

**2008 BAR EXAMINATIONS  
CRIMINAL LAW**

21 September 2008

2 P.M. – 5 P.M.

**INSTRUCTIONS**

**This questionnaire consists of fifteen (15) questions contained in six (6) pages. Read each question very carefully. Answer legibly, clearly and concisely. Start each number on a separate page; an answer to a subquestion under the same number may be written continuously on the same page and on the immediately succeeding pages until completed. Do not repeat the question.**

**You will be given credit for your knowledge of legal doctrine and for the quality of your legal reasoning. A mere “Yes” or “No” answer without any corresponding discussion will not be given any credit.**

**HAND IN YOUR NOTEBOOK WITH THIS QUESTIONNAIRE.**

**GOOD LUCK!**

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2008 BAR EXAMINATIONS COMMITTEE**

**PLEASE CHECK THE NUMBER OF PAGES IN THIS SET**

**WARNING: NOT FOR SALE OR UNAUTHORIZED USE**

**I**

a) After due hearing on a petition for a writ of *amparo* founded on the acts of enforced disappearance and extralegal killing of the son of the complainant allegedly done by the respondent military officers, the court granted the petition. May the military officers be criminally charged in court with enforced disappearance and extralegal killing? Explain fully. **(3%)**

b) Are human rights violations considered as crimes in the Philippines? Explain. **(3%)**

**II**

While Carlos was approaching his car, he saw it being driven away by Paolo, a thief. Carlos tried to stop Paolo by shouting at him, but Paolo ignored him. To prevent his car from being carnapped, Carlos drew his gun, aimed at the rear wheel of the car and fired. The shot blew the tire which caused the car to veer out of control and collide with an oncoming tricycle, killing the tricycle driver.

a) What is the criminal liability of Carlos, if any? Explain. **(4%)**

b) What is the criminal liability of Paolo, if any? Explain. **(4%)**

**III**

Olimpio caught a cold and was running a fever. His doctor prescribed *paracetamol*. Olimpio went to a drug store with the prescription, and the pharmacist sold him three (3) tablets. Upon arriving home, he took a tablet. One hour later, he had a seizure and died. The autopsy showed that the tablet he had taken was not *paracetamol* but a pill to which he was allergic. The pharmacist was charged with murder. Is the charge proper? If not, what should it be? Explain. **(6%)**

**IV**

Manolo revealed to his friend Domeng his desire to kill Cece. He likewise confided to Domeng his desire to borrow his revolver. Domeng lent it. Manolo shot Cece in Manila with Domeng's revolver. As his gun was used in the killing, Domeng asked Mayor Tan to help him escape. The mayor gave Domeng ₱5,000 and told him to proceed to Mindanao

to hide. Domeng went to Mindanao. The mayor was later charged as an accessory to Cece's murder.

- a) Can he be held liable for the charge? Explain. **(4%)**
- b) Can he be held liable for any other offense? Explain fully. **(3%)**

## V

Eman, a vagrant, found a bag containing identification cards and a diamond ring along Roxas Blvd. Knowing that it was not his, he went to the nearest police station to seek help in finding the owner of the bag. At the precinct PO1 Melvin attended to him. In the investigation Eman proposed to PO1 Melvin, "in case you don't find the owner let's just pawn the ring and split the proceeds fifty-fifty (50/50)." PO1 Melvin then went straight to the pawnshop and pawned the ring for ₱50,000. Eman never saw PO1 Melvin again.

- a) What is the criminal liability of Eman, if any? Explain. **(3%)**
- b) What is the criminal liability of PO1 Melvin, if any? Explain. **(3%)**

## VI

Hubert and Eunice were married in the Philippines. Hubert took graduate studies in New York and met his former girlfriend Eula. They renewed their friendship and finally decided to get married. The first wife, Eunice, heard about the marriage and secured a copy of the marriage contract in New York. Eunice filed a case of bigamy against Hubert in the Philippines.

