons why prosecutors' code of conduct should be different from advocates' code of conduct.

SECTION IV: ESSAY-TYPE QUESTIONS (25 %)

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

- 4.1 'Substantive equality is costly and cannot be implemented by a developing state.' Argue for or against the validity of this assertion. (12.5 %)
- 4.2 Critically explain the reason why it is said that the motive of the legal profession should not be profit making. (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%)

Constable X was involved in a serious car accident while on the public bus with three of chained prisoners on their way to Shewarobit Federal Prison. The bus was damaged by the accident in the Mount Debre Sina tunnel, killing every passenger but Constable X and the three prisoners chained together. However, as a result of the unfortunate accident the prisoners were severely injured. And probably all would have died of bleeding before they were eventually rescued. It is such a disturbing scenario that the rescuers were unable to rescue the prisoners for the reason that they were chained together and it was totally impossible to save one without putting the other into life threatening danger. If separated, two would live but the other would die immediately. The prisoners refused permission to operate, believing that it would be wrong to hasten one's death. As devout believers, they said that "let God's will prevail" and "If it's God's will that we all should not survive then so be it." After Constable X's intervention, the operation was performed over the prisoners' objection and as expected, two lived and the other died. As a result of the death of one of the prisoners, upon returning to Addis Ababa, Constable X was accused and brought to trial.

Assuming that the accused appeared before a court presided by a panel of utilitarian judges including Jeremy Bentham, what would be the decision of the court? Why? (12.5 %)

5.2 HYPOTHETICAL CASE II (12.5%)

Abyssinia Hotel, a 5-star hotel, providing hospitality service in the City of Harar, has been doing well and yielding high returns for the shareholders until one unfortunate day when the hotel building was engulfed by a fire originating from a contact between nearby passing high voltage electric lines resulting in injury to employees and major damage to the hotel building.

It was estimated that it will take three months to finalize the restoration work of the Hotel and resume business. Following this, the management of the Hotel decided to put all of its employees on an unpaid leave for the duration of the restoration work on the Hotel. The employees, however, demanded that they be paid for the duration they are away from work pending the restoration work on the Hotel.

5.2.1 If the dispute regarding the unpaid leave were referred to you, what would be your ruling? Why? (8 %)

5.2.2 Suppose that those workers who sustained injury as a result of the fire that damaged the Hotel brought a claim for compensation against the Hotel. Could they be successful? Why?(4.5 %)

Handwritten notes for 5.2.1:
1 A 2 B 3 B 4 C 5 8 D 11 D 12 E 13 E 14 E 15 E
22 C
20 E
28 D

Handwritten notes for 5.2.2:
1 G
2 D
3 F
4 A
5 B
6 E
7 I
8 C
9 J
10 H