

2018 BAR EXAMINATIONS

POLITICAL AND INTERNATIONAL LAW

I. THE PHILIPPINE CONSTITUTION

- A. Constitution: definition, nature, and concepts
- B. Parts
- C. Amendments and revisions
- D. Self-executing and non-self-executing provisions
- E. General provisions

II. GENERAL CONSIDERATIONS

- A. National territory
 - 1. Archipelagic doctrine
- B. State immunity
- C. General principles and state policies
- D. Separation of powers
- E. Checks and balances
- F. Delegation of powers
- G. Forms of government

III. LEGISLATIVE DEPARTMENT

- A. Who may exercise legislative power
 - 1. Congress
 - 2. Regional/Local legislative power
 - 3. People's initiative on statutes
 - a. Initiative and referendum

4. The President under a martial law rule or in a revolutionary government

B. Houses of Congress

1. Senate
2. House of Representatives
 - a. District representatives and questions of apportionment
 - b. Party-list system (R.A. No. 7941)

C. Legislative privileges, inhibitions and disqualifications

D. Quorum and voting majorities

E. Discipline of members

F. Electoral tribunals and the Commission on Appointments

1. Nature
2. Powers

G. Powers of Congress

1. Legislative
 - a. Legislative inquiries and the oversight functions
 - b. Bicameral conference committee
 - c. Limitations on legislative power
 - i. Limitations on revenue, appropriations, and tariff measures
 - ii. Presidential veto and Congressional override
2. Non-legislative
 - a. Informing function
 - b. Power of impeachment
 - c. Other non-legislative powers

IV. EXECUTIVE DEPARTMENT

A. Privileges, inhibitions, and disqualifications

1. Presidential immunity
2. Presidential privilege

B. Powers

1. Executive and administrative powers in general
2. Power of appointment
 - a. In general
 - b. Commission on Appointments confirmation
 - c. Midnight appointments
 - d. Power of removal
3. Power of control and supervision
 - a. Doctrine of qualified political agency
 - b. Executive departments and offices
 - c. Local government units
4. Military powers
5. Pardoning power
 - a. Nature and limitations
 - b. Forms of executive clemency
6. Diplomatic power
7. Powers relative to appropriation measures
 - a. Validity of transferring savings between departments
8. Delegated powers
9. Veto powers
10. Residual powers
11. Executive privilege
12. Emergency powers

C. Rules of Succession

V. JUDICIAL DEPARTMENT

A. Concepts

1. Judicial power
2. Judicial review; requisites
 - a. Operative fact doctrine
 - b. Moot questions
 - c. Political question doctrine

B. Safeguards of Judicial independence

C. Judicial restraint

D. Appointments to the Judiciary

1. Judicial and Bar Council

E. Supreme Court

1. *En banc* and division cases
2. Procedural rule-making
3. Administrative supervision over lower courts
4. Original and appellate jurisdiction

VI. CONSTITUTIONAL COMMISSIONS

- A. Constitutional safeguards to ensure independence of commissions
- B. Powers and functions of each commission
- C. Prohibited offices and interests
- D. Jurisdiction of each constitutional commission
- E. Review of final orders, resolutions, and decisions
 1. Rendered in the exercise of quasi-judicial functions
 2. Rendered in the exercise of administrative functions

VII. BILL OF RIGHTS

- A. Fundamental powers of the state (police power, eminent domain, taxation)
 1. Concept, application and limits
 2. Requisites for valid exercise
 3. Similarities and differences
 4. Delegation
- B. Private acts and the Bill of Rights
- C. Due process – the rights to life, liberty & property
 1. Relativity of due process
 2. Procedural and substantive due process
 3. Constitutional and statutory due process
 4. Hierarchy of rights
 5. Judicial standards of review
 6. Void-for-vagueness doctrine
- D. Equal protection
 1. Concept
 2. Requisites for valid classification
 3. Standards of judicial review
 - a. Rational Basis Test
 - b. Strict Scrutiny Test
 - c. Intermediate Scrutiny Test
- E. Searches and seizures
 1. Concept
 2. Warrant requirement; requisites for a valid warrant
 3. Warrantless searches
 4. Warrantless arrests
 5. Administrative arrests
 6. Drug, alcohol, and blood tests

F. Privacy of communications and correspondence

1. Private and public communications
2. Intrusion, when allowed
3. Writ of *habeas data*

G. Freedom of expression

1. Concept and scope
 - a. Prior restraint (censorship)
 - b. Subsequent punishment
2. Content-based and content-neutral regulations
 - a. Tests
 - b. Applications
3. Facial challenges and the overbreadth doctrine
4. Tests
5. State regulation of different types of mass media
6. Commercial speech
7. Private vs. government speech
8. Heckler's veto

