

**ROYAL CIVIL SERVICE COMMISSION**  
**BHUTAN CIVIL SERVICE EXAMINATION (BCSE) 2013**  
**EXAMINATION CATEGORY: TECHNICAL**

**PAPER III: SUBJECT SPECIALIZATION PAPER for *LAW GRADUATES***

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<b>Date</b>	: 14 October 2013
<b>Total Marks</b>	: 100
<b>Examination Time</b>	: 150 minutes (2.5 hours)
<b>Reading Time</b>	: 15 Minutes (prior to examination time)

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**GENERAL INSTRUCTIONS:**

1. Write your Roll Number clearly and correctly on the Answer Booklet.
2. The first 15 minutes is being provided to check the number of pages of Question Paper, printing errors, clarify doubts and to read the instructions. You are NOT permitted to write during this time.
3. This paper consists of **TWO SECTIONS**, namely SECTION A and SECTION B:
  - **SECTION A** has two parts: Part I - 50 Multiple-Choice Questions  
Part II - 4 Short Answer QuestionsAll questions under SECTION A are COMPULSORY.
  - **SECTION B** consists of two Case Studies. Choose only ONE case study and answer the questions under your choice.
4. All answers should be written with correct numbering of Section, Part and Question Number in the Answer Booklet provided to you. Note that any answer written without indicating any or correct Section, Part and Question Number will NOT be evaluated and no marks would be awarded.
5. Begin each Section and Part in a fresh page of the Answer Booklet.
6. You are not permitted to tear off any sheet(s) of the Answer Booklet as well as the Question Paper.
7. Use of any other paper including paper for rough work is not permitted.
8. You are required to hand over the Answer Booklet to the Invigilator before leaving the examination hall.
9. This paper has **15** printed pages in all, including this instruction page.

**GOOD LUCK!**

**SECTION A**

**PART I - Multiple Choice Questions (50 Marks)**

**Choose the correct answer and write down the letter of the correct answer chosen in the Answer Booklet against the question number. E.g. 51 (c). Each question carries ONE mark. Any double writing, smudgy answers or writing more than one choice shall not be evaluated.**

1. Which one of the following is NOT true with respect to the international humanitarian law?
  - (a) Parties do not have an unlimited choice of means and methods of injuring enemy
  - (b) Civilians and combatants must be distinguished
  - (c) Use of weapons of a nature that would cause superfluous injury or unnecessary suffering is prohibited
  - (d) Formation of human shield during the armed conflict is permitted.
  
2. The Act of State Doctrine is:
  - (a) The general principle that a country has absolute authority over what transpires within its own territory
  - (b) The idea that judges of one country can still question the validity of an act committed by another country within its own borders
  - (c) Described in *U. S. v. Belmont* as every sovereign state having the right to question the judicial acts of every other country
  - (d) The idea that judges in one country may retry the cases they disagree with another country, even though extradition is a problem.
  
3. Courts and tribunals often decide international disputes on general principles of law that are recognized by civilized nations, which are usually principles of law that are common to the national law of the parties to the dispute. Which one of the following is NOT a part of this body of law?
  - (a) Treaties and conventions between the two countries
  - (b) National constitutions
  - (c) Common law
  - (d) Statutes.
  
4. A dispute among members of the WTO is first heard by:
  - (a) The WTO's appellate body
  - (b) A three-member panel

- (c) The Director General of the WTO
  - (d) Leaders from their respective countries.
5. Which one of the following is NOT a source of international law:
- (a) Custom
  - (b) Treaties and conventions
  - (c) Purely religious law
  - (d) Judicial decisions and teachings.
6. An act of charging extra duty on the subsidized imports that hurt domestic producer is called:
- (a) Anti-dumping
  - (b) Dumping
  - (c) Subsidy
  - (d) Countervailing duty.
7. “Universal respect for, and observance of Human Rights and Fundamental Freedom for all without distinction as to race, sex, language of religion”. Which one of the following documents contains the above?
- (a) The Universal Declaration of Human Rights
  - (b) The UN Charter
  - (c) The European Covenant on Human Rights and Fundamental Freedom
  - (d) The International Covenant on Civil and Political Rights.
8. Which one of the following sources of international law should the International Court of Justice apply first?
- (a) General international convention
  - (b) General principles of law recognized by civilized nations
  - (c) International customs
  - (d) Judicial decisions of international tribunals.
9. Which of the following requires States to eliminate discrimination against women in the enjoyment of all civil and political, economic, social, and cultural rights?
- (a) International Covenant on Civil and Political Rights
  - (b) Universal Declaration of Human Rights
  - (c) Convention on the Elimination of All Forms of Discrimination Against Women
  - (d) Inter-American Convention on Violence against Women.

