

A Compilation of the
Questions and Suggested Answers
In the
PHILIPPINE BAR EXAMINATIONS 2007-2013
In
POLITICAL LAW

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**ANSWERS TO BAR EXAMINATION QUESTIONS by the
UP LAW COMPLEX (2007, 2009, 2010)**

&

PHILIPPINE ASSOCIATION OF LAW SCHOOLS (2008)



FOREWORD

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The Author



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ARTICLE I National Territory

Archipelagic Doctrine (2013)

No.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%)

SUGGESTED ANSWER:

No, the petition is not meritorious. UNCLOS has nothing to do with the acquisition (or loss) of territory. It merely regulates sea-use rights over maritime zones, contiguous zones, exclusive economic zones, and continental shelves which it delimits. The Kalayaan Islands and the Scarborough Shoals are located at an appreciable distance from the nearest shoreline of the Philippine archipelago. A straight baseline loped around them from the nearest baseline will violate Article 47(3) and Article 47(2) of the

United Nations Convention on the Law of the Sea III. Whether the bodies of water lying landward of the baselines of the Philippines are internal waters or archipelagic waters, the Philippines retains jurisdiction over them (Magallona vs. Ermita, 655 SCRA 476).

ALTERNATIVE ANSWER:

No, the petition is not meritorious. UNCLOS has nothing to do with the acquisition (or loss) of territory. It is a multilateral treaty regulating, among others, sea-use rights among maritime zones and continental shelves that UNCLOS III delimits.

The court finds RA No. 7711 constitutional and is consistent with the Philippines' national interest. Aside from being the vital step in safeguarding the country's maritime zones, the law also allows an internationally-recognized delimitation of the breadth of the Philippines' maritime zones and continental shelf.

The court also finds that the conversion of internal waters to archipelagic waters will not risk the Philippines as affirmed in the Article 49 of the UNCLOS III, an archipelagic state has sovereign power that extends to the waters enclosed by the archipelagic baselines, regardless of their depth or distance from the coast. It



is further stated that the regime of archipelagic sea lanes passage will not affect the status of its archipelagic waters or the exercise of sovereignty over waters and air space, bed and subsoil and the resources therein (Prof. Merlin Magallona, et al v. Hon. Eduardo Ermita, in his capacity as Executive Secretary, et al, G.R. No. 187167, 16 July 2011)

Archipelagic Doctrine (2009)

No.I. b. Under the archipelago doctrine, the waters around, between, and connecting the islands of the archipelago form part of the territorial sea of the archipelagic state.

SUGGESTED ANSWER:

FALSE. Under Article I of the Constitution, The waters around, between and connecting the islands of the archipelago form part of the **INTERNAL WATERS**. Under Article 49 (1) of the U.N. Convention on the U.N. Convention on the Law of the Sea, these waters do not form part of the territorial sea but are described as archipelagic waters.

ARTICLE II Declaration of Principles and State Policies

Defense of State (2009)

No.I.c. A law that makes military service for women merely voluntary is constitutional

SUGGESTED ANSWER:

FALSE. In the defense of the state, all citizens may be required by law to render personal, military or civil service (Section 4, Article II of the Constitution). The duty is imposed on all citizens without distinction as to gender.

ALTERNATIVE ANSWER:

TRUE. The prime duty of the Government is to serve and protect the people. The Government may call upon the people to defend the State and, in the fulfillment thereof, **ALL CITIZENS** may be required, under conditions provided by law, to render personal military or civil service.

What is mandatory is the calling out of the people to defend the state. But the citizens including woman may render personal or military service.

State Immunity from Suit (2013)

No.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%)

SUGGESTED ANSWER:

Yes, the Embassy can invoke immunity from suit. Section 10 of the Maintenance Agreement is not necessarily a waiver of sovereign immunity from suit. It was meant to apply in case the Republic of Kafiristan elects to sue in the local courts or waives its immunity by a subsequent act. The establishment of a diplomatic mission is a sovereign function. This encompasses its maintenance and upkeep. The

Maintenance Agreement was in pursuit of a sovereign activity (Republic of the Indonesia vs. Vinzon, 405 SCRA 126).

ALTERNATIVE ANSWER:

No, the embassy cannot invoke immunity from suit, because it has been provided under Section 10 of their charter of agreement that Kafiristan expressly waived its immunity from suit. This is supported by the provision on Section 3, Article XVI of the 1987 Constitution, which says that the State may not be sued without its consent. Since consent was expressly given from their charter of agreement, the embassy cannot invoke immunity from suit.

State Immunity from Suit (2013)

No.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 Php 1.0 Million deposit and advance rental required under their contract.

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

SUGGESTED ANSWER:

No, the action of the group of importers will not prosper. The primary function of the Bureau of Customs is governmental, that of assessing and collecting lawful revenues from imported articles and all other tariff and customs duties, fees, charges, fines and penalties (Mobil Philippines Exploration, Inc. vs. Customs Arrastre Service, 18 SCRA 120).

ALTERNATIVE ANSWER:

No. The action by the group of importers will not prosper because the Supreme Court said that the Bureau of Customs, being an unincorporated agency without a separate judicial personality, enjoys immunity from suit. It is invested with an inherent power of sovereignty, namely the power of taxation; it performs governmental functions (Farolan v. Court of Tax Appeals, 217 SCRA 298).

Moreover, the Bureau of Customs is a part of the Department of Finance, with no personality of its own apart from that of the national government. Its primary function is governmental, that of assessing and collecting lawful revenues from imported articles and all other tariff and customs duties, fees, charges, fines, and penalties (Sec. 602, RA 1937). This clearly explains the reason why the Department of Finance also enjoys immunity from suit.

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

SUGGESTED ANSWER:

No, XYZ corporation cannot sue the Bureau of Customs to collect rentals for the delivered cranes. The contract was a necessary incident to the performance of its governmental function. To properly collect the revenues and customs duties, the Bureau of Customs must check to determine if the declaration of the importers tallies with the landed merchandise. The cranes are needed to haul the landed merchandise to a suitable place for inspection (Mobil Philippines Exploration, Inc. vs. Customs Arrastre Service, 18 SCRA 120).

ALTERNATIVE ANSWER:



No, XYZ corporation cannot sue the Bureau of Customs because it has no personality separate from that of the Republic of the Philippines (Mobil Philippines Exploration, Inc. vs. Customs Arrastre Service, 18 SCRA 120).

ALTERNATIVE ANSWER:

No. Even in the exercise of proprietary functions incidental to its primarily governmental functions, an unincorporated agency, in this case the Bureau of Customs, still cannot be sued without its consent (Mobil Philippines Exploration v. Customs Arrastre Service, 18 SCRA 1120).

ALTERNATIVE ANSWER:

Yes, XYZ Corporation may sue the Bureau of Customs because the contract is connected with a proprietary function, the operation of the arrastre service (Philippine Refining Company vs. Court of Appeals, 256 SCRA 667). Besides, XYZ Corporation leased its van cranes, because the Bureau of Customs should not be allowed to invoke state immunity from suit (Republic vs. Unimex-Micro Electronics GmbH, 518 SCRA 19).

State Immunity from Suit (2009)

No. IV. The Municipality of Pinatukdao is sued for damages arising from injuries

sustained by a pedestrian who was hit by a glass pane that fell from a dilapidated window frame of the municipal hall. The municipality files a motion to dismiss the complaint, invoking state immunity from suit. Resolve the motion with reasons. (3%).

SUGGESTED ANSWER:

State immunity as defense will not prosper because under the law, a municipal corporation can be sued and be sued as expressly provided under the local government code. Furthermore, under the civil code, it can also be held liable for damages for the death of, or injury suffered by, any person by reason of the defective condition of roads, streets, bridges, public buildings and other public works under their control or supervision (art. 2189).

In the present case, the municipal building is under their control and supervision, thus, no immunity from suit.

ARTICLE III Bill of Rights

Custodial Investigation; Extrajudicial Confession (2013)

No.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%)

SUGGESTED ANSWER:

The judgment of conviction should be reversed on appeal. It relied mainly on the extrajudicial confession of the accused. The lawyer assisting them must be independent. City Attorney Juan Buan is not independent. As City Attorney, he provided legal support to the City Mayor in performing his duties,

which include the maintenance of peace and order (People vs. Sunga, 399 SCRA 624).

ALTERNATIVE ANSWER:

The judgment of conviction should be reversed. The police officers committed an offense by confronting the three accused. This is a violation to Section 12, Article III of the 1987 Constitution, which states that any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have a competent and independent counsel preferably of his own choice. If the person cannot afford the services of counsel, he must be provided with one. These rights cannot be waived except in writing and in the presence of counsel.

ALTERNATIVE ANSWER:

The Judgment of conviction should be affirmed if the accused failed to object when their extrajudicial confession was offered in evidence, which was rendered it admissible (People vs. Samus, 389 SCRA 93).

Eminent Domain; Public Purpose (2008)

No. IV. Congress passed a law authorizing the National Housing Authority (NHA) to



expropriate or acquire private property for the redevelopment of slum areas, as well as to lease or resell the property to private developers to carry out the redevelopment plan. Pursuant to the law, the NHA acquired all properties within a targeted badly blighted area in San Nicolas, Manila except a well-maintained drug and convenience store that poses no blight or health problem itself. Thereafter, NHA initiated expropriation proceedings against the store owner who protested that his property could not be taken because it is not residential or slum housing. He also contended that his property is being condemned for a private purpose, not a public one, noting the NHA's sale of the entire area except his property to a private party. If you were the judge, how would you decide the case? (6%).

SUGGESTED ANSWER:

The power of the NHA is a delegated power of eminent domain, strictly construed against its holder and limited to the public purpose of redevelopment of slum areas. The expropriation of a property already previously excluded for not posing a blight of health problem lacks public purpose and exceeds the delegated power of the NHA.

ALTERNATIVE ANSWER:

The power of expropriation cannot be used to benefit private parties (Pascual

vs. Secretary, G.R. No. L-10405, Dec. 29, 1960.) In this case, the main beneficiary would be the private realty company. The taking of private property and then transferring it to private persons under the guise of public use is not within the power of eminent domain (Heirs of Moreno vs. Mactan Airport, G.R. No. 156273, August 9, 2005).

Eminent Domain; Socialized Housing (2009)

No.XVII. Filipinas Computer Corporation (FCC), a local manufacturer of computers and computer parts, owns a sprawling plant in a 5,000-square meter lot in Pasig City. To remedy the city's acute housing shortage, compounded by a burgeoning population, the Sangguniang Panglungsod authorized the City Mayor to negotiate for the purchase of the lot. The Sanggunian intends to subdivide the property into small residential lots to be distributed at cost to qualified city residents. But FCC refused to sell the lot. Hard pressed to find a suitable property to house its homeless residents, the city filed a complaint for eminent domain against FCC.

(a) If FCC hires you as lawyer, what defense or defenses would you set up in order to resist the expropriation of the property? Explain.

SUGGESTED ANSWER:



The following are the defenses that I will set up:

- a. No prior valid and definite offer was made
- b. The expropriation is for socialized housing therefore it must comply with the order of preference of the land to be acquired and the mode of acquisition. Under the law regarding expropriation for socialized housing, private lands is the last in line and the expropriation proceeding is last resorted to if all other modes of acquisition has already been exhausted.

Order of expropriation for socialized housing:

1. Government lands
2. Alienable lands of the public domain
3. Unregistered, abandoned or idle lands
4. Lands within the declared areas for priority development, zonal improvement program sites, slum improvement and resettlement sites which have not yet been acquired
5. BLISS sites which have not yet been acquired
6. Privately owned lands

The mode of expropriation is subject to 2 conditions:

- a. It shall be resorted to only when the other modes of acquisition have been exhausted; and
- b. Parcels owned by small property owners are exempt from such acquisition. Small property owners are owners of residential lands with an area not more than 300 sq.m. in highly urbanized cities and not more than 800 sq.m. in other urban areas; and they do not own residential property other than the same.

(b) If the court grants the City's prayer for expropriation, but the City delays payment of the amount determined by the court as just compensation, can FCC recover the property from pasig city?

SUGGESTED ANSWER:

Yes. As a general rule, non-payment of just compensation does not entitle the landowner to recover possession of the expropriated lots. Instead legal interest on just compensation should be paid (National Power Corporation vs.Henson, 300 SCRA 751 [1998]). However, in cases where the government failed to pay the just compensation within 5 years from the FINALITY OF THE JUDGMENT in the expropriation proceedings, the owners concerned shall have the right to recover



possession of their property (Republic vs. Lim, 462 SCRA 265 [2005]).

(c) Suppose the expropriation succeeds, but the city decides to abandon its plan to subdivide the property for residential purposes having found much bigger lot, can FCC legally demand that it be allowed to repurchase the property from the city of Pasig? Why or why not?

SUGGESTED ANSWER:

It depends. The property owner's right to repurchase the property depends upon the character of the title acquired by the expropriator, ie., if the land is expropriated for a particular purpose with the condition that when that purpose is ended or abandoned, the property shall revert to the former owner, then the former owner can re-acquire the property (Heirs of Timoteo Moreno vs. Mactan-Cebu International Airport Authority, 413 SCRA 502 [2003]).

But if there is no such condition the owner cannot repurchase because the judgment in the expropriation case grants title to the lot in fee simple to the REPUBLIC.

Eminent Domain; Valid and Definite Offer (2010)

No. XIII. a. A valid and definite offer to buy a property is a pre-requisite to

expropriation initiated by a local government unit.

SUGGESTED ANSWER:

TRUE. Under the Local Government Code, there must be a prior valid and definite offer before expropriation proceeding can be initiated (Section 19, Local Government Code).

Equal Protection; Responsible Parenthood (2007)

No.II. The City Mayor issues an Executive Order declaring that the city promotes responsible parenthood and upholds natural family planning. He prohibits all hospitals operated by the city from prescribing the use of artificial methods of contraception, including condoms, pills, intrauterine devices and surgical sterilization. As a result, poor women in his city lost their access to affordable family planning programs. Private clinics, however, continue to render family planning counsel and devices to paying clients.

(a) Is the Executive Order in any way constitutionally infirm? Explain.

SUGGESTED ANSWER:

The Executive Order is constitutionally infirm. Under the 1987 Constitution, the State shall defend the right of spouses to



establish a family in accordance with their religious convictions and the demands of responsible parenthood. (Art. XV, Sec. 3[1]). By upholding natural family planning and prohibiting city hospitals from prescribing artificial methods of contraception, the Mayor is imposing his religious beliefs on spouses who rely on the services of city hospitals. This clearly violates the above section of the Constitution.

Moreover, the 1987 Constitution states that no person shall be denied the equal protection of the laws. (Art. III, Sec. 1). The Constitution also provides that the state shall promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living and an improved quality of life for all. (Art. II, Section 9). The loss of access of poor city women to family planning programs is discriminatory and creates suspect classification. It also goes against the demands of social justice as enshrined in the immediately preceding provision.

ALTERNATIVE ANSWER:

The Executive Order is constitutionally infirm. It constitutes an invalid exercise of police power and violates substantive due process by depriving people of the

means to control their reproductive processes. Moreover, since the national government has not outlawed the use of artificial methods of contraception, then it would be against national policies. In addition, the Mayor cannot issue such Executive Order without an underlying ordinance. (Moday v, Court of Appeals, G.R. No. 107916, February 20, 1997) Besides, the action of the Mayor may be in violation of a person's right to privacy.

ALTERNATIVE ANSWER:

The executive order is constitutionally infirm. It violates Section 3(1), Article XV of the 1987 Constitution, which recognizes the right of the spouses to found a family in accordance with the demands of responsible parenthood which includes the artificial method.

ALTERNATIVE ANSWER:

The Executive order is constitutionally infirm. When Section 12, Article II of the 1987 Constitution provides that the State shall equally protect the life of the mother and the life of the unborn from conception, it is prohibiting abortion only and not the use of artificial contraceptives (Record of the Constitutional Commission, Vol. IV. Pp.683, 711 and 760).

