

2013 BAR EXAMINATIONS**POLITICAL AND INTERNATIONAL LAW**

October 6, 2013

8:00 A.M. – 12:00 P.M.

INSTRUCTIONS

1. This Questionnaire contains FIFTEEN (15) pages including these Instructions pages. Check the number of pages and the page numbers at the upper right hand corner of each page of this Questionnaire and make sure it has the correct number of pages and their proper numbers.

There are TWELVE (12) Essay Questions numbered I to XII (with subquestions), and TWENTY (20) Multiple Choice Questions (MCQs) numbered I to XX, to be answered within *four (4) hours*.

The essay portion contains questions that are worth 80% of the whole examination, while the MCQ portion contains questions worth 20%.

2. Read each question very carefully and write your answers in your Bar Examination Notebook *in the same order the questions are posed*. Write your answers only at the *front*, not the back, page of every sheet in your Examination Notebook. Note well the allocated percentage points for each number, question, or sub-question. In your answers, use the numbering system in the questionnaire.

If the sheets provided in your Examination Notebook are not sufficient for your answers, use the back pages of every sheet of your Examination Notebook, starting at the back page of the first sheet and the back of the succeeding sheets thereafter.

3. Answer the Essay questions *legibly, clearly, and concisely*. Start each number on a separate page. An answer to a sub-question under the same number may be written continuously on the same page and the immediately succeeding pages until completed.

Your answer should demonstrate your ability to analyze the facts presented by the question, to select the material from the immaterial

facts, and to discern the points upon which the question turns. It should show your knowledge and understanding of the pertinent principles and theories of law involved and their qualifications and limitations. It should demonstrate your ability to apply the law to the given facts, and to reason logically in a lawyer-like manner to a sound conclusion from the given premises.

A mere “Yes” or “No” answer without any corresponding explanation or discussion will not be given any credit. Thus, always briefly but fully explain your answers although the question does not expressly ask for an explanation. At the same time, remember that a complete explanation does not require that you volunteer information or discuss legal doctrines that are not necessary or pertinent to the solution to the problem. You do not need to re-write or repeat the question in your Examination Notebook.

4. MCQs are to be answered by writing in your Examination Notebook the capital letter (A, B, C, D, or E) corresponding to your chosen answer. *The MCQ answers should begin in the page following the last page of your essay answers.*

There is only one correct answer to every MCQ; choose the BEST answer from among the offered choices. Note that some MCQs may need careful analysis both of the questions and the choices offered.

5. Make sure you do not write *your name* or any *extraneous note/s* or *distinctive marking/s* on your Examination Notebook that can serve as an identifying mark/s (such as names that are not in the given questions, prayers, or private notes to the Examiner).

Writing, leaving or making any distinguishing or identifying mark in the Examination Notebook is considered cheating and can disqualify you for the Bar examinations.

You can use the questionnaire for notes you may wish/need to write during the examination.

HAND IN YOUR NOTEBOOK WITH THIS QUESTIONNAIRE


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2013 Bar Examinations

ESSAY QUESTIONS

I.

In the last quarter of 2012, about 5,000 container vans of imported goods intended for the Christmas Season were seized by agents of the Bureau of Customs. The imported goods were released only on January 10, 2013. A group of importers got together and filed an action for damages before the Regional Trial Court of Manila against the Department of Finance and the Bureau of Customs.

The Bureau of Customs raised the defense of immunity from suit and, alternatively, that liability should lie with XYZ Corp. which the Bureau had contracted for the lease of ten (10) high powered van cranes but delivered only five (5) of these cranes, thus causing the delay in its cargo-handling operations. It appears that the Bureau, despite demand, did not pay XYZ Corp. the Php1.0 Million deposit and advance rental required under their contract.

(A) Will the action by the group of importers prosper? (5%)

(B) Can XYZ Corp. sue the Bureau of Customs to collect rentals for the delivered cranes? (5%)

II.

