

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

PAPER II: GENERAL SUBJECT KNOWLEDGE FOR LAW GRADUATES

Date : October 10, 2015
Total Marks : 100
Examination Time : 90 Minutes (1.5 hours)

INSTRUCTIONS

1. Write your registration number in the space provided in the answer booklet.
2. You have fifteen (15) minutes to read the instructions, clarify doubts, make sure that you have all Seventeen (17) pages, and check to see if there is any printing error. This question paper has Seventeen (17) pages, including this instruction page. DO NOT write during this time.
3. This question paper is in PARTS I and II:
 - PART I with seventy (70) multiple choice questions of one (1) mark each (numbered 1-70); and
 - PART II with ten (10) short answer questions of three (3) marks each (numbered 1-10).
4. All questions are compulsory. Clearly indicate the part and question number against each answer in the answer booklet. No marks will be given for any answer without such indication or incorrect indication.
5. All answers MUST be written in the answer booklet provided to you. You will NOT be given any mark for answers written other than in the answer booklet. Ask for additional answer booklet, if required. Begin each part in a fresh page.
6. DO NOT tear off any sheet from the answer booklet as well as the question paper.
7. Handover the answer booklet to the invigilator BEFORE you leave the examination hall.

GOOD LUCK!

PART I: MULTIPLE CHOICE QUESTIONS

Choose the correct answer and write down the letter of the correct answer chosen in the Answer Sheet against the question number. E.g. 71(c). Each question carries ONE mark.

1. Which of the following is not a primary source of law?
 - (a) Charter
 - (b) Legislation
 - (c) Precedent
 - (d) Law reviews

2. Jurisprudence or *juris prudentia* in Latin term means:
 - (a) A theory of law
 - (b) A science of law
 - (c) A philosophy of law
 - (d) All of the above

3. Who among the following propounded the command theory of law?
 - (a) John Austin
 - (b) Jeremy Bentham
 - (c) Thomas Hobbes
 - (d) John Locke

4. A theory that utilitarianism is an ethical foundation which determines that legislation should be organised so as to provide the greatest happiness to the greatest number was propounded by:
 - (a) Roscoe Pound
 - (b) H.L.A. Hart
 - (c) Ronald Dworkin
 - (d) Jeremy Bentham

5. Which of the following is not a rule of statutory interpretation?
 - (a) Literal Rule
 - (b) Mischief Rule

- (c) General Rule
 - (d) *Noscitur a sociis* Rule
6. The interpretation rule which states that where there is a list of two or more specific words, followed by more general words, the otherwise wide meaning of the general words is restricted to the same class (if any) as the specific words is:
- (a) *Ejusdem generis*
 - (b) *Nociitur a sociis*
 - (c) *Generalia specialibus non derogant*
 - (d) *Mischief*
7. Which of the following is not an intrinsic aid to statutory interpretation?
- (a) Preamble
 - (b) Long title
 - (c) Text books
 - (d) Punctuation
8. What does the Natural Law theory postulate?
- (a) Moral principles arise through popular consensus
 - (b) Law consists of rules that are in accordance with reason
 - (c) The laws of nature must mirror moral principles
 - (d) Moral principles must mirror the laws of nature
9. Which of the following represents an element of principle of natural justice?
- (a) *Audi alteram partem*
 - (b) No man shall be a judge in his own cause
 - (c) The Parties to a proceeding must have due notice of when the Court/Tribunal will proceed
 - (d) All of the above
10. Which of the following rules of statutory interpretation would require courts to examine the purpose for which the statute under question was enacted?
- (a) The literal rule
 - (b) The mischief rule

- (c) The beneficent construction rule
 - (d) The harmonious construction rule
11. Who first propounded the political doctrine of separation of powers?
- (a) Aristotle
 - (b) James Madison
 - (c) Montesquieu
 - (d) John Austin
12. The principle of separation of powers stipulate:
- (a) Checks and balance between the Legislature, the Executive and the Judiciary
 - (b) Checks and balance between the Central Government and the State Governments
 - (c) Sharing of powers between the Judiciary and the Legislature
 - (d) Sharing of powers between the Government and the Parliament
13. A branch of jurisprudence arising from the diverse laws of various nations that applies when private citizens of different countries interact or transact business with one another is:
- (a) Private international law
 - (b) Private law
 - (c) Public international law
 - (d) Public law
14. A branch of law that, among others, concerns with restrictive trade practices is:
- (a) Anti-Corruption law
 - (b) Corporate law
 - (c) Antitrust law
 - (d) Contract law
15. The tendency of courts to rely on precedent when deciding cases of similar facts is:
- (a) Concurring opinion
 - (b) *Stare decisis*
 - (c) *Ratio decidendi*
 - (d) *Obiter dictum*