(c) May the Commission on Human Rights order the Mayor to stop the implementation of the Executive Order? Explain.

SUGGESTED ANSWER:



No, the power of the Commission on Human Rights (CHR) is limited to fact-finding investigations. Thus, it cannot issue an “order to desist” against the mayor, inasmuch as the order prescinds from an adjudicatory power that CHR does not possess. (Simon v. Commission on Human Rights, G.R. No. 100150, January 5, 1994; Cariño v. Commission on Human Rights, G.R. No. 96681, December 2, 1991.)

Freedom of Religion; Benevolent Neutrality Test (2009)

No. XVI. (a) Angelina, a married woman, is a division chief in the Department of Science and Technology. She had been living with a married man, not her husband, for the last 15 years. Administratively charged with immorality and conduct prejudicial to the best interest to the service, she admits her live-in arrangement, but maintains that this conjugal understanding is in conformity with their religious beliefs. As members of the religious sect, Yahweh’s Observers, they had executed a Declaration of Pledging Faithfulness which has been confirmed and blessed by their Council of Elders. At the formal investigation of the administrative case, the Grand Elder of the sect affirmed Angelina’s testimony and attested to the sincerity of Angelina and her partner in the profession of their faith. If you were to

judge this case, will you exonerate Angelina? Reasons. (3%)

SUGGESTED ANSWER:

Yes. (Estrada vs Escritor, August, 4, 2003 and June 22, 2006) – Right to freedom of religion must prevail. Benevolent neutrality recognizes that government must pursue its secular goals and interests, but at the same time, strive to uphold religious liberty to the greatest extent possible within flexible constitutional limits.

Although the morality contemplated by laws is secular, benevolent neutrality could allow for accommodation of morality based on religion, provided it does not offend compelling state interest.

Benevolent neutrality approach requires that the court make an individual determination and not dismiss the claim outright.

(b) Meanwhile, Jenny, also a member of Yahweh’s Observers, was severely disappointed at the manner the Grand Elder validated what she considered was an obviously immoral conjugal arrangement between Angelina and her partner. Jenny filed suit in court, seeking the removal of the Grand Elder from the religious sect on the ground that his act in supporting Angelina not only ruined the reputation of



their religion, but also violated the constitutional policy upholding the sanctity of marriage and the solidarity of the family. Will Jenny's case prosper? Explain your answer.

SUGGESTED ANSWER:

The case will not prosper. The expulsion/excommunication of members of a religious institution/organization is a matter best left to the discretion of the officials, and the laws and canons, of said institution/organization. (Taruc v. Bishop dela Cruz, et al. Mar. 10, 2005).

Freedom of Speech; Commercial Speech; Prohibitions (2007)

No.IX. In a protest rally' along Padre Faura Street, Manila, Pedrong Pula took up the stage and began shouting "kayong mga kurakot kayo! Magsi-resign na kayo! Kung hindi, manggugulo kami dito!" ("you corrupt officials, you better resign now, or else we will cause trouble here!") Simultaneously, he brought out a rock the size of a fist and pretended to hurl it at the flagpole area of a government building. He did not actually throw the rock.

(a) Police officers who were monitoring the situation immediately approached Pedrong Pula and arrested him. He was prosecuted for seditious speech and was convicted. On appeal, Pedrong Pula argued he was merely

exercising his freedom of speech and freedom of expression guaranteed by the Bill of Rights. Decide with reasons. (5%)

SUGGESTED ANSWER:

Pedrong Pula should be acquitted. His freedom of speech should not be limited in the absence of a clear and present danger of a substantive evil that the state had the right to prevent. He pretended to hurl a rock but did not actually throw it. He did not commit any act of lawless violence. (David vs. Macapagal-Arroyo, 489 SCRA 160).

(b) What is "commercial speech"? Is it entitled to constitutional protection? What must be shown in order for government to curtail "commercial speech"? Explain. (3%)

SUGGESTED ANSWER:

Commercial speech is communication which involves only the commercial interest of the speaker and the audience, such as advertisements. (Black's Law dictionary, 9th ed., p.1529.)

Commercial speech is entitled to constitutional protection. (Ayer Productions Pty. Ltd. vs. Capulong, 160 SCRA 861.)

Commercial speech may be required to be submitted to a government agency for review to protect public interests by



preventing false or deceptive claims. (Pharmaceutical and Health Care Association of the Philippines vs. Duque, 535 SCRA 265.)

(c) What are the two (2) basic prohibitions of the freedom of speech and of the press clause? Explain. (2%)

SUGGESTED ANSWER:

The two basic prohibitions on freedom of speech and freedom of the press are prior restraint and subsequent punishment (Chavez vs. Gonzales, 545 SCRA 441.)

Freedom of Speech; Private Parties; Prior Restraint (2007)

The Destilleria Felipe Segundo is famous for its 15-year old rum, which it has produced and marketed successfully for the past 70 years. Its latest commercial advertisement uses the line: "Nakatikim ka na ba ng kinse anyos?" Very soon, activist groups promoting women's and children's rights were up in arms against the advertisement.

(a) All advertising companies in the Philippines have formed an association, the Philippine Advertising Council, and have agreed to abide by all the ethical guidelines and decisions by the Council. In response to the protests, the Council orders the pull-out of the "kinse anyos" advertising

campaign. Can Destilleria Felipe Segundo claim that its constitutional rights are thus infringed?

SUGGESTED ANSWER:

Destilleria Felipe Segundo cannot claim that its constitutional rights were infringed. In this case, a private association formed by advertising companies for self regulation was the one who ordered that the advertisement be pulled out, because Destilleria did not comply with the association's ethical guidelines. The guarantee of freedom of speech is a limitation on state action and not on the action of private parties (Lloyd Corporation vs. Tanner, 407 U.S. 551 [1972]). The mass media are private enterprises, and their refusal to accept any advertisement does not violate freedom of speech (Times-Picayune Publishing Company vs. United States, 345 U.S. 594 [1953]; Columbia Broadcasting System, Inc. vs. Democrat Control Committee, 412 U.S. 94 [1973])

ALTERNATIVE ANSWER:

No, Destillera Felipe Segundo may not claim that its constitutional rights, particularly freedom of expression, have been infringed. The constitutional guarantee of freedom of speech is a guarantee only against abridgment by the government and does not apply to private parties. (People v. Marti, G.R. No. 81561, January 18, 1991). Moreover, Destilleria freely joined the Philippine Advertising Council and is therefore



bound by the ethical guidelines and decisions of that council.

ALTERNATIVE ANSWER:

No. Constitutional rights can be validly restricted to promote good morals. Moreover, what is being exercised is commercial expression which does not enjoy the same extent of freedom as political or artistic speech. (Central Hudson Gas & Electric v. PSC, 447 U.S. 557 [1980]). The order for the withdrawal comes not from the State but from a private group of advertisers which is not within the coverage of the Bill of Rights.

(b) One of the militant groups, the Amazing Amazonas, call on all government-owned and controlled corporations (GOCC) to boycott any newspaper, radio or TV station that carries the "kinse anyos" advertisements. They call on all government nominees in sequestered corporations to block any advertising funds allocated for any such newspaper, radio or TV station. Can the GOCCs and sequestered corporations validly comply?

SUGGESTED ANSWER:

The government owned and controlled corporations and the government nominees in sequestered corporations cannot block any advertising funds allocated for any newspaper, radio or television station which carries the advertisements of Destilleria Felipe Segundo. Since they are government entities and officers, they are bound by

the guarantee of freedom of speech. Freedom of speech extends to commercial establishments (Metromedia, Inc. vs. San Diego, 453 U.S. 490 [1981]). The mere fact that an advertisement is offensive cannot justify its suppression (Carey vs. Population Services International, 431 U.S. 678 [1977]). The blocking of advertising funds is a threat intended to prevent the exercise of freedom of speech of Destilleria Felipe Segundo through the fear of consequences. Such a threat qualifies as prior restraint (Rosden, The Law of Advertising, Vol. I, pp.5-13).

ALTERNATIVE ANSWER:

They may comply with such call as these entities may institute certain measures to promote a socially desirable end, namely, the prevention of the exploitation and abuse of women, especially those who are not yet of age.

ALTERNATIVE ANSWER:

The GOCCs and sequestered corporations may not be compelled to boycott or block advertising funds for media companies carrying the said advertisements. These companies may have existing contracts with the media companies concerned and non-compliance may result in breach that will open them to possible suits.

Freedom of Speech; Symbolic Expression (2008)



No.XVI. Nationwide protests have erupted over rising gas prices, including disruptive demonstrations in many universities, throughout the country. The Metro Manila State University, a public university, adopted a university-wide circular prohibiting public mass demonstrations and rallies within the campus. Offended by the circular, militant students spread word that on the following Friday, all students were to wear black T-shirts as a symbol of their protest both against high gas prices and the university ban on demonstrations. The effort was only moderately successful, with around 30% of the students heeding the call. Nonetheless, university officials were outraged and compelled the student leaders to explain why they should not be expelled for violating the circular against demonstrations.

The student leaders approached you for legal advice. They contended that they should not be expelled since they did not violate the circular, their protest action being neither a demonstration nor a rally since all they did was wear black T-shirts. What would you advise the students? (6%)

SUGGESTED ANSWER:

The wearing of black shirts is an exercise of freedom of expression and not necessarily freedom of assembly. Regardless of the distinction, in both cases, the Constitutional guaranty includes freedom from prior restraint

and freedom from subsequent liability. There are three tests to determine whether or not there was valid government interference: (1) dangerous tendency rule; (2) balancing of interest test; and (3) clear and present danger test. In the Philippine jurisdiction, we adhere to the clear and present danger test (ABS-CBN Broadcasting Corp. vs. Comelec, G.R. No. 133486, Jan. 28, 2000). This test simply means that there is clear and present danger of a substantive evil which the State has the right to prevent.

Applying the clear and present danger test, the protest conducted by the students was only moderately successful and the wearing of black shirts was neither tumultuous nor disruptive. Thus, the substantive evil which the school authorities were trying to suppress did not even occur. Therefore, the prohibition imposed by the circular violates freedom from prior restraint while the threat of expulsion by the school authorities violates freedom from subsequent liability.

Freedom of the Press; Prior Restraint (2009)

No.XV. The KKK Television Network (KKK-TV) aired the documentary, "Case Law: How the Supreme Court Decides," without



obtaining the necessary permit required by P.D. 1986. Consequently, the Movie and Television Review and Classification Board (MTRCB) suspended the airing of KKK-TV programs. MTRCB declared that under P.D. 1986, it has the power of prior review over all television programs, except "newsreels" and programs "by the Government", and the subject documentary does not fall under either of these two classes. The suspension order was ostensibly based on Memorandum Circular No. 98-17 which grants MTRCB the authority to issue such an order.

KKK-TV filed a certiorari petition in court, raising the following issues:

(a) The act of MTRCB constitutes "prior restraint" and violates the constitutionally guaranteed freedom of expression; (3%)

SUGGESTED ANSWER:

The contention of KKK-TV is not tenable. The prior restraint is a valid exercise of police power. Television is a medium which reaches even the eyes and ears of children (Iglesia ni Cristo vs. Court of Appeals, 259 SCRA 529 [1996]).

ALTERNATIVE ANSWER:

The memo circular is unconstitutional. The act of the Movie and Television Review and Classification Board Constitutes prior restraint and violates freedom of expression. Any system of

prior restraint has against it a heavy presumption against its validity. Prior restraint is an abridgment of the freedom of expression. There is no showing that the airing of the programs would constitute a clear and present danger (New York Times vs. United States, 403 U.S. 713 [1971]).

(b) While Memorandum Circular No. 98-17 was issued and published in a newspaper of general circulation, a copy thereof was never filed with the Office of the National Register of the University of the Philippines Law Center. (2%)

SUGGESTED ANSWER:

In accordance with Chapter 2, Book VII of the Administrative Code of 1987, Memorandum Circular No. 98-17 must be filled with the University of the Philippines Law Center. It cannot be enforced until it has been filed with the University of the Philippines Law Center (Pilipinas Shell Petroleum Corporation vs Commissioner of Internal Revenue, 541 SCRA 316 [2007]).

Hierarchy of Civil Liberties; Freedom of Religion; Search and Seizure (2012)

No.X. (a).What do you understand by the term "hierarchy of civil liberties"? Explain. (5%)



SUGGESTED ANSWER:

The hierarchy of civil liberties means that freedom of expression and the rights of peaceful assembly are superior to property rights. (Philippine Blooming Mills Employees Organization vs. Philippine Blooming Mills Company, Inc., 51 SCRA 189.)

(b) Distinguish fully between the "free exercise of religion clause" and the "non-establishment of religion clause". (3%)

SUGGESTED ANSWER:

The freedom of exercise of religion entails the right to believe, which is absolute, and the right to act on one's belief, which is subject to regulation. As a rule, the freedom of exercise of religion can be restricted only if there is a clear and present danger of a substantive evil which the state has the right to prevent. (Iglesia Ni Cristo vs. Court of Appeals, 259 SCRA 529.)

The non-establishment clause implements the principle of separation of church and state. The state cannot set up a church, pass laws that aid one religion, and all religions, prefer one religion over another, force or influence a person to go to or remain away from church against his will, or force him to profess a belief or disbelief in any

religion. (Everson vs. Board of Education, 330 U.S. 1.)

(c) When can evidence "in plain view" be seized without need of a search warrant? Explain. (2%)

SUGGESTED ANSWER:

Evidence in plain view can be seized without need of search warrant if the following elements are present:

(1) There was a prior valid intrusion based on the valid warrantless arrest in which the police were legally present pursuant of their duties;

(2) The evidence was inadvertently discovered by the police who had the right to be where they were;

(3) The evidence must be immediately apparent; and

(4) Plain view justified seizure of the evidence without further search. (Del Rosario vs. People, 358 SCRA 372.)

Liberty of Abode; Right to Travel (2012)

No. I. Mr. Violet was convicted by the RTC of Estafa. On appeal, he filed with the Court of Appeals a Motion to Fix Bail for Provisional Liberty Pending Appeal. The Court of Appeals granted the motion and



set a bail amount in the sum of Five (5) Million Pesos, subject to the conditions that he secure "a certification/guaranty from the Mayor of the place of his residence that he is a resident of the area and that he will remain to be a resident therein until final judgment is rendered or in case he transfers residence, it must be with prior notice to the court". Further, he was ordered to surrender his passport to the Division Clerk of Court for safekeeping until the court orders its return.

(a) Mr. Violet challenges the conditions imposed by the Court of Appeals as violative of his liberty of abode and right to travel. Decide with reasons. (5%)

SUGGESTED ANSWER

The right to change abode and the right to travel are not absolute. The liberty of changing abode may be unpaired upon order of the court. The order of the Court of Appeals is lawful, because purpose is to ensure that the accused will be available whenever his presence is required. He is not being prevented from changing its abode. He is merely being required to inform the Court of Appeals if he does. (Yap vs. Court of Appeals, 358 SCRA 564.)

(b) Are "liberty of abode" and "the right to travel" absolute rights? Explain. What are the respective exception/s to each right if any? (5%)

SUGGESTED ANSWER

The liberty of abode and the right to travel are not absolute. The liberty of abode and changing it can be imposed within the limits prescribed by law upon lawful order of the court. The right to travel may be unpaired in the interest of national security, public safety, or public health as may be provided by law. (Section 6, Article III of the Constitution.) in addition, the court has the inherent power to restrict the right of an accused who has pending criminal case to travel abroad to maintain its jurisdiction over him. (Santiago vs. Vasquez, 217 SCRA 633.)

