

ROYAL CIVIL SERVICE COMMISSION

**BHUTAN CIVIL SERVICE EXAMINATION (BCSE) 2010
EXAMINATION CATEGORY: TECHNICAL**

PAPER II: GENERAL SUBJECT KNOWLEDGE FOR LL.B.

Date : 23rd November 2010
Total Marks : 100
Reading Time : 15 Minutes
Examination Time : 1 hour and 30 minutes

INSTRUCTIONS

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

Answer ALL questions. Indicate question number. Choose and write the correct answer.

1. Which of the following are sources of law?
 - a) Only treaties and conventions
 - b) Only customs and precedents
 - c) Both (a) and (b)

2. An expression that is understood as the authority from which the laws derive their force:
 - a) Forces of law
 - b) Sources of law
 - c) Authority of law

3. Which one of the following is an example of encyclopedia of law?
 - a) Halsbury's Laws of England
 - b) Black's Law Dictionary
 - c) Wikipedia

4. The process of compiling, arranging, and systematizing the laws of a given jurisdiction, or of a discreet branch of the law:
 - a) Consolidation
 - b) Codification
 - c) Compilation

5. Which of the following is a form of delegated legislation?
 - a) Acts
 - b) Bills
 - c) Rules & Regulations

6. What is the "ratio decidendi" of a case?
 - a) The central core of reasoning
 - b) Statement made in passing
 - c) Persuasive but not binding parts of a judgment

7. Observations made by the court which have no binding power but may have persuasive value in future cases are referred to as:
 - a) Caveat emptor
 - b) Obiter dicta
 - c) Ratio decidendi

8. Courts have a tendency to rely on precedent when deciding cases with similar facts. What is this called?
 - a) Concurring opinions
 - b) Stare decisis
 - c) Advisory opinions

9. Which court CANNOT set precedent?
- a) High Court
 - b) Chhukha Dzongkhag Court
 - c) Phuentsholing Dzongkhag Court
10. Which of the following statement is correct?
- a) The Pemagatshel Dzongkhag Court is bound by the decisions of Thimphu Dzongkhag Court
 - b) The Pemagatshel Dzongkhag Court is bound by the decisions of the High Court
 - c) The Pemagatshel Dzongkhag Court is bound by the decisions of tribunals
11. Bhutan's Constitution may be described as being:
- a) Monist
 - b) Dualist
 - c) Both monist and dualist
12. What status must judges have under the principle of separation of powers?
- a) Independence from Parliament, but remain part of government
 - b) Independence from Parliament and government
 - c) Part of Parliament but independent of government
13. "An eye for an eye and a tooth for a tooth" relates to the criminal justice theory of:
- a) Reformative
 - b) Deterrence
 - c) Retributive
14. Leading questions:
- a) Are never allowed in a trial
 - b) Are allowed only during cross examination
 - c) Are allowed by the defense, but not by the State
15. A doctor has _____ relationship with his patient:
- a) Fiduciary
 - b) Customary
 - c) Statutory

16. 'Common law' is a law that is made by:
- The legislature
 - Judges through the determination of cases
 - The executive
17. *Doli incapax* is a legal doctrine which presumes:
- The age at which a person can enter into a contract
 - The age of criminal responsibility
 - The age at which a person can legally marry
18. The standard of proof that must be met by a plaintiff in a civil action under the Civil and Criminal Procedure Code 2001:
- Proof beyond reasonable doubt
 - Preponderance of evidence
 - Balance of probability
19. What is habeas corpus?
- An order to review earlier decision.
 - An order requiring the court to know of the reasoning of a decision
 - A challenge requiring a detained person to be brought before a court to determine the legality of the detention.
20. A procedural defense that forbids a defendant from being tried again on the same, or similar charges following a legitimate acquittal or conviction:
- Double jeopardy
 - Res judicata
 - Sub judice
21. Statute law refers to:
- Laws created by the judges through the deciding of cases
 - The body of law that regulates the relationship between the State and its citizens
 - The body of laws created by Parliament in the form of legislation
22. A clause in a contract that essentially frees both parties from liability or obligation when an extraordinary event or circumstance beyond their control, prevents one or both parties from fulfilling their obligations under the contract:
- Force majeure
 - Termination
 - Dispute settlement