16. The Larger Bench of the High Court in a monetary dispute between the *Bank of Bhutan v. Mr. X*, unanimously ruled that the borrower is liable to pay interest to the Bank until the loan is fully satisfied. Applying the principle of precedent, which of the following statements is not true?

This decision of the Larger Bench of the High Court shall:

- (a) Bind the single Bench of the Supreme Court in future cases of similar facts
- (b) Bind the single Bench of the High Court in its subsequent cases of similar facts
- (c) Bind the Dzongkhag Courts while deciding cases of similar facts in the future
- (d) Bind the Larger Bench of the High Court in deciding cases of similar facts in the future

17. A decision is said to be *per incuriam*:

- (a) When it is given in ignorance of a statutory provision or a binding authority
- (b) When it is given without hearing one of the parties
- (c) When it is given in absence of both the parties
- (d) When it is given without jurisdiction

18. A judgment by one or more judges who disagree with the majority decision is:

- (a) Default judgment
- (b) Summary judgment
- (c) Dissenting judgment
- (d) Declaratory judgment

19. Which of the following is a form of delegated legislation?

- (a) Rules and Regulations
- (b) Acts
- (c) Convention
- (d) Bills

20. High Court is the highest appellate Court. Identify the correct jurisdiction.

- (a) United States of America
- (b) Thailand
- (c) Australia
- (d) India

21. The Country with an unwritten Constitution:
- (a) United Kingdom
 - (b) Japan
 - (c) South Africa
 - (d) Canada
22. The Constitution of Bhutan was signed on:
- (a) 11 November 2008
 - (b) 17 December 2006
 - (c) 18 July 2006
 - (d) 18 July 2008
23. According to the Constitution, the form of Government shall be that of a:
- (a) Democratic Constitutional Monarchy
 - (b) Constitutional Democratic Monarchy
 - (c) Constitutional Monarchy
 - (d) Democratic Monarchy
24. Who constitute the Parliament of Bhutan?
- (a) The National Assembly and the National Council
 - (b) The National Assembly, the National Council and the Judiciary
 - (c) The Druk Gyalpo, the National Assembly and the National Council
 - (d) The National Assembly, the National Council and the Local Government
25. Which of the following is a court of record in Bhutan?
- (a) The Public Notary Office
 - (b) The Dzongkhag Court
 - (c) The High Court
 - (d) The Supreme Court
26. “The will of the people shall be expressed in a National Referendum”. According to the Constitution, who can call for a National Referendum?
- (a) The Druk Gyalpo
 - (b) The Parliament

- (c) The Chief Justice
 - (d) Both the Druk Gyalpo and the Parliament
27. Who can proclaim a state of emergency under the Constitution?
- (a) The Druk Gyalpo
 - (b) The National Assembly
 - (c) The National Council
 - (d) The Prime Minister
28. Who has the original jurisdiction over a case between two or more Dzongkhags?
- (a) The Supreme Court
 - (b) The High Court
 - (c) The Dzongkhag Court
 - (d) The Dungkhag Court
29. A person shall be disqualified as a candidate or a member holding an elective office under the Constitution, if the person:
- (a) Is married to a person who is not a citizen of Bhutan
 - (b) Is terminated from Public Service
 - (c) Is in arrears of taxes or other dues to the Government
 - (d) All of the above
30. Who is the guardian of the Bhutanese Constitution?
- (a) The Supreme Court
 - (b) The National Assembly and the National Council
 - (c) The Parliament
 - (d) The people of Bhutan
31. Which of the following is the first codified law in Bhutan?
- (a) The Constitution
 - (b) The *Thrimshung Chhenmo*
 - (c) *Nga Chu-druma* of Lam Zhabdrung
 - (d) The Land Act, 1979