Overbreadth Doctrine vs. Void for Vagueness (2012)

No. VIII. (a) What is the doctrine of "overbreath"? In what context can it be correctly applied? Not correctly applied? Explain (5%)

SUGGESTED ANSWER:

A statute is overbroad when a governmental purpose to control or prevent activities constitutionally subject to state regulations is sought to be achieved by means which sweep unnecessarily broadly and invade the area of protected freedom. It applies



both to free speech cases and penal statutes. However, a facial challenge on the ground of overbreadth can only be made in free speech cases because of its chilling effect upon protected speech. A facial challenge on the ground of overbreadth is not applicable to penal statutes, because in general they have an in terrorem effect. (Southern Hemisphere Engagement Network, Inc. vs. Anti-Terrorism Council, 632 SCRA 146.) (NOTE: The word "overbreath" should read "overbreadth" because breath has no limit especially if it is bad breath.)

(b) What is the doctrine of "void for vagueness"? In what context can it be correctly applied? Not correctly applied? Explain (5%)

SUGGESTED ANSWER

A statute is vague when it lacks comprehensible standards that men of common intelligence that guess at its meaning and differ as to its application. It applies to both free speech cases and penal statutes. However, a facial challenge on the ground of vagueness can be made only in free speech cases. It does not apply to penal statutes. (Southern Hemisphere Engagement Network, Inc. vs. Anti-Terrorism Council, 632 SCRA 146.)

Overbreadth Doctrine vs. Void for Vagueness (2010)

No. XXIV. Compare and contrast "Overbreadth" doctrine from void-for vagueness doctrine.

SUGGESTED ANSWER:

While the overbreadth doctrine decrees that a governmental purpose may not be achieved by means in a statute which sweep unnecessary broadly and thereby invades the area of protected freedom a statute is void for vagueness when it forbids or requires the doing of an act in terms so vague that men of common intelligence cannot necessarily guess at its meaning and differ as to its application. (Estrada vs. Sandiganbayan, 369 vs. SCRA 394 [2001]).

ALTERNATIVE ANSWER:

Overbreadth and Void for Vagueness doctrine is used as test for the validity on their faces (FACIAL CHALLENGE) statutes in free speech cases (freedom of speech). It is not applicable in criminal cases.

Overbreadth doctrine decrees that governmental purpose may not be achieved by means which sweeps unnecessarily broadly and thereby invade the area of protected freedoms.

"Void for vagueness doctrine" which holds that "a law is facially invalid if



men of common intelligence must necessarily guess at its meaning and differ as to its application, violates the first essential of due process of law.

Police Power; Abatement of Nuisance (2010)

No. XIV. ABC operates an industrial waste processing plant within Laoag City. Occasionally, whenever fluid substances are released through a nearby creek, obnoxious odor is emitted causing dizziness among residents in Barangay La Paz. On complaint of the Punong Barangay, the City Mayor wrote ABC demanding that it abate the nuisance. This was ignored. An invitation to attend a hearing called by the Sangguniang Panlungsod was also declined by the president of ABC. The city government thereupon issued a cease and desist order to stop the operations of plant, prompting ABC to file a petition for injunction before the RTC, arguing that the city government did not have any power to abate the alleged nuisance. Decide with reasons.(3%)

SUGGESTED ANSWER:

The city government has no power to stop the operations of the plant. Since its operations is not a nuisance per se, the city government cannot abate it extrajudicially. A suit must be filed in court. (AC Enterprises, Inc. vs. Frabelle

Properties Corporation, 506 SCRA 625 [2006]).

ALTERNATIVE ANSWER:

Petition will not prosper. The obnoxious odor emitted from the processing plant is a nuisance per se which can be summarily abated by the city government. Even if we consider it a nuisance per accidens, the cease and desist order to stop the operations of the plant is still valid because there had been compliance with due process, that is, the opportunity to be heard has been given.

Police Power; Prohibition of Gambling (2009)

To address the pervasive problem of gambling, Congress is considering the following options: (1) prohibit all forms of gambling; (2) allow gambling only on Sundays; (3) allow gambling only in government-owned casinos; and (4) remove all prohibition against gambling but impose a tax equivalent to 30% on all winnings.

(a) If Congress chooses the first option and passes the corresponding law absolutely prohibiting all forms of gambling, can the law be validly attacked on the ground that it is an invalid exercise of police power? Explain your answer (2%)

SUGGESTED ANSWER:



Yes. although the Congress has the plenary power to enact law and interfere with the personal liberty and property in order to promote the general welfare, the exercise of police power is subject to 2 test: 1. Lawful subject – refers to the interest of the General Public requiring the interference of the State and 2. Lawful means – refers to the reasonable means employed necessary for the accomplishment of its objective and not duly oppressive upon individuals.

Basis of the exercise of police power:

(1) Sic utere tuo et alienum non laedas – use your property so that you do not injure that of another

(2) Salus populi est suprema lex – the welfare of the people is the highest law

(b) If Congress chooses the last option and passes the corresponding law imposing a 30% tax on all winnings and prizes won from gambling, would the law comply with the constitutional limitations on the exercise of the power of taxation? Explain your answer (2%)

SUGGESTED ANSWER:

NO. Because the lawful means is not reasonably necessary for the accomplishment of its objective. It adds more burden upon individuals.

ALTERNATIVE ANSWER:

A tax of 30% on winnings from gambling does not violate due process as to the reasonableness of the rate of the tax imposed. Taxes on non-useful enterprises may be increased to restrain the number of persons who might otherwise engage in it (Ermita-Malate Hotel and Motel Operatos Association, Inc. vs. City Mayor of Manila, 20 SCRA 849 [1967]). Taxes may be imposed for the attainment of the objective of police power (Lutz vs. Araneta, 98 Phil. 148 [1955]).

Privacy of Communication (2009)

No.VI. In criminal prosecution for murder, the prosecution presented, as witness, an employee of the Manila Hotel who produced in court a videotape recording showing the heated exchange between the accused and the victim that took place at the lobby of the hotel barely 30 minutes before the killing. The accused objects to the admission of the videotape recording on the ground that it was taken without his knowledge or consent, in violation of his right to privacy and the Anti-Wire Tapping law. Resolve the objection with reasons. (3%).

SUGGESTED ANSWER:

The objection should be overruled. What the law prohibits is the overhearing, intercepting, and recording of private



communication. Since the exchange of heated words was not private, its videotape recording is not prohibited (Navarro vs. Court of Appeals, 313 SCRA 153 [1999]).

ALTERNATIVE ANSWER:

The heated conversation at the lobby of the hotel is not privilege and is not protected under the right to privacy and anti-wire tapping law. Heated conversation is not privilege because it was uttered in a public place and it has to be revealed in open court to help in the prosecution of the case.

Right to Assembly; Permit (2007)

No.VII. Batas Pambansa 880, the Public Assembly Law of 1985, regulates the conduct of all protest rallies in the Philippines.

(a) Salakay, Bayan! held a protest rally and planned to march from Quezon City to Luneta in Manila. They received a permit from the Mayor of Quezon City, but not from the Mayor of Manila. They were able to march in Quezon City and up to the boundary separating it from the City of Manila. Three meters after crossing the boundary, the Manila Police stopped them for posing a danger to public safety. Was this a valid exercise of police power?

SUGGESTED ANSWER:

Yes, the authorities are given the power to stop marchers who do not possess a permit. However, mere exercise of the right to peaceably assemble is not considered as a danger to public safety. They could have been asked to disperse peacefully, but it should not altogether be characterized as posing a danger to public safety. (Bayan v. Ermita, G.R. No. 169848, April 25, 2006; David v. Arroyo, G.R. No. 171390, May 3, 2006).

ALTERNATIVE ANSWER:

Since the protesters merely reached three meters beyond the boundary of Quezon City, the police authorities in Manila should not have stopped them, as there was no clear and present danger to public order. In accordance with the policy of maximum tolerance, the police authorities should have asked the protesters to disperse and if they refused, the public assembly may be dispersed peacefully.

ALTERNATIVE ANSWER:

No, this is not a valid exercise of police power. Police power has been defined as the power of promoting public welfare by restraining and regulating the use of liberty and property. (City of Manila v. Laguio, G.R. No. 118127, April 12, 2005). It is principally the Legislature that exercises the power but it may be delegated to the President and administrative agencies. Local government units exercise the power under the general welfare clause. In this



case, if Salakay applied for a permit from the city government, the application must be approved or denied within two (2) working days from the date it was filed, failing which, the permit shall be deemed granted. (Section 16, B.P. Blg. 880). Even without a permit, the law does not provide for outright stopping of the march if the demonstrators, for example, were marching peacefully without impeding traffic.

(b) The security police of the Southern Luzon Expressway spotted a caravan of 20 vehicles, with paper banners taped on their sides and protesting graft and corruption in government. They were driving at 50 kilometers per hour in a 40-90 kilometers per hour zone. Some banners had been blown off by the wind, and posed a hazard to other motorists. They were stopped by the security police. The protesters then proceeded to march instead, sandwiched between the caravan vehicles. They were also stopped by the security force. May the security police validly stop the vehicles and the marchers?

SUGGESTED ANSWER:

Yes, the security police may stop the vehicles and the marchers but only to advise the leaders to secure their banners so that it will not pose a hazard to others. They may not be prevented from heading to their destination. The marchers may also be ordered to ride the

vehicles so as not to inconvenience other uses of the Expressway.

ALTERNATIVE ANSWER:

Yes. While the protesters possess the right to freely express themselves, their actuations may pose a safety risk to other motorists and therefore be the subject of regulation. The security police may undertake measures to prevent any hazard to other motorists but not altogether prevent the exercise of the right. So, to that extent, while the protesters maybe asked to remove the banners which pose hazard to other motorists and prevent them from using the expressway as a venue for their march, the security force may not prevent them from proceeding to where they might want to go.

ALTERNATIVE ANSWER:

In accordance with the policy of maximum tolerance, the security policy should not have stopped the protesters. They should have simply asked the protesters to take adequate steps to prevent their banners from being blown off, such as rolling them up while they were in the expressway and required the protesters to board their vehicles and proceed on their way.

Right to Information; Matters of Public Concern (2009)

No. XIV. The Philippine Government is negotiating a new security treaty with the



United States which could involve engagement in joint military operations of the two countries' armed forces. A loose organization of Filipinos, the Kabataan at Matatandang Makabansa (KMM) wrote the Department of Foreign Affairs (DFA) and the Department of National Defense (DND) demanding disclosure of the details of the negotiations, as well as copies of the minutes of the meetings. The DFA and the DND refused, contending that premature disclosure of the offers and counter-offers between the parties could jeopardize on-going negotiations with another country. KMM filed suit to compel disclosure of the negotiation details, and be granted access to the records of the meetings, invoking the constitutional right of the people to information on matters of public concern.

(a) Decide with reasons. (3%)

SUGGESTED ANSWER:

The petition of KMM must be denied. Diplomatic negotiations are privileged in order to encourage a frank exchange of exploratory ideas between the parties by shielding the negotiations from public view (Akbayan Citizens Action Party vs. Aquino, 558 SCRA 468 [2008]).

ALTERNATIVE ANSWER:

The information sought to be disclose by the parties is a diplomatic negotiation between States and is considered privileged. it cannot be subjected to

public scrutiny. The interest protected being the national security and integrity of the State on how can it be trusted in terms of diplomatic secrets.

(b) Will your answer be the same if the information sought by KMM pertains to contracts entered into by the Government in its proprietary or commercial capacity? Why or why not? (3%)

SUGGESTED ANSWER:

KKM is entitled to have access to information pertaining to government contracts entered into by the Government in the exercise of its proprietary commercial capacity. The right to information under the Constitution does not exclude contracts of public interest and are not privileged (Section 7, Article III of the Constitution; Valmonte vs. Belmonte, 170 SCRA 256 [1989]).

ALTERNATIVE ANSWER:

If what is sought is the final contract itself then the information must be open to the public for transparency and for awareness and information. But if what were sought were the negotiations or communications in arriving at the final contract, the information sought remains privileged. An interest need to be protected.



Rights of the Accused; Right to Bail (2009)

No.XII. William, a private American Citizen, a university graduate and frequent visitor to the Philippines, was inside the US embassy when he got into a heated argument with a private Filipino citizen. Then, in front of many shocked witnesses, he killed the person he was arguing with. The police came, and brought him to the nearest police station. Upon reaching the station, the police investigator, in halting English, informed William of his Miranda rights, and assigned him an independent local counsel. William refused the services of the lawyer, and insisted that he be assisted by a Filipino lawyer currently based in the US. The request was denied, and the counsel assigned by the police stayed for the duration of the investigation.

William protested his arrest.

(b) He also claimed that his Miranda Rights were violated because he was not given the lawyer of his choice; that being an American, he should have been informed of his rights in proper English; and that he should have been informed of his rights as soon as he was taken into custody, not when he was already at the police station. Was William denied his Miranda rights? Why or why not?

SUGGESTED ANSWER:

William was not denied with his Miranda rights. True that he has the right to counsel preferably of his choice. But if he cannot afford the services of a counsel, he should be provided with one.

Moreover, the Miranda rights are available only during custodial investigation that is, from the moment the investigating officer begins to ask questions for the purpose of eliciting admissions, confessions or any information from the accused. therefore, it is proper that he was only informed of his right at the police station.

ALTERNATIVE ANSWER:

The fact that the police officer gave him the Miranda warning in halting English does not detract from its validity. Under Section 2(b) of Republic Act No. 7438, it is sufficient that the language used was known to and understood by him. William need not be given the Miranda warning before the investigation started. William was not denied his Miranda rights. It is not practical to require the police officer to provide a lawyer of his own choice from the United States (Gamboa vs. Cruz, 162 SCAR 642, [1998]).

(c) If William applies for bail, claiming that he is entitled thereto under the international standard of justice and that he comes from a US State that has



outlawed capital punishment, should William be granted bail as a matter of right? Reasons.

SUGGESTED ANSWER:

William is not entitled to bail as a matter of right. His contention is not tenable. Observing the territorial jurisdiction of commission of the offense, the applicable law in the case is Philippine laws not the law of the country to where he is a national (Section 13, Art. III of the Constitution). Under our law, bail is not a matter of right if the felony or offense committed has an imposable penalty of reclusion perpetua or higher and the evidence of guilt is strong.

Rights of the Accused; Right to Bail; Double Jeopardy (2008)

No. VII. JC, a major in the Armed Forces of the Philippine, is facing prosecution before the Regional Trial Court of Quezon City for the murder of his neighbor whom he suspected to have molested his (JC's) 15 year-old daughter.

(a) Is JC entitled to bail? Why or why not? (3%)

SUGGESTED ANSWER:

As a general rule, bail is not a matter of right when the offense charged carries with an imposable penalty of reclusion perpetua or higher.

In the present case, JC is charged with murder which has a penalty of reclusion perpetua, hence he cannot be allowed bail. However, should the evidence of guilt be found weak after hearing, the court may in its discretion, fix bail for temporary liberty.

(b) Assume that upon being arraigned, JC entered a plea of guilty and was allowed to present evidence to prove mitigating circumstances. JC then testified to the effect that he stabled the deceased in self-defense because the latter was strangling him and that he voluntarily surrendered to the authorities. Subsequently, the trial court rendered a decision acquittal violate JC's right against double jeopardy? Why or why not? (3%)

SUGGESTED ANSWER:

By presenting evidence of self-defense, JC effectively withdrew his plea of guilty (Peo vs. Balisacan, G.R. No. L-26376, Aug. 31, 1966). In the absence of a valid plea, an essential element for jurisdiction of the Court and first jeopardy was absent. Consequently, the court had no jurisdiction to acquit JC. Thus, an appeal by the prosecution would not violate the rule against second jeopardy.

ALTERNATIVE ANSWER:

Double jeopardy sets in when the first jeopardy has attached. There is already



first jeopardy when the accused has validly entered his plea before the appropriate court having jurisdiction over the subject matter and his person and that he has been convicted or acquitted or that the case against him has been terminated without his express consent.

In the present case, JC validly entered his plea of guilty but during the presentation of evidence he submits evidence of self-defense. the consequence thereof is for the court to withdraw the plea of guilty and enter a plea of not guilty. The validity of entering his plea is not affected.