10. Which one of the following is NOT included in the UN Charter as an objective of the UN?
- (a) To protect the sovereignty of the member states
  - (b) To avoid war as a means for settlements of international disputes
  - (c) To develop human personality of the member states
  - (d) To ensure respect for international obligations arising from treaties and other forms of international law.
11. In relation to the International Court of Justice, which one of the following statements is CORRECT?
- (a) Jurisdiction of the International Court of Justice can be imposed on member nations of the UN
  - (b) General Assembly and Security Council may refer a matter to the International Court of Justice for advice
  - (c) International Court of Justice is the court of appeal from the highest courts of member nations
  - (d) International Court of Justice is the court of appeal from International Criminal Court.
12. Which one of the following is CORRECT? A member of the UN may be suspended from the exercise of its rights and privileges of membership by:
- (a) The General Assembly
  - (b) The Security Council
  - (c) The General Assembly, on the recommendation of the Security Council
  - (d) The International Court of Justice.
13. The judges of the International Court of Justice are appointed with due regard to ensuring that the judges elected would represent:
- (a) All the members of the UN
  - (b) The main civilizations and the principal legal systems of the world
  - (c) All parties to the Statute of the International Court of Justice
  - (d) Those states which have accepted the compulsory jurisdiction of the Court.
14. Which one of the following is authorized by the UN Charter to establish subsidiary organs of the UN?
- (a) The General Assembly
  - (b) The UN Environment Program
  - (c) The Trusteeship Council
  - (d) The International Court of Justice.

15. A “well-founded fear of being persecuted” under the 1951 Refugee Convention is one of the grounds for:
- (a) Refugee status eligibility
  - (b) Extraditing asylum seekers
  - (c) Becoming a citizen by naturalization
  - (d) Employment eligibility in the UN.
16. Which one of the following pairs is CORRECTLY matched?
- (a) St. Thomas Aquinas – Natural law
  - (b) Kelsen – Monism
  - (c) Austin – Positivism
  - (d) Grotius - Sovereignty of State.
17. The trial of Slobodan Milosevic in The Hague is most important because it represents:
- (a) The application of standards of international law directly to an individual
  - (b) State sovereignty’s preeminence as a defense in international law
  - (c) The western bias of international law
  - (d) The difficulty of amassing evidence in international tribunals.
18. A type of law that deals with cases having a foreign element is called:
- (a) Law of Nature
  - (b) American Realism
  - (c) Conflict of Law
  - (d) Positive Law.
19. Which one of the following does the World Intellectual Property Organization not administer?
- (a) Paris Convention on Industrial Property
  - (b) Patent Cooperation Treaty
  - (c) Berne and Rome Conventions on copyright and neighbouring rights
  - (d) Vienna Convention on Diplomatic Relations.
20. The controversy about the legal sources of International Law was settled when the legal sources were authoritatively laid down for the first time in:
- (a) The Hague Convention for the Specific Settlement of International Disputes
  - (b) The Covenant of the League of Nations
  - (c) The Statute of International Court of Justice
  - (d) The European Courts of Human Rights.

21. Which one of the following is NOT the purpose of the UN as laid down under Article 1 of the U.N. Charter?
- (a) To maintain international peace and security
  - (b) To maintain friendly relation among nations
  - (c) To ensure that non-members of the UN act in accordance with the UN Charter
  - (d) To achieve international co-operation in solving international problems of an economic, social, cultural or humanitarian character.
22. Which one of the following is NOT the principal power and function of the General Assembly?
- (a) The direction and supervision of international economic and social co-operation
  - (b) The election of members of other organs
  - (c) Amendments to the Charter of the UN
  - (d) The consideration of information as to non-self governing territories.
23. In an international commercial arbitration, a decision as to the arbitral tribunal's jurisdiction and the validity of the arbitration agreement are decided by the tribunal itself based on the principle of:
- (a) *Kompetenz-kompetenz*
  - (b) *Kompensation*
  - (c) *Kompendium*
  - (d) *Kompatibel*.
24. "If State grants recognition to another State in violation of international treaty, that is, the Pact of Paris 1928, such recognition would not be valid". This forms the basis of:
- (a) Halstein Doctrine
  - (b) Estrada Doctrine
  - (c) Stimson Doctrine
  - (d) Monroe Doctrine.
25. The main purpose of the Convention on International Trade in Endangered Species is:
- (a) To protect animal and plant species or habitat *per se*
  - (b) To control or prohibit trade in species or their products where those species are in danger of extinction
  - (c) To protect only animal species *per se*
  - (d) To protect only plant species *per se*.

