

**ROYAL CIVIL SERVICE COMMISSION
BHUTAN CIVIL SERVICE EXAMINATION (BCSE) 2015
EXAMINATION CATEGORY: TECHNICAL**

PAPER III : SUBJECT SPECIALISATION PAPER FOR LAW GRADUATES

Date : 11 October 2015
Total Marks : 100
Examination Time : 150 Minutes (2.5 Hours)
Reading Time : 15 Minutes prior to examination time

INSTRUCTIONS

1. Write your registration number in the space provided in the answer booklet.
2. This question paper has FOURTEEN (14) pages, including this instruction page. You have fifteen (15) minutes to read the instructions, clarify doubts, make sure that you have all FOURTEEN (14) pages, and check to see if there is any printing error. DO NOT write during this time.
3. This question paper has two Sections, A and B:
 - a. Section A is divided in two (2) PARTS: PART I with fifty (50) multiple choice questions of one (1) mark each (numbered 1-50), and PART II with four (4) short questions of five (5) marks each (numbered 1-4). Answer ALL questions from parts I and II.
 - b. SECTION B has two (2) case studies 1 and 2 of thirty (30) marks each. Answer any ONE question from this section.
4. Clearly indicate the part and question number against each answer. No marks will be given for any answer without such indication or incorrect indication.
5. All answer 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 booklet, if required. Begin each part in a fresh page.
6. Write legibly. Evaluator/s cannot give credit for an answer that they cannot read.
7. DO NOT tear off any sheet from the answer booklet as well as the question paper.
8. Handover the answer booklet to the invigilator BEFORE you leave the examination hall.

ALL THE BEST!

SECTION A: PART I
Multiple Choice Questions (50 Marks)

Choose from (a) – (d) and clearly write the letter designating the correct answer to each of the following questions. Each question carries ONE mark. You will NOT be given any mark for choosing more than one answers or smudgy answers.

1. 'International law' is synonymous to:
 - (a) International humanitarian law
 - (b) Law of Nations
 - (c) Human rights
 - (d) Customary law

2. Which of the following is not associated with the UNO?
 - (a) ILO
 - (b) WHO
 - (c) ASEAN
 - (d) All of the above

3. Hugo Grotius popularly known as father of International Law was born in:
 - (a) France
 - (b) Sweden
 - (c) England
 - (d) Holland

4. What are countervailing measures?
 - (a) Measures which a State may initiate against another State when that other State has legally subsidised any of its domestic industries
 - (b) Measures which a national government may initiate against another State when that other State has not subsidised any of its domestic industries
 - (c) Measures which a State may initiate against another State when that other State has illegally subsidised any of its domestic industries
 - (d) Measures which a national government may initiate against another State when that other State has not illegally subsidised any its domestic industries

5. Which are the formal sources of international law?
- (a) Treaties, custom and general principles of law
 - (b) Custom, treaties and judicial decisions
 - (c) General Assembly resolutions
 - (d) All of the above
6. The closely guarded formula for making Coca-Cola is an example of what type of IP?
- (a) Patent
 - (b) Trade Secret
 - (c) Trademark
 - (d) Copyright
7. Where can you test nuclear weapons, allowable by international law?
- (a) Antarctica
 - (b) Corfu channel
 - (c) The Moon
 - (d) None of the above
8. What is the first article in the Universal Declaration of Human Rights?
- (a) Everyone has the right to life, liberty and security of person
 - (b) No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment
 - (c) All human beings are born free and equal in dignity and rights
 - (d) All are equal before the law and are entitled without any discrimination to equal protection of the law
9. Which of these is not a recognized criterion for statehood?
- (a) Defined territory
 - (b) Government
 - (c) An army
 - (d) Permanent population