H. Freedom of religion

1. Non-establishment clause
 - a. Concept and basis
 - b. Acts permitted and not permitted by the clause
 - c. Test
2. Free exercise clause
3. Tests
 - a. Clear and Present Danger Test
 - b. Compelling State Interest Test
 - c. Conscientious Objector Test

I. Liberty of abode and freedom of movement

1. Limitations
 2. Right to travel
 - a. Watch-list and hold departure orders
 3. Return to one's country
- J. Right to information
1. Limitations
 2. Publication of laws and regulations
 3. Access to court records
 4. Right to information relative to:
 - a. Government contract negotiations
 - b. Diplomatic negotiations
- K. Right of association
- L. Eminent domain
1. Concept
 2. Expansive concept of "public use"
 3. Just compensation
 - a. Determination
 - b. Effect of delay
 4. Abandonment of intended use and right of repurchase
 5. Miscellaneous application
- M. Contract clause
1. Contemporary application of the contract clause
- N. Legal assistance and free access to courts
- O. Rights of suspects
1. Availability
 2. Requisites
 3. Waiver
- P. Rights of the accused

1. Criminal due process
 2. Bail
 3. Presumption of innocence
 4. Right to be heard
 5. Assistance of counsel
 6. Right to be informed
 7. Right to speedy, impartial and public trial
 8. Right of confrontation
 9. Compulsory process
 10. Trial *in absentia*
- Q. Writ of *habeas corpus*
- R. Writs of *amparo*, *habeas data*, and *kalikasan*
- S. Self-incrimination clause
1. Scope and coverage
 - a. Foreign laws
 2. Application
 3. Immunity statutes
- T. Involuntary servitude and political prisoners
- U. Excessive fines and cruel and inhuman punishments
- V. Non-imprisonment for debts
- W. Double jeopardy
1. Requisites
 2. Motions for reconsideration and appeals
 3. Dismissal with consent of accused
- X. *Ex post facto* laws and bills of attainder

VIII. CITIZENSHIP

- A. Who are Filipino citizens

- B. Modes of acquiring citizenship
- C. Naturalization and denaturalization
- D. Dual citizenship and dual allegiance
- E. Loss and re-acquisition of Philippine citizenship
- F. Natural-born citizens and public office

IX. LAW ON PUBLIC OFFICERS

- A. General principles
- B. Modes of acquiring title to public office
- C. Modes and kinds of appointment
- D. Eligibility and qualification requirements
- E. Disabilities and inhibitions of public officers
- F. Powers and duties of public officers
- G. Rights of public officers
- H. Liabilities of public officers
 - 1. Preventive suspension and back salaries
 - 2. Illegal dismissal, reinstatement and back salaries
- I. Immunity of public officers
- J. *De facto* officers
- K. Termination of official relation
- L. The Civil Service
 - 1. Scope
 - 2. Appointments to the civil service
 - 3. Personnel actions
- M. Accountability of public officers
 - 1. Impeachment
 - 2. Ombudsman (Sections 5 to 14, Article XI of the 1987 Constitution, in relation to R.A. No. 6770, or otherwise known as "The Ombudsman Act of 1989.")

- a. Functions
 - b. Judicial review in administrative proceedings
 - c. Judicial review in penal proceedings
3. *Sandiganbayan*
 4. Ill-gotten wealth
- N. Term limits

X. ADMINISTRATIVE LAW

- A. General principles
- B. Administrative agencies
 1. Definition
 2. Manner of creation
 3. Kinds
- C. Powers of administrative agencies
 1. Quasi-legislative (rule-making) power
 - a. Kinds of administrative rules and regulations
 - b. Requisites for validity
 2. Quasi-judicial (adjudicatory) power
 - a. Administrative due process
 - b. Administrative appeal and review
 - c. Administrative *res judicata*
 3. Fact-finding, investigative, licensing, and rate-fixing powers
- D. Judicial recourse and review
 1. Doctrine of primary administrative jurisdiction
 2. Doctrine of exhaustion of administrative remedies
 3. Doctrine of finality of administrative action

XI. ELECTION LAW

- A. Suffrage
- B. Qualification and disqualification of voters
- C. Registration of voters
- D. Inclusion and exclusion proceedings
- E. Political parties
 - 1. Jurisdiction of the COMELEC over political parties
 - 2. Registration
- F. Candidacy
 - 1. Qualifications of candidates
 - 2. Filing of certificates of candidacy
 - a. Effect of filing
 - b. Substitution of candidates
 - c. Ministerial duty of COMELEC to receive certificates
 - d. Nuisance candidates
 - e. Petition to deny or cancel certificates of candidacy
 - f. Effect of disqualification
 - g. Withdrawal of candidates
- G. Campaign
 - 1. Premature campaigning
 - 2. Prohibited contributions
 - 3. Lawful and prohibited election propaganda
 - 4. Limitations on expenses
 - 5. Statement of contributions and expenses
- H. Board of Election Inspectors and Board of Canvassers
 - 1. Composition
 - 2. Powers
- I. Remedies and jurisdiction in election law