26. A concept under which a court in resorting to foreign law adopts as well the foreign law's conflict-of-laws principles, and may in turn refer the court back to the law of forum is called:
- (a) Forum shopping
  - (b) Reversion
  - (c) Renvoi
  - (d) Retorsion.
27. Which one of the following rights is NOT provided in the UN Convention on the Rights of the Child?
- (a) Rights of provision, for example to education and health care
  - (b) Rights of protection, for example, from abuse and neglect
  - (c) Rights of participation, for example, the right to be heard in matters affecting the child
  - (d) Right of marriage with any person of one's choice.
28. Where a dispute or situation is currently being discussed by the Security Council, the General Assembly:
- (a) Cannot make any recommendation with regard to that dispute or situation unless the Security Council so requests
  - (b) Cannot make any recommendation with regard to that dispute or situation
  - (c) Can make a recommendation with regard to that dispute or situation
  - (d) Can make a recommendation on the advice of the Secretary General.
29. Which one of the legal tradition argues that internal societal sources are the basis of international law?
- (a) Theological
  - (b) Naturalist
  - (c) Universalist
  - (d) Positivist.
30. The International Criminal Court has jurisdiction over:
- (a) Genocide and other systematic crimes carried out as official policy during wars
  - (b) Illegal international financial transactions
  - (c) National courts dealing with international cases
  - (d) Minor Human rights abuses occurring within any country in the world.

31. The UN Environment Programme is headquartered in:
- (a) Washington DC
  - (b) London
  - (c) Geneva
  - (d) Nairobi.
32. The dominion of a nation that controls the foreign relations of another nation but allows its autonomy and domestic affairs is called:
- (a) Protectorate
  - (b) Suzerainty
  - (c) Union Territories
  - (d) States.
33. A direct vote of a country's electorate to decide a question of public importance, such as union with another country or a proposed change to the constitution is called:
- (a) Plebiscitum
  - (b) Self-determination
  - (c) Plebiscite
  - (d) Colonization.
34. All of the following have added to the expansion of international law except:
- (a) Expanding consequences and victims of war
  - (b) Increasing environmental degradation
  - (c) Growing awareness of human rights issues
  - (d) Spread of nationalism.
35. Where customary law and treaty law stipulate the same or similar legal obligations:
- (a) State party to the treaty is bound by treaty law alone
  - (b) State party to the treaty is bound by both custom and treaty laws
  - (c) Non-parties are bound by treaty law
  - (d) Super powers can disregard both custom and treaty laws.
36. A definition of *Jus ad bellum* is:
- (a) Justice and beauty
  - (b) Justice and order
  - (c) The principle that states must observe treaties
  - (d) Laws of war governing when it is legal to use force or wage war.



37. What are the main powers and duties of the UN Secretary-General?
- (a) Provide support for peacekeeping activities
  - (b) Carry out a number of research functions and quasi management functions
  - (c) To approve or disapprove of UN resolutions
  - (d) (a) and (b).
38. A contractual clause by which an alien waives rights to invoke diplomatic immunity is called:
- (a) *Calvo clause*
  - (b) Necessary and proper clause
  - (c) Honour clause
  - (d) Treaty clause.
39. Which one of the following statements is TRUE of the UN?
- (a) Permanent members of the Security Council are the United States, the United Kingdom, China, Russia, and France
  - (b) The most powerful branch of the UN is the General Assembly
  - (c) The International Court of Justice can overrule the highest court of any member nation
  - (d) The UN has more than 40 specialized agencies, including the U.S. Secretary of State.
40. The act of accepting a new entity that conforms with the criteria of statehood as a state is called:
- (a) Accession
  - (b) Recognition
  - (c) Acknowledgment
  - (d) Attribution.
41. The act by which a state, in compliance with a formal demand or request, surrenders to another state an alleged offender or fugitive criminal who has sought refuge in the territory of the first state, in order to stand trial or complete prison term is called:
- (a) Extramediation
  - (b) Exterrertioriality
  - (c) Extradition
  - (d) Extraterritoriality.