23. Goods on display in a shop with the price tag is:
- a) An offer
 - b) An invitation to offer
 - c) A counter offer
24. A doctrine that prevents a person who knowingly and willingly puts himself in a dangerous situation from suing for any resulting injuries:
- a) Damnum sine injuria
 - b) Injuria sine damno
 - c) Volenti non fit injuria
25. To whom can an offer be made?
- a) A specified individual
 - b) The entire world
 - c) Single group of people specifically identified in the offer
26. The law which decides the limits of the government's power and the rights of the individual:
- a) Statutory law
 - b) Administrative law
 - c) Constitutional law
27. Which among the following is NOT a holder of constitutional office under the Constitution of Bhutan:
- a) The Auditor General
 - b) The Attorney General
 - c) The Chief Election Commissioner
28. Who among the following would NOT be subject to removal from office by way of impeachment?
- a) A member of Parliament
 - b) A Justice of the Supreme Court
 - c) The Chairperson of the Anti-Corruption Commission
29. A Bill passed by Parliament comes into force upon assent of the:
- a) Druk Gyalpo
 - b) The Chairperson of the National Council
 - c) Speaker of the National Assembly

30. According to the *ejusdem generis* maxim of interpretation, which of the following would you include in the class ‘apples, cherries, plums and other crops’?
- a) Potatoes
 - b) Tomatoes
 - c) Pears
31. If, when interpreting a statute, the plain meaning of the words used results in an absurdity or an injustice, the courts may use a meaning which will avoid such a result. This rule of statutory interpretation is called:
- a) Mischief rule
 - b) Literal rule
 - c) Golden rule
32. A set of exclusive rights granted to the author or creator of an original work, including the right to copy, distribute and adapt the work is known as:
- a) Trademark
 - b) Copyright
 - c) Patent
33. The defense by an accused person of having been elsewhere at the time an alleged offense was committed is called:
- a) Alibi
 - b) Nolo contendere
 - c) Insanity
34. The legal doctrine which states that, an employer is responsible for the actions of employees performed within the course of their employment:
- a) Strict liability
 - b) Secondary liability
 - c) Respondeat superior
35. The protection rendered by law against forced disclosure of conversation that takes place within the context of a protected relationship, such as that between an attorney and client, doctor and patient, husband and wife is known as:
- a) Private affair
 - b) Privileged communication
 - c) Personal conversation

36. An agreement in a criminal case, whereby the prosecutor offers the defendant the opportunity to plead guilty, usually to a lesser charge or to the original criminal charge with a recommendation of a lighter than the maximum sentence is known as:
- a) Plea of nolo contendere
 - b) Plea Bargain
 - c) Plea of Pardon
37. Sources of international law are those things on which international tribunals rely in deciding their cases. Which of the following is NOT a recognized source of international law?
- a) Judicial decisions
 - b) Treaty or convention
 - c) General principles of morality
38. When we refer to legal institutions, procedure, and rules, we are referring to:
- a) Justice entity
 - b) Legal system
 - c) Legal tradition
39. The law that deals with personal injury, contracts, and property is known as:
- a) Tort
 - b) Civil law
 - c) Statutory law
40. Which of the following is NOT an element of crime?
- a) Actus reus
 - b) Mens rea
 - c) Parens patriae
41. Punishing an offender in order to cause other people to refrain from committing the same crime is an example of:
- a) General deterrence
 - b) Individual deterrence
 - c) Incapacitation
42. An example of punishment in the criminal justice system is:
- a) Loss of license to practice a profession
 - b) Imprisonment
 - c) Payment of settlement to a victim

43. What is an offence of strict liability?
- a) An offence created by statute
 - b) An offence which does not require mens rea in relation to all aspects of the actus reus.
 - c) An offence that requires mens rea but no actus reus.
44. Most prosecutions are brought by whom?
- a) Royal Bhutan Police
 - b) Anti-Corruption Commission
 - c) Office of the Attorney General
45. What category of evidence operates indirectly by tending to prove a fact relevant to the issue?
- a) Hearsay evidence
 - b) Identification evidence
 - c) Circumstantial evidence
46. What factor determines eligibility for legal aid?
- a) The defendant's financial circumstances
 - b) The defendant's previous criminal record
 - c) The decision of the trial judge
47. A decision rendered by an Arbitral Tribunal that is binding on the parties is known as an:
- a) Judgement
 - b) Award
 - c) Settlement
48. Which of the following is TRUE about mediation?
- a) Mediation is only used in relation to professional disputes such as construction contracts.
 - b) Mediation is a process whereby a third party seeks to assist parties to a dispute to achieve a settlement.
 - c) Mediation is a very expensive form of dispute resolution.
49. Who is the Chairperson of the National Judicial Commission of Bhutan?
- a) The Attorney General
 - b) The Chairperson of the Legislative Committee of the National Assembly
 - c) The Chief Justice of Bhutan

