

ROYAL CIVIL SERVICE COMMISSION

**BHUTAN CIVIL SERVICE EXAMINATION (BCSE) 2011
EXAMINATION CATEGORY: TECHNICAL**

PAPER II: GENERAL SUBJECT KNOWLEDGE FOR LAW GRADUATES

Date : **October 29, 2011**
Total Marks : **100**
Reading Time : **15 Minutes**
Examination Time : **90 Minutes**

INSTRUCTIONS

1. This questionnaire has thirteen (13) pages. You have fifteen (15) minutes to read the instructions, clarify doubts, make sure that you have all thirteen (13) pages, and check to see if there is any printing error. DO NOT write during this time.
 2. This questionnaire is in SECTIONS A and B. Section A with seventy (70) multiple choice questions of one (1) mark each (numbered 1-70), and section B with ten (10) short questions of three (3) marks each (numbered 1-10). Answer ALL questions from sections A and B.
 3. All answers MUST be written in the answer booklets. You will NOT be given any credit for an answer written other than in the answer booklets. DO NOT write anything on the question paper.
 4. Write legibly. Evaluator(s) cannot give credit for answer that they cannot read.
 5. Make sure your roll number appears in the space provided in your answer booklets.
 6. Use either BLUE or BLACK ink pen/ball-point pen.
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SECTION A

Answer ALL questions. Clearly indicate the number of question that you are answering. Choose your answers from (a) to (d) and write the correct answer.

1. According to **Friedrich Karl Von Savigny**, the law is:
 - (a) A moral prescription
 - (b) A command of the sovereign
 - (c) **A spirit of the people**

- (d) A codified practice
2. Under the Bhutanese Constitution, the National Assembly should meet?
 - (a) At least once in a year
 - (b) At least twice in a year**
 - (c) At least thrice in a year
 - (d) At least four times in a year
 3. Which legal tradition argues that internal societal sources are the basis of international law?
 - (a) Theological
 - (b) Naturalist
 - (c) Universalist
 - (d) Positivist**
 4. Which ONE is regarded as modern source of international law?
 - (a) International customs, treaties and decisions
 - (b) General principles of law recognized by civilized States
 - (c) Judicial decisions and juristic work of quality
 - (d) Decisions of organs of international institutions**
 5. The Latin phrase *amicus curiae* means:
 - (a) Friend of the court**
 - (b) Friend of the prosecution
 - (c) Friend of the accused
 - (d) Friend of the jury
 6. Which is NOT a source of international laws?
 - (a) Treaties
 - (b) International customs and norms
 - (c) International Conventions
 - (d) Constitutions of sovereign States**
 7. According to the Supreme Court of Bhutan, the law (Statute) should be interpreted:
 - (a) As it ought to be (*de lege ferenda*)
 - (b) As it exist (*de lege lata*)**
 - (c) As it is interpreted by the higher courts of other countries
 - (d) As per customs of our county
 8. When a new case is similar to previously decided case, judges follow the earlier:
 - (a) Discovery rule
 - (b) Affidavit

- (c) Tort
 - (d) **Precedent**
9. Which one of the following is NOT the purpose of a liquidator appointed to a company?
- (a) Wind-up the company
 - (b) **Attempt to save the company as a going concern where possible**
 - (c) Dispose of the company's assets in the best interests of the creditors
 - (d) Formally remove the company's registration at Companies House
10. International Conventions are enforceable in Bhutan upon:
- (a) Accession by the Government
 - (b) Royal assent following accession by the Government and ratification by Parliament
 - (c) **Accession by the Government and ratification by Parliament**
 - (d) Conversion of International Conventions into domestic legislations
11. A judgment by one or more judges who disagree with the majority decision is:
- (a) Declaratory judgment
 - (b) **Dissenting judgment**
 - (c) Default judgment
 - (d) Summary judgment
12. Generally, a Government Bill is one introduced by:
- (a) Any Member of the National Council
 - (b) Any Cabinet Minister and any other Member of Parliament jointly
 - (c) **Any Cabinet Minister**
 - (d) Any Member of the National Assembly
13. Under the Bhutanese Constitution, which is the constitutional court of first instance:
- (a) Supreme Court
 - (b) Dungkhag court
 - (c) District court
 - (d) **High Court**
14. The Royal Bhutan Police has the power to prosecute any person for criminal offenses:
- (a) Other than the petty misdemeanor and below
 - (b) **Other than the misdemeanor and below**
 - (c) Other than the felony of fourth degree and below
 - (d) Other than the felony of third degree and below
15. The Latin phrase *aut dedere aut judicare* means:
- (a) No obligation to extradite or prosecute
 - (b) The obligation only to extradite