42. The doctrine that considers the general or customary norms of international law as a part of municipal law and are to be enforced as such, without regard as to whether or not they are enacted as statutory or legislative rules is called:
- (a) Accession
  - (b) Incorporation
  - (c) Accretion
  - (d) Adoption.
43. Under the UN Convention on the Law of the Sea of 10 December 1982, which one of the following is a line from which the breadth of the territorial sea and other maritime zones is measured:
- (a) Contiguous line
  - (b) Economic line
  - (c) Baseline
  - (d) Archipelagic line.
44. Which one of the following courts issued warrants for arrests of Muammar Gaddafi of Libya, his son and spy chief?
- (a) The International Court of Justice
  - (b) The Permanent Court of International Justice
  - (c) The Inter-American Court of Human Rights
  - (d) The International Criminal Court.
45. Which one of the following courts is a nongovernmental organization?
- (a) The International Criminal Court
  - (b) The International Court of Justice
  - (c) The International Court of Arbitration
  - (d) The Permanent Court of International Justice.
46. Which one of the following is NOT a function of the International Court of Arbitration?
- (a) Fix the place of arbitration
  - (b) Confirm, appoint and replace arbitrators
  - (c) Decide on any challenges filed against arbitrators
  - (d) Award damages or costs.

47. Which one of the following is a nongovernmental organization that promotes human rights?
- (a) The Amnesty International
  - (b) The International Labor Organization
  - (c) The Committee on the Rights of the Child
  - (d) The Human Rights Council.
48. Which one of the following is NOT a biodiversity-related international conventions?
- (a) The Convention on Conservation of Migratory Species
  - (b) The International Treaty on Plant Genetic Resources for Food and Agriculture
  - (c) The Ramsar Convention on Wetlands
  - (d) The United Nations Framework Convention on Climate Change.
49. Which one of the following is NOT a part of the International Bill of Human Rights?
- (a) The Universal Declaration of Human Rights
  - (b) The International Covenant on Civil and Political Rights
  - (c) The International Covenant on Economic, Social and Cultural Rights
  - (d) The European Convention for the Protection of Pet Animals.
50. Which one of the following is NOT a part of main bodies of the UN?
- (a) The International Criminal Court
  - (b) The Economic and Social Council
  - (c) The Trusteeship Council
  - (d) The International Court of Justice.

**PART – II : Short Answer Questions (20 marks)**

**Answer ALL the questions. Each question carries 5 marks. Analyze and apply applicable legal principles or logic and answer the questions with clarity and preciseness.**

1. What are the types of International Law?
2. Define the right to self-determination.
3. Who is the incumbent Director-General of the WTO? What is his/her nationality? What is the term of his/her office? Where is his/her office located? Which is the WTO's highest-level decision-making body?

4. On what grounds the party (against whom the recognition and enforcement of foreign arbitral award is invoked) may request to the competent authority where the recognition and enforcement of foreign arbitral award is sought to refuse it? Mention, at least, five.

## **SECTION B**

### **Case Study**

**Choose either Case 1 or Case 2 from this Section. Each Case carries 30 marks. Mark for each sub-question is indicated below.**

**Case 1 has 5 questions of 6 marks each (total of 30 marks). Case 2 has 10 questions of 3 marks each (total of 30 marks). Analyze and apply applicable legal principles or logic and answer the questions with clarity and preciseness.**

#### **CASE 1**

Initially peaceful protests calling for the release of political prisoners in state S turned into a full scale civil war between forces loyal to state S and the rebel R when the state S refused to implement the meaningful reforms demanded by the rebel R. The protests soon spread across the nation and the rebel R began demanding the resignation of President of state S as well as the end of his ruling party as the rebel R evolved into an armed rebellion.

To quell the uprising, the state S deployed army. Military commanders deployed a means of attack such as cluster bombs, chemical weapons and anti-personnel landmines regardless of military targets to maximize harm to opposition and civilians disproportionately. Civilian objects located on or within the opposition such as civilian television, radio stations, civil airports, roads and bridges were subject to intense attack as they were used for military purposes by the rebel R. Chief UN chemical weapons investigator report concluded that: "...chemical weapons have been used in the ongoing conflict between the parties... against civilians including children on a relatively large scale".