While Congress was in session, the President appointed eight acting Secretaries. A group of Senators from the minority bloc questioned the validity of the appointments in a petition before the Supreme Court on the ground that while Congress is in session, no appointment that requires confirmation by the Commission on Appointments, can be made without the latter's consent, and that an undersecretary should instead be designated as Acting Secretary.

Should the petition be granted? (5%)

III.

A robbery with homicide had taken place and Lito, Badong and Rollie were invited for questioning based on the information furnished by a neighbor that he saw them come out of the victim's house at about the time of the robbery/killing. The police confronted the three with this and other information they had gathered, and pointedly accused them of committing the crime.

Lito initially resisted, but eventually broke down and admitted his participation in the crime. Elated by this break and desirous of securing a written confession soonest, the police called City Attorney Juan Buan to serve as the trio's counsel and to advise them about their rights during the investigation.

Badong and Rollie, weakened in spirit by Lito's early admission, likewise admitted their participation. The trio thus signed a joint extra-judicial confession which served as the main evidence against them at their trial. They were convicted based on their confession.

Should the judgment of conviction be affirmed or reversed on appeal? (5%)

IV.

Congress enacted a law providing for *trial by jury* for those charged with crimes or offenses punishable by *reclusion perpetua* or life imprisonment. The law provides for the qualifications of members of the jury, the guidelines for the bar and bench for their selection, the manner a trial by jury shall operate, and the procedures to be followed.

Is the law constitutional? (6%)

V.

As a leading member of the *Lapiang Mandirigma* in the House of Representatives, you were tasked by the party to initiate the moves to impeach the President because he entered into an executive agreement with the US Ambassador for the use of the former Subic Naval Base by the US Navy, for free, *i.e.*, without need to pay rent nor any kind of fees as a show of goodwill to the U.S. because of the continuing harmonious RP-US relations.

Cite at least two (2) grounds for impeachment and explain why you chose them. (6%)

VI.

Congress passed Republic Act No. 7711 to comply with the United Nations Convention on the Law of the Sea.

In a petition filed with the Supreme Court, *Anak Ti Ilocos*, an association of Ilocano professionals, argued that Republic Act No. 7711 discarded the definition of the Philippine territory under the Treaty of Paris

and in related treaties; excluded the Kalayaan Islands and the Scarborough Shoals from the Philippine Archipelagic baselines; and converted internal waters into archipelagic waters.

Is the petition meritorious? (6%)

VII.

As he was entering a bar, Arnold – who was holding an unlit cigarette in his right hand – was handed a match box by someone standing near the doorway. Arnold unthinkingly opened the matchbox to light his cigarette and as he did so, a sprinkle of dried leaves fell out, which the guard noticed. The guard immediately frisked Arnold, grabbed the matchbox, and sniffed its contents. After confirming that the matchbox contained marijuana, he immediately arrested Arnold and called in the police.

At the police station, the guard narrated to the police that he personally caught Arnold in possession of dried marijuana leaves. Arnold did not contest the guard's statement; he steadfastly remained silent and refused to give any written statement. Later in court, the guard testified and narrated the statements he gave the police over Arnold's counsel's objections. While Arnold presented his own witnesses to prove that his possession and apprehension had been set-up, he himself did not testify.

The court convicted Arnold, relying largely on his admission of the charge by silence at the police investigation and during trial.

From the constitutional law perspective, was the court correct in its ruling? (6%)

VIII.

Bobby, an incoming third year college student, was denied admission by his university, a premiere educational institution in Manila, after he failed in three (3) major subjects in his sophomore year. The denial of admission was based on the university's rules and admission policies.

Unable to cope with the depression that his non-admission triggered, Bobby committed suicide. His family sued the school for damages, citing the school's grossly unreasonable rules that resulted in the denial of admission. They argued that these rules violated Bobby's human rights and the priority consideration that the Constitution gives to the education of the youth.

You are counsel for the university. Explain your arguments in support of the university's case. (6%)

IX.

Conrad is widely known in the neighborhood as a drug addict. He is also suspected of being a member of the notorious “Akyat-Condo Gang” that has previously broken into and looted condominium units in the area.