1. Petition not to give due course to or cancel a certificate of candidacy
 2. Petition for disqualification
 3. Petition to declare failure of elections
 4. Pre-proclamation controversy
 5. Election protest
 6. *Quo warranto*
- J. Prosecution of election offenses (EXCLUDE: penal provisions)

INCLUDE THE FOLLOWING LAWS:

- Omnibus Election Code of the Philippines (B.P. Blg. 881 as amended)
- Election Automation Law (R.A. No. 8436 as amended by R.A. No. 9369)

XII. LOCAL GOVERNMENTS

A. Public corporations

1. Concept
 - a. Distinguished from government-owned or controlled corporations
2. Classifications
 - a. Quasi-corporations
 - b. Municipal corporations

B. Municipal corporations

1. Elements
2. Nature and functions
3. Requisites for creation, conversion, division, merger, or dissolution

C. Principles of local autonomy

D. Powers of local government units (LGUs)

1. Police power (general welfare clause)
2. Eminent domain
3. Taxing power
4. Closure and opening of roads
5. Legislative power
 - a. Requisites for valid ordinance
 - b. Local initiative and referendum
6. Corporate powers
 - a. To sue and be sued
 - b. To acquire and sell property
 - c. To enter into contracts
 - i. Requisites
 - ii. *Ultra vires* contracts
7. Liability of LGUs
8. Settlement of boundary disputes
9. Succession of elective officials
10. Discipline of local officials
 - a. Elective officials
 - i. Grounds
 - ii. Jurisdiction
 - iii. Preventive suspension
 - iv. Removal
 - v. Administrative appeal
 - vi. Doctrine of condonation
 - b. Appointive officials
11. Recall
12. Term limits

XIII. NATIONAL ECONOMY AND PATRIMONY

- A. Regalian doctrine
- B. Nationalist and citizenship requirement provisions
- C. Exploration, development, and utilization of natural resources
- D. Franchises, authority, and certificates for public utilities
- E. Acquisition, ownership and transfer of public and private lands
- F. Practice of professions
- G. Organization and regulation of corporations, private and public
- H. Monopolies, restraint of trade and unfair competition

XIV. SOCIAL JUSTICE AND HUMAN RIGHTS

- A. Concept of social justice
- B. Commission on Human Rights

XV. EDUCATION, SCIENCE, TECHNOLOGY, ARTS, CULTURE AND SPORTS

- A. Academic freedom

XVI. PUBLIC INTERNATIONAL LAW

- A. Concepts
 - 1. Obligations *erga omnes*
 - 2. *Jus cogens*
 - 3. Concept of *ex aequo et bono*
- B. Relationship between international and national law
- C. Sources of obligations in international law
- D. Subjects
 - 1. States

2. International organizations
 3. Individuals
- E. Basic principles of diplomatic and consular law
- F. General principles of treaty law
- G. Nationality and statelessness
- H. Doctrine of state responsibility
- I. Jurisdiction of States
1. Basis of jurisdiction
 - a. Territoriality principle
 - b. Nationality principle and statelessness
 - c. Protective principle
 - d. Universality principle
 - e. Passive personality principle
 2. Exemptions from jurisdiction
 - a. Act of State doctrine
 - b. International organizations and its officers
- J. Treatment of aliens
1. Extradition
 - a. Fundamental principles
 - b. Procedure
 - c. Distinguished from deportation
- K. International Human Rights Law
1. Universal Declaration of Human Rights
 2. International Covenant on Civil and Political Rights
 3. International Covenant on Economic, Social and Cultural Rights
- L. Basic principles of international humanitarian law
1. Categories of armed conflicts

- a. International armed conflicts
 - b. Internal or non-international armed conflict
 - c. War of national liberation
2. R.A. 9851 (Philippine Act on Crimes Against International Humanitarian Law, Genocide, and Other Crimes Against Humanity)

M. Law of the sea

1. Baselines
2. Archipelagic states
 - a. Straight archipelagic baselines
 - b. Archipelagic waters
 - c. Archipelagic sea lanes passage
 - d. Regime of islands
3. Internal waters
4. Territorial sea
5. Exclusive economic zone
6. Continental shelf
 - a. Extended continental shelf
7. International Tribunal for the Law of the Sea

N. Basic principles of international environmental law

1. Precautionary principle

IMPORTANT NOTES:

- The listing of covered topics is not intended and should not be used by law schools as a course outline. This listing has been drawn up for the limited purpose of ensuring that the Bar candidates are guided on the coverage of the 2018 Bar Examinations.
- All laws, rules, issuances, and jurisprudence pertinent to every subject and its listed topics as of June 30, 2017 are examinable materials within the coverage of the 2018 Bar Examinations.
- Principles of law are not covered by the cut-off period stated herein.