

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

PAPER III: SUBJECT SPECIALISATION PAPER FOR LAW

Date	: February 27, 2021
Total Marks	: 100
Writing Time	: 150 minutes (2.5 hours)
Reading Time	: 15 Minutes (prior to writing time)

GENERAL INSTRUCTIONS:

1. Write your Registration Number clearly and correctly on the Answer Booklet.
 2. The first 15 minutes is being provided 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 SECTIONS**, namely SECTION A & 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 of your choice.
4. 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.
 5. 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 the Section, Part and Question Number will NOT be evaluated and no marks will be awarded.
 6. Begin each Section and Part on a fresh page of the Answer Booklet.
 7. You are not permitted to tear off any sheet(s) of the Answer Booklet as well as the Question Paper.
 8. Use of any other paper including paper for rough work is not permitted.
 9. **You must hand over the Answer Booklet to the Invigilator before leaving the examination hall.**
 10. This paper has **12 printed pages**, 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 your chosen answer in the Answer Booklet against the question number e.g. 51 (a). Each question carries ONE mark. Any double writing, smudgy answers or writing more than one choice shall not be evaluated.

1. On 8 January 1918, _____ made his famous ‘fourteen points’ speech, in which he called for the creation of a ‘general association of nations . . . under specific covenants for the purpose of affording mutual guarantees of political independence and territorial integrity to great and small states alike’.
 - a) US President Abraham Lincoln
 - b) US President Woodrow Wilson
 - c) UK Prime Minister Winston Churchill
 - d) Emperor Nicholas I of Russia

2. “A supranational organization is different because member states do surrender power in specific areas to the higher organization.” Which one of the following organizations is a best example of a supranational organization?
 - a) The United Nations
 - b) European Community
 - c) SAARC
 - d) UNDP

3. International organizations, generally speaking, have the right to send and receive missions (jus missionis). Who is current Resident Coordinator of the UN in Bhutan?
 - a) Mr. Jürgen Nagler
 - b) Mr. Gerald Daly
 - c) Ms. Azusa Kubota
 - d) Mr. Will Parks

4. *Jus tractatum* in public international law is
 - a) Utmost Good Faith
 - b) Good faith
 - c) Biding obligation to treaties
 - d) Right to conclude treaties

5. Article 34(1) of the ICJ Statute specifies clearly that
 - a) ‘only states may be parties in cases before the Court’.
 - b) ‘only states and international organizations may be parties in cases before the Court’.
 - c) ‘only states and individuals may be parties in cases before the Court’.
 - d) ‘States, international organizations and individuals may be parties in cases before the Court’.

6. The idea that international organizations, and their organs, can do only to those things for which they are empowered is best explained by which one of the following principles?
- The principle of delegated power
 - The principle of empowerment
 - The principle of constituted power
 - The principle of attribution
7. In the United Nations, the admission of a new member requires a positive recommendation by
- the General Assembly and a decision by the Security Council.
 - the Security-General and a decision by the Security Council.
 - the Security Council and a decision by the General Assembly.
 - the Security-General and a decision by the General Assembly.
8. International Court of Justice in its advisory opinion on Reservations to the Genocide Convention in 1951, attempted to reconcile the aim of universality of a treaty regime with the idea of its integrity by formulating the ‘object and purpose’ test. Which one of the following statements best explains the ‘object and purpose’ test?
- If the treaty is silent on reservation, states may make reservations unless they are incompatible with the object and purpose of the treaty concerned.
 - If the treaty is silent on reservation, states shall not make reservations whether they are incompatible with the object and purpose of the treaty concerned.
 - If the treaty is silent on reservation, states may make reservations irrespective of their incompatibility with the object and purpose of the treaty concerned.
 - If the treaty is silent on reservation, states may not enter into treaty without accepting all the terms and conditions
9. In international law of treaties, which one of the following statements best explains the doctrine of *rebus sic stantibus*?
- A party may withdraw from or terminate the treaty in question by consent between the parties.
 - A party may withdraw from or terminate the treaty in question without the consent of the other party if the treaty allows explicitly.
 - A party may withdraw from or terminate the treaty in question where there has been a fundamental change of circumstances.
 - A party may withdraw from or terminate the treaty in question if the treaty is rendered impossible by an act of God.
10. Which one of the following is TRUE about who can become a member of the United Nations?
- Only states and regional groups are allowed to join UN.
 - Only states and international organizations are allowed to join UN.
 - Only states and transnational corporations are allowed to join UN.
 - Only states are allowed to join UN.
11. The ancient maxim *ubi societas, ibi jus* means
- “the welfare of the people is the supreme law”
 - “wherever human activity is organized, there will be rules of law”
 - “justice is to be denied to nobody”
 - “there is no harm in being cautious”

