

2018 BAR EXAMINATIONS POLITICAL AND INTERNATIONAL LAW

November 4, 2018

8:00 A.M. – 12:00 N.N.

INSTRUCTIONS

1. This Questionnaire contains ten (10) pages including this page. Check the number of pages and their proper sequencing. You may write notes on this Questionnaire.

Read each question very carefully and write your answers in your Bar Examination Notebook in the same order as the questions. Write your answers only on the front page of every sheet. Note well the allocated percentage points for each question or sub-question. In your answers, use the numbering system in the questionnaire.

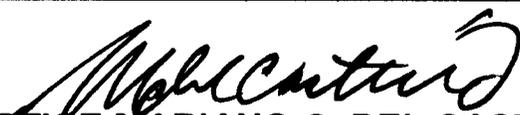
2. Answer the questions legibly, clearly, and concisely. Start each answer on a separate page. An answer to a sub-question under the same number may be written continuously on the same page and the immediately succeeding pages until completed.

3. Your answer should demonstrate your ability to analyze the facts, apply the pertinent laws and jurisprudence, and arrive at a sound or logical conclusion. Always support your answer with the pertinent laws, rules, and/or jurisprudence.

A MERE “YES” OR “NO” ANSWER WITHOUT ANY CORRESPONDING EXPLANATION OR DISCUSSION WILL NOT BE GIVEN FULL CREDIT. THUS, ALWAYS BRIEFLY BUT FULLY EXPLAIN YOUR ANSWERS ALTHOUGH THE QUESTION DOES NOT EXPRESSLY ASK FOR AN EXPLANATION. DO NOT REWRITE OR REPEAT THE QUESTION ON YOUR NOTEBOOK.

4. Do not write your name or any extraneous note/s or distinctive marking/s on your 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 Notebook is considered cheating and can disqualify you.

YOU CAN BRING HOME THIS QUESTIONNAIRE



JUSTICE MARIANO C. DEL CASTILLO
Chairperson
2018 Bar Examinations

I

Congress enacted a law to provide Filipinos, especially the poor and the marginalized, access and information to a full range of modern family planning methods, including contraceptives, intrauterine devices, injectibles, non-abortionifacient hormonal contraceptives, and family planning products and supplies, but expressly prohibited abortion. To ensure its objectives, the law made it mandatory for health providers to provide information on the full range of modern family planning methods, supplies and services, for schools to provide reproductive health education, for non-governmental medical practitioners to render mandatory 48 hours *pro bono* reproductive health services as a condition to Philhealth accreditation, and for couples desiring to marry to attend a family planning seminar prior to the issuance of a marriage license. It also punishes certain acts of refusals to carry out its mandates. The spouses Aguiluz, both Roman Catholics, filed a petition to declare the law as unconstitutional based on, among others, the following grounds:

- (a) It violates the right to life, since it practically sanctions abortion. Despite express terms prohibiting abortion, petitioners claim that the family planning products and supplies oppose the initiation of life, which is a fundamental human right, and the sanction of contraceptive use contravenes natural law and is an affront to the dignity of man.
- (b) It violates the constitutional prohibition against involuntary servitude because it requires medical practitioners to render 48 hours of *pro bono* reproductive health services which may be against their will.
- (c) It violates the Freedom of Religion, since petitioners' religious beliefs prevent them from using contraceptives, and that any State-sponsored procurement of contraceptives, funded by taxes, violates the guarantee of religious freedom.