Therefore, his acquittal shall bar any similar indictment that may be filed against him because of double jeopardy.

Rights of the Accused; Right to Counsel (2012)

No. III. Mr. Brown, a cigarette vendor, was invited by PO1 White to a nearby police station. Upon arriving at the police station, Brown was asked to stand side-by-side with five (5) other cigarette vendors in a police line-up. PO1 White informed them that they were looking for a certain cigarette vendor who snatched the purse of a passer-by and the line-up was to allow the victim to point at the vendor who snatched her purse. No

questions were to be asked from the vendors.

(a) Brown, afraid of a "set up" against him, demanded that he be allowed to secure his lawyer and for him to be present during the police line-up. Is Brown entitled to counsel? Explain (5%)

SUGGESTED ANSWER

Brown is not entitled to counsel during the police line-up. He was not yet being asked to answer for a criminal offense. (Gamboa vs. Cruz, 162 SCRA 642.)

(b) Would the answer in (a.) be the same if Brown was specifically invited by White because an eyewitness to the crime identified him as the perpetrator? Explain. (3%)

SUGGESTED ANSWER

Brown would be entitled to the assistance of a lawyer. He was already considered as a suspect and was therefore entitled to the rights under custodial investigation. (People vs. Legaspi, 331 SCRA 95.)

(c) Briefly enumerate the so-called "Miranda Rights". (2%)

SUGGESTED ANSWER

The Miranda warning means that a person in custody who will be



interrogated must be informed of the following:

(a) He has the right to remain silent;

(b) Anything said can be used as evidenced against him;

(c) He has the right to have counsel during the investigation; and

(d) He must be informed that if he is indigent, a lawyer will be appointed to represent him. (Miranda vs. Arizona, 384 U.S. 436.)

Rights of the Accused; Right to Remain Silent (2013)

No.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%)

SUGGESTED ANSWER:

The court was wrong in relying on the silence of Arnold during the police investigation and during the trial. Under Article III, Section 12 of the 1987 Constitution, he had the right to remain silent. His silence cannot be taken as a tacit admission, otherwise, his right to remain silent would be rendered nugatory. Considering that his right against self-incrimination protects his right to remain silent, he cannot be penalized for exercising it (People vs. Galvez, 519 SCRA 521).

ALTERNATIVE ANSWER:

No, the court has erred in its ruling of convicting Arnold relying solely on his



admission of the charge by silence at the police investigation and during trial.

The duty of the lawyer includes ensuring that the suspect under custodial investigation is aware that the right of an accused to remain silent may be invoked at any time (People v. Sayaboc, G.R. No. 147201, January 15, 2004).

ALTERNATIVE ANSWER:

The court correctly convicted Arnold. There is no showing that the evidence for the prosecution was insufficient. When Arnold remained silent, he run the risk of an inference of guilt from non-production of evidence in his behalf (People vs. Solis, 128 SCRA 217).

Rights of the Accused; Self-Incrimination (2010)

No. X. A, the wife of an alleged victim of enforced disappearance, applied for the issuance of a writ of amparo before a Regional Trial Court in Tarlac. Upon motion of A, the court issued inspection and production orders addressed to the AFP chief of Staff to allow entry at Camp Aquino and permit the copying of relevant documents, including the list of detainees, if any. Accompanied by court-designated Commission on Human Rights (CHR) lawyers, A took photographs of a suspected isolation cell where her husband was

allegedly seen being held for three days and tortured before he finally disappeared. The CHR lawyers requested one Lt. Valdez for a photocopy of the master plan of Camp Aquino and to confirm in writing that he had custody of the master plan. Lt. Valdez objected on the ground that it may violate his right against self-incrimination. Decide with reasons. (4%).

SUGGESTED ANSWER:

The objection of Lt. Valdez is not valid. The right against self-incrimination refers to testimonial evidence and does not apply to the production of a photocopy of the master plan of Camp Aquino, because it is a public record. He cannot object to the request for him to confirm his custody of the master plan, because he is the public officer who had custody of it. (Almonte vs. Vasquez, 244 SCRA 286 [1995]).

ALTERNATIVE ANSWER:

The objection is without merit. Right against self-incrimination is not violated because the right is simply against testimonial compulsion. But the prohibition also extends to the compulsion for the production of documents, papers and chattels that may be used as evidence against the witness, except where the State has a right to inspect the same such as in this case.



Pursuant to the production order issued by the court, there can be compulsion for the production of documents sought in the order.

Right to Liberty; Presentability of Policemen (2008)

No. VI. The Philippine National Police (PNP) issued a circular to all its members directed at the style and length of male police officers' hair, sideburns and moustaches, as well as the size of their waistlines. It prohibits beards, goatees, and waistlines over 38 inches, except for medical reason. Some police officers questioned the validity of the circular, claiming that it violated their right to liberty under the Constitution. Resolve the controversy. 6%

SUGGESTED ANSWER:

Although the National Police is civilian in character, it partakes of some of the characteristics of military life, thus permitting the imposition of reasonable measures for discipline, uniformity in behavior and presentableness. The circular does not go beyond what is reasonable and therefore passes the test of due process (Gudani vs. Senga, G.R. No. 170165, Aug. 15, 2006).

In Kelly vs. Johnson, 425 US 238 (1976), the US Supreme Court said that the regulations of personal appearance of

policemen could be justified so long as there was a rational connection between the regulation and the promotional safety of persons and property. The requisite connection was present since the government had a legitimate interest in policemen's appearances so that they would: (1) be readily recognizable to the public and (2) feel a sense of "esprit de corps" that comes from being similar.

ALTERNATIVE ANSWER:

The circular is a valid exercise of police power. The rule-making power is vested in congress however, it can be delegated to administrative agencies pursuant to a valid delegation requiring the concurrence of the following:

- 1. Made pursuant of law**
- 2. Issued within the scope and purview of the law**
- 3. Promulgated in accordance with the prescribed procedure**
- 4. it must be reasonable**

It is the policy of the state to secure peace and order through the PNP. Therefore, it is reasonable to require them to be physically fit in order to secure peace and order in the community. This is to boost the confidence of the public that they are not lazy and they are doing their job with dedication.



Search and Seizure; Warrantless Arrest (2009)

No. VII. Crack agents of the Manila Police Anti-Narcotics unit were on surveillance of a cemetery where the sale and use of prohibited drugs were rumored to be rampant. The team saw a man with reddish and glassy eyes walking unsteadily towards them, but he immediately veered away upon seeing the policemen. The team approached the man, introduced themselves as peace officers, then asked what he had in his clenched fist. Because the man refused to answer, a policeman pried the fist open and saw a plastic sachet with crystalline substance. The team then took the man into custody and submitted the contents of the sachet to forensic examination. The Crystalline substance in the sachet turned out to be shabu. The man was accordingly charged in court.

During the trial, the accused: (Decide with reasons)

(a) Challenged the validity of his arrest; (2%)

SUGGESTED ANSWER:

The arrest is valid. The law enforcer has sufficient reason to accost the accused because of his suspicious actuations, coupled with the fact that based on reliable information the area was a haven for drug addicts. (Manalili vs. Court of Appeals, 280 SCRA 400 [1997]).

ALTERNATIVE ANSWER:

The warrantless arrest of the accused was void. There was no overt act or suspicious circumstances that would indicate that he was committing a crime. The search preceded his arrest (People vs. Ttudud, 412 SCRA 142 [2003]).

(b) Objected to the admission in evidence of the prohibited drug, claiming that it was obtained in an illegal search and seizure. (2%)

SUGGESTED ANSWER:

The objection should be denied. The evidence is admissible because the search and seizure was made incidental to a lawful warrantless arrest (Manalili vs. Court of Appeals, 280 SCRA 400 [1997]).

Search and Seizure; Warrantless Arrest (2008)

No. V. Having received tips the accused was selling narcotics, two police officers forced open the door of his room. Finding him sitting party dressed on the side of the bed, the officers spied two capsules on a night stand beside the bed. When asked, "Are these yours?", the accused seized the capsules and put them in his mouth. A struggle ensued, in the course of which the



officer pounced on the accused, took him to a hospital where at their direction, a doctor forced an emetic solution through a tube into the accused's stomach against his will. This process induced vomiting. In the vomited matter were found two capsules which proved to contain heroin. In the criminal case, the chief evidence against the accused was the two capsules.

(a) As counsel for the accused, what constitutional rights will you invoke in his defense? (4%)

SUGGESTED ANSWER:

As counsel for the accused I would invoke the constitutional right to be secured against unreasonable searches and seizures (Art. III, Sec. 2 of the Constitution) which guarantees: (1) sanctity of the home, (2) inadmissibility of the capsules seized, (3) and inviolability of the person. A mere tip from a reliable source is not sufficient to justify warrantless arrest or search (Peo vs. Nuevas, G.R. No. 170233 Feb. 22,2007).

(b) How should the court decide the case? (3%)

SUGGESTED ANSWER:

The court should declare the search and seizure illegal:

- 1. The entry into the accused's home was not a permissible warrantless**

action because the police had no personal knowledge that any crime was taking place.

- 2. Due to the invalid entry whatever evidence the police gathered would be inadmissible.**
- 3. The arrest of the accused was already invalid and causing him to vomit while under custody was an unreasonable invasion of personal privacy (U.S. vs. Montoya, 473 US 531 [1985])**

Search and Seizure; Warrantless Search (2010)

No. XII. A witnessed two hooded men with baseball bats enter the house of their next door neighbor B. after a few seconds, he heard B shouting, "Huwag Pilo babayaran kita agad." Then A saw the two hooded men hitting B until the latter fell lifeless. The assailants escaped using a yellow motorcycle with a fireball sticker on it toward the direction of an exclusive village nearby. A reported the incident to PO1 Nuval. The following day, PO1 Nuval saw the motorcycle parked in the garage of a house at Sta. Ines Street inside the exclusive village. He inquired with the caretaker as to who owned the motorcycle. The caretaker named the brothers Pilo and Ramon Maradona who were then outside the country. PO1 Nuval insisted on getting inside the garage. Out of fear, the caretaker allowed him. PO1 Nuval took 2 ski masks



and 2 bats beside the motorcycle. Was the search valid? What about the seizure? Decide with reasons. (4%)

SUGGESTED ANSWER:

The warrantless search and seizure was not valid. It was not made as an incident to a lawful warrantless arrest. (*People vs. Baula*, 344 SCRA 663 [2000]). The caretaker had no authority to waive the right of the brothers Pilo and Ramon Maradona to waive their right against unreasonable search and seizure. (*People vs. Damaso*, 212 SCRA 547 [1992].) the warrantless seizure of the ski masks and bats cannot be justified under the plain view doctrine, because they were seized after invalid intrusion in to the house. (*People vs. Bolasa*, 321 SCRA 459 [1999]).

ALTERNATIVE ANSWER:

No. the search and the seizure are invalid because there was no search warrant and it cannot be said to be a search incidental to a lawful arrest. It is the right of all individual to be secured against unreasonable searches and seizure by the government.

ARTICLE IV Citizenship

Dual Citizenship vs. Dual Allegiance (2009)

No.XI.e. Dual citizenship is not the same as dual allegiance

SUGGESTED ANSWER:

TRUE. An individual may have 2 or more citizenship but owe allegiance to one State. Taking for example RA no. 9225 providing for retention of Philippine citizenship among natural born Filipino citizens.

Dual citizenship arises when, as a result of the concurrent application of the different laws of two or more states, a person is simultaneously considered a national by those states and is involuntary.

Dual allegiance refers to the situation in which a person simultaneously owes by some positive and voluntary act, loyalty to two or more states (*Mercado vs. Manzano*, 307 SCRA 630 [1999]).

Natural Born (2009)

No.IX. Warlito, a natural-born Filipino, took up permanent residence in the United States, and eventually acquired American citizenship. He then married Shirley, an American, and sired three children. In August 2009, Warlito decided to visit the Philippines with his wife and children: Johnny, 23 years of age; Warlito Jr., 20; and Luisa 17.



While in the Philippines, a friend informed him that he could reacquire Philippine citizenship without necessarily losing US nationality. Thus, he took the oath of allegiance required under RA no. 9225.

(a) Having reacquired Philippine citizenship, is Warlito a natural born or naturalized Filipino Citizen today? Explain your answer (3%).

SUGGESTED ANSWER:

NATURAL BORN. Reacquisition of Philippine Citizenship under RA no. 9225 will restore him back of his former status as a natural-born citizen (Bengzon vs. House of Representatives Electoral Tribunal, 357 SCRA 545 [2001]; R.A. 2630).

(b) With Warlito having regained Philippine Citizenship, will shirly also become a Filipino Citizen? If so, why? If not, what would be the most speedy procedure for shirly to acquire Philippine citizenship? Explain.

SUGGESTED ANSWER:

Shirley will not become a Filipino citizen, because under RA 9225, Warlito's reacquisition of Philippine citizenship did not extend its benefits to Shirley. She should instead file with the Bureau of Immigration a petition for cancellation of her alien certificate of registration on the ground that in accordance with Section 15 of the

Naturalization Law, because of her Marriage to Warlito, she should be deemed to have become a Filipino Citizen. She must allege and prove that she possesses none of the disqualifications to become a naturalized Filipino citizen (Burca vs. Republic, 51 SCRA 248 [1973]).

ALTERNATIVE ANSWER:

NO. Shirley will not become a Filipino Citizen because only Warlito's unmarried children whether legitimate, illegitimate or adopted, below 18 years of age shall be entitled to derivative Philippine citizenship.

Shirly may acquire Philippine citizenship in the most speedy procedure through JUDICIAL NATURALIZATION under CA no. 473, as amended.

(c) Do the Children - - - Johnny, Warlito Jr. and Luisa - - - become Filipino citizens with their father's reacquisition of Philippine citizenship? Explain your answer. (3%)

SUGGESTED ANSWER:

Only LUISA shall acquire Philippine Citizenship upon the reacquisition of her father's Filipino citizenship under RA no. 9225. The unmarried children, whether legitimate, illegitimate or adopted, below 18 years of age shall be entitled to derivative Philippine citizenship.



ARTICLE VI Legislative Department

Discipline; Members of Congress (2013)

No. 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. Abling, a labor lawyer, is its nominee.

As part of the party's advocacy and services, Congressman Abling 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 Abling 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%)

SUGGESTED ANSWER:

Being a congressman, Atty. Abling is disqualified under Article VI, Section 14 of the 1987 Constitution from personally appearing as counsel before quasi-judicial and other administrative bodies handling labor cases constitutes personal appearance before them (Puyat vs. De Guzman, 135 SCRA 33). His involvement in collective bargaining negotiations also involves practice of law, because he is making use of his knowledge for the benefit of others (Cayetano vs. Monsod, 201 SCRA 210). The Bureau of Labor Relations is involved in collective bargaining negotiations (Article 250 of the Labor Code).

Atty. Abling should not be disbarred but should be merely suspended from the practice of law. Suspension is the appropriate penalty for involvement in



the unlawful practice of law (Tapay vs. Bancolo, 694 SCAR 1).

ALTERNATIVE ANSWER:

No, Congressman Ablang cannot be disbarred. A retained counsel formally appears for AWGP. His role is largely passive and cannot be considered as personal appearance. His participation in the collective bargaining negotiations does not entail personal appearance before an administrative body (Article VI, Section 13 of the 1987 Constitution).

ALTERNATIVE ANSWER:

No, the ground for disbarment is not meritorious. The Supreme Court said that the determination of the acts which constitute disorderly behavior is within the discretionary authority of the House concerned, and the Court will not review such determination, the same being a political question (Osmeña v. Pendatun, 109 Phil 863).

Doctrine of Operative Fact (2010)

No. XX. Define/Explain

(a) Doctrine of operative facts

SUGGESTED ANSWER:

DOCTRINE OF OPERATIVE FACTS –

The general rule is that an unconstitutional law is void. It produces no rights, imposes no duties and affords no protection. However, the doctrine of operative fact is an exception to the general rule and it only applies as a matter of equity and fair play.