Retired Army Colonel Sangre – who is known as an anti-terrorism fighter who disdained human and constitutional rights and has been nicknamed “terror of Mindanao” – is now the Head of Security of Capricorn Land Corporation, the owner and developer of Sagittarius Estates where a series of robberies has recently taken place.

On March 1, 2013, Conrad informed his mother, Vannie, that uniformed security guards had invited him for a talk in their office but he refused to come. Later that day, however, Conrad appeared to have relented; he was seen walking into the security office flanked by two security guards. Nobody saw him leave the office afterwards.

Conrad did not go home that night and was never seen again. The following week and after a week-long search, Vannie feared the worst because of Col. Sangre’s reputation. She thus reported Conrad’s disappearance to the police. When nothing concrete resulted from the police investigation, Vannie – at the advice of counsel – filed a petition for a writ of *amparo* to compel Col. Sangre and the Sagittarius Security Office to produce Conrad and to hold them liable and responsible for Conrad’s disappearance.

(A) Did Vannie’s counsel give the correct legal advice? (6%)

(B) If the petition would prosper, can Col. Sangre be held liable and/or responsible for Conrad’s disappearance? (6%)

X.

The Ambassador of the Republic of Kafiristan referred to you for handling, the case of the Embassy’s Maintenance Agreement with CBM, a private domestic company engaged in maintenance work. The Agreement binds CBM, for a defined fee, to maintain the Embassy’s elevators, air-conditioning units and electrical facilities. Section 10 of the Agreement provides that the Agreement shall be governed by Philippine laws and that any legal action shall be brought before the proper court of Makati. Kafiristan terminated the Agreement because CBM allegedly did not comply with their agreed maintenance standards.

CBM contested the termination and filed a complaint against Kafiristan before the Regional Trial Court of Makati. The Ambassador wants you to file a motion to dismiss on the ground of state immunity from suit and to oppose the position that under Section 10 of the Agreement, Kafiristan expressly waives its immunity from suit.

Under these facts, can the Embassy successfully invoke immunity from suit? (6%)

XI.

In her interview before the Judicial and Bar Council (JBC), Commissioner Annie Amorsolo of the National Labor Relations Commission claims that she should be given credit for judicial service because as NLRC Commissioner, she has the rank of a Justice of the Court of Appeals; she adjudicates cases that are appealable to the Court of Appeals; she is assigned car plate No. 10; and she is, by law, entitled to the rank, benefits and privileges of a Court of Appeals Justice.

If you are a member of the JBC, would you give credit to this explanation? (6%)

XII.

In the May 2013 elections, the Allied Workers' Group of the Philippines (*AWGP*), representing land-based and sea-based workers in the Philippines and overseas, won in the party list congressional elections. Atty. Ablang, a labor lawyer, is its nominee.

As part of the party's advocacy and services, Congressman Ablang engages in labor counseling, particularly for local workers with claims against their employers and for those who need representation in collective bargaining negotiations with employers. When labor cases arise, *AWGP* enters its appearance in representation of the workers and the Congressman makes it a point to be there to accompany the workers, although a retained counsel also formally enters his appearance and is invariably there. Congressman Ablang largely takes a passive role in the proceedings although he occasionally speaks to supplement the retained counsel's statements. It is otherwise in CBA negotiations where he actively participates.

Management lawyers, feeling that a congressman should not actively participate in cases before labor tribunals and before employers because of the influence a congressman can wield, filed a disbarment case against the Congressman before the Supreme Court for his violation of the Code of Professional Responsibility and for breach of trust, in relation particularly with the prohibitions on legislators under the Constitution.

Is the cited ground for disbarment meritorious? (6%)

MULTIPLE CHOICE QUESTIONS

- I.** The equal protection clause is violated by _____. (1%)
- (A) a law prohibiting motorcycles from plying on limited access highways.
 - (B) a law granting Value Added Tax exemption to electric cooperatives that sells electricity to the “homeless poor.”
 - (C) a law providing that a policeman shall be preventively suspended until the termination of a criminal case against him.
 - (D) a law providing higher salaries to teachers in public schools who are “foreign hires.”
 - (E) a law that grants rights to local Filipino workers but denies the same rights to overseas Filipino workers.