10. International Law is a field of law which differs from the internal, or domestic, law of a nation. It clearly binds the community of nations:
- (a) Under only the Monist theory on the relationship between international and municipal law
 - (b) Under only the Dualist theory on the relationship between international and municipal law
 - (c) When most nations consider it a part of the mutual expectations in their relations with each other
 - (d) Only when all nations consider it a part of the mutual expectations in their relations with each other
11. International Law is only effective:
- (a) Absent supreme executive, legislative, and judicial bodies
 - (b) Because there are supreme executive, legislative, and judicial bodies
 - (c) When all nations apply it in their international relations
 - (d) When enough nations apply it in their international relations
12. The rules of International Law are derived from:
- (a) One sovereign entity
 - (b) Many sovereign entities
 - (c) A vertical relationship between those who govern and those who are governed by it
 - (d) A horizontal, or equal, relationship between the governing bodies of International Law and those of each individual nation
13. The term “source of International Law” unquestionably includes:
- (a) A regional custom
 - (b) An international custom, for which there is sufficient evidence of its existence
 - (c) A regional treaty
 - (d) All international treaties
14. There is a hierarchy among the ICJ Statute’s Article 38 sources of International Law, in that:
- (a) Those listed first take precedence over those listed later
 - (b) Treaties, the first listed source, necessarily carry more weight than any other source
 - (c) Any sources not therein listed are necessarily secondary to those listed in Article 38
 - (d) Some Article 38 sources are designated as “subsidiary” sources

15. State X and State Y enter into a treaty, creating mutual obligations under International Law. State X's Supreme Court subsequently determines that this treaty violates the State X Constitution. Under International Law:
- (a) State X need not comply with its treaty obligations
 - (b) State X must comply with its treaty obligations
 - (c) The domestic tribunals of State X need not apply International Law
 - (d) The domestic tribunals of State X may choose between the application of the State X law and International Law.
16. Codification of international law was first attempted in 1789 by:
- (a) Abbe Gregoire
 - (b) Czar Nicholas
 - (c) Bentham
 - (d) Hugo Grotius
17. State X is a small area on the Mediterranean Sea. It is not a part of either France or Italy. It is not a member of the United Nations. X possesses international personality:
- (a) If it is a State
 - (b) Only if it ultimately attains UN membership
 - (c) If it is both a State and it becomes a member of an international organization
 - (d) Regardless of whether it is a State or not
18. Which of the following statement is false?
- (a) In determining whether a common State practice is International Law, all of the following sources may be examined: a) custom; b) general principals of law; c) judicial decisions; and d) learned treatises by qualified jurists
 - (b) A state may not rely on its own domestic law as a defense to a breach of International Law
 - (c) "Public" International Law deals with relations between States, while "private" International Law deals with relations between individuals that may be affected by State treaties
 - (d) International Law is not really law that binds State relations because there is no international legislative body

19. In the treaty law, a fundamental change in the circumstance is:
- (a) *Jus cogens*
 - (b) *Pacta sunt servanda*
 - (c) *Rebus sic stantibus*
 - (d) *Jus ad bello*
20. As per declaratory theory of recognition:
- (a) A State is created through recognition by other States
 - (b) State is created through recognition by International Organisation
 - (c) A State comes into existence as soon as it acquires all the attributes of statehood
 - (d) None of the above
21. Identify statement which is not related to *res communis*:
- (a) Consists of the high seas
 - (b) Consists of the outer space
 - (c) Not capable of being placed under sovereignty
 - (d) Consists of the air space
22. The maximum limit of the contiguous zone is _____ nautical miles from the territorial sea baselines.
- (a) 12
 - (b) 24
 - (c) 200
 - (d) 100
23. Which one of the following is not a multilateral treaty on outer space?
- (a) Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space
 - (b) Convention on International Liability for Damage Caused by Space Objects
 - (c) Chicago Convention on International Civil Aviation
 - (d) Agreement Governing the Activities of States on the Moon and Other Celestial Bodies.
24. The Following are all results of the Rio UN Conference on Environment and Development popularly known as the Earth Summit:
- (a) Agenda 21
 - (b) The Convention relative to the Preservation of Fauna and Flora in their Natural Habitat

- (c) The Convention on Biological Diversity
 - (d) The Framework Convention on Climate Change
25. When did Bhutan abolish capital punishment?
- (a) 2000
 - (b) 1999
 - (c) 2001
 - (d) 2004
26. The International Criminal Court is created by:
- (a) Berne Convention
 - (b) Chicago Convention
 - (c) The Rome Statute
 - (d) New York Convention
27. Which of these is true about International Court of Justice and Permanent Court of International Justice?
- (a) PCIJ was formed under the covenant of league of nations
 - (b) ICJ succeeds PCIJ
 - (c) Statute of ICJ is based on the statute of PCIJ
 - (d) All of the above
28. What is true about the voting process for the election of members of ICJ?
- (a) Only the permanent members of the Security Council participate in the voting
 - (b) It is a procedural matter
 - (c) Both permanent and non-permanent members of the Security Council participate in voting
 - (d) Both (b) & (c)
29. Jurisdiction of the ICJ is based on:
- (a) Consent of the parties
 - (b) Sovereignty of United Nations
 - (c) Veto power of permanent members of security council
 - (d) Statute of ICJ
30. Which document establishes the “state as a person of international law”?
- (a) 1968 Hartford Convention on the Obligations of States
 - (b) 1933 Montevideo Convention on the Rights and Duties of States