- (c) The obligation only to prosecute
(d) **The obligation to extradite or prosecute**
16. According to Roscoe Pound, the task of law is:
(a) To maintain social cohesiveness
(b) To punish the wrongdoers
(c) **Social engineering**
(d) To act as weapon of the sovereign
17. What are the distinctive features of the civil law system?
(a) Natural justice and customary law
(b) Inquisitorial system and natural justice
(c) Customary law and codification of laws
(d) **Inquisitorial system and codification of laws**
18. Which one is NOT regarded to be an objective of the tort law?
(a) Compensation
(b) Deterrence
(c) Loss distribution
(d) **Increasing tax revenues**
19. The Latin phrase *audi alteram partem* means:
(a) **Hear the other side**
(b) Person should be punished without hearing
(c) Person may be punished *ex-parte*
(d) No one should be a judge in their own cause
20. Concurrent liability in contract and tort means:
(a) The duty in contract and tort are the same
(b) **The claimant can claim in both contract and tort**
(c) The defendant can be found liable in contract or tort, not both
(d) The claimant will be entitled to compensation
21. Which ONE of the following usually amounts to an offer?
(a) **Goods sold through a machine**
(b) Advertisements
(c) Displays of goods
(d) An invitation to submit a tender
22. The term unliquidated damages mean:
(a) Damages are only payable if the defendant is solvent
(b) Damages are for a fixed sum

- (c) **Damages are not set or calculable in advance**
 - (d) Damages are paid in the form of a cheque
23. Which ONE is considered as the guardian of the Bhutanese Constitution:
- (a) The Privy Council
 - (b) The Office of the Attorney General
 - (c) **The Supreme Court of Bhutan**
 - (d) The High Court
24. A tax levied on the income of the individuals or businesses including corporations or other legal entities is:
- (a) **Income tax**
 - (b) Sales tax
 - (c) Inheritance tax
 - (d) Wealth tax
25. The gist of the offence of criminal conspiracy is:
- (a) **Agreement is necessary between two or more persons to do or cause to be done an illegal act**
 - (b) A legal act by illegal means followed by an overt act to be done or cause to be done according to agreement
 - (c) Both (a) and (b)
 - (d) None of the above
26. The kind of alternative dispute resolution called for by a contract between parties containing an agreement to submit disputes arising from the contract to a neutral, non-judicial third party is:
- (a) Settlement
 - (b) Mediation
 - (c) **Arbitration**
 - (d) Mini-trial
27. A document issued by the Registrar of Companies after the registration of a company, certifying that the company is incorporated is:
- (a) Memorandum of association
 - (b) Articles of association
 - (c) **Certificate of incorporation**
 - (d) Articles of incorporation
28. Which ONE is a type of private law?
- (a) **Tort law**
 - (b) Administrative law

- (c) Constitutional law
 - (d) Criminal law
29. Generally, which ONE is considered lacking capacity to contract?
- (a) Minors
 - (b) Persons suffering from mental illness
 - (c) Intoxicated persons
 - (d) **All of the above**
30. The act of unlawfully entering into another's property is:
- (a) Breach of property
 - (b) **Trespass**
 - (c) Takeover
 - (d) Sovereign act
31. In public international law, the doctrine of incorporation provides that:
- (a) International law form part of municipal law only if accepted by statute
 - (b) **International law automatically form part of municipal law**
 - (c) International law form part of municipal law only if accepted by judicial decisions
 - (d) None of the above
32. A person appointed by two parties to settle a dispute is:
- (a) Solicitor
 - (b) **Arbitrator**
 - (c) Adjudicator
 - (d) Conciliator
33. Which tradition argues that individuals have certain inherent rights and obligations?
- (a) External
 - (b) Grotion
 - (c) **Naturalist**
 - (d) Positivist
34. Choosing a country in which to bring a legal case before courts because of most favorable laws of that country is:
- (a) Forum hopping
 - (b) **Forum shopping**
 - (c) *Forum propogatum*
 - (d) *Forum rei*
35. A document acknowledging the shipment of a consignor's goods for carriage by sea is:
- (a) Bill of exchange
 - (b) **Bill of lading**

