

**ROYAL CIVIL SERVICE COMMISSION
BHUTAN CIVIL SERVICE EXAMINATION (BCSE) 2012
EXAMINATION CATEGORY: TECHNICAL**

PAPER II: GENERAL SUBJECT KNOWLEDGE for LAW GRADUATES

Date	: 13 October 2012
Total Marks	: 100
Examination Time	: 90 minutes (1.5 hours)
Reading Time	: 15 minutes (prior to examination time)

READ THE FOLLOWING INSTRUCTIONS CAREFULLY:

- You have 15 minutes (prior to writing time) to read the instructions, clarify doubts, make sure that you have all the pages, and check for any printing errors. DO NOT write during this time.
- This paper consists of **TWO Parts – Part I and Part II. All questions are compulsory.**
 - ✓ **Part I** consists of **70 Multiple Choice Questions** of 1 (one) mark each; and
 - ✓ **Part II** consists of **10 Short Answer Questions** of 3 (three) marks each.
- While answering the multiple choice questions, write only the letter of the correct answer chosen against the question number, clearly and legibly. E.g. 71(c). Any double writing or smudgy answers shall not be evaluated.
- All answers must be written in the answer booklet provided to you. You will not be given any marks for answers written other than in the answer booklet. Ask for additional answer booklets if required.
- Ensure that you write your roll number in the space provided in the answer booklet. In case you take additional answer booklet, make sure that you write your roll number in the additional answer booklet as well.
- This paper has 14 (fourteen) printed pages including this cover page.

PART-I: MULTIPLE CHOICE QUESTIONS

Choose the correct answer and write down the letter of the correct answer chosen in the Answer Sheet against the question number. E.g. 71 (c). Each question carries ONE mark.

1. Who defined law as “the command of the sovereign”?
 - (a) Jeremy Bentham
 - (b) John Austin
 - (c) Aristotle
 - (d) Thomas Hobbes

2. What does the Natural Law theory postulate?
 - (a) Law consists of rules that are in accordance with reason
 - (b) Moral principles arise through popular consensus
 - (c) The laws of nature must mirror moral principles
 - (d) Moral principles must mirror the laws of nature

3. Which of the following is NOT a primary source of law?
 - (a) Customary law
 - (b) Judicial precedents
 - (c) Legislation
 - (d) Justice, equity and good conscience

4. Who created Social Contract Theory of political legitimacy:
 - (a) Thomas Hobbes
 - (b) John Locke
 - (c) Jean Jacques Rousseau
 - (d) All of the above

5. *Obiter dictum* is a judicial doctrine which means:
 - (a) An incidental or collateral opinion uttered by a judge while delivering a judgment and which has no binding effect
 - (b) A judgment
 - (c) A reasoning behind the decision
 - (d) A precedent

6. The tendency of courts to rely on precedent when deciding cases of similar facts is:
 - (a) Ratio decidendi
 - (b) Stare decisis
 - (c) Concurring opinion
 - (d) Advisory opinion

7. The Court whose decision cannot be used as precedent is:
- (a) The Supreme Court
 - (b) The High Court
 - (c) Gasa Dzongkhag Court
 - (d) Gelephu Dungkhag Court
8. Form of delegated legislation:
- (a) Acts
 - (b) Rules and Regulations
 - (c) Bills
 - (d) Treaties
9. Doctrine of separation of powers was first propounded by in his *L'Esprit des Lois* in 1748:
- (a) Montesquieu
 - (b) James Madison
 - (c) Lord Denning
 - (d) John Austin
10. As per the principles of separation of powers, status of judges must be:
- (a) Independent from the Parliament but remain part of the government
 - (b) Independent from the Parliament and the government
 - (c) Independent from the government and remain part of the Parliament
 - (d) Subservient to the government and the Parliament
11. Which of the following represents an element of principle of natural justice?
- (a) No man shall be judge in his own cause
 - (b) *Audi alteram partem*
 - (c) The parties to a proceeding must have due notice of when the Court/Tribunal will proceed
 - (d) All of the above
12. Courts often use internal and external aids to construction of statutes to resolve ambiguity, avoid absurdity, or to confirm ordinary meaning. Which of the following is NOT an external aid to construction of statutes?
- (a) Dictionaries
 - (b) Text books
 - (c) Schedules
 - (d) Foreign decisions