32. The Latin phrase *amicus curiae* means:
- (a) A friend of the jury
 - (b) A friend of the prosecution
 - (c) A friend of the Court
 - (d) A friend of the accused
33. Which of the following best describes the reason for the development of equity?
- (a) To limit the power of the common law courts
 - (b) To temper the harassment of the criminal law
 - (c) To preserve the power of the sovereign
 - (d) To respond to the rigidity of the common law
34. In which of the following jurisdictions was the common law system first evolved?
- (a) Australia
 - (b) India
 - (c) The United Kingdom
 - (d) The United States of America
35. "Common Law" is a law made by:
- (a) Judges through determination of cases
 - (b) Legislature
 - (c) Executive through ordinances
 - (d) Lawyers through common consensus
36. The inquisitorial legal system best describes:
- (a) Common law jurisdiction
 - (b) Civil law jurisdiction
 - (c) Islamic law jurisdiction
 - (d) None of the above
37. A Latin term *caveat emptor* is a Common law doctrine which means:
- (a) Let the buyer beware
 - (b) Let the seller beware
 - (c) Let the principal beware
 - (d) Let the agent beware

38. Extrajudicial expressions of legal opinion by a judge in a case is:
- (a) *Ratio decidendi*
 - (b) *Obiter dictum*
 - (c) Judgment
 - (d) Reserved opinion
39. Which of the following statements is least accurate about the principles of *res judicata*?
- (a) The former suit must have been between the same parties
 - (b) The parties must have been litigating under the same title in the former suit
 - (c) The matter directly and substantially in issue in the subsequent suit or issue must be the same matter which was directly and substantially in issue either actually or constructively in the former suit
 - (d) The matter directly and substantially in issue in the subsequent suit must have been decided in favour of the plaintiff by the court in the former suit
40. The Dzongkha terminology for payment of fine in lieu of imprisonment is:
- (a) *Thrimthue*
 - (b) *Bah*
 - (c) *Neyja*
 - (d) *Tsoenthue*
41. Which of the following may be tendered as affirmative defence to criminal liability before the Court?
- (a) Alibi
 - (b) Ignorance of law
 - (c) Avenge
 - (d) Mere provocation
42. Which of the following is not a general requirement of culpability?
- (a) Recklessly
 - (b) Knowingly
 - (c) Negligently
 - (d) Secretly

43. A legal doctrine that prevents a party by his/her own act from claiming a right to the detriment of other party who was entitled to rely on such conduct and has acted accordingly:
- (a) Strict liability
 - (b) Doctrine of eclipse
 - (c) Doctrine of estoppel
 - (d) Doctrine of cypress
44. An agreement enforceable by law:
- (a) Contract
 - (b) Promise
 - (c) Will
 - (d) Affidavit
45. Which of the following persons are not competent to enter into a contract?
- (a) Alcoholics
 - (b) Ex convicts
 - (c) Illiterate people
 - (d) Insane persons
46. A clause in the contract agreement which provides that one or both parties can cancel a contract or be excused from either part or complete performance of the contract on occurrence of a certain specified event or events beyond the parties' control is:
- (a) Natural Force clause
 - (b) Force Majeure clause
 - (c) Sunset clause
 - (d) Termination clause
47. Bailment of goods as security for payment of a debt or performance of a promise is called:
- (a) Pledge
 - (b) Indemnity
 - (c) Guarantee
 - (d) All of the above

48. Relationship between a counsellor and her client is that of:
- (a) Contractual
 - (b) Fiduciary
 - (c) Customary
 - (d) Special
49. A written order of a court, commanding the addressee to do or refrain from doing something is:
- (a) Affidavit
 - (b) Writ
 - (c) Summon
 - (d) Warrant
50. In order to bring a successful claim in tort, the claimant need not prove:
- (a) Breach of duty
 - (b) Duty of care
 - (c) Suffered damage
 - (d) Ill intention
51. Negligence was for the first time established as a tort under the common law in:
- (a) *Donoghue v. Stevenson*
 - (b) *Fletcher v. Rylands*
 - (c) *Vaughn v. Menlove*
 - (d) *Caparo v. Dickman*
52. Which of the following is most accurate about the Intellectual Property Law?
- (a) Law which grants the right only to exclude other people from using the intellectual property developed by the holder
 - (b) Law which grants the owner of the Intellectual property the right to use
 - (c) Law which deals with patent, trade mark and copy right ONLY
 - (d) Law which protects the right of a third party in Intellectual property
53. Defamation caused through the means of writing, drawing, or photographing is:
- (a) Slander
 - (b) Blackmail