- (c) Peace of Westphalia, 1648
 - (d) Statute of the International Criminal Court
31. According to the United Nations Charter in the General Assembly, voting is on the basis of:
- (a) One vote for each member state
 - (b) Human rights record
 - (c) Geographic regional bloc
 - (d) Percentage of the UN budget that the member state provides
32. How many states signed the UN Charter when it was first established in 1945?
- (a) 39
 - (b) 51
 - (c) 191
 - (d) 72
33. The International Criminal Court has jurisdiction over the following crimes, with the exception of:
- (a) Genocide
 - (b) Terrorism
 - (c) War crimes
 - (d) Crimes against humanity
34. The least frequent method by which judges are selected worldwide is:
- (a) Election
 - (b) Appointment
 - (c) Career path
 - (d) Merit appointments
35. A judge explains to the courtroom observers that she has sentenced a convicted murderer to death in order to prevent others from committing an offence. What punishment justification is the judge offering?
- (a) Rehabilitation
 - (b) Specific deterrence
 - (c) Incapacitation
 - (d) General deterrence

36. UNHCR, the UN Refugee Agency, protects and assists
- (a) People displaced by war and persecution
 - (b) People who want to work or study overseas
 - (c) People who lost their homes in natural disaster
 - (d) All of the above
37. What is the legal definition of a refugee?
- (a) A person who has been persecuted in their own country
 - (b) A person who has come to another country to claim asylum
 - (c) A person who has a well-founded fear of persecution in their own country
 - (d) None of the above
38. Private international law, also known as _____ of laws, aims to resolve disputes between parties from different jurisdictions.
- (a) Contrast
 - (b) Conflict
 - (c) Concession
 - (d) Resolution
39. _____ is the reference of a dispute to an impartial (third) person chosen by the parties who agree in advance to abide by the award issued after the hearing.
- (a) Mediation
 - (b) Litigation
 - (c) Arbitration
 - (d) Negotiation
40. Contracting parties will often include a clear _____ clause that states which laws a court should apply in case of dispute.
- (a) Termination
 - (b) Choice of law
 - (c) Assignment
 - (d) Jurisdiction
41. What does CEDAW stand for?
- (a) Convention on the Elimination of All Forms of Discrimination against Women
 - (b) Convention on the Elimination of Discrimination against Women

- (c) Convention on Ending Discrimination against Women
(d) All of the above
42. CEDAW applies to:
- (a) Women only
 - (b) Girls and women of all ages
 - (c) Adolescent girls and women only
 - (d) Women of 18 years and above
43. Which human rights agreements describe girls' rights:
- (a) Convention on the Rights of the Child
 - (b) Convention on the Elimination of All Forms of Discrimination against Women
 - (c) Universal Declaration of Human Rights
 - (d) All of the above
44. Regarding marriage, CEDAW says:
- (a) Marriage can take place at any age, if parents of the bride and groom agree
 - (b) Governments should specify a minimum age for marriage
 - (c) If local customs and traditions are followed, marriages do not need to be registered
 - (d) None of the above
45. The Optional Protocol to CEDAW:
- (a) Is an international agreement
 - (b) Allows girls and women to bring complaints to the attention of the CEDAW Committee
 - (c) Further protects the rights of girls and women.
 - (d) All of the above
46. Which of these is NOT a need?
- (a) Food
 - (b) Shelter
 - (c) Computer
 - (d) Water
47. Why do children need a separate convention for their human rights?
- (a) Because other human rights treaties do not apply to them
 - (b) Because human rights and children's rights are separate issues

- (c) Because children and young people have distinct needs and require special protection to ensure their rights are upheld
- (d) All of the above
48. Which are the only three countries that have not ratified the UN Convention on the Rights of the Child
- (a) Serbia, USA and the Democratic Republic of the Congo
- (b) South Sudan, Switzerland, Venezuela
- (c) USA, Somalia and South Sudan
- (d) USA, South Sudan and Bhutan
49. 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) Extraction
- (b) Deportation
- (c) Extradition
- (d) Extraterritoriality
50. The minimum requirements for obtaining a patent are that the invention must be:
- (a) Novel
- (b) Non-obvious or include an inventive step
- (c) Useful or capable of industrial application
- (d) All of the above.