13. The interpretation rule which states that where there is a list of two or more specific words, followed by more general words, the otherwise wide meaning of the general words is restricted to the same class (if any) as the specific words is:
- (a) *Noscitur a sociis*
 - (b) *Ejusdem generis*
 - (c) *Reddendo singula singulis*
 - (d) *Generalia specialibus non derogant*
14. Which of the following statements is least accurate about the principles of *res judicata*?
- (a) The former suit must have been between the same parties
 - (b) The parties must have been litigating under the same title in the former suit
 - (c) The matter directly and substantially in issue in the subsequent suit or issue must be the same matter which was directly and substantially in issue either actually or constructively in the former suit
 - (d) The matter directly and substantially in issue in the subsequent suit must have been decided in favour of the plaintiff by the court in the former suit
15. Which of the following countries has an unwritten Constitution?
- (a) United States of America
 - (b) Japan
 - (c) United Kingdom
 - (d) Australia
16. According to the Constitution, a Bill passed by the Parliament shall commence upon:
- (a) Assent of the Druk Gyalpo
 - (b) Assent of the Prime Minister
 - (c) Signing by the Speaker of the National Assembly
 - (d) The conclusion of the National Assembly session
17. According to the Constitution, Bhutan is a Sovereign Kingdom and the Sovereign power belongs to the:
- (a) Druk Gyalpo
 - (b) Parliament
 - (c) People of Bhutan
 - (d) Government
18. The Parliament of Bhutan shall consist of:
- (a) The National Assembly and the National Council
 - (b) The Druk Gyalpo, the National Assembly and the National Council
 - (c) The National Assembly, the National Council and the Local Government
 - (d) All of the above

19. According to the Constitution, a political party shall be dissolved on grounds prescribed under the Constitution only by declaration of:
- (a) The Druk Gyalpo
 - (b) The Supreme Court
 - (c) The High Court
 - (d) The Prime Minister
20. Which of the following is a court of record in Bhutan?
- (a) The Supreme Court
 - (b) The High Court
 - (c) The Dzongkhag Court
 - (d) Public Notary Office
21. Who appoints the Attorney General of Bhutan?
- (a) The Chief Justice of Bhutan
 - (b) The Druk Gyalpo on the recommendation of the Prime Minister
 - (c) The Druk Gyalpo on the recommendation of the Chief Justice
 - (d) The Prime Minister on the recommendation of the Royal Civil Service Commission
22. Enforcement of some of the rights conferred under Article 7 of the Constitution may be suspended:
- (a) Where a proclamation of emergency is in operation
 - (b) Prior to a proclamation of emergency
 - (c) After the laps of a proclamation of emergency
 - (d) None of the above
23. Where a question of law or fact is of such a nature and of such public importance that it is expedient to obtain the opinion of the Supreme Court, the Druk Gyalpo may refer the question to the Supreme Court for its considerations, which shall hear the reference and submit its opinion to Him. This jurisdiction of the Supreme Court is:
- (a) Appellate jurisdiction
 - (b) Advisory jurisdiction
 - (c) Original jurisdiction
 - (d) Special jurisdiction
24. Who has the appellate jurisdiction over a case between two or more Dzongkhags?
- (a) The Supreme Court
 - (b) The High Court
 - (c) The Dzongkhag Court
 - (d) Administrative tribunal