- (c) Seaway Bill
 - (d) Bill of costs
36. A bank in an exporter's country which guarantees that the letter of credit established by the importer, for the benefit of the exporter will be honoured once the conditions therein are fully complied with is:
- (a) **Confirming bank**
 - (b) Issuing bank
 - (c) Central bank
 - (d) Reserve bank
37. A degree of fitness or suitability that careful owners of ship might be expected to require of their ship at the start of the voyage:
- (a) Towing
 - (b) Anchor
 - (c) **Seaworthy**
 - (d) Shipping
38. Which is NOT a secondary source of law?
- (a) **Codified law**
 - (b) Legal encyclopedias
 - (c) Legal periodicals
 - (d) Practice materials
39. The acquisition of control by one company over another, usually small company is:
- (a) Merger
 - (b) Amalgamation
 - (c) Winding up
 - (d) **Takeover**
40. The questioning of a witness by a party other than the party who called the witness to testify is:
- (a) Examination
 - (b) Impeachment of witness
 - (c) **Cross-examination**
 - (d) Tutoring of witness
41. A Latin phrase which means that in private international law, the law of the forum governs matters of procedure, the mode of trial, most matters relating to the evidence, the nature of the remedy available, and most matters of limitation of actions based on time bars is:
- (a) *Lex loci actus*
 - (b) *Lex loci situs*

- (c) *Lex causae*
 - (d) ***Lex fori***
42. In freight on board (f.o.b) contract:
- (a) It is the responsibility of the seller to cover insurance of the goods in transit
 - (b) **The seller's duty is fulfilled by placing the goods on board in a ship**
 - (c) The seller will accompany the goods till the destination
 - (d) The seller will pay for the transportation
43. A theory that utilitarianism is an ethical foundation that determines that legislation should be organised so as to provide the greatest happiness for the greatest number was propounded by:
- (a) Roscoe Pound
 - (b) H.L.A. Hart
 - (c) **Jeremy Bentham**
 - (d) Ronald Dworkin
44. Which principle did the United States Supreme Court in **Marbury v. Madison** establish?
- (a) Judicial restraint
 - (b) **Judicial review**
 - (c) Judicial activism
 - (d) Judicial formalism
45. Which statement best describes the term *universal suffrage*?
- (a) **The right of all adults to vote freely at elections**
 - (b) The right of only adult males to vote freely at elections
 - (c) The right of only adult females to vote freely at elections
 - (d) The right of an accused person to remain silent when questioned by the police
46. Which ONE of the following is an example of a tort?
- (a) A hit and run driver kills pedestrian and is charged by the police
 - (b) A driver is found to have a blood alcohol reading above permissible level and is charged with drink driving
 - (c) A building supplier fails to deliver a load of bricks as arranged and is sued for damages
 - (d) **A person falls into a trench left uncovered by road workers and sues the Road and Traffic Authority for damage**
47. Which ONE of the following statements relating to a valid custom is a FALSE statement?
- (a) It must have antiquity
 - (b) It must have been enjoyed peacefully
 - (c) **It must be recognized by courts**

- (d) It must be a constant and uniform usage practiced by the States
48. According to John William Salmond, what is supreme legislation?
- (a) **Law made by Parliament**
 - (b) Law made by courts
 - (c) Law that cannot be changed by Parliament
 - (d) Law that cannot be changed by courts
49. The branch of law that, among others, concerns with restrictive trade practices is:
- (a) Anti-corruption law
 - (b) **Competition law**
 - (c) Antidumping law
 - (d) Anti-money laundering law
50. Which one is NOT an attribute of utilitarian theory of criminal punishment:
- (a) Punish a person to deter others
 - (b) Punish a person to deter from committing future crimes
 - (c) Focus on preventing crime
 - (d) **Punish a person to express society's disapproval of his or her conduct**
51. The right of self defence is allowed under the international law only if:
- (a) The Security Council authorizes
 - (b) **An armed attack occurs**
 - (c) The General Assembly authorizes
 - (d) The International Court of Justice authorizes
52. Judges are required to provide reasons for their decisions. What does this best illustrate?
- (a) The operation of the rule of law
 - (b) The operation of customary law
 - (c) **The operation of the doctrine of natural justice**
 - (d) The operation of the doctrine of the separation of powers
53. The fraudulent taking of personal property entrusted with one, especially as a fiduciary is:
- (a) Larceny
 - (b) Robbery
 - (c) Usury
 - (d) **Embezzlement**
54. The book titled "The Concept of Law" primarily designed for the student of jurisprudence is authored by:
- (a) Carole Pateman