Under the doctrine of operative fact, the unconstitutional law remains unconstitutional, but the effects of the unconstitutional law, prior to its judicial declaration of nullity, may be left undisturbed as a matter of equity and fair play.

It can never be invoked to validate as constitutional an unconstitutional act.

Doctrine of Necessary Implication; Hold-over (2010)

No. XX. Define/Explain

(d) Doctrine of necessary implication

SUGGESTED ANSWER:

DOCTRINE OF NECESSARY IMPLICATION

provides that every statute is understood, by implication, to contain all such provisions as may be necessary to effectuate its object and purpose, or to make effective rights, powers, privileges or jurisdiction which it grants, including all such collateral and



subsidiary consequences as may be fairly and logically inferred from its terms. Ex necessitate legis. (Pepsi-Cola Products Philippines, Inc. v. Secretary of Labor, 312 SCRA 104, 117 [1999]).

(e) Principle of holdover

SUGGESTED ANSWER:

PRINCIPLE OF HOLDOVER

provides that an incumbent officer or official may remain in office and continue performing his functions beyond his tenure or term until his successor has been elected and qualified.

**Electoral Tribunal; SET; PET
Jurisdiction (2012)**

No. IV. Mr. Yellow and Mr. Orange were the leading candidates in the vice-presidential elections. After elections, Yellow emerged as the winner by a slim margin of 100,000 votes. Undaunted, Orange filed a protest with the Presidential Electoral Tribunal (PET). After due consideration of the facts and the issues, the PET ruled that Orange was the real winner of the elections and ordered his immediate proclamation.

(a) Aggrieved, Yellow filed with the Supreme Court a Petition for Certiorari challenging the decision of the PET alleging grave abuse of discretion. Does the Supreme Court have jurisdiction? Explain. (3%)

SUGGESTED ANSWER

The Supreme Court has no jurisdiction over the petition. The Presidential Electoral Tribunal is not simply an agency to which the Members of the Senate Court were assigned. It is not separate from the Supreme Court. (Macalintal vs. Presidential Electoral Tribunal, 631 SCRA 239.)

(b) Would the answer in (a.) be the same if Yellow and Orange were contending for a senatorial slot and it was the Senate Electoral Tribunal (SET) who issued the challenged ruling? (3%)

SUGGESTED ANSWER

The Supreme Court would have jurisdiction if it were the Senate Electoral Tribunal who issued the challenged ruling. The Supreme Court can review its decision if it acted with grave abuse of discretion. (Lerias vs. House of Representatives Electoral Tribunal, 202 SCRA 808.)

**Investigations in Aid of Legislation
(2009)**

No. VIII. Congressman Nonoy delivered a privilege speech charging the Intercontinental Universal Bank (IUB) with the sale of unregistered foreign securities, in violation of RA no. 8799. He then filed,



and the House of Representatives unanimously approved, a resolution directing the House Committee on Good Government (HCGG) to conduct an inquiry on the matter, in aid of legislation, in order to prevent the recurrence of any similar fraudulent activity.

HCGG immediately scheduled a hearing and invited the responsible officials of IUB, the chairman and Commissioners of the SEC and the Governor of the BSP. On the date set for the hearing, only the SEC commissioners appeared, prompting Congressman Nonoy to move for the issuance of the appropriate subpoena ad testificandum to compel the attendance of the invited resource persons.

The IUB officials filed suit to prohibit HCGG from proceeding with the inquiry and to quash the subpoena, raising the following arguments:

(a) The subject of the legislative investigation is also the subject of the criminal and civil actions pending before the courts and the prosecutor's office; thus, the legislative inquiry would preempt judicial action;

SUGGESTED ANSWER:

The argument is untenable, the mere filing of a criminal or an administrative complaint before the court of quasi-judicial body should not automatically bar the conduct of legislative inquiry

provided that there is an explicit subject and nature of the inquiry. Since legislative inquiry is an essential part of legislative power, it cannot be made subordinate to criminal and civil actions. Otherwise, it would be very easy to subvert any investigation in aid of legislation through the convenient ploy of instituting civil and criminal actions (Standard Chartered Bank [Philippine Branch] vs, Senate Committee on banks, Financial Institutions and Currencies, 541 SCRA 456 [2007]).

ALTERNATIVE ANSWER:

Yes, legislative inquiry would preempt judicial action. In one case, the Supreme Court did not allow the Committee to continue with the legislative inquiry because it was not in aid of legislation but in aid of prosecution. It holds that there will be a violation of separation of powers and the possibility of conflicting judgment.

The Subjudice rule restricts comments and disclosures pertaining to judicial proceedings to avoid prejudicing the issue, influencing the court, or obstructing the administrations of justice.

(b) Compelling the IUB officials, who are also respondents in the criminal and civil cases in court, to testify at the inquiry



would violate their constitutional right against self-incrimination. (3%)

Are the foregoing arguments tenable? Decide with reasons.

SUGGESTED ANSWER:

Congress can compel them to appear. Persons under legislative investigation are not being indicted as accused in a criminal proceeding but are merely summoned as resource persons, or witnesses, in a legislative inquiry. Hence they cannot on the ground of their right against self-incrimination, altogether decline appearing before the Congress, although they may invoke the privilege when a question calling for an incriminating answer is propounded (Standard Chartered Bank [Philippine Branch] vs. Senate Committee on banks, Financial Institutions and Currencies, 541 SCRA 456 [2007]).

(c) May the Governor of the BSP validly invoke executive privilege and thus, refuse to attend the legislative inquiry? Why or why not?

SUGGESTED ANSWER:

No. the Governor cannot invoke executive privilege. Only the President as a general rule can invoke executive privilege (Senate of the Philippines vs. Ermita, 488 SCRA 1 [2006]).

Investigations in Aid of Legislation; Executive Privilege (2010)

No. XVIII. The House Committee on Appropriations conducted an inquiry in aid of legislation into alleged irregular and anomalous disbursements of the Countrywide Development Fund (CDF) and Congressional Initiative Allocation (CIA) as exposed by X, a division chief of the Department of Budget and Management (DBM). Implicated in the questionable disbursements are high officials of the Palace. The house committee summoned X and the DBM Secretary to appear and testify. X refused to appear, while the Secretary appeared but refused to testify invoking executive privilege.

(a) May X be compelled to appear and testify? If yes, what sanction may be imposed on him?

SUGGESTED ANSWER:

YES. Individuals invited to a legislative inquiry can be anybody whether an executive head or not. The inquiry is in aid of legislation which is to elicit information useful for legislation not for prosecution or persecution. The attendance of the resource person is mandatory and can be compelled through compulsory processes. Only the President or the Executive Secretary by order of the President can invoke executive privilege (Senate of Philippines vs. Ermita, 488 SCRA 13 [2006]).



He may be cited for contempt if he fails to attend.

(b) Is the Budget Secretary shielded by executive privilege from responding to the inquiries of the House Committee? Explain Briefly. If the answer is no, is there any sanction that may be imposed on him?

SUGGESTED ANSWER:

NO, executive privilege is granted to the President himself not to anybody else. It is the president who shall invoke the privilege. The inquiry is in aid of legislation and neither the President nor Executive Secretary by order of the President invoke executive privilege (Senate of the Philippines vs. Ermita, 438 SCRA 1 [2006]).

Citation for contempt can be imposed.

Law-Making; Abolish; Destroy (2008)

No.XIV. In 1963, Congress passed a law creating a government-owned corporation named Manila War Memorial Commission (MWMC), with the primary function of overseeing the construction of a massive memorial in the heart of Manila to commemorate victims of the 1945 Battle of Manila.

The MWMC charter provided an initial appropriation of P1,000,000 empowered the corporation to raise funds in its own name, and set aside a parcel of land in Malate for

the memorial site. The charter set the corporate life of MWMC at 50 years with a proviso that Congress may not abolish MWMC until after the completion of the memorial.

Forty-five (45) years later, the memorial was only 1/3 complete, and the memorial site itself had long been overrun by squatters. Congress enacted a law abolishing the MWMC and requiring that the funds raised by it be remitted to the National Treasury. The MWMC challenged the validity of the law arguing that under its charter its mandate is to complete the memorial no matter how long it takes. Decide with reasons. (6%).

SUGGESTED ANSWER:

The law abolishing the MWMC is valid. Within the plenary powers of the Congress, it can create as well as destroy what is created after determination its purpose could no longer be attained by subsequent circumstances. The power to create also carries with it the power to destroy so long as it was done in good faith and consistent with the purpose of promoting the general welfare.

Law-Making; Admission to the Bar (2009)

No.I.d. A law fixing the passing grade in the Bar examinations at 70%, with no grade



lower than 40% in any subject is constitutional.

SUGGESTED ANSWER:

FALSE. Congress cannot enact a law regulating the admission to the legal profession. It is within the power of the Supreme Court to promulgate rules concerning the admission to the legal profession. The present Constitution has taken away the power of Congress to alter the Rules of Court (Echegaray vs. Secretary of Justice, 301 SCRA 96 [1999]). The law will violate the principle of separation of powers.

ALTERNATIVE ANSWER:

TRUE. Deliberations in ConCon reveal that Congress retains the power to amend or alter the rules because the power to promulgate rules is essentially legislative even though the power has been deleted in the 1987 Constitution. If the law, however, is retroactive, it is unconstitutional because it is prejudicial.

Law-Making; Conflict of Interest (2010)

No. V. Congresswoman A is a co-owner of an industrial estate in Sta. Rosa, Laguna which she had declared in her Statement of Assets and liabilities. A member of her political party authored a bill which would provide a 5-year development plant for all

industrial estates in the southern Tagalog Region to attract investors. The plan included an appropriation of 2 billion pesos for construction of roads around the estates. When the bill finally became law, a civil society watchdog questioned the constitutionality of the law as it obviously benefited Congresswoman A's industrial estate. Decide with reasons (3%)

SUGGESTED ANSWER:

The law is a valid exercise of police power although it may indirectly benefited a Congresswoman but the purpose of the law to provide a 5-year plant for all industrial estates is reasonable thus, it conform to the twin requisite of lawful subject and lawful means for a valid exercise police power.

However, the congresswoman could be sanctioned by the House of Representative for failure to notify the House of a potential conflict of interest in the filing of the proposed legislation of which they author.

ALTERNATIVE ANSWER:

The law is constitutional. Section 12, Article VI of the Constitution does not prohibit the enactment of a law which will benefit the business interests of a member of the Senate or the House of Representatives. It only requires that if the member of Congress whose business interests will be benefited by the law is



the one who will file the bill, he should notify the House concerned of the potential conflict of interest.

Law-Making; Item vs. Pocket Veto (2010)

No. XXVI. Distinguish between pocket veto and item veto

SUGGESTED ANSWER:

An item veto refers to the veto made by the president but not the entire bill is vetoed but only a specific items. Generally item veto is not allowed but the constitution permits item veto on revenue, tariff, and appropriation bill. And although it is not a appropriation, tariff or revenue bill an item veto is still allowed for inappropriate provision in the bill.

A pocket veto occurs when the President fails to act on the bill and did not return the bill to Congress because the latter is not in session. In the Philippines pocket veto is not applicable because a bill will pass into law if remain inacted within 30 days from receipt thereof.

Law-Making; Oversight Committee (2010)

No.VI. The Poverty Alleviation and Assistance Act was passed to enhance the capacity of the most marginalized families

nationwide. A financial assistance scheme called “conditional cash transfers” was initially funded 500 million pesos by Congress. One of the provisions of the law gave the joint-congressional oversight committee authority to screen the list of beneficiary families initially determined by the Secretary of Department of Social Welfare and Development pursuant to the Department implementing rules. Mang Pandoy, a resident of Smokey Mountain in Tondo, questioned the authority of the Committee.

(b) Is the grant of authority to the Oversight Committee to screen beneficiaries constitutional? Decide with Reasons.

SUGGESTED ANSWER:

The grant of authority to the oversight Committee to screen beneficiaries is unconstitutional. It violates the principle of separation of powers. By being involved in the implementation of the law, the Oversight Committee will be exercising executive power. (Abakada Guro Party List vs. Purisima, 562 SCRA 251 [2008]).

ALTERNATIVE ANSWER:

NO. True that the Oversight power of congress is to scrutinize, investigate, and supervise that the laws that it enacted is fully implemented. But to secure authority to screen beneficiaries is an unfair interference with the



personal liberty or property of individual. It is more of an intrusion than an overseeing.

Party-list Representative; Formula allocation (2007)

The Supreme Court has provided a formula for allocating seats for party-list representatives. For each of these rules, state the constitutional or legal basis, if any, and the purpose.

(a) The twenty percent allocation - the combined number of all party-list congressmen shall not exceed twenty percent of the total membership of the House of Representatives, including those elected under the party list;

SUGGESTED ANSWER:

Section 5(2), Article VI of the Constitution, as implemented by R.A. No. 7941. The purpose is to assure that there will be at least a guaranteed portion of the House of Representatives reserved for the party-list members. The legislative policy is to promote the election of party-list representatives in order to enable Filipinos belonging to the marginalized and underrepresented sectors to contribute legislation that would benefit them.

(b) The two percent threshold - only those parties garnering a minimum of two percent

of the total valid votes cast for the party-list system are "qualified" to have a seat in the House of Representatives;

SUGGESTED ANSWER:

R.A. No. 7941. This is to ensure that the party-list organizations at least represents a significant portion of those voting for the party-list system - that they at least have a substantial constituency which must, at the minimum, not be less than two percent (2%) of the total number of those casting their votes for party-list organizations.

(c) The three-seat limit - each qualified party, regardless of the number of votes it actually obtained, is entitled to a maximum of three seats; that is, one "qualifying" and two additional seats; and

SUGGESTED ANSWER:

R.A. No. 7941. This is to prevent any dominant party-list organization from having a monopoly of the seats for the party-list system. Since the objective of the party-list system is to enable other groups who might otherwise have difficulty getting to Congress through the traditional system of elections, then the system developed to accommodate them must be fair and equitable enough to afford better odds to as many groups as possible.

(d) The first-party rule - additional seats which a qualified party is entitled to shall be determined in relation to the total



number of votes garnered by the party with the highest number of votes.

SUGGESTED ANSWER:

R.A. No. 7941. The party-list system is predicated, among others, on proportional representation. Thus, there is need to reflect the same in relation to the total number of votes obtained. Accordingly, the first party must not be placed on the same footing as the others who obtained less votes. The votes obtained by first placer would be the reckoning point for the computation of additional seats or members for the remaining organizations who got at least two percent (2%) of the votes cast for the party-list system. (Veterans Federation Party v. COMELEC, G.R. No. 136781, October 6, 2000).

Party-List; Foreign Funding (2010)

No. XVI. Rudy Domingo, 38 years old, natural-born Filipino and a resident of the Philippines since birth, is a Manila-based entrepreneur who runs KABAKA, a coalition of people's organizations from fisherfolk communities. KABAKA's operations consist of empowering fisherfolk leaders through livelihood projects and trainings on good governance. The Dutch Foundation for Global Initiatives, a private organization registered in the Netherlands, receives a huge subsidy from the Dutch Foreign Ministry, which, in turn is allocated worldwide to the Foundation's partners like

KABAKA. Rudy seeks to register KABAKA as a party-list with himself as a nominee of the coalition. Will KABAKA and Rudy be qualified as a party-list and a nominee, respectively? Decide with reasons.

SUGGESTED ANSWER:

NO, Kabaka and Rudy will not be qualified as party-list and nominee because KABAKA is a partner of Dutch Foreign Ministry a foreign based organization. KABAKA is indirectly receiving support from Dutch Ministry. It is therefore disqualified to be registered as a party-list. (Section 2(5), Article IX-C of the Constitution).