- (c) False advertising
 - (d) Libel
54. Which of the following statements is not correct about an offence of espionage?
- (a) Spying on potential or actual enemies primarily for military purposes
 - (b) Revealing confidential information relating to a sovereign nation's security to a person not legally authorized by that sovereign nation
 - (c) Obtaining an information of confidential nature related to the security of a sovereign nation without its permission
 - (d) Creating animosity and disaffection among the people of a sovereign nation to undermine its security, unity, integrity or sovereignty
55. The fact of being prosecuted or sentenced twice for substantially the same offense is:
- (a) Double Jeopardy
 - (b) *Res Judicata*
 - (c) Double criminality
 - (d) Double-dipping
56. *Res Ipsa Loquitur* is a rule of evidence generally applicable under:
- (a) Contract Law
 - (b) Tort Law
 - (c) Criminal Law
 - (d) International Law
57. Which of the following statements is least accurate about the concept of plea bargaining under the criminal justice system?
- (a) Negotiated agreement between a prosecutor and a criminal defendant
 - (b) Defendant pleads guilty to some or all of the charges
 - (c) Judge agrees to lower the sentence of the defendant
 - (d) Defendant testify for the State in cases against other defendants
58. A non-possessory right to use or enter into another person's real property for a specific limited purpose is:
- (a) Trespass
 - (b) Easement

- (c) Access
(d) License
59. A historic criminal case following which a jury trial ended in India is:
(a) *K. M. Nanavati v. State of Maharashtra (1959)*
(b) *Mohd. Ahmed Khan v. Shah Bano Begum (1985)*
(c) *State of Orissa v. Ram Bahadur Thapa (1959)*
(d) *Jessica Lal Murder Case*
60. Identify the correct statement:
(a) Federalism implies a system of government which embodies a division of powers between a central and a number of regional authorities
(b) Federalism implies a system of government which embodies Parliamentary supremacy
(c) Federalism implies a system of government where President is the head of the government
(d) None of the above
61. Assertion (A): Austin's concept of law is known as imperative theory.
Reason (R): Austin emphasized on the commanding character of law.
(a) Both A and R are individually true and R is the correct explanation of A
(b) Both A and R are individually true but R is not the correct explanation of A
(c) A is true but R is false
(d) A is false but R is true
62. X breaks and opens a box in an attempt to steal some money, but there was no money inside the box. Choose an appropriate answer.
(a) X is guilty of a theft
(b) X is guilty of an attempt to commit theft
(c) X is not guilty of an attempt to theft because the box was empty
(d) X is guilty of a trespass

63. The doctrine of *privity* of contract dictates that:
- (a) Only the parties to a contract are entitled to take action to enforce it
 - (b) A third party beneficiary is entitled to take action to enforce the contract if he/she is denied the promised benefit
 - (c) Both the parties to the contract and the third party beneficiary are equally entitled to take action to enforce the contract
 - (d) None of the above
64. Which of the following statements most accurately apply the principle given below?
Principle: A person is presumed innocent until proven guilty.
- (a) The onus of proving that an act lies within an exception to an offence is on the accused
 - (b) The burden of proving the existence of circumstances bringing a case within exceptions to offences lies on the accused and the court shall presume the absence of such circumstances
 - (c) The standard of proof required for an accused to discharge his burden of proving that his act come within a general exception is that of preponderance of probabilities
 - (d) The onus of proving every charge against the accused beyond reasonable doubt lies with the prosecution
65. Which of the following statements are least accurate about the standard of proof?
- (a) In civil cases, the standard of proof is generally a preponderance of probabilities
 - (b) In criminal cases, the standard of proof is that of beyond reasonable doubt
 - (c) The more serious the offense, the stricter the degree of proof that is required
 - (d) It is enough for the presumption of innocence to remain not proved to secure a conviction in criminal case
66. Which of the following governs the conduct of lawyers in Bhutan?
- (a) The Office of the Attorney General Act
 - (b) The RCSC Act
 - (c) The *Jabmi* Act
 - (d) The Judicial Service Act