- (b) Joseph Raz
 - (c) **H.L.A. Hart**
 - (d) Noams Chomsky
55. A contract in which one party agrees for payment of a consideration (the premium) to make monetary provision for the other upon the occurrence of some event or against some risk is:
- (a) Offer
 - (b) Invitation to treat
 - (c) Guarantee
 - (d) **Insurance**
56. The defect of reason or a disease of the mind that would result acquittal of the accused from conviction in a criminal trial is:
- (a) Mitigating circumstances
 - (b) **McNaghten Rules**
 - (c) Self-defense
 - (d) Solicitation
57. Which ONE of the following best describes the reason for the development of equity?
- (a) To limit the power of the common-law courts
 - (b) To temper the harassment of the criminal law
 - (c) To preserve the power of the sovereign
 - (d) **In response to the rigidity of the common law**
58. If a court considered a precedent and decided its facts were different so it was not applicable, the precedent has been:
- (a) Cited
 - (b) Considered
 - (c) **Distinguished**
 - (d) Overruled
59. If a case goes on appeal and the appellant wins, it means that the appeal is:
- (a) **Allowed and the decision is reversed**
 - (b) Dismissed and the decision upheld
 - (c) Dismissed and the decision reversed
 - (d) Allowed and the decision upheld
60. What is the *ratio decidendi*?
- (a) The main point of the case
 - (b) The reason for the decision

- (c) The part of a case that can be used as a precedent
 - (d) **All of the above**
61. A provision in a Bill that gives it an expiry date' once it is passed into law is:
- (a) **Sunset clause**
 - (b) Transitional clause
 - (c) Optical clause
 - (d) Saving clause
62. Which ONE of the following is *obiter dicta*?
- (a) The defendant was negligent as he failed to stop at the stop sign
 - (b) **If the defendant's brakes had failed, then there would be no negligence**
 - (c) Both (a) and (b)
 - (d) None of the above
63. Which of the following is NOT a domestic source of law?
- (a) Legislation
 - (b) Case law
 - (c) **Hansard**
 - (d) Custom
64. The draft form of a proposed legislation is called:
- (a) A writ
 - (b) **A Bill**
 - (c) An Act
 - (d) A draft
65. An act of having sexual engagement with animals is called:
- (a) Incest
 - (b) Adultery
 - (c) **Bestiality**
 - (d) Statutory rape
66. Under which of the following sales contract is specific performance available to the buyer?
- (a) **The sale of an antique vase that is "one of a kind"**
 - (b) Grain that is available from another seller
 - (c) Both (a) and (b)
 - (d) None of the above
67. A law-enforcement officer's or government agent's inducement of a person to commit a crime, by means of fraud or undue persuasion, in an attempt to later bring a criminal prosecution against that person is:
- (a) Enticement
 - (b) Solicitation

- (c) **Entrapment**
 - (d) Controlled delivery
68. Which statement is TRUE about the inquisitorial legal system:
- (a) Courts act as an impartial referee
 - (b) **Court is actively involved in investigation of facts**
 - (c) Only prosecution and defense are actively involved in fact finding
 - (d) Attorneys ask more questions than a judge
69. The transfer of the possession of goods by the owner to another person in a contractual transactions for a particular purposes is:
- (a) Mortgage
 - (b) Foreclosure
 - (c) Lien
 - (d) **Bailment**
70. A duty that cannot be delegated by a contracting party to a third party is:
- (a) A positive duty
 - (b) An implied duty of cooperation
 - (c) **A non-delegable duty**
 - (d) A moral duty

SECTION B

Answer ALL questions. Analyze and apply legal principles or logic and answer the questions directly and concisely.

1. When interpreting an Act of Parliament, judges use two aids. What are they? Give, at least, one example each.
2. When sentencing a person who has been found guilty, courts take into consideration the aggravating factor/circumstance/element. Briefly explain, using two examples, the meaning of the term aggravating factor/circumstance/element.
3. What is intellectual property? Briefly describe, at least, two types of intellectual property rights?
4. Briefly explain what is meant by the term double jeopardy.
5. What are the five main constituents of the tort of negligence?
6. What is hearsay evidence? Why is it generally inadmissible?

7. What is the difference between the principle of legality and the rule of lenity? What are the policy reasons behind each?
8. Divide the following crimes into their respective elements: the *actus reus*, and the *mens rea*.
 - A. murder - “the killing of a human being by another human being with malice aforethought.”
 - B. DUI - “intentionally driving under the influence of alcohol.”
 - C. burglary - “the breaking and entering of the dwelling house of another at night time with the intent to commit a felony within.”
9. What is the conceptual difference between the defence of duress and the defence of necessity?
10. Briefly explain what is law of agency?

***END OF EXAMINATION ***