Under the law, the following are grounds for disqualification for registration in the party-list system:

- 1. It is a religious sect or denomination, organization or association organized for religious purposes;**
- 2. It advocates violence or unlawful means to seek its goal;**
- 3. It is a foreign party or organization;**
- 4. It is receiving support from any foreign government, foreign political party, foundation, organization, whether directly or through any of its officers or members or indirectly through**



third parties for partisan election purposes;

- 5. It violates or fails to comply with laws, rules or regulations relating to elections;**
- 6. It declares untruthful statements in its petition;**
- 7. It has ceased to exist for at least one (1) year; or**

It fails to participate in the last two (2) preceding elections or fails to obtain at least two percentum (2%) of the votes cast under the party-list system in the two (2) preceding elections for the constituency in which it has registered.”

ARTICLE VII Executive Department

Appointing Power; Acting Appointments (2013)

No.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%)

SUGGESTED ANSWER:

No, the petition should not be granted. The clear and expressed intent of the framers of the 1987 Constitution is to exclude presidential appointments from confirmation on the Commission on Appointments except appointments to offices expressly mentioned in the first sentence of Section 16, Article VII of the 1987 Constitution (Sarmiento III v. Mison, 159 SCRA 549). Since the appointment of an acting secretary is not included under the first sentence of Section 16, Article VII of the 1987 Constitution, it is no longer subject to confirmation by the Commission on Appointments.

Appointing Power; Ad-Interim Appointments (2010)

No. XXIII. A was a career Ambassador when he accepted an ad interim appointment as Cabinet Member. The Commission on Appointments bypassed his ad interim appointment, however, and he was not re-appointed. Can he re-assume his position as career ambassador?

SUGGESTED ANSWER:

The career Ambassador cannot re-assume his position as career



Ambassador. His ad interim appointment as Cabinet Member was a permanent appointment (Summers vs. Ozaeta, 81 Phil. 754 [1948]). He abandoned his position as Ambassador when he accepted his appointment as Cabinet Member because as Cabinet Member, he could not hold any other office during his tenure. (Section 13, Article VII, Constitution).

ALTERNATIVE ANSWER:

NO. an interim appointment is an appointment made by the President during the recess of Congress and it is a permanent appointment and shall continue to hold such permanency until disapproved by the Commission on Appointment or until the next adjournment of congress.

If the appointment is bypassed and the appointee was not re-appointed he can no longer re-assume as career ambassador because by accepting an ad interim appointment he is deemed to have waived his right to hold his old position as ad interim appointment is permanent.

Control Power (2009)

No.XI.c. The President exercises the power of control over all executive departments

and agencies, including government-owned or controlled corporations

SUGGESTED ANSWER:

TRUE. The president exercises the power of control over all executive departments and agencies, including government-owned or controlled corporations with or without original charters. But the President does not have the power of control over LGUs (Cruz vs. Secretary of Environment and Natural Resources, 347 SCRA 128 [2000]; National Marketing Corporation vs. Arca, 29 SCRA 648 [1969]).

Control Power; Foreign Relations (2010)

No. IX. The League of Filipino Political Scientist (LFPS) organized an international conference on the human rights situation in Myanmar at the Central Luzon State University (CLSU). An exiled Myanmar professor Sung Kui, critical of the military government in Myanmar, was invited as keynote speaker. The Secretary of Foreign Affairs informed the President of the regional and national security implications of having Prof. Kui address the conference. The President thereupon instructed the immigration authorities to prevent the entry of Prof. Kui into Philippine territory. The chancellor of CLSU argued that the instruction violates the Constitution. Decide with reasons. (4%)



SUGGESTED ANSWER:

The argument of the chancellor of Central Luzon State University is not valid. Since an alien has no right to enter the Philippines, preventing Prof. Sing Kui from entering the Philippines is not a violation of his rights. (Lee and Quigley, Consular Law and Practice, 3rd ed., p.220.) Since the President has the Power of Control over foreign relations, he has the power to ban aliens from entering the Philippines. (United States vs. Curtiss-Wright Export Corporation, 299 U.S. 304 [1936]).

ALTERNATIVE ANSWER:

There is no violation of the Constitution. It is within the Residual Power of the President to select who shall be allowed entry in the Philippines especially when the allowance of such entry poses imminent threat or danger to national security.

Declaration; State of National Emergency (2010)

No. VII.a. A proclamation of a State of emergency is sufficient to allow the President to take over any public utility.

SUGGESTED ANSWER:

The statement that a proclamation of emergency is sufficient to allow the

President to take over any public utility is false. Since it is an aspect of emergency powers, in accordance with Section 23(2), Article VI of the Constitution, there must be a law delegating such power to the President. (David vs. Macapagal-Arroyo, 489 SCRA 160 [2006]).

ALTERNATIVE ANSWER:

FALSE. The declaration of a state of emergency is one thing and the exercise of emergency powers is another. In the latter case, it requires a prior legislative enactment before the President can exercise them.

Enter into Executive Agreement; Treaty Abrogation (2008)

No. III. The President alone without the concurrence of the Senate abrogated a treaty. Assume that the other country-party to the treaty is agreeable to the abrogation provided it complies with the Philippine Constitution. If a case involving the validity of the treaty of the treaty abrogation is brought to the Supreme Court, how should it be resolved? (6%).

SUGGESTED ANSWER:

The President should be overruled. She cannot abrogate a treaty alone even if the other State, party to a treaty, agrees to the abrogation. If the legislative



branch ratifies a treaty by 2/3 vote pursuant to Art. VII, Sec. 21, it must also do so when the President abrogates it. She cannot motu proprio abrogate the treaty.

ALTERNATIVE ANSWER:

The Supreme Court should sustain the validity of the abrogation of the treaty. There is no constitutional provision governing the termination of a treaty. What the constitution provides is only the concurrence of the Senate in order that a treaty be valid and binding and under recent jurisprudence, the ratification of the treaty is left to the sound discretion of the President.

Therefore, the President as the representative of the State in treaty negotiation can abrogate a treaty by himself.

Enter into Treaty (2010)

No.VII.b. A treaty which provides tax exemption needs no concurrence by a majority of all the Members of the Congress

SUGGESTED ANSWER:

The statement that a treaty which provides tax exemption needs no concurrence by a majority of all the Members of Congress is true. It is only a law, not a treaty, granting a tax exemption which requires the

concurrence of a majority of all the Members of Congress. (Section 28(4), Article VI of the Constitution.) Without respect to its lawful substantive content, a treaty, to be valid and effective, requires concurrence by at least two-thirds of all the Members of the Senate. (Sec. 21, Art. VII of the Constitution).

ALTERNATIVE ANSWER:

FALSE. Granting tax exemptions requires concurrence by a majority of all the Members of the Congress.

Pardoning Power: Executive Clemency (2008)

No. VIII. ST, a Regional Trial Court judge who falsified his Certificate of Service, was found liable by the Supreme Court for serious misconduct and inefficiency, and meted the penalty of suspension from office for 6 months. Subsequently, ST filed a petition for executive clemency with the Office of the President. The Executive Secretary, acting on said petition issued a resolution granting ST executive clemency. Is the grant of executive clemency valid? Why or why not? (6%)

SUGGESTED ANSWER:

No. the grant of executive clemency is invalid because it violates the separation of powers. The Supreme Court has the power of administrative supervision over



all courts and its personnel and with this power the Supreme Court can discipline erring Judges.

The grant of an executive clemency has the effect of removing the penalty imposed by the competent authority. The Supreme Court has the authority to discipline judges of lower court. In so doing, the constitution guaranteed its independence from the other political bodies. If the executive department were to grant executive clemency, it would be an encroachment of a prerogative thus violation of the separation of powers.

Privilege; Presidential Communications vs. Deliberative Process (2010)

No. VIII. Distinguish “presidential communication privilege” from “deliberative process privilege.”

SUGGESTED ANSWER:

Jurisprudence laid down 2 kinds of executive privilege which are presidential communication privilege and deliberative process privilege (Neri vs. Senate Committee on Accountability of Public Officers and Investigations, 549 SCRA 77 [2008]).

Presidential Communication Privilege: pertains to the communications, documents or other materials that

reflect presidential decision-making and deliberations and that the President believes should remain confidential. It applies to decision-making of the President. It is based on separation of powers. It is always subject to a greater scrutiny.

Deliberative Process Privilege: includes advisory opinions, recommendations and deliberations comprising part of a process by which governmental decisions and policies are formulated. Based on common law privileged it applies to decision-making of executive officials and not subject to greater scrutiny.

ARTICLE VIII Judicial Department

Judicial Department; Judicial Service (2013)

No.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%)

SUGGESTED ANSWER:

No, I will not give credit for judicial service to the NLRC Commissioner, because Section 4 (amended Article 216 of the Labor Code of the Philippines) of R.A. 9347 (An Act Rationalizing the Composition and Functions of the National Labor Relations Commission, Amending for this purpose Article 213, 214, 215, and 216 of P.D. 442 as Amended, Otherwise Known as the Labor Code of the Philippines) clearly speaks only of the salaries, benefits, and other emoluments. It says in the first sentence of the provision, that the Chairman and members of the Commission shall have the same rank, receive an annual salary equivalent to, and be entitled to the same allowances, retirement and benefits as, those of the Presiding Justice and Associate Justices of the Court of Appeals, respectively. The law is clear, that it only allowed the equivalence of a commissioner's rank, salary, allowances, retirement and benefits to that of the Presiding Justices' and Associate Justices'. The law, however, did not mention the credits for judicial service, therefore,

under the principle of inclusion unios exclusion est alterius, due credits will not be granted.

Judicial Department; Writ of Amparo (2013)

No. IX. Conrad is widely known in the neighbourhood 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%)

SUGGESTED ANSWER:

The advice of Vannie's counsel that she'll file a petition for a writ of amparo is not correct. In order that a writ of amparo can be availed of against a private individual for the disappearance of someone, the involvement of the government is indispensable. There is no showing of any participation of the government in Conrad's disappearance (Navia vs. Pardico, 673 SCRA 618).

ALTERNATIVE ANSWER:

Yes, Vannie's counsel gave the correct legal advice. The Writ of Amparo is a remedy available to any person whose right to life, liberty, or security has been violated or is threatened with violation

by an unlawful act or omission of a public official or employee, or of a private individual or entity. The writ covers extralegal killings and enforced disappearances or threats thereof.

Since there has been an enforced disappearance on the part of Conrad, the writ is applicable.

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

SUGGESTED ANSWER:

No, Colonel Sangre cannot be held responsible for the disappearance of Conrad. Command responsibility has no applicability to an amparo proceeding (Rubrico vs. Macapagal-Arroyo, 613 SCRA 233). It may be established merely to enable the court to craft the appropriate remedies against the responsible parties (Balao vs. Macapagal-Arroyo, 662 SCRA 312).

ALTERNATIVE ANSWER:

Although writ of amparo does not pinpoint criminal culpability for a disappearance, it determines responsibility, or at least accountability, for the purpose of imposing the appropriate remedy. Responsibility refers to the extent the actors have been established to have participated in an



enforced disappearance, as a measure of the remedy, to be crafted, such as the directive to file the appropriate criminal and civil cases against the responsible parties (Razon, Jr. Vs. Tagitis, 606 SCRA 598).

ALTERNATIVE ANSWER:

Yes. Colonel Sangre, together with the Sagittarius Security Office should be held fully accountable for the enforced disappearance of Conrad because of strong evidences supporting the claim of the Writ of Amparo as shown in the case.

Judicial Power; Legal Standing (2010)

No.VI. The Poverty Alleviation and Assistance Act was passed to enhance the capacity of the most marginalized families nationwide. A financial assistance scheme called “conditional cash transfers” was initially funded 500 million pesos by Congress. One of the provisions of the law gave the joint-congressional oversight committee authority to screen the list of beneficiary families initially determined by the Secretary of Department of Social Welfare and Development pursuant to the Department implementing rules. MangPandoy, a resident of smokey Mountain in Tondo, questioned the authority of the Committee.

(a) Does Mang Pandoy have legal standing to question the law?

SUGGESTED ANSWER:

On the assumption that Mang Pandoy is a beneficiary of the financial legal assistance, he has legal standing to question the law. He may be prejudiced by the improper screening of the beneficiary families. (Province of Batangas vs. Romulo, 492 SCRA 736 [2004]). Besides, since the implementation of the law will require the expenditure of public funds, as a taxpayer Mang Pandoy has legal standing to question the law. (Cruz vs. Secretary of Environment and Natural Resources, 347 SCRA 128).

ALTERNATIVE ANSWER:

Yes. Mang Pandoy has legal standing to question the law as a taxpayer and a citizen. As a taxpayer he has to show that there will be an illegal disbursement of public funds. As a citizen he must show that the issue involved is of transcendental importance.

Judicial Power; Trial by Jury (2013)

No.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%)

SUGGESTED ANSWER:

The law providing for trial by jury is unconstitutional, because of the omission in Article VIII, Section 5(5) of the 1987 Constitution of the provisions in Article VIII, Section 13 of the 1935 Constitution and Article X, Section 5(5) 1973 Constitution, which authorized the Legislature to repeal, alter or supplement the rules of procedure promulgated by the Supreme Court. Congress can no longer enact any law governing rules of procedure of the courts (*Echegaray vs. Secretary of Justice*, 301 SCRA 96).

ALTERNATIVE ANSWER:

No, it will be unconstitutional because it will be contrary to the judicial power which includes the duty of the courts of justice to settle actual controversies which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess jurisdiction on the part of any branch or instrumentality of the Government

(Paragraph 2, Section 1, Article VIII, 1987 Constitution).

Trial by Jury shall have the power to adjudge which claims are true and which are not. Composed of 12 jurors and two alternate jurors, the Trial Jury shall be kept in secret places until the usually-one-week trial ends in case the accuseds are influential persons. After deciding who are saying the truth, the judge in their court shall apply the law on the jury's decision. Although at times, trial jury nullifies the law if they felt it is an injustice.

In other words, in the trial provided by the present constitution, the judge decides, while in trial by jury, the jury decides, however the judge only applies the law basing from that of the jury's decision.

ALTERNATIVE ANSWER:

The law is valid, because the grant of a right to trial by jury involves a substantive law and is within the competence of Congress (Article VIII, Section 5(5) of the 1987 Constitution).

Judicial Power; Trial by Jury (2008)

No.XIII. Congress enacted law establishing the right to trial by jury of an accused charged with a felony or offense punishable



with reclusion perpetua or life imprisonment. The law provides for the qualifications of prospective jury members, the guidelines to be observed by the Judge and the lawyers in jury selection including the grounds for challenging the selection of jury members, and the methodology for jury deliberations. Is the law constitutional? Explain fully. (7%)

SUGGESTED ANSWER:

The law is unconstitutional because the power to promulgate rules concerning the protection and enforcement of constitutional rights, pleading, practice, and procedure in all courts is vested only in the Supreme Court.

Congress cannot encroach to the prerogatives of the Judiciary particularly those expressly given by the Constitution. The interference of Congress of such power would be struck down because it violates the separation of powers.

Presidential Electoral Tribunal; Judicial Power (2012)

No. IV. Mr. Yellow and Mr. Orange were the leading candidates in the vice-presidential elections. After elections, Yellow emerged as the winner by a slim margin of 100,000 votes. Undaunted, Orange filed a protest with the Presidential Electoral Tribunal

(PET). After due consideration of the facts and the issues, the PET ruled that Orange was the real winner of the elections and ordered his immediate proclamation.

(c) What is the composition of the PET? (2%)

SUGGESTED ANSWER

The Presidential Electoral Tribunal is composed of the Chief Justice and the Associate Justices of the Supreme Court Sitting en banc. (Section 4, Article VII of the Constitution.)

(d) What is judicial power? Explain Briefly. (2%)

SUGGESTED ANSWER

Judicial Power – Sec.1(1) Art. 8 is the authority to settle justiciable controversies or disputes involving rights that are enforceable and demandable before the courts of justice or the redress of wrongs for violation of such rights. (Lopez vs. Roxas, 17 SCRA 756.) it includes the duty of the courts to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the government. (Section 1, Article VIII of Constitution.)