- a) Will the case prosper? Explain. **(4%)**
- b) If Eunice gave her consent to the second marriage, what will your answer be? Explain. **(3%)**

## VII

The inter-island vessel *M/V Viva Lines I*, while cruising off Batanes, was forced to seek shelter at the harbor of Kaoshiung, Taiwan because of a strong typhoon. While anchored in said harbor, Max, Baldo and Bogart arrived in a speedboat, fired a bazooka at the bow of the

vessel, boarded it and divested the passengers of their money and jewelry. A passenger of *M/V Viva Lines I*, Dodong, took advantage of the confusion to settle an old grudge with another passenger, and killed him. After their apprehension, all four were charged with qualified piracy before a Philippine court.

a) Was the charge of qualified piracy against the three persons (Max, Baldo and Bogart) who boarded the inter-island vessel correct? Explain. **(4%)**

b) Was Dodong correctly charged before the Philippine court for qualified piracy? Explain. **(3%)**

### VIII

Francis and Joan were sweethearts, but their parents had objected to their relationship because they were first cousins. They forged a pact in writing to commit suicide. The agreement was to shoot each other in the head which they did. Joan died. Due to medical assistance, Francis survived. Is Francis criminally liable for the death of Joan? Explain. **(5%)**

### IX

Dennis leased his apartment to Myla for ₱10,000 a month. Myla failed to pay the rent for 3 months. Gabriel, the son of Dennis, prepared a demand letter falsely alleging that his father had authorized him to collect the unpaid rentals. Myla paid the unpaid rentals to Gabriel who kept the payment.

a) Did Gabriel commit a crime? Explain. **(4%)**

b) Can Gabriel invoke his relationship with Dennis to avoid criminal liability? Explain. **(3%)**

### X

Upon opening a letter containing 17 money orders, the mail carrier forged the signatures of the payees on the money orders and encashed them. What crime or crimes did the mail carrier commit? Explain briefly. **(6%)**

## XI

Ricky was reviewing for the bar exam when the commander of a vigilante group came to him and showed him a list of five policemen to be liquidated by them for graft and corruption. He was further asked if any of them is innocent. After going over the list, Ricky pointed to two of the policemen as honest. Later, the vigilante group liquidated the three other policemen in the list. The commander of the vigilante group reported the liquidation to Ricky. Is Ricky criminally liable? Explain. (7%)

## XII

Raissa and Martin are married to each other but had been separated for the last five years. Raissa decided to wed Juan, her suitor, who had no inkling that she was married. Raissa and Juan accomplished an application for marriage license which they subscribed and swore to before the Local Civil Registrar. Raissa declared, in the application, that she is single. The marriage license was issued. In due time, the couple were married by the mayor. Raissa and Juan had their first sexual intercourse later in the evening.

What crime or crimes, if any, did Raissa commit? Explain briefly. (7%)

## XIII

Lucas had been the stay-in houseboy of spouses Nestor and Julia for five years. One night, while Nestor and Julia were out having dinner, Lucas and his friend Pedro gained entry into the masters' bedroom with the use of a false key. They found Julia's jewelry box in one of the cabinets which was unlocked. Lucas believed that Julia's jewelry was inside the box. Unknown to Lucas and Pedro, the box was empty. Pedro took the box and left the bedroom with Lucas. They were shocked when they saw Nestor in the sala, pointing a gun at them. Nestor ordered them to stop and hand over the box. Pedro complied. It turned out that Nestor had just arrived in time to see Lucas and Pedro leaving the masters' bedroom with the box.

State with reasons, the crime or crimes, if any, Lucas and Pedro committed. (7%)

**XIV**

Eliseo, the deputy sheriff, conducted the execution sale of the property of Andres to satisfy the judgment against him in favor of ABC Corporation, a government-owned or controlled corporation with an original charter. However, the representative of the corporation failed to attend the auction sale. Gonzalo, the winning bidder, purchased the property for ₱100,000 which he paid to Eliseo. Instead of remitting the amount to the Clerk of Court as *ex-officio* Provincial Sheriff, Eliseo lent the amount to Myrna, his officemate, who promised to repay the amount within two months, with interest thereon. However, Myrna reneged on her promise. Despite demands of ABC Corporation, Eliseo failed to remit the said amount.

a) State with reasons, the crime or crimes, if any, committed by Eliseo. **(4%)**

b) Would your answer to the first question be the same if ABC Corporation were a private corporation? Explain. **(3%)**

**XV**

Roger, the leader of a crime syndicate in Malate, Manila, demanded the payment by Antonio, the owner of a motel in that area, of ₱10,000 a month as “protection money”. With the monthly payments, Roger assured, the syndicate would provide protection to Antonio, his business, and his employees. Should Antonio refuse, Roger warned, the motel owner would either be killed or his establishment destroyed. Antonio refused to pay the protection money. Days later, at around 3:00 in the morning, Mauro, a member of the criminal syndicate, arrived at Antonio’s home and hurled a grenade into an open window of the bedroom where Antonio, his wife and their three year-old daughter were sleeping. All three of them were killed instantly when the grenade exploded.

State, with reasons, the crime or crimes that had been committed as well as the aggravating circumstances, if any, attendant thereto. **(7%)**

*NOTHING FOLLOWS.*