12. A Swiss philanthropist Henry Dunant, inspired the creation of
- European Community
 - Human Rights Council
 - Red Cross
 - Amnesty International
13. The term ‘international organization’ was first coined, reportedly by
- Jeremy Bentham
 - The Scottish jurist James Lorimer
 - Hugo Grotius
 - Christine de Pizan
14. Which one of the following combinations best describes two basic or underlying reasons why states concluded treaties?
- One was pursuit of self-interest, the other was the pursuit of common interests.
 - One was avoidance of war, the other was pursuit of self-interest.
 - One was international cooperation, the other was creation of international organizations.
 - One was pursuit of common interest, the other was exploitation of resources.
15. The General Assembly, upon recommendation of the Security Council, may expel a member of the United Nations. Which one of the following best describes the reason for expelling a member of the UN?
- The persistent violation of the principles contained in the UN Charter.
 - The persistent failure to pay the membership fee.
 - The persistent failure to settle dispute peacefully.
 - The persistent violation of international treaties.
16. The European Union is created by
- London Treaty
 - Berlin Treaty
 - Manchester Treaty
 - Maastricht Treaty
17. International Organization will generally have at least three main organs. Which one of the following combinations best explains these three main organs?
- Assembly, Council and Secretariat.
 - Plenary body, executive body and administrative body.
 - General body, specialized body and secretariat body.
 - General body, managerial body and administrative body.
18. The following crimes are ‘international crimes’ explicitly included in the ICC Statute, EXCEPT
- Crimes of Genocide
 - Terrorism
 - Crimes against humanity
 - Crime of aggression

19. Which one of the following is FALSE when it concerns the sources of International Criminal Law?
- The International Criminal Court shall apply the ICC Statute.
 - The International Criminal Court shall apply where appropriate applicable treaties.
 - The International Criminal Court shall not apply principles and rules of law as interpreted in its previous decisions.
 - The International Criminal Court shall apply general principles of law derived by the Court from national laws of legal systems of the World.
20. Which one of the following combinations best depicts two aspects of the principle of *nullum crimen sine lege*?
- Non-retroactivity and clarity of the law.
 - Innocence until proven guilty and clarity of the law.
 - Due process of law and the non-retroactivity.
 - Defense of the mistake of law and the clarity of the law.
21. Genocide, as General Assembly resolution 96(1) declared, 'is a denial of the right of existence of entire human groups, as homicide is the denial of the right to live of individual human beings.' The special intent that is a necessary element of the crime that of intending to destroy a group, marks it out from all other international crimes. This explains why genocide has a particular seriousness, and has been referred to as the
- 'Crime against humanity'
 - 'Crime against a group'
 - 'Massacre'
 - 'Crime of crimes'
22. Every year, March 20th is celebrated as the International Happiness Day. According to the International Happiness Day Resolution adopted by the General Assembly, the pursuit of happiness is
- 'the fundamental human goal'
 - 'a fundamental human goal'
 - 'a means to economic development'
 - 'a means to human development'
23. According to Human Rights law, human rights are categorized as first, second and third generation rights. Which of the following rights guaranteed by the Bhutanese Constitution are good examples of second-generation rights?
- Right to safe and healthy environment under Article 5 and right to conducive environment that allows pursuit of Gross National Happiness under Article 9.
 - Right to free education up-to tenth standard and basic health under Article 9.
 - Right against torture and degrading treatment and capital punishment under Article 7.
 - Rights of women and children against exploitation under Article 9.
24. Which one of the following is NOT an organ of WHO?
- The World Health Assembly
 - The Executive Board
 - The Secretariat
 - The World Health Council