Rule on each of the above objections. (2.5% each)

II

Agnes was allegedly picked up by a group of military men headed by Gen. Altamirano, and was brought to several military camps where she was interrogated, beaten, mauled, tortured, and threatened with death if she would not confess her membership in the New People's Army (NPA) and point to the location of NPA camps. She suffered for several days until she was released after she signed a document saying that she was a surrenderee, and was not abducted or harmed by the military. After she was released, and alleging that her rights to life, liberty and security had been violated and continued to be threatened by violation of such rights, she filed with the Supreme Court (the Court) a Petition for the Writs of *Amparo* and *Habeas Data* with prayers for Temporary Protection Orders, Inspection of Place, and Production of Documents and Personal Properties. The case was filed against President Amoyo (who was the President of the Philippines when the abduction, beating, mauling and life threats were committed), General Altamirano, and several military men whom

Agnes was able to recognize during her ordeal. The Court, after finding the petition to be in order, issued the writ of *amparo* and the writ of *habeas data* and directed the respondents to file a verified return on the writs, and directed the Court of Appeals (CA) to hear the petition. The respondents duly filed their return on the writs and produced the documents in their possession. After hearing, the CA ruled that there was no more need to issue the temporary protection orders since the writ of *amparo* had already been issued, and dismissed the petition against President Amoyo on the ground that he was immune from suit during his incumbency as President. Agnes appealed the CA ruling to the Court. The appeal was lodged after President Amoyo's term had ended.

- (a) Was the CA correct in saying that the writ of *amparo* rendered unnecessary the issuance of the temporary protection order? (2.5%)
- (b) Will the President's immunity from suit continue even after his term has ended, considering that the events covered by the Petition took place during his term? (2.5%)

III

What and whose vote is required for the following acts: (2% each)

- (a) the repeal of a tax exemption law;
- (b) a declaration of the existence of a state of war;
- (c) the amendment of a constitutional provision through a constituent assembly;
- (d) the resolution of a tie in a presidential election; and
- (e) the extension of the period for the suspension of the privilege of the writ of *habeas corpus*?

IV

The Province of Amaya is one of the smallest provinces in the Philippines with only one legislative district composed of four municipalities: Uno, Dos, Tres, and Cuatro.

Andres, a resident and registered voter of Cuatro municipality, ran and was elected as member of the *Sangguniang Panlalawigan* (SP) of Amaya in the 2010 and 2013 local elections.

While Andres was serving his second term as SP member, a law was enacted re-apportioning the four towns of Amaya into two legislative districts: Uno and Dos comprising the First District, and Tres and Cuatro comprising the Second District.

In the 2016 local elections, Andres ran and was elected as member of the SP of Amaya representing the Second District.

Andres seeks your legal advice regarding his intention to run as a member of the SP of Amaya for the Second District in the next local elections in 2019. What will you advise Andres? (2.5%)

V

State whether or not the following acts are constitutional: (2% each)

- (a) A law prescribing as qualifications for appointment to any court lower than the Supreme Court, Philippine citizenship, whether natural-born or naturalized, 35 years of age on the date of appointment, and at least eight years as a member of the Philippine Bar;
- (b) A law requiring all candidates for national or local elective offices to be college degree holders;
- (c) The designation by the President of an acting Associate Commissioner of the Civil Service Commission;
- (d) The appointment by the President as Deputy Ombudsman of a lawyer who has been engaged in the practice of law for five years; and
- (e) The nomination by a national party-list of a person who is not one of its *bona fide* members.

VI

Ang Araw, a multi-sectoral party-list organization duly registered as such with the Commission on Elections (Comelec), was proclaimed as one of the winning party-list groups in the last national elections. Its first nominee, Alejandro, assumed office as the party-list representative.

About one year after Alejandro assumed office, the Interim Central Committee of Ang Araw expelled Alejandro from the party for disloyalty and replaced him with Andoy, its second nominee. Alejandro questioned before the Comelec his expulsion and replacement by Andoy.

The Comelec considered Alejandro's petition as an intra-party dispute which it could resolve as an incident of its power to register political parties; it proceeded to uphold the expulsion.

Is the Comelec's ruling correct? (5%)

VII

The 2016 mayoralty race in the City of Arдания included Arnaldo and Anacleto as contenders.

