

ROYAL CIVIL SERVICE COMMISSION  
BHUTAN CIVIL SERVICE EXAMINATION (BCSE) 2020  
EXAMINATION CATEGORY: TECHNICAL

PAPER II: GENERAL SUBJECT KNOWLEDGE PAPER FOR LAW

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<b>Date</b>	: February 26, 2021
<b>Total Marks</b>	: 100
<b>Writing Time</b>	: 90 minutes (1.5 hours)
<b>Reading Time</b>	: 15 Minutes (prior to writing time)

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**GENERAL INSTRUCTIONS:**

1. Write your Registration Number clearly and correctly on the Answer Booklet.
2. The first 15 minutes is to check the number of pages of the 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 Parts: Part I & Part II**  
**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.
4. All questions are COMPULSORY.
5. All answers should be written on the Answer Booklet provided to you. Candidates are not allowed to write anything on the question paper. If required, ask for additional Answer Booklet.
6. All answers should be written with correct numbering of Part and Question Number in the Answer Booklet provided to you. Note that any answer written without indicating the correct Part and Question Number will NOT be evaluated and no marks will be awarded.
7. Begin each Part on a fresh page of the Answer Booklet.
8. You are not permitted to tear off any sheet(s) of the Answer Booklet as well as the Question Paper.
9. Use of any other paper including paper for rough work is not permitted.
- 10. You must hand over the Answer Booklet to the Invigilator before leaving the examination hall.**
11. This paper has **12 printed pages**, including this instruction page.

**GOOD LUCK!**

**Part I**

**Multiple Choice Questions [70 marks]**

**Choose the correct answer and write down the letter of your chosen answer in the Answer Booklet against the question number e.g. 71 (a). Each question carries ONE mark. Any double writing, smudgy answers or writing more than one choice shall not be evaluated.**

1. Which of the following legal philosophers does not agree that judicial precedents are an important source of law?
  - a) John William Salmond
  - b) Von Savigny
  - c) Robert Keeton
  - d) William Blackstone
  
2. In a civil wrong
  - a) Motive is relevant.
  - b) Compulsory compensation to the injured person is not the only punishment for the offence.
  - c) The magnitude of the offence determines civil liability.
  - d) None of the above
  
3. According to the concept of *res-judicata*:
  - a) A person is barred from filing a subsequent suit on the same cause of action or claims on which a final judgment is already made.
  - b) A person is barred from filing a subsequent suit on a different cause of action or claims on which a final judgment is made.
  - c) A person is barred from appealing on an administrative decision.
  - d) A person is barred from filing a suit on the same cause of action or claims on which proceedings are on-going.
  
4. A treaty is deemed a law in Bhutan, if it is acceded to by the government, and ratified by the Parliament, unless it is inconsistent with
  - a) The Constitution
  - b) The existing laws
  - c) The Public policy
  - d) The Gross National Happiness Principle
  
5. Which of the following is NOT a key corporate actor?
  - a) The board of directors of the company.
  - b) Management of the company.
  - c) Shareholders of the company.
  - d) People affected by the actions of the company.

6. Rule of law from A.V. Dicey's perspective is a fundamental legal doctrine that can be summarized as
  - a) No one is above the law.
  - b) Government is above the law.
  - c) A State can breach the law if required.
  - d) Citizens are more important than the government.
  
7. The rights over mineral resources, rivers, lakes and forest in Bhutan are assigned to the
  - a) People
  - b) Government
  - c) State
  - d) Legislature
  
8. All of the following are true about Preponderance of Evidence EXCEPT
  - a) It is a standard of proof relevant in a civil case.
  - b) The person asserting the claim must prove the claim.
  - c) The burden of proof is satisfied if there is more than 50% probability of the claim being true.
  - d) The amount of evidence is important.
  
9. Principles of State Policy stipulated under the Article 9 of the Constitution of the Kingdom of Bhutan
  - a) are instrument of instructions to the State.
  - b) are justiciable rights.
  - c) mandates the states to achieve the goals mentioned under it.
  - d) are similar to fundamental rights of the citizens.
  