II. Offended by the President’s remarks that the Bureau of Customs is a pit of misfits and the corrupt, the Bureau of Customs Employees Association composed of 3,000 workers seeks your legal advice on how best to protest what it views to be the President’s baseless remarks.

A prudent legal advice is that _____. (1%)

- (A) employees can go on mass leave of absence for one week
- (B) employees can march and rally at Mendiola every Monday
- (C) employees can barricade the gates of the Port of Manila at South Harbor and call for the resignation of the incumbent Commissioner of Customs
- (D) employees can wear black arm bands and pins with the word “UNFAIR” inscribed
- (E) None of the above can legally be done.

III. Congress enacted Republic Act No. 1234 requiring all candidates for public offices to post an election bond equivalent to the one (1) year salary for the position for which they are candidates. The bond shall be forfeited if the candidates fail to obtain at least 10% of the votes cast.

Is Republic Act No. 1234 valid? (1%)

- (A) It is valid as the bond is a means of ensuring fair, honest, peaceful and orderly elections.
- (B) It is valid as the bond requirement ensures that only candidates with sufficient means and who cannot be corrupted, can run for public office.
- (C) It is invalid as the requirement effectively imposes a property qualification to run for public office.
- (D) It is invalid as the amount of the surety bond is excessive and unconscionable.
- (E) It is valid because it is a reasonable requirement; the Constitution itself expressly supports the accountability of public officers.

IV. What is the legal effect of decisions of the International Court of Justice in cases submitted to it for resolution? (1%)

- (A) The decision is binding on other countries in similar situations.
- (B) The decision is not binding on any country, even the countries that are parties to the case.
- (C) The decision is binding only on the parties but only with respect to that particular case.
- (D) The decision is not binding on the parties and is only advisory.
- (E) The binding effect on the parties depends on their submission agreement.

V. Under the UN Convention on the Law of the Sea, the exclusive economic zone refers to an area _____. (1%)

- (A) that is at least 100 miles from the baselines from which the outer limit of the territorial sea is measured
- (B) that is at least 200 miles but not to exceed 300 miles from the baselines from which the outer limit of the territorial sea is measured
- (C) beyond and adjacent to a country's territorial sea which cannot go beyond 200 nautical miles from the baselines from which the outer limit of the territorial sea is measured
- (D) that can go beyond 3 nautical miles but cannot extend 300 nautical miles from the baselines from which the outer limit of the territorial sea is measured
- (E) None of the above.

VI. A child born under either the 1973 or the 1987 Constitution, whose father or mother is a Filipino citizen at the time of his birth, is _____. (1%)



- (A) not a Filipino citizen as his father and mother must both be Filipino citizens at the time of his birth
- (B) not a Filipino citizen if his mother is a Filipino citizen but his father is not, at the time of his birth
- (C) a Filipino citizen no matter where he or she may be born
- (D) a Filipino citizen provided the child is born in the Philippines
- (E) a Filipino citizen if he or she so elects upon reaching the age of 21


VII. Who has control of the expenditure of public funds? (1%)

- (A) The Office of the President through the Department of Budget and Management.
- (B) The House of Representatives from where all appropriation bills emanate.
- (C) The Senate through its Committee on Finance.
- (D) The Congress of the Republic of the Philippines.
- (E) Both the members of Congress and the President acting jointly, if so provided by the General Appropriations Act.

VIII. May the power of cities to raise revenues be limited by an executive order of the President? (1%)

- (A) Yes, because local government units are under the administrative control of the President through the Department of Interior and Local Government.
- (B) No, because local government units now enjoy full local fiscal autonomy.
- (C) No, because only limitations established by Congress can define and limit the powers of local governments.
- (D) Yes, because the President has the power and authority to impose reasonable restrictions on the power of cities to raise revenues.
- (E) Yes, if so provided in a city's charter.