Arnaldo filed a petition with the Comelec to cancel Anacleto's Certificate of Candidacy (CoC) for misrepresenting himself as a Filipino citizen. Arnaldo presented as evidence a copy of Anacleto's Spanish passport and a certification from the Bureau of Immigration (BI) showing that Anacleto used the same passport several times to travel to and from Manila and Madrid or Barcelona.

In his Comment, Anacleto claimed that, a year prior to filing his CoC, he had complied with all the requirements of R.A. No. 9225 (Citizenship Retention and Re-acquisition Act of 2003) to reacquire his Philippine citizenship by taking an oath of allegiance and executing a sworn renunciation of his Spanish citizenship. He defended the use of his Spanish passport subsequent to taking his oath of allegiance to the Philippines as a practical necessity since he had yet to obtain his Philippine passport despite reacquiring his Philippine citizenship. Even after he secured his Philippine passport, he said he had to wait for the issuance of a Schengen visa to allow him to travel to Spain to visit his wife and minor children.

- (a) Based on the allegations of the parties, is there sufficient ground to cancel Anacleto's CoC? (2.5%)
- (b) In case Anacleto's CoC is properly cancelled, who should serve as mayor of Arдания City: Arnaldo, who obtained the second highest number votes, or Andrea, the duly-elected Vice Mayor of the City? (2.5%)

VIII

Two petitions for the cancellation of Certificate of Candidacy (CoC)/Denial of Due Course were filed with the Comelec against two candidates running as municipal mayors of different towns.

The first petition was against Anselmo. Years ago, Anselmo was charged and convicted of the crime of rape by final judgment, and was sentenced to suffer the principal penalty of *reclusion perpetua* which carried the accessory penalty of perpetual absolute disqualification. While Anselmo was in prison, the President commuted his sentence and he was discharged from prison.

The second petition was against Ambrosio. Ambrosio's residency was questioned because he was allegedly a "green card holder," *i.e.*, a permanent resident of the US, as evidenced by a certification to this effect from the US Embassy.

Acting on the recommendations of its Law Department, the Comelec *en banc motu proprio* issued two resolutions granting the petitions against Anselmo and Ambrosio.

Both Anselmo and Ambrosio filed separate petitions with the Supreme Court assailing the resolutions cancelling their respective CoCs. Both claimed that the Comelec *en banc* acted with grave abuse of discretion amounting to lack or excess of jurisdiction because the petitions should have first been heard and resolved by one of the Comelec's Divisions.

Are Anselmo and Ambrosio correct? (5%)

IX

In 1990, Agripina migrated to Canada and acquired Canadian citizenship.

In 2008, Agripina retired and returned to the Philippines to permanently reside in her hometown of Angeles, Pampanga. A month after returning to the Philippines, Agripina took her oath of allegiance and executed a sworn renunciation of her Canadian citizenship in accordance with R.A. No. 9225.

In 2009, Agripina filed her certificate of candidacy for Congress for the 2010 elections. Agripina's political rivals lost no time in causing the filing of various actions to question her candidacy. They questioned her eligibility to run as member of Congress. Since Agripina had to take an oath under R.A. No. 9225, it meant that she needed to perform an act to perfect her Philippine citizenship.

Hence, they claimed that Agripina could not be considered a natural-born citizen. Agripina raised the defense that, having complied with the requirements of R.A. No. 9225, she had reacquired, and was deemed never to have lost, her Philippine citizenship.