10. Which of the following is an example of corporeal punishment?
  - a) Capital punishment
  - b) Torture
  - c) Imprisonment
  - d) Solitary confinement
  
11. Conventional law has its source in
  - a) Agreements
  - b) Legislations
  - c) Precedents
  - d) Customs
  
12. According to John Austin, jurisprudence is
  - a) The science of law
  - b) The theory of law
  - c) The science of positive law
  - d) The formal science of positive law

13. According to the Constitution, when a state of emergency is declared
- the Constitution cannot be amended.
  - the Constitution can be amended.
  - the fundamental rights cannot be suspended.
  - the Government is not empowered to give appropriate directions to the concerned Local Government.
14. A judicial precedent cannot
- make new law in filling the vacancies of the legal system.
  - alter the rules of law that are already settled.
  - supplement the already but inadequately developed body of legal doctrine.
  - be constitutive of the existing legal doctrines.
15. Another name that is given for the positive school of law is
- Positive morality
  - Analytical school
  - Science of law
  - None of the above
16. An executive order is
- A primary source of law
  - Secondary source of law
  - Is not a source of law
  - None of the above
17. The latin phrase *nolo contendere* refers to
- A plea of innocence
  - A plea of guilty
  - Plea bargain
  - A plea of contest
18. The difference between libel and slander in a defamation lawsuit is
- Libel is defamatory statement made in writing while slander is a defamatory statement that is spoken.
  - Libel is defamatory statement that is spoken while slander is a defamatory statement made in writing.
  - Libel is a serious offence while slander is not a serious offence.
  - Libel is not a serious offence while slander is a serious offence.
19. Which of the following is NOT a feature of the common law system?
- Judicial decisions can be binding.
  - A written constitution is not necessary.
  - More prescriptive on the subject matter of contracts.
  - Anything not specifically prohibited by law is permitted.

20. A latin phrase *Jus cogens*:
- a) has no connection with Roman law.
  - b) is a accepted view among most states and authors that they can derogate from it.
  - c) means compelling law.
  - d) is a norm not relevant in international law.
21. \_\_\_\_\_ is not a subject governed by public law.
- a) Human rights
  - b) Constitutional law
  - c) Administrative law
  - d) Contracts
22. Which of the following country has the oldest Constitution in the world?
- a) India
  - b) The United States
  - c) Norway
  - d) Australia
23. Which school of law does Plato's philosophy of law belong to?
- a) Natural law
  - b) Positive law
  - c) Legal realist
  - d) Historical school of law
24. The Rule of *Casus Omissus*
- a) provides that omissions in a statute can, as a general rule, be supplied by construction.
  - b) provides that omissions in a statute cannot, as a general rule, be supplied by construction.
  - c) provides that the expression of one person or thing implies the exclusion of others persons or things of the same class which are not mentioned.
  - d) means of the same kind.
25. The latin phrase *actori incumbit onus probandi* means the burden of proof lies on the
- a) defendant
  - b) prosecution
  - c) plaintiff
  - d) witness
26. Which of the following is NOT true about secondary sources of law?
- a) Secondary sources of law have persuasive value.
  - b) Secondary sources of law include law review and journals.
  - c) Secondary sources of law do not include legal dictionaries.
  - d) Secondary sources of law explain and critiques primary law.

27. Which of the following is not governed by civil law?
- a) Contracts
  - b) Property
  - c) Torts
  - d) Labor
28. Which of the following does not fall within primary sources of law?
- a) Legal treatises
  - b) Legislations
  - c) Cases
  - d) Delegated legislations
29. The conflict of law rules refers to
- a) Private international law rules
  - b) Public international law rules
  - c) Civil law rules
  - d) Common law rules
30. Negotiated settlement is one form of alternative dispute resolution mechanisms where the proceedings
- a) can be terminated by either the negotiator, in consultation with the parties, or the parties, with a notice to the negotiator.
  - b) can be terminated only by the parties, with a notice to the negotiator.
  - c) can be terminated only by the negotiator, in consultation with the parties.
  - d) cannot be terminated.
31. Which of the following is not an example of customary international law?
- a) Granting of immunity for visiting heads of state.
  - b) Doctrine of non-refoulement.
  - c) States have sovereignty over their natural resources.
  - d) Rights or obligations arising out of treaties.
32. \_\_\_\_\_ is not a subject matter of copyright.
- a) Literary work
  - b) Method of operation
  - c) Musical work
  - d) Architectural work
33. According to Salmond, the three elements which must be considered in determining the extent of criminal liability are
- a) the motive of the offence, the seriousness of the offence, and the gender of the offender.
  - b) the motive of the offence, the presence of negligence in the commission of the offence, and the character of the offender.
  - c) the motive of the offence, the seriousness of the offence, and the character of the offender.
  - d) the motive of the offence, the nature of the offence, and the character of the offender.