The same reports confirmed that the government of state S carried out widespread extra judicial killings, cruel treatment and torture, as well as outrages acts against personal dignity and degrading or humiliating treatment of noncombatants such as captured or surrendered combatants, and those who are unable to fight because of wounds or illness. The government of state S also tortured anyone perceived to be opposition as part of a widespread and systematic attack, without distinguishing between combatants and civilians. Military commanders and civilian leaders of the state S did not take any measure to prevent such incidences or punish those responsible even if they have knowledge.

The state S is not a member of the Rome Statute, the treaty establishing the International Criminal Court.

**Answer the following questions:**

1. As a legal advisor to state S, how would you justify state S's attacks on nonmilitary objects?
2. The General G is the army commander of state S in command of the army of state. Explain briefly under what legal principle the General G of state S could be held liable?
3. Can war crimes and crimes against humanity committed in state S be tried before the International Criminal Court?
4. Suppose General G is in the territory of another state A, can the state A prosecute General G for international crimes committed in state S?
5. One of the powerful neighbors of state S is seeking to launch a unilateral military attack on state S. Is it lawful under the international law?

**CASE 2**

Mr. Dodo (the buyer) from Bhutan entered into an agreement with Mr. Wallace (the seller) from Scotland to supply 20,000 thousand litres of Class A molasses, *C.I.F. Phuentsholing, Bhutan*. The supply was to be made within three months of execution of the agreement. It was also agreed that for interpretation of the contract, the parties will apply INCOTERMS and if any dispute were to arise out of the contract, it will be referred for arbitration in Bhutan according to laws of Bhutan.

The parties also agreed that the consignment may be shipped at one go or in parts at the convenience of the seller.

The seller, after finding that there was only 15,000 litres of molasses in Scotland, had procured 5000 litres of molasses from Johannesburg, South Africa. During the journey, due to the negligence of the crew, the ship caught fire and 500 litres of Class A molasses were destroyed. After 84 days of execution of contract, molasses arrived at the destination. On arrival of molasses in Phuentsholing, Bhutan, both the parties realized that 5000 litres of molasses, procured from Johannesburg were of Class B type by mistake. The buyer did not accept the whole consignment on the grounds that the seller failed to supply all 20,000 litres of Class A molasses together at once and that he did not ask the seller to supply molasses from South Africa. The seller argued that under C.I.F. contract, the buyer is bound to accept the goods that matched description in the contract. The disagreement ensued between the buyer and seller on

the contract. The buyer refused to go for arbitration and instead resorted to litigation before the competent court in Bhutan on the ground that act of supplying Class B molasses was not only in contrary to the contract but also in violation of the Penal Code of Bhutan.

Relevant provisions of the Alternative Dispute Resolution Act of Bhutan 2013 are as follows:

***Arbitration agreement***

32. *For the purpose of this Chapter:*

- (1) “...”;
- (2) *An arbitration agreement may be in the form of an arbitration clause in a contract or in the form of a separate agreement;*
- (3) “...”
- (4) *The reference in a contract to any document containing an arbitration clause constitutes an arbitration agreement in writing, provided that the reference is such as to make that clause part of the contract.*

***Court intervention***

33. *In matters governed by this Act, no court shall intervene except to the extent provided by this Act.*

***Application to set aside the award***

149. *Any recourse to the High Court against an arbitral award may be made only by an application for setting aside such award in accordance with section 150 of this Act.*

**Answer the following questions:**

1. What is C.I.F Contract?
2. Should the buyer accept the consignment?
3. In C.I.F contract, where must the consignment be delivered?
4. In the above case, is the buyer’s refusal to go for arbitration justified?
5. In this case, assuming that the dispute is not within the jurisdiction of arbitration, is the seller criminally liable under the Penal Code of Bhutan?

6. If 5000 litres of molasses supplied from Johannesburg were of class A type, can the buyer reject the consignment?
7. Assuming that the arbitral award is in favor of the buyer, if you are a lawyer for the seller how would you advise him?
8. Under the C.I.F. contract, whose responsibility is it to pay customs and other duties? And when does the risk shift to the buyer?
9. In this case, who should pay for the cost of unloading in Phuentsholing?
10. Should the buyer make payment for 500 litres of Class A molasses which are destroyed by fire? You as a lawyer, advise the buyer.