67. Which of the following is not a reason for imposing criminal punishment?
- (a) Incapacitation
 - (b) Rehabilitation
 - (c) Imprisonment
 - (d) Deterrence
68. Burglary is a specific intent crime. Which of the following is not an element of burglary?
- (a) Breaking the dwelling of another person
 - (b) Entering the dwelling of another person
 - (c) Intention to commit a felony
 - (d) Use of force or threat of grave bodily harm to a victim or victim's family
69. Which of the following pairs is correctly matched?
- (a) Reasoned decision = *Obiter dictum*
 - (b) Geographical Indication = Intellectual Property Law
 - (c) Civil law jurisdiction = Adversarial system
 - (d) Tort = Criminal sanction
70. Which of the following is not an alternative dispute resolution mechanism?
- (a) Mediation
 - (b) Arbitration
 - (c) Litigation
 - (d) Conciliation

PART II: SHORT ANSWER QUESTIONS

Answer ALL the questions. Each question carry 3 (Three) marks. Your answers will be assessed based on your comprehensions of questions, clarity and preciseness, analytical skills, application of legal principles, logic and sound reasoning.

1. Define what is meant by secondary sources of law? Give at least three examples of secondary sources of law. (11/2+1/2x3)

2. In the words of Justice Iyer, “To be literal in meaning is to see the skin and miss the soul”. Explain what you understand by this phrase in the context of statutory interpretation. (3)
3. Unlawful sexual intercourse with another person without consent tantamount to rape. Give three circumstances under which the victim may claim to have lacked consent. (1x3)
4. Statutory rape is a strict liability crime. Explain what is meant by it.(3)
5. **Principle:** Ignorance of fact may be excused but ignorance of law is no excuse.
Fact: X was a businessman from Thimphu who travelled to Bangkok on 15 December 2009 on a business trip. He returned home on 1 January 2010 by Drukair. When the plane landed at the Paro International Airport, it was found on searching that X carried UD \$15,000/- in cash and that he had not declared it on the “Customs Declaration Form”. On 25 December 2009, the Royal Government had issued a notification making it mandatory that the passenger must declare any amount of foreign currency exceeding 10,000/- in the “Customs Declaration Form” of the aircraft failing which the person shall be liable for fine and the cash shall be seized. Is X liable or not? Give reasons. (1+2)
6. What do you understand by “Miranda Warning”? (3)
7. What is “in camera hearing” in a criminal trial? When would court conduct such hearing? (1+2)
8. **Principle:** When one person signifies to another his willingness to do or abstain from doing anything, with a view to obtaining the assent of that person to such an act or abstinence, he is said to have made a proposal.
Fact: “Dorji, the ardent archer telegraphed to Jubzang, writing: “*Will you sell me your new bow? Telegram the lowest price.*” Jubzang also replied by telegram: “*Lowest price for the bow is Nu. 95,000/-*” Dorji immediately sent his consent through telegram stating: “*I agree to buy the bow for Nu. 95,000/- asked by you.*” Jubzang refused to sell the bow. Can Dorji file a case against Jubzang? Give reasons to your answer. (1+2)

9. X is a businessman based in Thimphu. His wife, Y has a job and lives in Phuntsholing all by herself. X visits his wife occasionally. During one of his occasional visit to his wife, he found another man in her house who made a quick exit upon seeing him. The couple had a heated argument leading to physical scuffle. During the process, X hit Y with a blunt object on her head. Y instantly succumbed to the injury. Their neighbour reported the incident to the Royal Bhutan Police. What do you think would be the probable charge against X under the Penal Code and why? (1+2)
10. Most of the Common Law jurisdictions still practice jury trial while most Civil Law jurisdictions practice Bench trial. In your opinion, which system of trial would best benefit Bhutanese criminal justice system and why? (3)