**Supervision; Courts and its Personnel;
Ombudsman's Jurisdiction (2012)**

No. V. Judge Red is the Executive Judge of Green City. Red is known to have corrupt tendencies and has a reputation widely known among practicing lawyers for accepting bribes. Ombudsman Grey, wishing to "clean up" the government from errant public officials, initiated an investigation on the alleged irregularities in the performance of duties of Judge Red.

(a) Judge Red refused to recognize the authority of the Office of the Ombudsman over him because according to him, any administrative action against him or any court official or employee falls under the exclusive jurisdiction of the Supreme Court. Decide with reasons. (5%)

SUGGESTED ANSWER

Since the complaint refers to the performance of the duties of Judge Red, Ombudsman Grey should not act on it and should refer it to the Supreme Court. His investigation will encroach upon the exclusive power of administrative supervision of the Supreme Court over all courts. (Maceda vs. Vasquez, 221 SCRA 464.)

(b) Does the Ombudsman have authority to conduct investigation over crimes or offenses committed by public officials that are NOT in connection or related at all to the official's discharge of his duties and functions? Explain. (3%)

SUGGESTED ANSWER

The Ombudsman can investigate crimes or offenses committed by public officers which are not connected with the performance of their duties. Under Section 13(1), Article XI of the Constitution, the Ombudsman can investigate any act or omission of a public official which is illegal. (Deloso vs. Domingo, 191 SCRA 545.)

(c) Who are required by the Constitution to submit a declaration under oath of his assets, liabilities, and net worth? (2%)

SUGGESTED ANSWER

All public officers and employees are required to submit a declaration under oath of their assets, liabilities and net worth. (Section 17, Article XI of the Constitution.)

**ARTICLE IX Constitutional
Commissions**

Rotational Scheme (2010)



No. XXV.

(a) What is the rational scheme of appointments in the COMELEC?

SUGGESTED ANSWER:

The rational scheme of appointments in the COMELEC refers to the appointment of the Commissioner and 5 of its members not simultaneously but by intervals of every after 2 years upon expiration of their term of office.

(b) What are the two conditions for its workability?

SUGGESTED ANSWER:

The two conditions for its workability are:

(a) The first Chairman and Commissioners should start on a common date and

(b) Any vacancy before the expiration of the term should be filled only for the unexpired balance of the term

(c) To what other constitutional offices does the rational scheme of appointments apply?

SUGGESTED ANSWER:

The rational scheme of appointments applies to:

COA, CSC, COMELEC, JBC (Section 9(2), Article VIII, Section 1(2), Article IX-B and Section 1(2), Article IX-D of the Constitution).

ARTICLE IX Civil Service Commission

Appointment; Relatives (2008)

No.XII.. The Mayor of San Jose City appointed his wife, Amelia, as City Treasurer from among three (3) employees of the city considered for the said position. Prior to said promotion, Amelia had been an Assistant City Treasurer for ten (10) years, that is, even before she married the City Mayor. Should the Civil Service Commission approve the promotional appointment of Amelia? Why or why not?

SUGGESTED ANSWER:

The Civil Service Commission should disapproved the promotional appointment if at the time of appointment Amelia is already married to the appointing authority, the Mayor, because it violates the rule on nepotism which prohibits the appointment of relatives by consanguinity or affinity within the third degree of the appointing authority in public office. This is to ensure that entrance to public office should be based on merits and fitness. The rule on nepotism also extends to promotional appointment.

However, if at the time of appoint the Mayor and Amelia is not yet married and



thereafter married each other, the promotional appointment should remain as valid appointment.

Appointment; Relatives (2010)

No.XV.b. The rule on nepotism does not apply to designations made in favor of a relative of the authority making a designation

SUGGESTED ANSWER:

FALSE. The Rule on Nepotism extends to designation, and promotional appointment in favor of a relative(Laurel vs. Civil Service Commission, 203 SCRA 195 [1991]).

De Facto Officer (2010)

No. XV.a. A person who occupies an office that is defectively created is a de facto officer.

SUGGESTED ANSWER:

FALSE. A de facto officer occupies a valid existing office however under a color of title of the office. For him to be a de facto officer, the office must be validly created. (Tuanda vs. Sandiganbayan, 249 SCRA 342 [1995]).

ALTERNATIVE ANSWER:

The statement that a person who occupies in office that is defectively created is a de facto officer is TRUE. The person appointed or elected pursuant to an unconstitutional law is a de facto officer, before the law is declared to be such. (State vs. Carroll, 38 Conn.[1871]).

De Facto Officer; Salary Entitlement (2009)

No.XI.b. A de facto public officer is, by right, entitled to receive the salaries and emoluments attached to the public office he holds

SUGGESTED ANSWER:

TRUE. A de facto public officer discharges his public duties under a color of title to the office, therefore, by right entitled to salary (Civil Liberties vs. Executive Secretary, 194 SCRA 317).

Discretionary Duty of a Public Officer (2010)

No.XV.c. A discretionary duty of a public officer is never delegable

SUGGESTED ANSWER:

The statement that a discretionary duty of a public officer can never be delegated is FALSE. It can be delegated if the delegation is authorized (Mechem, A



Treatise on the Law on Public Offices and Officers, p.368).

ALTERNATIVE ANSWER:

TRUE. Discretionary duty of a public officer cannot be delegated.

Oath or Affirmation (2007)

No. VI. b. All public officers and employees shall take an oath to uphold and defend the Constitution.

SUGGESTED ANSWER:

The statement is true. This is expressly provided for in Section 4, Article IX-B of the 1987 Constitution.

ALTERNATIVE ANSWER:

The statement is true as under Section 40 of the Administrative Code of 1987 (Executive Order No. 292), it is provided that “all public officers and employees of the government, including every member of the armed forces shall, before entering upon discharge of his duties, take an oath or affirmation to uphold and defend the Constitution.

ALTERNATIVE ANSWER:

The statement is false. The Constitution states: “All public officers and employees shall take an oathe or affirmation to uphold and defend this Constitution” (1987 Constitution, Art. IX-B, sec.4).

Security of Tenure (2010)

No.XV.d. Acquisition of civil service eligibility during tenure of a temporary appointee does not automatically translate to a permanent appointment.

SUGGESTED ANSWER:

TRUE. There is a need for another appointment for permanency (Province of Camarines Sur vs. Court of Appeals, 246 SCRA 281 [1995]).

ARTICLE IX COMELEC

Commission En Banc; Jurisdiction (2012)

No. VII. Mayor Pink is eyeing re-election in the next mayoralty race. It was common knowledge in the town that Mayor Pink will run for re-election in the coming elections. The deadline for filing of Certificate of Candidacy (CoC) is on March 23 and the campaign period commences the following day. One month before the deadline, Pink has yet to file her CoC, but she has been going around town giving away sacks of rice with the words "Mahal Tayo ni Mayor Pink" printed on them, holding public gatherings and speaking about how good the town is doing, giving away pink t-shirts with "Kay Mayor Pink Ako" printed on them.



(a) Mr. Green is the political opponent of Mayor Pink. In April, noticing that Mayor Pink had gained advantage over him because of her activities before the campaign period, he filed a petition to disqualify Mayor Pink for engaging in an election campaign outside the designated period.

a.1. Which is the correct body to rule on the matter? Comelec en banc, or Comelec division? Answer with reasons. (2%)

SUGGESTED ANSWER:

It is the Commission on elections en banc which should decide the petition. Since it involves the exercise of the administrative powers of the Commission on Elections, Section 3, Article IX-C of the Constitution is not applicable. (Baytan vs. Commission on Elections, 396 SCRA 703.)

a.2. Rule on the petition. (5%)

SUGGESTED ANSWER:

The petition should be denied. Under Section 80 of the Omnibus Election Code, to be liable for premature campaigning he must be a candidate. Unless he filed his certificate of candidacy, he is not a candidate. (Lanot vs. Commission on Elections, 507 SCRA 114.)

(b) Distinguish briefly between Quo Warranto in elective office and Quo Warranto in appointive office. (3%)

SUGGESTED ANSWER:

In quo warranto in elective office, the issue is the ineligibility of the elected candidate. (Section 3(e), Rule 1, Rules of Procedure in Election Cases.) If he is ineligible, the candidate who got the second highest number of votes cannot be proclaimed elected. (Sinsuat vs. Commission on Elections, 492 SCRA 264.) A voter may file a petition for quo warranto against an elected candidate. The petition should be filed within ten days after the proclamation of the elected candidate.

In quo warranto in appointive office, the issue is the legality of the appointment. The court will decide who between the parties has the legal title to the office. (Nachura, Outline Reviewer in Political Law, p.567.)

It is the Solicitor General, a public prosecutor, or a person claiming to be entitled to the public office can file a petition for quo warranto against an appointive official. (Section 2 and 5, Rule 66 of the Rules of Court.) The Petition should be filed within one year after the cause of action accrued. (Section 11, Rule 66 of the Rules of Court.)



Grant of Pardon to Election Offenses (2010)

No. XVII. During his campaign sortie in Barangay Salamanca, Mayor Galicia was arrested at a PNP checkpoint for carrying high-powered firearms in his car. He was charged and convicted for violation of the COMELEC gun ban. He did not appeal his conviction and instead applied for executive clemency. Acting on the favorable recommendation of the Board of Pardons and Parole, the President granted him pardon. Is he eligible to run against for an elective position?. Explain Briefly. (5%)

SUGGESTED ANSWER:

Mayor Galicia can run again for an elective office but not immediately. Under Section 40 of the Local Government Code, he cannot run for an elective office within two (2) years after serving sentence. Under Section 12 of the Omnibus Election Code, he can run for an elective national office after the expiration of five (5) years from his service of sentence. The pardon granted to him is invalid. The offense involved a violation of the Omnibus Election Code and the pardon was granted without the favorable recommendation of the Commission on Elections. (Section 5, Article IX-C of the Constitution).

ALTERNATIVE ANSWER:

No. Galicia is not eligible to run for an elective position because the executive clemency is not valid and effective because it was granted with constitutional infirmity. The Constitution requires recommendation from the COMELEC before the President may grant executive clemency for offenses violating election laws.

Election Laws

Election Protest; Substitution; Quo Warranto (2009)

No. II. Despite lingering questions about his Filipino citizenship and his one-year residence in the district, Gabriel filed his certificate of candidacy for congressman before the deadline set by law. His opponent, Vito, hires you as lawyer to contest Gabriel's candidacy.

(a) Before Election Day, what action or actions will you institute against Gabriel, and before which court, commission or tribunal will you file such action/s? Reasons. (2%).

SUGGESTED ANSWER:

File with COMELEC in division, a petition to deny due course or to cancel Certificate of Candidacy within 25 days from the time of filing of the COC on the ground of material representation



contained in the certificate is false; or file a petition with the COMELEC in division to cancel the COC because he is a nuisance candidate. There must be a showing that:

- a. The COC was filed to put the election process in a mockery or disrepute
- b. Cause confusion among voters by similarity of names of registered candidates
- c. By other circumstances or acts which demonstrate that a candidate has no bona fide intention to run for the office for which his certificate of candidacy has been filed, and thus prevent a faithful determination of the true will of the electorate.

(b) If, during the pendency of such action/s but before election day, Gabriel withdraws his certificate of candidacy, can he be substituted as candidate? If so, by whom and why? If not, why or why not?

SUGGESTED ANSWER:

No. when the candidate who withdraws is an independent candidate, he cannot be substituted. Under the law, if after the last day for the filing of certificates of candidacy, an official candidate of a registered or accredited political party dies, withdraws or is disqualified for any cause, only a person belonging to, and

certified by, the same political party may file a certificate of candidacy to replace the candidate who dies, withdrew or was disqualified not later than mid-day of the day of the election (sec.76, OEC).

Since there is no showing in the present case that Gabriel is a member of a registered political party, in no moment could he be substituted if he withdraws his COC.

(c) If the action/s instituted should be dismissed with finality before the election, and Gabriel assumes office after being proclaimed the winner in the election, can the issue of his candidacy and/or citizenship and residence still be questioned? If so, what action or actions may be filed and where? If not, why not? (2%)

SUGGESTED ANSWER:

Yes, a petition for quo warranto may be filed with the House of Representative Electoral Tribunal questioning his eligibility to continue to hold such elective position.

A quo warranto proceeding may be filed by any citizen of the Philippine questioning the eligibility of an elective officer with respect to his continued possession of the qualifications of age, citizenship, and residency, as the case may be. Should the action prosper and a



decision be rendered against the elective official, the latter shall be removed from office leaving the position vacant.

Moreover, the Sole judge to hear and decide concerning the election, returns and qualification of the members of the House of Representative is the HRET. The HRET shall have jurisdiction over the election contest when the candidate has been proclaimed, taken his oath and assumed to office.

Pre-Proclamation Contest (2008)

No.X. The 1st Legislative District of South Cotabato is composed of General Santos and three municipalities including Polomolok. During the canvassing proceedings before the District Board of Canvassers in connection with the 2007 congressional elections, candidate MP objected to the certificate of canvass for Polomolok on the ground that it was obviously manufactured, submitting as evidence the affidavit of mayoralty candidate of Polomolok. The Certificate of canvass for General Santos was likewise objected to by MP on the basis of the confirmed report of the local NAMFREL that 10 elections returns from non-existent precincts were included in the certificate. MP moved that the certificate of canvass for General Santos be corrected to exclude the results from the non-existent precincts. The

District Board of Canvassers denied both objections and ruled to include the certificate of canvass. May MP appeal the rulings to the COMELEC? Explain. (6%)

SUGGESTED ANSWER:

NO. COMELEC's Jurisdiction over pre-proclamation cases pertains only to elections of regional, provincial and city officials.

(Sec. 15, RA 7166) – No pre-proclamation cases in election of national officials. For purposes of the elections for President, V-President, Senator and Member of the House of Representatives, no pre-proclamation cases shall be allowed on matters relating to the preparation, transmission, receipt, custody and appreciation of the election returns or the certificates of canvass, as the case may be.

ALTERNATIVE ANSWER:

(sec. 20, RA 7166)

Yes. a party adversely affected by the ruling of the board shall immediately inform the board if he intends to appeal said ruling to the COMELEC. The party adversely affected by the ruling may file a verified notice of appeal with the board within a non-extendible period of 5 days.



Three Term Limit; Contest; Substitution (2008)

No.IX. Abdul ran and won in the May 2001, 2004, and 2007 elections for Vice-Governor of Tawi-Tawi. After being proclaimed Vice-Governor in the 2004 elections, his opponent, Khalil, filed an election protest before the Commission on Election. Ruling with finality on the protest, the COMELEC declared khalil as the duly elected Vice-Governor though the decision was promulgated only in 2007, when Abdul had fully served his 2004-2007 term and was in fact already on his 2007-2010 term as Vice-Governor.

(a) Abdul now consults you if he can still run for Vice-Governor of Tawi-Tawi in the forthcoming May 2010 election on the premise that he could not be considered as having served as Vice-Governor from 2004-2007 because he was not duly elected to the post, as he assumed office merely as presumptive winner and that presumption was later overturned when COMELEC decided with finality that had lost in the May 2004 elections. What will be your advice? (3%).

SUGGESTED ANSWER:

Will advice Abdul that he can no longer run for Vice-Governor in the forthcoming May 2010 election because there is no interruption of service of his 2004-2007 term. He is considered to have already served and thereof it is counted in the

consecutiveness of his term of office. (Ong v. Alegre, Jan. 23, 2006).

(b) Abdul also consults you whether his political party can validly nominate his wife as substitute candidate for Vice-Governor of Tawi-Tawi in May 2010 election in case the COMELEC disqualifies him and denies due course to or cancels his certificate of candidacy in view of a false material representation therein. What will be your advice? (3%)

SUGGESTED ANSWER:

I will advise him that his wife can be a substitute if his wife is a member of the political party and is certified by such political party that she is going to substitute abdul as candidate for Vice-Governor and that the substitution must be made within the prescribed period provided by law. Provided further that his wife is eligible to hold public office meaning she has all the qualifications and none of the disqualifications.