34. A valid contract must fulfill the criteria of
- legal capacity, offer and acceptance, consideration, and legal purpose.
  - legal capacity, offer and acceptance, and legal purpose.
  - offer and acceptance, consideration, and legal purpose.
  - offer and acceptance, and legal purpose.
35. Which of the following is NOT an example of an imperfect right?
- Claims which are barred due to lapse of time.
  - Right to religion.
  - Claims against foreign states.
  - Debts due to an executor from estate which he or she administers.
36. A penal action
- refers only to a penal prosecution.
  - refers only to a civil action in which a defendant is made to pay penalty.
  - refers to an administrative action.
  - does not mean penal prosecution only.
37. The principle of natural justice is an important component of administrative law encompassing the rights of
- Nemo iudex in causa sua* and *audi alteram partem*.
  - Nemo iudex in causa sua* and *ante litem motam*.
  - Audi alteram partem* and *damnum sine injuria*.
  - Audi alteram partem* and *de minimis non curat lex*.
38. Legal ethics refers to
- wrongness or rightness of any particular law.
  - professional honesty of lawyers and judges.
  - precepts that are enforced by a public authority.
  - the boundary within which our actions are confined.
39. Which of the following is not a patentable subject matter?
- New product
  - Software
  - Business method
  - Artistic creation
40. The doctrine of precedent excludes a decision given *per incuriam*
- where the decision of the court has bearings on a particular point on which there was no argument.
  - where the decision is opposed to the settled rule of law.
  - where an existing legislation or a rule relevant in the case is not brought to the court's attention.
  - where it is in the interest of the justice to disregard the precedent.

41. One of the legal requirements for registering a trademark is
- the actual use of the trademark.
  - the real intent to use the trademark.
  - the actual use or the real intent to use the trademark.
  - None of the above
42. A conclusive proof is a rule to evaluate evidence according to which
- the proof may be considered enough if there are no other facts proved to the contrary.
  - the proof has such force that it cannot be contradicted.
  - certain facts alone are accepted as the only proof of certain other facts.
  - certain facts have no probative force at all.
43. According to Austin, a legal right involves three parties: the first is, persons on whom the right is bestowed, and the other two are
- the State, and persons on whom the duty is imposed by law.
  - persons on whom a duty is imposed, and the State.
  - persons on whom the duty is imposed by law, and the right holder.
  - the State, and the right holder.
44. The positive school of law
- analyses the law as it exists.
  - deals with law as it appears in its different forms at different stages of its development.
  - concerns primarily with the relation of law to certain objectives which the law is meant to achieve.
  - concerns not with man as an individual but man-in-association.
45. Which of the following is a TRUE statement?
- The correlative of immunity is power.
  - The correlative of immunity is disability.
  - The correlative of immunity is liberty.
  - The correlative of immunity is duty.
46. The three kind of legal burdens according to Salmond are
- duties, disabilities, and liabilities.
  - absence of liberty, absence of power, and immunities.
  - immunities, privileges, and liberties.
  - immunities, duties, and liabilities.
47. The defence of double jeopardy is not available in a criminal case if
- the principle of dual sovereignty is invoked and applicable.
  - the crime committed is a serious offence.
  - the principle of universality is invoked and applicable.
  - the principle of passive personality is invoked and applicable.

48. According to the Constitution of Bhutan, Buddhism is
- The State religion of Bhutan
  - The Spiritual heritage of Bhutan
  - The Culture of Bhutan
  - None of the above
49. Physical evidence does not include
- Fingerprints
  - Documents
  - Weapons used in committing a crime
  - Testimony
50. Which of the following is NOT an exception to the general rule of criminal liability?
- Mistake of fact
  - Principle of *jus necessitatis*
  - Children below certain age
  - Presence of negligence
51. A person commits an offence of trespass, if the person with the knowledge that he or she is not authorized, enters or remains in
- the house of another person.
  - a separately secured or occupied portion of a building of another person.
  - a compound that belongs to another person.
  - All of the above
52. The requirement to pay damages for an injury done to a victim is an example of
- Secondary duty
  - Primary duty
  - Positive duty
  - Negative duty
53. A law that criminalizes any particular act can only apply
- Prospectively
  - Retrospectively
  - Both prospectively and retrospectively
  - None of the above
54. If a doctor's negligence causes injury, loss or damage to a patient or client while rendering professional service, the doctor is
- liable for malpractice.
  - liable only to pay compensation.
  - not liable.
  - None of the above