IX. The provision under the Constitution – that any member who took no part, dissented, or inhibited from a decision or resolution must state the reason for his dissent or non-participation – applies _____. (1%)

- (A) only to the Supreme Court
 - (B) to both the Supreme Court and the Court of Appeals
 - (C) to the Supreme Court, Court of Appeals and the Sandiganbayan
 - (D) to the Supreme Court, the Court of Appeals, the Sandiganbayan and the Court of Tax Appeals
 - (E) to all collegial judicial and quasi-judicial adjudicatory bodies
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X. Choose the least accurate statement about the independence guaranteed by the 1987 Constitution to the following constitutional bodies: (1%)

- (A) The Constitution guarantees the COMELEC decisional and institutional independence similar to that granted to the Judiciary.
- (B) All bodies labeled as “independent” by the Constitution enjoy fiscal autonomy as an attribute of their independence.
- (C) Not all bodies labeled as “independent” by the Constitution were intended to be independent from the Executive branch of government.
- (D) The Constitution guarantees various degrees of independence from the other branches of government when it labels bodies as “independent”.
- (E) The COMELEC, the COA, and the CSC enjoy the same degree of independence.

XI. At the Senate impeachment trial of Justice Pablo P. San Quintin, Hon. Emilio A. Tan, Congressman and Impeachment Panel Manager, wrote the Supreme Court requesting that the prosecutors be allowed to examine the court records of *Stewards Association of the Philippines, Inc. (SAPI) v. Filipinas Air, et al.*, G.R. No. 987654, a case that is still pending. The High Court _____. (1%)

- (A) may grant the request by reason of inter-departmental courtesy
- (B) may grant the request as the records of the Filipinas Air case are public records
- (C) should deny the request since records of cases that are pending for decision are privileged except only for pleadings, orders and resolutions that are available to the public
- (D) should deny the request because it violates the Court’s independence and the doctrine of separation of powers
- (E) should grant the request because of the *sui generis* nature of the power of impeachment, provided that the Bill of Rights is not violated

XII. Mr. Sinco sued the government for damages. After trial, the court ruled in his favor and awarded damages amounting to P50 million against the government. To satisfy the judgment against the government, which valid option is available to Mr. Sinco? (1%)

- (A) Garnish the government funds deposited at the Land Bank.
- (B) File a claim with the Commission on Audit (COA) pursuant to Commonwealth Act 327, as amended by Presidential Decree 1445.
- (C) Make representations with the Congress to appropriate the amount to satisfy the judgment.
- (D) File a petition for *mandamus* in court to compel Congress to appropriate P50 million to satisfy the judgment.
- (E) Proceed to execute the judgment as provided by the Rules of Court because the State allowed itself to be sued.

XIII. Which of the following provisions of the Constitution does not confer rights that can be enforced in the courts but only provides guidelines for legislative or executive action? (1%)

- (A) The maintenance of peace and order, the protection of life, liberty, and property, and promotion of the general welfare are essential for the enjoyment by all the people of the blessings of democracy.
- (B) The State shall give priority to education, science and technology, arts, culture, and sports to foster patriotism and nationalism, accelerate social progress, and promote total human liberation and development.
- (C) The natural and primary right and duty of parents in the rearing of the youth for civic efficiency and the development of moral character shall receive the support of the Government.
- (D) The right of the people to information on matters of public concern shall be recognized. Access to official records, and to documents and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development, shall be afforded the citizen, subject to such limitations as may be provided by law.
- (E) All the above only provide guidelines and are not self-executing.

XIV. The President entered into an executive agreement with Vietnam for the supply to the Philippines of animal feeds not to exceed 40,000 tons in any one year. The Association of Animal Feed Sellers of the Philippines questioned the executive agreement for being contrary to R.A. 462 which prohibits the importation of animal feeds from Asian countries.

Is the challenge correct? (1%)



- (A) Yes, the executive agreement is contrary to an existing domestic law.
- (B) No, the President is solely in charge of foreign relations and all his actions in this role form part of the law of the land.
- (C) No, international agreements are *sui generis* and stand independently of our domestic laws.
- (D) Yes, the executive agreement is actually a treaty which does not take effect without ratification by the Senate.
- (E) Yes, the challenge is correct because there is no law empowering the President to undertake the importation.