SECTION A: PART II
SHORT ANSWER QUESTIONS

Answer ALL questions. Each question carries 5 marks. Analyse the questions by applying legal principles or logic and write a concise answer to each question directly.

1. Explain differences between signature, ratification and accession with regard to law of treaties. (2+1.5+1.5)
2. Explain whether Bhutan is Dualist or Monist country in light of the relevant provisions of the Constitution of Bhutan. (5 Marks)

3. Can the human rights set forth in the UN Civil and Political Rights Covenant be derogated? (5 Marks)
4. Describe the differences and similarities between the Common law and Civil law system. (5 Marks)

SECTION B CASE STUDY

Choose either Case 1 or Case 2 from this Section. Each Case carries 30 marks. Marks for each sub-question is indicated below. Analyze and apply applicable legal principles or logic and answer the questions with clarity and precision.

Case 1

BBS is a national television broadcaster which owns and operates the popular website bbs.bt. It publishes a variety of news and entertainment content.

Your friend Karma has been working full time as a digital content producer at BBS for the last twelve months. He reports to the Head of Content, Phuntsho, and his job includes creating multi-media news stories.

In May 2015 the famous rock star Ugyen Pandey releases his much-anticipated new album “Yueki Bum”. To promote the new album Pandey Pvt Ltd (Ugyen Pandey’s recording company) makes a series of music videos in which Ugyen Pandey performs songs from the album. Pandey Pvt Ltd uploads these videos onto Ugyen Pandey’s YouTube Channel. Note that Pandey Pvt Ltd produced the “Yueki Bum’ and owns the rights to the sound recording.

Phuntsho learnt that Ugyen Pandey will soon be traveling around Bhutan to perform, and arranges for Karma to interview Ugyen Pandey in his luxury hotel suite at the Tashi Taj. The interview goes well with Ugyen Pandey providing many insights about his new album and his plans for a national tour.

Karma goes home and stays up all night writing his article, which he is sure, will impress his boss.

The article contains Karma’s interview with Ugyen Pandey which he reproduces word for word. Karma decides to make his article more appealing by adding some footage from the music videos on Ugyen Pandey’s YouTube Channel. He downloads four of the most popular videos and then edits them into 45 seconds clips which he then joins

together. Karma intends that the “mash-up” will be accessible via a button displayed on the website in a box in the centre of the article.

Unfortunately all of Karma’s content is rejected by Phuntsho on the grounds that the publication will expose bbs.bt to the risk of serious legal action.

Karma comes to you seeking advice as to whether Phuntsho is correct in his assessment. Will publication of Karma’s content expose bbs.bt to the risk of legal action?

1. Is information in interview protected by copyright law? (2 marks)
2. Identify possible copyrights and the owners. (5 Marks)
3. What are the three key steps involved in testing copyright infringement? See if Karma’s work passes all three tests? (12 Marks)
4. Identify and explain defences that may be available to bbs.bt. (6 Marks)
5. Summarise your advice to Karma. (5 Marks)

Case 2

Nima is a PGDNL trainee at Royal Institute of Management. The Institute provides a bulletin board area on the Institute intranet for students to share information and interact with teachers. The bulletin board is only accessible to students who have a password. The Institute does not moderate the bulletin board, and Nima is horrified to find several false postings from her ex-classmate, Dawa accusing her of bribing her Constitutional Law lecturer into giving her high marks. Nima is very concerned that these accusations may ruin her prospects of getting a job in Bhutan. Dorji, another student reposts Dawa’s posts on Facebook where they are seen by over 300 of Dorji’s friends. Advise Nima by answering following questions:

1. Does Nima have any legal remedy? Against whom? And for what? (2 Marks)

2. If Nima files a case in the court, what test would the court apply to determine the claim generally? (8 Marks)
3. In Bhutanese context, will it be a civil or criminal case? (5 Marks)
4. Can Nima have legal remedy against Dorji? (5 Marks)
5. If Nima and Dawa were Parliamentarians, and if Nima was accused of past bribing incident, while in the process of Parliamentary proceeding would it make any difference? (5 Marks)
6. What are general defences against such legal claims? (5 Marks)