25. The latest Joint Sitting of the Parliament decriminalized _____ between consenting adults.
- unnatural sex
 - homosexuality
 - transnational sex
 - bestiality
26. The expression “international law” was first coined by
- Jeremy Bentham
 - The Scottish jurist James Lorimer
 - Hugo Grotius
 - Christine de Pizan
27. Which of the following is NOT a convention that is drafted by UNCITRAL?
- The Convention on the Limitation Period in International Sale of Goods (1974).
 - The Geneva Conventions on the Law of the Sea (1958).
 - The Convention on the Carriage of Goods by Sea (1978).
 - The United Nations Convention on Contracts for the Sales of Goods (1980).
28. According to the fictional theory of the “subjects of international law”, which of the following is subject(s) of international law?
- States only
 - Individuals only
 - States and international organizations only
 - States and individuals only
29. During this year’s winter parliamentary session, the DNT government once again tabled the controversial _____ for ratification.
- Asian Development Bank Framework Agreement
 - BBIN Motor Vehicle Agreement
 - World Bank Framework Agreement
 - European Investment Bank (EIB) Framework Agreement
30. Which one of the following is NOT a principal organ of UN?
- The General Assembly
 - The Security Council
 - The Economic and Social Council
 - The United Nations Educational, Scientific and Cultural Organization
31. The doctrine of *Intra Vires* is best understood as
- “Arbitrary exercise of the powers”
 - “Inside the powers” or “within the powers”
 - “Authorized execution of the duties”
 - “Outside the powers” or “beyond the powers”

32. In international law of treaties, *pacta sunt servanda* means
- “Compelling law”
 - “Treaty binds the parties and only the parties”
 - “Agreement must be kept”
 - “A binding legal instrument”
33. Who is current Director-General of WHO appointed for a five-year term by WHO member states at the Seventieth World Health Assembly in May 2017?
- Dr. Tedros Adhanom Ghebreyesus
 - Dr. Margaret Chan
 - Dr. Anders Nordström
 - LEE Jong-wook
34. At least within the UN system, an important role of the codification and progressive development of international law is played by
- International Criminal Court
 - International Court of Justice
 - International Law Council
 - International Law Commission
35. In general terms, the International Court of Justice (ICJ) can have jurisdiction in contentious proceedings between states only if those states have somehow consented thereto. The most prominent means for consenting to the Court’s jurisdiction include the conclusion of a
- Compromis
 - Compromise
 - Treaty
 - Contract
36. Which one of the following was a part of the Havana Charter establishing an International Trade Organization (ITO), but was lifted out of the Havana Charter?
- WTO
 - TRIPS
 - GATT
 - WIPO
37. In *Chorzow Factory case*, which court held that a violation of international law entails responsibility and the obligation to make reparation in one form or another?
- The Permanent Court of International Justice
 - The International Court of Justice
 - The International Criminal Court
 - The International Tribunal

38. According to the constitutive theory of the recognition of a state, the personality of a state is created not by fact but through recognition by other states. Which country first recognized Bangladesh as an independent state in 1971?
- India
 - Pakistan
 - Bhutan
 - The United States of America
39. Which of the following is TRUE about High Seas?
- Free to the commerce and navigation of all the States.
 - Lies within the boundaries of the State.
 - Coastal State has sovereignty over High Seas.
 - It is part of the exclusive economic zone.
40. The area of contiguous zone is how many miles beyond the territorial sea?
- 3 nautical miles
 - 12 nautical miles
 - 24 nautical miles
 - 200 nautical miles
41. Property of the enemy captured at sea or in the port is referred to as
- Booty
 - Consignment
 - Prize
 - Price
42. United Nations Environment Programme (UNEP) is the product of
- the United Nations Conference on the Human Environment 1972.
 - the United Nations Conference on Human Settlements 1996.
 - the United Nations Conference on Environment and Development 1992.
 - the United Nations Framework Convention on Climate Change.
43. The UN High Commissioner for Human Rights is appointed and approved by
- the General Assembly and the Secretary-General respectively.
 - the Secretary-General and the General Assembly respectively.
 - the Security Council and the General Assembly respectively.
 - the General Assembly and the Security Council respectively.
44. While capital punishment or death penalty is not explicitly prohibited by the International Covenant on Civil and Political Rights (ICCPR), Bhutanese Constitution under Article 7 prohibits death penalty. However, Bhutan abolished death penalty in _____, prior to the adoption of the Constitution.
- 1984
 - 2001
 - 1999
 - 2004