25. Which of the following is least accurate about the power of the Court to adjudicate?
- (a) Preside over all proceedings within its jurisdiction
 - (b) Not entertain any petition outside the Court
 - (c) Enforce the executive order of the Chief Justice
 - (d) Enforce orders, decisions and sentences in accordance with the laws
26. As per the Penal Code of Bhutan, except for recidivist and accustomed or habitual offender, the Court may make an order to pay fine in lieu of imprisonment, if the offence is not a felony. The Dzongkha legal terminology for such payment is:
- (a) Bah
 - (b) Neyja
 - (c) Neythrim
 - (d) Thrimthue
27. Which of the following may be tendered as affirmative defense to liability before the Court?
- (a) Entrapment
 - (b) Alibi
 - (c) Duress, compulsion, or coercion
 - (d) All of the above
28. Which of the following is NOT accurate about the offence of pedophilia?
- (a) Taking photographs or videotapes of a child in a sexual act
 - (b) Subjecting a child to an economic exploitation or any job that is likely to be hazardous
 - (c) Soliciting directly or indirectly the services of a child for sex
 - (d) Selling, manufacturing, distributing, or otherwise dealing in material that contains any depiction of a child engaged in sexual contact.
29. Mr. A who is a civil servant was granted a plot of land by His Majesty through Royal Kasho. Mr. B who is a co-worker with Mr. A managed to get hold of a copy of the Kasho. Mr. B diligently erases the name of Mr. A from the Kasho and inserts his own name and goes to the National Land Commission for plot registration. Mr. B has committed an offence of:
- (a) Forgery
 - (b) Tampering with public records
 - (c) Counterfeiting
 - (d) Official misconduct
30. Which of the following shall NOT amount to contempt of court?
- (a) Failure to comply with a Court order without any reasonable cause
 - (b) Refusal to abide or obey a direction rendered by the Court
 - (c) Passing an antagonistic comment or directing a threat at a judicial official or person present in the courtroom
 - (d) Not bowing down before the judge when entering the courtroom

31. Launching a malicious prosecution with perverse intent to embarrass or harass another person without having a reasonable basis for the prosecution or knowing that the prosecution does not involve a concrete controversy or case is:
- (a) Perjury
 - (b) Cantankerous litigation
 - (c) False litigation
 - (d) Blackmailing
32. Karma is a wealthy woman in Thimphu. She lends Nu. 100,000.00 to her friend Zangmo who is a habitual gambler at an interest rate of 20% per month. This interest rate is beyond the permissible limit prescribed under the law. Karma will be liable for:
- (a) Usury
 - (b) Money laundering
 - (c) Antitrust
 - (d) Black marketing
33. A person agreeing with another person or persons that they or one or more of them will engage in a conduct that constitutes crime:
- (a) Solicitation
 - (b) Aiding and abetting a crime
 - (c) Criminal attempt
 - (d) Criminal conspiracy
34. Dorji, who is a corporate employee on returning home, finds his best friend sitting with his wife in a compromising position. In the heat of anger, Dorji hits his friend with a blunt object on the head several times. The friend succumbs to the injury. Dorji will be guilty of:
- (a) Murder
 - (b) Voluntary manslaughter
 - (c) Involuntary manslaughter
 - (d) Negligent homicide
35. Which of the following statements is NOT true about the offense of rape?
- (a) Sexual intercourse with another person without the person's consent
 - (b) Consensual sex with a minor
 - (c) Consensual sex with another man's spouse
 - (d) Sexual intercourse with one's own spouse without consent
36. Engaging in sexual intercourse or other sexual contact with an animal:
- (a) Bestiality
 - (b) Incest
 - (c) Unnatural sex
 - (d) None of the above

37. Defaming another person through the means of writing, drawing, or photographing:
- (a) Slander
 - (b) Blackmail
 - (c) False advertisement
 - (d) Libel
38. Waging war against the country:
- (a) Treason
 - (b) Terrorism
 - (c) Sedition
 - (d) Espionage
39. The constitutional right given to a person who is arrested to be told before being questioned that he/she has a right to remain silent, that any statements made by him/her may be used against him/her, that he/she has a right to have a lawyer present and that a lawyer will be provided without cost if he/she cannot afford one:
- (a) Judicial warning
 - (b) Administrative warning
 - (c) Miranda warning
 - (d) Custodial warning
40. Under the criminal justice system, which of the following statements about First Information Report (FIR) is most accurate?
- (a) FIR is a substantive piece of evidence
 - (b) FIR is the earliest information regarding a cognizable offence that reaches a police station
 - (c) The police must conduct an investigation prior to registering FIR
 - (d) FIR must contain minute details of the offence
41. “An eye for an eye and a tooth for a tooth” relates to which theory of punishment?
- (a) Reformative
 - (b) Retributive
 - (c) Deterrence
 - (d) Protection
42. A judicial writ commanding appearance of a person (generally a witness to give testimony) under a penalty:
- (a) Summon
 - (b) Habeas corpus
 - (c) Subpoena
 - (d) All of the above