50. What is the main issue in the first constitutional case between the Opposition Party and the Government?
- a) Separation of powers.
 - b) Constitutionality of the tax revision by the Government.
 - c) Role of the Opposition party.
51. Which of the following is NOT a part of the Local Governments?
- a) Dzongkhag Tshogdu
 - b) Geog Tshogde
 - c) Choethuen Tshogpa
52. Supreme Court Justices are appointed according to which of the following methods:
- a) Appointed by the Chief Justice of Bhutan in consultation with the National Judicial Commission.
 - b) Appointed by the Druk Gyalpo in consultation with the National Judicial Commission.
 - c) Appointed by the Chief Justice of Bhutan in consultation with the Royal Judicial Service Council.
53. Any case of violation of fundamental rights conferred by Article 7 of the Constitution of Bhutan can be heard by:
- a) High Court
 - b) Dzongkhag Court
 - c) Dungkhag Court
54. The system of checks and balances is designed to:
- a) Maintain proper fiscal policy by controlling expenditure and following proper accounting practices.
 - b) Promote affirmative action policy within our branches of the government.
 - c) Prevent any branch of government from encroaching on the power of another branch.
55. The doctrine of eminent domain is the right of the government:
- a) To take property for public use
 - b) To distribute wealth equitably
 - c) To deprive the owner of his property without just cause.

56. The system for electing members of Parliament in Bhutanese elections is referred to as:
- Proportional representation
 - First past the post
 - Majority rule
57. 'Public International law' refers to which of the following:
- The rules for selecting the appropriate law to govern disputes involving parties in different legal system.
 - The law governing the relationship between different sovereign states.
 - The need for probity and integrity in international organization such as the International Olympic Committee.
58. Which of the following is CORRECT term to describe the taking of unfair or improper advantage of a dominant position arising out of a special relationship?
- Undue influence
 - Duress
 - Fraud
59. Under Bhutanese laws, what would be the severest punishment that would be rendered to an offender?
- Capital punishment
 - Life imprisonment
 - 14 years
60. Damages whose amount the parties designate during the formation of a contract for the injured party to collect as compensation upon a breach is:
- Special damages
 - Punitive damages
 - Liquidated damages
61. The process by which criminals convert tainted proceeds into apparently legitimate funds is known as:
- Money laundering
 - Identity fraud
 - White collar crime

62. A legal principle that bars a party from denying or alleging a certain fact owing to that party's previous conduct, allegation, or denial is known as:
- a) Doctrine of laches
 - b) Doctrine of estoppel
 - c) Doctrine of nullification
63. Jurisdiction over an intangible property is attained by:
- a) Garnishment
 - b) Attachment
 - c) Interlocutory order
64. Two or more sentences imposed on a defendant to be served at the same time is:
- a) Concurrent sentence
 - b) Cumulative
 - c) Consecutive
65. Sexual intercourse between two person who are related by consanguinity or affinity in such a way that they cannot legally marry is known as:
- a) Adultery
 - b) Incest
 - c) Pedophilia
66. An order of a court to do or refrain from doing a particular act:
- a) Directive
 - b) Command
 - c) Injunction
67. The process by which a company is brought to an end, and the assets and property of the company is redistributed:
- a) Winding up
 - b) Shut down
 - c) Close down
68. A person authorized to administer oaths, attest or certify documents, take acknowledgments and perform such other official acts:
- a) Deponent
 - b) Notary Public
 - c) Verifier

69. What is the adjective usually used to describe English system of criminal justice:

- a) Adversarial
- b) Inquisitorial
- c) Adjudicatory

70. Can courts annul delegated legislation?

- a) Never
- b) By applying the *ultra vires* doctrine
- c) Always

SECTION B

Answer ALL questions. Apply legal principles or logic and answer the questions directly and concisely with analysis.

1. Pema, a supermarket cashier, receives money for groceries from Lhadon, a customer of the supermarket. Pema, however, puts the money directly into her pocket rather than into the cash register of the supermarket. Identify the offence committed by Pema. Explain why?
2. Would the offence be same, if in the above case, Pema had first placed the money into the cash register and stolen it later? Explain why?
3. A points a realistic toy gun at B who is fifty feet away from A and who is unaware of the fact that A is holding the toy gun. For what offence would you charge A? Give reasons.
4. Explain the concept of “*locus standi*”?
5. Differentiate between a “cross claim” and “counter claim”?
6. There is a doctrine under which legislative and executive actions are subject to review, and possible invalidation, by the judiciary. Identify the doctrine and briefly explain it.
7. Nima contacts Dawa and ask him if he would be interested in purchasing his car for Nu. 200,000. Dawa immediately takes Nu. 200,000 to Nima and says he wants to buy the car. Nima subsequently does not wish to proceed. Is there a formation of contract between Nima and Dawa? Give reasons for your answer.
8. What is the meaning of “Supremacy of the Constitution”?

9. Where a proclamation of emergency is in operation, the enforcement of certain fundamental rights conferred by the Bhutanese Constitution may be suspended. Mention, at least, three such rights?
10. Mention, at least, three contractual remedies available in the event of a breach of contract? Briefly explain.

*****END OF EXAMINATION*****