45. The recent Parliament sitting by amending the relevant provisions of the Penal Code of Bhutan, raised the age of criminal liability of a child from 10 years of age to
- 12 years of age
 - above 12 years of age
 - 15 years of age
 - below 18 years of age
46. The first World-wide governmental conference or International Conference on Human Rights is popularly known as
- Tehran Conference
 - World Conference on Human Rights
 - Vienna Conference
 - New York Conference
47. Which one of the following statements best explains the principle of *pacta tertiis nec nocent nec prosunt*?
- Land that is legally deemed to be unoccupied or uninhabited.
 - Rights and obligations arising from a treaty are binding only to the parties to a treaty and not to a third State without its consent.
 - Wherever human activity is organized, there will be rules of law.
 - Right to conclude treaties.
48. Under international human rights law, the **principle** that no one should be returned to a country where they would face torture, cruel, inhuman or degrading treatment or punishment and other irreparable harm is called
- Non-refoulement
 - Non-extradition
 - Non-returnability
 - Refoulement
49. As per the UN Charter, which one of the following is FALSE about requesting the International Court of Justice (ICJ) to give an advisory opinion on any legal question?
- The General Assembly may request the ICJ to give an advisory opinion.
 - Other organs of the UN and specialized agencies if authorized by the General Assembly may also request advisory opinions of the ICJ.
 - The Security Council may request the ICJ to give an advisory opinion.
 - Other organs of the UN and specialized agencies may also request advisory opinions of the ICJ without the authorization of the General Assembly if it pertains to the legal questions arising within the scope of their activities.
50. Her Majesty Gyalyum Sangay Choden Wangchuck, Queen Mother of Bhutan was recently awarded the individual laureate for the 2020 United Nations Population Award for
- contributions in the fields of population and education.
 - contributions in the fields of population and reproductive health.
 - contributions in the fields of population and poverty reduction.
 - contributions in the fields of population and combatting human-trafficking.

PART II – Short Answer Questions [20 marks]

This part has 4 Short Answer Questions. Answer ALL the questions. Each question carries 5 marks.

1. Besides submitting the disputes to a court or arbitral tribunal, public international law also offers parties the possibility to solve a dispute by diplomatic means. Some forms of diplomatic dispute settlement require the involvement of a third party. Briefly explain forms of dispute settlement by diplomatic means or methods.
2. Define and compare the concept of first-generation, second-generation and third-generation human rights by providing examples from the rights enshrined in Bhutanese Constitution.
3. The Kingdom of Bodhiyana and the Republic of Doklamistan are two neighbouring states. At some point of time, the Kingdom of Bodhiyana placed its armed troops at the border of the Republic of Doklamistan (however, within the territory of the Kingdom of Bodhiyana). As a result, the Republic of Doklamistan fired two ballistic missiles onto the territory of the Kingdom of Bodhiyana. The Republic of Doklamistan justifies its acts on basis of self-defense. Briefly explain if the Republic of Doklamistan's action is justified in light of the legality of doctrine of use of force.
4. What are the criteria for statehood and how are these criteria otherwise known as?

SECTION B: CASE STUDY [30 marks]

Choose either CASE I or CASE II from this section. Each case study carries 30 marks. Mark for each sub-question is indicated in the brackets.

CASE I

Within a span of a few months, the entire mankind has been reduced to a state of disarray with the outbreak of the extremely contagious Covid-19. The panic amongst people is well-founded in light of over 100 million confirmed cases of Covid-19, and more than 2 million reported deaths. Global economy is hard-hit and social and economic inequalities are rising exponentially.

In the midst of this pandemic, many conspiracy theories are doing rounds. However, the origin of the virus is widely considered to be Pandaya Province in the Republic of Rendeveria (Rendeveria). Many suits are filed in different parts of the world in their respective domestic courts seeking damages for loss of lives and economic losses.

According to the Rendeveria Morning Post, the first case of Covid-19 was recorded on November 17, 2019 in the Pandaya Province, with five new cases reported on average per day in the weeks thereafter. Rendeveria alleged that it is the mistakes of the local Rendeverian government that gave the disease a critical month-long head start. However, there are reliable claims that Rendeverian government indeed suppressed or silence the report of outbreak by doctors or clinicians in the Pandaya Province.