43. Judgment rendered in the absence of one of the parties to the case:
- (a) Deferred judgment
 - (b) Reserved judgment
 - (c) Faulty judgment
 - (d) Default judgment
44. An order of the Court issued during the course of a trial to prevent an injury that may be suffered by the petitioner owing to any action or inaction of a person or authority:
- (a) Interlocutory order
 - (b) Restraining order
 - (c) Injunction
 - (d) Final order
45. Which of the following is not a requirement of a judgment?
- (a) In writing
 - (b) Reasoned
 - (c) Signed by the judge
 - (d) Signed by the parties
46. Under special circumstances, the Court may in its discretion exclude the press and the public from all or any part of the trial or other proceedings. Such hearing is called:
- (a) In camera hearing
 - (b) Open trial
 - (c) Special hearing
 - (d) Opaque hearing
47. Which of the following statements about standard of proof is least accurate?
- (a) It is enough for the presumption of innocence to remain not proved to secure a conviction in a criminal trial
 - (b) In civil cases, the standard of proof is generally a preponderance of probabilities or balance of probabilities
 - (c) In criminal case, the standard of proof is that of beyond reasonable doubt
 - (d) The more serious the offence, the stricter the degree of proof that is required.
48. 'Common Law' is a law made by:
- (a) The legislature
 - (b) Judges through determination of cases
 - (c) Lawyers
 - (d) The executive
49. Which of the following is NOT a Common Law State?
- (a) India
 - (b) United State of America

- (c) Germany
(d) Australia
50. The adversarial legal system is more related to which of the following jurisdiction?
- (a) Civil law jurisdiction
(b) Common law jurisdiction
(c) Islamic law jurisdiction
(d) None of the above
51. In an inquisitorial system of court proceeding, the judge plays the:
- (a) Central role in finding the truth and all the evidence that either proves the innocence or guilt of the accused before the court
(b) Role of a mere spectator
(c) Role of an umpire
(d) Role of a witness
52. A Latin term *caveat emptor* is a Common law doctrine which means:
- (a) Let the buyer beware
(b) Let the seller beware
(c) Let the doer beware
(d) Let the traveler beware
53. A legal doctrine that prevents a party by his/her own act from claiming a right to the detriment of other party who was entitled to rely on such conduct and has acted accordingly:
- (a) Strict liability
(b) Doctrine of estoppel
(c) Doctrine of eclipse
(d) Doctrine of cypres
54. In *Bhim Singh v. U.O.I. & ors.* [2010] INSC 358 (6 May 2010) the Constitution Bench of the Supreme Court of India held that the Members of Parliament Local Area Development (MPLAD) Scheme which is similar to our Constituency Development Grant (CDG) as:
- (a) Valid and intra vires of the Constitution of India
(b) Ultra vires of the Constitution of India
(c) Illegal
(d) Unconstitutional
55. An agreement enforceable by law:
- (a) Affidavit
(b) Contract
(c) Promise
(d) Will

56. Which of the following persons are not competent to enter into a contract?
- (a) Minors
 - (b) Alcoholics
 - (c) Criminals
 - (d) Illiterate people
57. A contract of insurance is:
- (a) Contract of bailment
 - (b) Contract of surety
 - (c) Contract of guarantee
 - (d) Contract of indemnity
58. Minjur and Tshultrim were negotiating the sale of Minjur's plot of land in Thimphu to Tshultrim over the telephone. They finalized a price for the land. Minjur asked Tshultrim to send a letter to him confirming his desire to buy the land for the price finalized. Next day, Tshultrim confirmed his intention to buy the land over the telephone to Minjur. Is Minjur bound by Tshultrim's acceptance over the telephone?
- (a) Minjur is not bound by Tshultrim's acceptance, since a sale of immovable property should not be discussed or finalized over the telephone
 - (b) Minjur is not bound by Tshultrim's acceptance, since it was not made in the mode prescribed by Minjur, i.e. by sending a letter
 - (c) Minjur is bound by Tshultrim's acceptance, since it was communicated to Minjur over the telephone which is faster and reliable means of communication than a letter
 - (d) Minjur is bound by Tshultrim's acceptance, since it was made in a reasonable time
59. Delivery of goods by one person to another for some purpose, upon a contract that they shall, when the purpose is accomplished, be returned or otherwise disposed of according to the directions of the person delivering them is:
- (a) Bailment
 - (b) Pledge
 - (c) Guarantee
 - (d) Indemnity
60. A clause in the contract agreement which provides that one or both parties can cancel a contract or be excused from either part or complete performance of the contract on occurrence of a certain specified event or events beyond the parties' control is:
- (a) Force Majeure clause
 - (b) Frustration clause
 - (c) Termination clause
 - (d) None of the above