Is Agripina disqualified to run for Congress for failing to meet the citizenship requirement? (2.5%)

X

Ascertain the constitutionality of the following acts: (2.5% each)

- (a) An investigation conducted by the Ombudsman against a Commissioner of the Commission on Audit for serious misconduct.
 - (b) A law prohibiting any court, other than the Supreme Court, from issuing a writ of injunction against an investigation being conducted by the Ombudsman.
 - (c) A law prohibiting any appeal from the decision or final order of the Ombudsman in an administrative proceeding, except through a petition for review on *certiorari* filed before the Supreme Court.
- 

XI

Under Section 6 of Article V (on Criminal Jurisdiction) of the Visiting Forces Agreement (VFA), the custody of a United States (US) personnel who becomes subject to criminal prosecution before a Philippine court shall be with the US military authorities, if the latter so requests. The custody shall begin from the commission of the offense until the completion of all judicial proceedings. However, when requested, the US military authorities shall make the US personnel available to Philippine authorities for any investigative or judicial proceeding relating to the offense with which the person has been charged. In the event that the Philippine judicial proceedings are not completed within one year, the US shall be relieved of any obligation under Section 6.

The constitutionality of Section 6, Article V of the VFA is challenged on two grounds: (1) it nullifies the exclusive power of the Supreme Court to adopt rules of procedure for all courts in the Philippines; and (2) it violates the equal protection clause to the extent that it allows the transfer of the custody of an accused to a foreign power as providing a different rule of procedure for that accused.

Rule on the challenge. (5%)

XII

Section 9 of P.D. No. 1606, as amended, provides that the Sandiganbayan may adopt internal rules governing the allotment of cases among its divisions, the rotation of justices among them, and other matters relating to the internal operations of the court.

Section 6 of Article IX-A of the Constitution allows each of the Constitutional Commissions "*en banc* [to] promulgate its own rules concerning pleadings and practice before it or before any of its offices. Such rules however shall not diminish, increase, or modify substantive rights."

Section 16(3) of Article VI of the Constitution states that "Each House may determine the rules of its proceedings." Section 21, Article VI of the Constitution further provides that "The Senate or the House of Representatives or any of its respective committees may conduct inquiries... in accordance with its duly published rules of procedure."

Finally, Section 3(8) of Article XI of the Constitution declares that "The Congress shall promulgate its rules on impeachment to effectively carry out the purposes of this section."

Are the rules promulgated pursuant to these provisions subject to review and disapproval by the Supreme Court? (5%)

XIII

PO1 Adrian Andal is known to have taken bribes from apprehended motorists who have violated traffic rules. The National Bureau of Investigation conducted an entrapment operation where PO1 Adrian was caught red-handed demanding and taking PhP500.00 from a motorist who supposedly beat a red light.

After he was apprehended, PO1 Adrian was required to submit a sample of his urine. The drug test showed that he was positive for dangerous drugs. Hence, PO1 Adrian was charged with violation of Section 15, Article II of R.A. No. 9165 or the Comprehensive Dangerous Drugs Act of 2002.

PO1 Adrian argues against the admissibility of the urine test results and seeks its exclusion. He claims that the mandatory drug test under R.A. No. 9165 is a violation of the accused's right to privacy and right against self-incrimination.

Are PO1 Adrian's contentions correct? (2.5%)

XIV

Amoroso was charged with treason before a military court martial. He was acquitted.

He was later charged with the same offense before a Regional Trial Court. He asks that the information be quashed on the ground of double jeopardy.

The prosecution objects, contending that for purposes of double jeopardy, the military court martial cannot be considered as a "competent court."

Should the Regional Trial Court grant Amoroso's motion to quash on the ground of double jeopardy? (2.5%)

XV

Annika sued the Republic of the Philippines, represented by the Director of the Bureau of Plant Industry, and asked for the revocation of a deed of donation executed by her in favor of said Bureau. She alleged that, contrary to the terms of the donation, the donee failed to install lighting facilities and a water system on the property donated, and to build an office building and parking lot thereon, which should have been constructed and made ready for occupancy on or before the date fixed in the deed of donation.

The Republic invoked state immunity and moved for the dismissal of the case on the ground that it had not consented to be sued. Should the Republic's motion be granted? (2.5%)

XVI

Five foreign nationals arrived at the NAIA from Hong Kong. After retrieving their checked-in luggage, they placed all their bags in one pushcart and proceeded to Express Lane 5. They were instructed to place their luggage on the examiner's table for inspection.