XV. The separation of Church and State is most clearly violated when _____ . (1%)

- (A) the State funds a road project whose effect is to make a church more accessible to its adherents
- (B) the State declares the birthplace of a founder of a religious sect as a national historical site
- (C) the State expropriates church property in order to construct an expressway that, among others, provides easy access to the Church's main cathedral
- (D) the State gives vehicles to bishops to assist them in church-related charitable projects
- (E) the State allows prayers in schools for minor children without securing the prior consent of their parents

XVI. Patricio was elected member of the House of Representative in the May 2010 Elections. His opponent Jose questioned Patricio's victory before the House of Representatives Electoral Tribunal and later with the Supreme Court.

In a decision promulgated in November 2011, the Court ruled in Jose's favor; thus, Patricio was ousted from his seat in Congress. Within a year from that decision, the President can appoint Patricio _____ . (1%)

- (A) only as a member of the board of directors of any government owned and controlled corporation
- (B) only as a deputy Ombudsman
- (C) only as a Commissioner of the Civil Service Commission
- (D) only as Chairman of the Commission on Elections
- (E) to any position as no prohibition applies to Patricio

XVII. Senator GSC proposed a bill increasing excise taxes on tobacco and alcohol products. The generated incremental revenues shall be used for the universal health care program for all Filipinos and for tobacco farmers' livelihood. After the Senate passed the bill on third reading, it was transmitted to the House of Representatives which approved the bill *in toto*. The President eventually signed it into law. Atty. JFC filed a petition before the Supreme Court, questioning the constitutionality of the new law.

Is the law constitutional? (1%)

- (A) The law is constitutional because it is for a public purpose and has duly satisfied the three-readings-on-separate-days rule in both Houses.
- (B) The law is unconstitutional because it violates the equal protection clause of the Constitution; it is limited only to alcohol and liquor products.
- (C) It is constitutional because of the Enrolled Bill Theory.
- (D) It is constitutional because it is valid in form and substance and complied with the required lawmaking procedures.
- (E) None of the above is correct.

XVIII. Which of the following statements is correct? (1%)

- (A) The President, with the concurrence of the Monetary Board, can guarantee a foreign loan on behalf of the Republic of the Philippines.
- (B) Congress may, by law, provide limitations on the President's power to contract or guarantee foreign loans on behalf of the Republic of the Philippines.
- (C) In order to be valid and effective, treaties and executive agreements must be concurred in by at least two-thirds of all the Members of the Senate.
- (D) The President shall, at the end of every quarter of the calendar year, submit to Congress a complete report of the loans contracted or guaranteed by the Government or government-owned and controlled corporations.
- (E) All the above choices are defective in some respects.

XIX. Candida has been administratively charged of immorality for openly living with Manuel, a married man. Candida argues that her conjugal arrangement with Manuel fully conforms with their religious beliefs and with the teachings of their church.

In resolving whether Candida should be administratively penalized, which is the best test to apply? (1%)

- (A) Clear and Present Danger Test
- (B) Compelling State Interest Test
- (C) Balancing of Interests Test
- (D) Conscientious Objector Test
- (E) Dangerous Tendency Test

XX. Rafael questioned the qualifications of Carlos as congressman of the Third District of Manila on the ground that Carlos is a citizen of the USA. The decision disqualifying Carlos for being a US citizen came only in March 2010, *i.e.*, after the adjournment of the session of Congress on the 3rd year of the position's three-year term.

What was Carlos' status during his incumbency as congressman? (1%)

- (A) He was a *de jure* officer, having been duly elected and proclaimed.
- (B) He was not a public officer because he effectively was not entitled to be a congressman.
- (C) He was a *de jure* officer since he completed the service of his term before he was disqualified.
- (D) He was a *de facto* officer since he had served and was only disqualified later.
- (E) He neither possesses *de jure* nor *de facto* status as such determination is pointless.

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