61. Which of the following is NOT a duty of a lawyer to other lawyers?
- (a) Duty not to take away another's client
 - (b) Duty to be candid, fair and courteous
 - (c) Duty not to divulge confidential communication
 - (d) Duty not to deal directly with the clients of other lawyer
62. Relationship between lawyer and his client is that of:
- (a) Fiduciary
 - (b) Statutory
 - (c) Customary
 - (d) Ordinary
63. Conduct of lawyers in Bhutan is guided by:
- (a) Jabmi Act
 - (b) Office of the Attorney General Act
 - (c) Anti Corruption Act
 - (d) All of the above
64. An order of the Court calling upon the person who has detained another, to produce the latter before the Court in order to test the legality of such detention is:
- (a) Writ of mandamus
 - (b) Writ of habeas corpus
 - (c) Writ of prohibition
 - (d) Writ of quo warranto
65. The famous English case *Donoghue v. Stevenson* (1932) established as a tort for the first time:
- (a) Negligence
 - (b) Assault
 - (c) Battery
 - (d) Harassment
66. In order to bring a successful claim in negligence the claimant must prove:
- (a) Duty of care
 - (b) Breach of duty
 - (c) Suffered damage
 - (d) All of the above
67. According to the principles of the Public International Law, which of the following statements is NOT true?
- (a) Bhutanese laws apply to Indian passengers on a plane registered in Bhutan
 - (b) Bhutanese laws apply to Indian passengers, whether or not they are on a plane
 - (c) Indian laws apply to Bhutanese passengers on a plane registered in India
 - (d) Bhutanese laws apply to Bhutanese passengers on a plane registered in Bhutan

68. A branch of jurisprudence arising from the diverse laws of various nations that applies when private citizens of different countries interact or transact business with one another is:
- (a) Public international law
 - (b) Private international law
 - (c) Public law
 - (d) Private law
69. Any word, name, symbol, or device used by a business to identify goods and distinguish them from those manufactured or sold by others:
- (a) Trademark
 - (b) Copyright
 - (c) Trade secret
 - (d) Patent
70. The evidence of an indirect nature:
- (a) Imperfect evidence
 - (b) Circumstantial evidence
 - (c) Faulty evidence
 - (d) Concrete evidence

PART II : SHORT ANSWER QUESTIONS

Answer all questions. Each question carries THREE marks.

1. According to Justice Iyer, “To be literal in meaning is to see the skin and miss the soul...” Discuss.
2. Explain the rule of harmonious construction.
3. List down at least six internal aids to construction of statutes.
4. Distinguish between assault and battery.
5. Mention at least two distinct features of both the Common Law and the Civil Law system. Which in your opinion is the Bhutanese legal system more inclined to and why?
6. According to Montesquieu, nation’s liberty depends on the separation of three types of power, namely; legislative, executive and judicial, each having their own institution. This is the basic principles of the political system of modern democracies. Do you believe that a complete separation of power is possible in our form of government? Why?
7. Write at least three duties of a lawyer to the Court and briefly explain each of them.
8. Discuss the duties of a lawyer towards his/her clients.
9. Can an advocate defend an accused person who has made to him a confession of his guilt of which the advocate is convinced?
10. Explain the birth of the Constitution of the Kingdom of Bhutan.