The examiner found brown-colored boxes, similar in size to powdered milk boxes, underneath the clothes inside the foreigners' bags. The examiner discovered white crystalline substances inside the boxes that he inspected and proceeded to bundle all of the boxes by putting masking tape around them. He thereafter handed the boxes over to Bureau of Customs agents. The agents called out the names of the foreigners one by one and ordered them to sign their names on the masking tape placed on the boxes recovered from their respective bags. The contents of the boxes were thereafter subjected to tests which confirmed that the substance was shabu.

Can the shabu found inside the boxes be admitted in evidence against the five foreigners for the charge of illegal possession of drugs in violation of the Comprehensive Dangerous Drugs Act of 2002? (2.5%)

XVII

The police served a warrant of arrest on Ariston who was suspected of raping and killing a female high school student. While on the way to the police station, one of the police officers who served the warrant asked Ariston in the local dialect if he really raped and killed the student, and Ariston nodded and said, "Opo."

Upon arriving at the police station, Ariston saw the City Mayor, whom he approached and asked if they could talk privately. The Mayor led Ariston to his office and, while there in conversation with the Mayor, Ariston broke down and admitted that he raped and killed the student. The Mayor thereafter opened the door of the room to let the public and media representatives witness Ariston's confession. In the presence of the Mayor, the police and the media, and in response to questions asked by some members of the media, Ariston sorrowfully confessed his guilt and sought forgiveness for his actions.

Which of these extrajudicial confessions, if any, would you consider as admissible in evidence against Ariston? (5%)

XVIII

Two police teams monitored the payment of ransom in a kidnapping case.

The bag containing the ransom money was placed inside an unlocked trunk of a car which was parked at the Angola Commercial Center in Mandaluyong City.



The first police team, stationed in an area near where the car was parked, witnessed the retrieval by the kidnappers of the bag from the unlocked trunk. The kidnappers thereafter boarded their car and proceeded towards the direction of Amorsolo St. in Makati City where the second police team was waiting.

Upon confirmation by radio report from the first police team that the kidnappers were heading towards their direction, the second police team proceeded to conduct surveillance on the car of the kidnappers, eventually saw it enter Ayala Commercial Center in Makati City, and the police team finally blocked it when it slowed down. The members of the second police team approached the vehicle and proceeded to arrest the kidnappers.

Is the warrantless arrest of the kidnappers by the second police team lawful? (5%)

XIX

President Alfredo died during his third year in office. In accordance with the Constitution, Vice President Anastasia succeeded him. President Anastasia then nominated the late President Alfredo's Executive Secretary, Anna Maria, as her replacement as Vice President. The nomination was confirmed by a majority of all the Members of the House of Representatives and the Senate, voting separately.

- (a) Is Anna Maria's assumption as Vice President valid? (2.5%)
- (b) Can Anastasia run as President in the next election? (2.5%)

XX

Andreas and Aristotle are foreign nationals working with the Asian Development Bank (ADB) in its headquarters in Manila. Both were charged with criminal acts before the local trial courts.

Andreas was caught importing illegal drugs into the country as part of his "personal effects" and was thus charged with violation of Comprehensive Dangerous Drugs Act of 2002. Before the criminal proceedings could commence, the President had him deported as an undesirable alien. Aristotle was charged with grave oral defamation for uttering defamatory words against a colleague at work. In his defense, Aristotle claimed diplomatic immunity. He presented as proof a communication from the Department of Foreign Affairs stating that, pursuant to the Agreement between the Philippine Government and the ADB, the bank's officers and staff are immune from legal processes with respect to acts performed by them in their official capacity.

- (a) Can the President's act of deporting an undesirable alien be subject to judicial review? (2.5%)
- (b) Is Aristotle's claim of diplomatic immunity proper? (2.5%)

-NOTHING FOLLOWS-