55. Who is the Chief Legal Advisor to the government?
- The Chief Justice
  - The High Court
  - The Attorney General
  - None of the above
56. The idea that law should be contextualized to the situation in each country, its people, religion and customs etc., belongs to
- Philosophical school
  - Sociological school
  - Natural school
  - Positive school
57. \_\_\_\_\_ is an example of incorporeal property.
- Rights over moveable property
  - Rights over land
  - Patent rights
  - None of the above
58. According to Kelsen's Pure Theory of Law:
- Law must deal with law as it ought to be.
  - Law must not be free from ethics, politics, sociology, history etc.
  - There is a difference between public and private law.
  - Law is a normative and not a natural science .
59. Which of the following is NOT an example of judicial evidence?
- A document which is known to the court through a copy or the report of a witness who has read it.
  - Evidence given by witness in the court.
  - Documents produced in the court.
  - A confession of guilt made in the court.
60. One of the difference between contractual obligations and *delictal obligation* or torts is
- a breach of contract is a violation of right in *rem*, whereas a tort is mostly a violation of a right in *personam*.
  - a breach of contract is a violation of right in *personam*, whereas a tort is mostly a violation of a right in *rem*.
  - motive is relevant in breach of contract but not in torts.
  - the amount of compensation can be fixed precisely in torts while in contracts, the amount cannot be fixed precisely.
61. Personal rights are normally not
- inheritable
  - uninheritable
  - related to a person's body
  - None of the above

62. Which of the following is an example of law of equity?
- Awarding monetary damages.
  - Ordering writs.
  - A case being heard by a jury.
  - Decree for someone to act or not to act on something.
63. The realist movement, which is a comparatively new approach to law, studies law in its actual working, and discards the traditional definition of law that laws are enforced by courts. Hence, the realist movement can be said to be a mixture of
- analytical positivist and sociological approaches.
  - sociological approaches and natural school of law.
  - analytical positivist and natural school of law.
  - sociological approach and historical school of law.
64. Which of the following is an example of quasi-contractual obligation?
- An obligation created through a contract entered between two parties.
  - A person entering a train implies that the person is agreeing to pay the railway fare.
  - A money decree.
  - None of the above
65. Which of the following is NOT explicitly protected as a fundamental right under Article 7 of the Constitution of Bhutan?
- Right to information.
  - Right to State resources.
  - Right to equal access and opportunity to join the Public Service.
  - Right to practice lawful trade.
66. An agreement to sell a building is an example of
- Rights in respect of other rights
  - Rights over material property
  - Rights over immaterial property
  - Rights to services
67. The offence of eavesdropping under the Civil and Criminal Procedure Act of Bhutan does not include
- unlawfully engaging in wiretapping.
  - mechanical overhearing of conversation.
  - incepting or accessing of an electronic communication.
  - None of the above
68. Which of the following subject matter would, generally, not invoke a strict liability?
- Public health
  - Food
  - Drugs
  - None of the above

69. Culpable negligence means
- carelessness become culpable when law imposes a duty of being careful.
  - carelessness causes harm to another person, however the duty is not prescribed by law.
  - negligence does not lead to a criminal offence.
  - None of the above
70. Civil and Criminal Procedure Code of Bhutan is an example of
- Substantive law
  - Public law
  - Procedural law
  - Private law

## PART II

### Short Answer Questions [30 marks]

**Answer the following questions briefly and concisely. All 10 questions are mandatory. Each question carries 3 marks.**

1. Explain the difference between personal and real evidence. (3 marks)
2. State three mechanisms which ensure that delegated legislations do not *ultra vires* the parent or enabling Acts. (3 marks)
3. What is the difference between procedural and substantive law. Give an example each. (2+1 marks)
4. Explain the principle of Conflict of Laws. (3 marks)
5. The protection of any rights under the Constitution as a fundamental right of a citizen entails compelling reasons. Right to Information (RTI) is a constitutional right in many countries around the world. In your opinion, explain the rationale as to why RTI merits to be guaranteed as constitutional right. (3 marks)
6. Discuss three advantages of legislations over precedents. (3 marks)
7. Under the criminal law of a country, the offence of smuggling has been stipulated as '*a person commits an offence of smuggling if the person secretly and illegally imports or exports restricted and prohibited goods or substance*'. However, restricted and prohibited goods are provided under separate schedules or lists. As a judge, which rules of statutory interpretation would you apply in interpreting the above provision of law. Explain with reasons. (3 marks)
8. Explain the difference between legal history and historical jurisprudence. Give an example each. (2+1 marks)
9. Retrospective application of law is generally construed as unfair, monstrous even, and proscribed expressly under the Constitution of many countries. However, there can be certain situations where retrospective application could be justified. Describe three such situations. (3 marks)
10. What is the difference between *ratio decidendi* and *obiter dicta* made in a judicial decision? (3 marks)

TASHI DELEK