A study by the UK's University of South Hampton indicated that had Rendevertia authorities acted three weeks earlier than they did, the geographic proliferation of the virus would have been suggestively smaller, and the number of cases would have been reduced by 95 percent. However, Rendevertia reported the case to the World Health Organization (WHO) only on 31 December 2019.

The Kingdom of Takistan (Takistan) is a neighbouring State to Rendevertia. Rendevertia was overtime able to reduce the spread of virus drastically through hard lockdowns and other measures. Takistan, a democratic constitutional monarchy founded on a strong democratic values and individual freedoms found extremely difficult to contain the virus. Takistan's tourism business is completely stalled, hospitals are overwhelmed by Covid-19 patients, and its economy is fully stretched.

Takistan is weighing the possibility of filing the case before the International Court of Justice (ICJ) against Rendevertia claiming 15 billion USD as damages for Rendevertia's in-action and delay in reporting the outbreak in timely manner that could have helped reduced the impact of virus.

You are the Attorney General of Takistan. Takistan government asked you to study if Takistan can legally file case against Rendevertia and succeed in its claims. Answer the following questions based on relevant treaties or conventions, case law and earlier practices.

1. Examine the potential liability of Rendevertia under the International Health Regulations (IHR). Your answer must clearly state the responsibility of Rendevertia under the WHO's IHR and whether Rendevertia violated that responsibility, and if there are any challenges in enforcing the claim. (10 marks)
2. Examine if Takistan can claim that Rendevertia violated the no-harm principle? Your answer must clearly state the concept of the no-harm principle in light of the provisions of the relevant international law document(s) and case laws. (7 marks)
3. Examine if Rendevertia's delay in reporting the outbreak constitute internationally wrongful act? Explain your answer in light of the conditions or elements of an international wrongful act of a State. (6 marks)
4. Assuming that Rendevertia did not consent to the ICJ's jurisdiction, which is the pre-requisite for bringing case before the ICJ, examine if the people of Takistan can file class-action suit against the State of Rendevertia before the domestic court of Takistan for damages? (7 marks)

CASE II

The government of the day is confronted with many challenges relating to its fight against the Covid-19 pandemic. The government had to make many decisions both popular and unpopular in its efforts to combating the pandemic. One such decision is the executive decision to import and distribute tobacco products within the country through Duty Free outlets. However, Section 11(b) of the Tobacco Control Act (Amendment Act of 2014) prohibits the sell and distribution of tobacco and tobacco products in the country. Many sections of the population have raised concerns regarding the government's decision to distribute the tobacco products in the country. Some local governments have refused to

distribute the tobacco products in their Dzongkhags both on religious ground and constitutional ground.

The People's Democratic Party has openly challenged the government's decision citing it as unconstitutional. However, the government and the Office of the Attorney General have maintained that the exigency of the situation of Covid-19 allows the government to distribute tobacco products to curb the illegal import and smuggling of tobacco products as a measure to combat the import of Covid-19 into Bhutan by the smugglers.

Another such decision is temporary suspension of some of the provisions of the Pay Revision Act through executive orders relating to public servants' travel entitlements.

These issues are discussed in both mainstream media and social media. Some argued that the government violated the provisions of the Constitution, particularly provisions relating to the separation of powers. However, some argued that the government acted within its constitutional power.

Note that no state of emergency was declared as of now. In light of the above facts, answer the following questions:

1. Explain the concept of the separation of powers in light of the relevant provision(s) of the Constitution of Bhutan. Do the government decisions to distribute tobacco products and suspend part of the Pay Revision Act violate the constitutional provision(s)? (10 marks)
2. Would your answer be different if the state of emergency is declared? Explain your answer by clearly stating the procedure for declaring state of emergency and whether Covid-19 situation can be considered as one of the emergencies covered under Article 33 of the Constitution. (10 marks)
3. Assume that the Chief of Police requested the Supreme Court to cancel the bail of existing court cases (gold and other cross-border smuggling cases) to prevent the imports of Covid-19 into the country. The request claims that some of the people arrested for smuggling and released on bail are suspected of smuggling tobacco products into the country. Also assume that the Chief Justice of Bhutan accepted the request and issued an order to all the courts to automatically cancel the bails of over 60 accused. Examine the constitutional impact(s) of such order or the constitutionality of the order based on the relevant provisions of the procedural law and the Constitution of Bhutan. (10 marks)

TASHI DELEK