Vacancy: Succession; Recall (2010)

No. XXII. Governor Diy was serving his third term when he lost his governorship in a recall election.

(a) Who shall succeed Governor Diy in his office as Governor?

SUGGESTED ANSWER:



The candidate who received the highest number of votes in the recall will succeed Governor Diy (Section 72 of the Local Government Code).

(b) Can Governor Diy run again as governor in the next election?

SUGGESTED ANSWER:

Yes, because recall election is an interruption of the consecutiveness of the term of office it cannot be counted. A recall election is a mid-way election and the term is not completed when one is conducted. The third term of Governor Diy should not be included in computing the ree-term limit. (Lonzanida vs. Commission on Elections, 311 SCRA 602 [1999]).

(c) Can Governor Diy refuse to run in the recall election and instead resign from his position as governor?

SUGGESTED ANSWER:

Governor Diy cannot refuse to run in the recall election. He is automatically considered as a duly registered candidate. (Section 71, Local Government Code).

ALTERNATIVE ANSWER:

YES, Governor Diy is not compelled to run in a recall election. Recall election is called because the electorate has lost confidence to the elective official. He may instead resign from his position.

Vacancy: Sangguniang Panlalawigan (2008)

No XI. On August 8, 2008, the Governor of Bohol died and Vice-Governor Cesar succeeded him by operation of law. Accordingly, Benito, the highest ranking member of the Sangguniang Panlalawigan was elevated to the position of Vice-Governor. By the elevation of Benito to the Office of Vice-Governor, a vacancy in the Sangguniang Panlalawigan was created. How should the vacancy be filled?

SUGGESTED ANSWER:

(sec. 44-46, RA 7160)

The vacancy shall be filled in the following manner:

- 1. If Benito is affiliated with a political party, the vacancy in the Sangguniang Panlalawigan shall be filled by a nomination and certificate of membership of the appointee from the highest official of the political party. (must be filled with someone who belongs to the political party to maintain the party representation as willed by the people in the election).**
- 2. If Benito is not affiliated with a political party, the vacancy shall**



be filed by the **PRESIDENT** through the executive secretary.

ARTICLE X Local Government

Boundary Dispute Resolution; LGU; RTC (2010)

No.XIII.c. Boundary disputes between and among municipalities in the same province may be filed immediate with the RTC

SUGGESTED ANSWER:

FALSE. Should be referred for settlement to the SANGGUNIANG PANLALAWIGAN concerned (see. Sec. 118, RA No.7160; Municipality of Sta. Fe vs. Municipality of Artao, 533 SCRA 586 [2007]).

Confiscation of Driver's License; MMDA (2010)

No.XIII.d. The MMDA is authorized to confiscate a driver's license in the enforcement of traffic regulations.(0.5%)

SUGGESTED ANSWER:

False. Since Republic Act No. 7924 does not grant the Metropolitan manila Development Authority to enact ordinances, the grant to it by Section 5(f) of Republic Act No. 7924 of the power to confiscate driver's license

without the need of any other law is an authorized exercise

ALTERNATIVE ANSWER:

TRUE. The confiscation of driver's license by MMDA is part of its executive function to enforce the law.

Internal Revenue Allotment Fund (2007)

No. VIII. The Provincial Governor of Bataan requested the Department of Budget and Management (DBM) to release its Internal Revenue Allocation (IRA) of P100 million for the current budget year. However, the General Appropriations Act provided that the IRA may be released only if the province meets certain conditions as determined by an Oversight Council created by the President.

(a) Is this requirement valid?

SUGGESTED ANSWER:

No, this requirement is not valid. Under the 1987 Constitution, it is provided that "local government units shall have a just share, as determined by law, in the national taxes which shall be automatically released to them." As held in the case of Alternative Center for Organizational Reforms and Development, et.al. v. Zamora, G.R. No. 144256 (June 08, 2005), a basic feature



of local fiscal autonomy is the automatic release of the shares of LGUs in the national internal revenue. The Local Government Code specifies further that the release shall be made directly to the LGU concerned within five (5) days after every quarter of the year and “shall not be subject to any lien or holdback that may be imposed by the national government for whatever purpose.”

(b) The Provincial Governor is a party-mate of the President. May the Bataan Representative instead file a petition to compel the DBM to release the funds?

SUGGESTED ANSWER:

Yes. A congressman from a particular LGU may validly have standing to demand that IRA for his province be released in accordance with the Constitution and the Local Government Code. As a representative of his province, he has a responsibility towards his constituencies who can expect no less than faithful compliance with the Constitution. Moreover, the issue presented could be characterized as involving transcendental importance to the people and the local government units which had been guaranteed greater local autonomy.

Municipal Corporation; De facto vs. Estoppel (2010)

No.XX Define/Explain

(b) De facto municipal corporation

SUGGESTED ANSWER:

DE FACTO MUNICIPAL CORPORATION – De facto municipal corporation is a public corporation that exists although it has not complied with the statutory requirements like:

- a. Authorization by a valid law
- b. A colorable and bona fide attempt to organize under a valid law
- c. An assumption of powers conferred under the law

It primarily attends to the needs of the general welfare.

(c) Municipal corporation by estoppels

SUGGESTED ANSWER:

MUNICIPAL CORPORATION BY ESTOPPELS- A municipal corporation by estoppels is a corporation which is so defectively formed as not to be a de facto corporation but is considered a corporation in relation to someone who dealt with it and acquiesced in its exercise of its corporate functions or entered into a contract with it. (Martin, Public Corporations, 1985 ed.,p.20)

Ordinance Validity; Disapproval (2009)

No. III. The Municipality of Bulalakaw, Leyte, passed ordinance no. 1234, authorizing the expropriation of two parcels of land situated in the poblacion as the site



of a freedom park, and appropriating the funds needed therefor. Upon review, the Sangguniang Panlalawigan of Leyte disapproved the ordinance because the municipality has an existing freedom park which, though smaller in size, is still suitable for the purpose, and to pursue expropriation would be needless expenditure of the people's money. Is the disapproval of the ordinance correct? Explain your answer. (2%).

SUGGESTED ANSWER:

The Local Government Unit can exercise the power of eminent domain only pursuant to an ordinance. Ordinances passed by legislative body of a municipality are subject to review by the Sangguniang Panlalawigan. The review by the SP is only to determine whether or not the ordinance is beyond the power conferred upon the Sangguniang Bayan (Municipality). The SP will declare the ordinance invalid if it goes beyond the power granted to it.

The power of eminent domain is granted to the Municipality and it is within their competence to determine the necessity to expropriate private property for public purpose. This determination is not within the review powers of the SP.

Therefore, the disapproval of the ordinance is incorrect.

Ordinance Validity; Regulation of Disco Pubs (2010)

No. XXI The Sangguniang Panlungsod of Pasay City passed an ordinance requiring all disco pub owners to have all their hospitality girls tested for the AIDS virus. Both disco pub owners and the hospitality girls assailed the validity of the ordinance for being violative of their constitutional rights to privacy and to freely choose a calling or business. Is the ordinance valid? Explain.

SUGGESTED ANSWER:

The ordinance is a valid exercise of police power. The right to privacy yields to certain paramount rights of the public and defers to the exercise of police power. The ordinance is not prohibiting the disco pub owners and the hospitality girls from pursuing their calling or business but is merely regulating it. (Social Justice Society vs. Dangerous Drugs Board, 570 SCRA 410 [2008]). This ordinance is a valid exercise of police power, because its purpose is to safeguard public health. (Beltran vs. Secretary of Health, 476 SCRA 168 [2005]).

ALTERNATIVE ANSWER:

Jurisprudence dictates that an ordinance to be a valid exercise of police power it:



1. **Must not contravene the constitution;**
2. **Must not be unfair nor oppressive;**
3. **Must be reasonable;**
4. **Must not prohibit what is allowed but may regulate;**
5. **Must be applicable within its territorial jurisdiction or limits**
6. **Must be general in application and consistent with public policy**
7. **And that the interest of the general public requires the interference and that the means employed is reasonably necessary for the accomplishment of its purpose**

Under the present case, the objective of the ordinance is to secure the health and safety of its populace. AIDS is an incurable disease that is very harmful to the health. However, how good the intention is the exercise of police power is not absolute. The interference has to be lawful which is absent in the present case.

Reclassification of Land (2010)

No.XIII.b. Re-classification of land by a local government unit may be done through a resolution.

SUGGESTED ANSWER:

FALSE. Re-classification of land must be done through an ORDINANCE (Section

2, Local Government Code; Department of Agrarian Reform vs. Polo Coconut Plantation Company, Inc., 564 SCRA 78[2008]).

ARTICLE XI Accountability of Public Officers

Discipline; Preventive Suspension (2009)

Maximo, an employee of the Department of education, is administratively charged with dishonesty and gross misconduct. During the formal investigation of the charges, the Secretary of Education preventively suspended him for a period of 60 days. On the 60th day of the preventive suspension, the Secretary rendered a verdict, finding Maximino guilty, and ordered his immediate dismissal from the service.

Maximino appealed to the Civil Service Commission which affirmed the Secretary's decision. Maximo then elevated the matter to the Court of Appeals. The CA reversed the CSC decision, exonerating Maximino. The secretary of education then petitions the Supreme Court for the review of the CA decision.

(a) Is the Secretary of Education a proper party to seek the review of the CA decision exonerating Maximino? Reasons (2%)

SUGGESTED ANSWER:



The Secretary of Education is not the proper party to seek review of the decision of the Court of Appeals, because he is the one who heard the case and imposed the penalty. Being the disciplinary authority, the Secretary of Education should be impartial and should not actively participate in prosecuting Maximino (National Appellate Board of the National Police Commission vs. Mamauag, 446 SCRA 624 [2005]).

(b) If the SC affirms the CA decision, is Maximino entitled to recover back salaries corresponding to the entire period he was out of the service? Explain your answer. (3%)

SUGGESTED ANSWER:

As a general rule, Maximo is not entitled to recover back salaries corresponding to the entire period he was out of the service because of the NO WORK NO PAY RULE. But if it is found that he is illegally dismissed or suspended he is entitled to back wages and other monetary benefits from the time of his illegal dismissal or suspension up to his reinstatement.

ALTERNATIVE ANSWER:

Maximo cannot recover back salaries during his preventive suspension. The law does not provide for it. Preventive suspension is not a penalty. During the

preventive suspension, he was not yet out of service. However, he is entitled to back wages from the time of his dismissal until his reinstatement. The enforcement of the dismissal pending appeal was punitive, and he was exonerated (Gloria vs. Court of Appeals, 306 SCRA 287 [1999]).

Impeachment; Grounds (2013)

No.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%)

SUGGESTED ANSWER:

The President can be impeached for culpable violation of the Constitution and betrayal of public trust. The Supreme Court has already ruled that the provision in Article XVIII, Section 25



of the Constitution requires a treaty even for the mere temporary presence of foreign troops in the Philippines (Bayan vs. Zamora, 342 SCRA 499). The President cannot claim, therefore, that he acted in good faith. (Report of the Special Committee in the Impeachment of President Quirino, Congressional Record of the House of Representatives, Vol. IV, p. 1553). Betrayal of public trust includes violation of the oath of the office of the President (Record of the Constitutional Commission, Vol. II, p.272). In his oath of office, the President swore to preserve and defend the Constitution (Article VII, Section 5 of the 1987 Constitution).

ALTERNATIVE ANSWER:

The President can be impeached for culpable violation of the Constitution and graft and corruption (Article XI, Section 2). By entering into the executive agreement, the President violated Section 3(d) of the Anti-Graft and Corrupt Practices Act because of the injury to the Republic of the Philippines.

ALTERNATIVE ANSWER:

The two grounds for impeachment suitable to the case of the president are:

(1) Graft and Corruption. It is stated under Section 3(j) of Republic Act No. 3019 (Anti-Graft and Corrupt Practices

Act), that one corrupt practice of a public officer includes knowingly approving or granting any license, permit, privilege or benefit in favor of any person not qualified for or not legally entitled to such license, permit, privilege or advantage, or of a mere representative or dummy of one who is not so qualified or entitled. Since the President gave the U.S. Navy the privilege to use the former Subic Naval Base for free without need to pay rent nor any kind of fees.

(2) Culpable Violation of the Constitution. The president knowingly violated the provision stated in Section 11, Article XII of the Constitution which provides that no franchise, certificate, or any other form of authorization for the operation of a public utility shall be granted except to citizens of the Philippines or to corporations or associations organized under the laws of the Philippines at least sixty per centum of whose capital is owned by such citizens, nor shall such franchise, certificate, or authorization be exclusive in character or for a longer period than 50 years.

Impeachment; Purpose; Grounds (2012)

No. II.A verified impeachment complaint was filed by two hundred (200) Members of



the House of Representatives against Madam Chief Justice Blue. The complaint was immediately transmitted to the Senate for trial.

(a) Madam Chief Justice Blue challenges such immediate transmittal to the Senate because the verified complaint 1) not included in the order of business of the House, 2) was not referred to the House Committee on Justice for hearing and consideration for sufficiency in form and substance, and 3) was not submitted to the House Plenary for consideration as enumerated in Paragraph (2), Section 3, Article XI of the 1987 Constitution. Decide with reasons. (5%)

SUGGESTED ANSWER

Since he verified complaint was filed by 200 Members of the House of Representatives and they constituted at least one third of its Members, it need not undergo the procedure in Paragraph 2, Section 3, Article XI of the Constitution. The verified complaint constitutes the Articles of Impeachment, and trial by the Senate should proceed forthwith (Section 3(4), Article XI of the Constitution).

(b) What is the purpose of Impeachment? Does conviction prevent further prosecution and punishment? Explain. (3%)

SUGGESTED ANSWER

The purpose of impeachment is not to punish but only to remove a public officer to secure the people against gross political misdemeanors. (Bernas, The 1987 Constitution of the Philippines, A Commentary, 2009 ed., p. 1150.) Conviction does not prevent further prosecution and punishment. The person convicted is subject to prosecution and punishment according to law. (Section 3(7), Article XI of the Constitution.)

(c) Enumerate the grounds for impeachment. Is graft and corruption a ground for impeachment? (2%)

SUGGESTED ANSWER

The following are the grounds for impeachment:

- 1) Culpable violation of the Constitution;
- 2) Treason;
- 3) Bribery;
- 4) Graft and Corruption;
- 5) Other high crimes; and
- 6) Betrayal of public trust

Ombudsman; Power to Impose Penalties (2009)

No.XI.d. Decisions of the Ombudsman imposing penalties in administrative disciplinary cases are merely recommendatory.



SUGGESTED ANSWER:

FALSE. Under Section 15(3) of the Ombudsman Act, the Ombudsman has the power to ensure compliance with the imposition of penalty on public officers it finds at fault by virtue of its disciplinary authority (Office of the Ombudsman vs. Madriaga, 503 SCRA 631 [2006]).

ARTICLE XII National Economy and Patrimony

Acquisition of Lands (2009)

No.XI. a. Aliens are absolutely prohibited from owning private lands in the Philippines.

SUGGESTED ANSWER:

FALSE. Aliens can acquire private lands in the Philippines through hereditary succession (intestate succession only [Sec. 7, Art. XII]) and former natural-born citizens can also be a transferee but with limitations. 5,000 square meters for urban and 3 hectares for rural (Sec.8 Art. XII).

ARTICLE XIV Education, Science, and Technology, Arts

Education; Academic Freedom (2013)

No.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%)

SUGGESTED ANSWER:

I shall argue that under Article XIV, Section 5(2) of the 1987 Constitution, the educational institution enjoys academic freedom. Academic freedom includes its rights to prescribe academic standards, policies and qualification for the admission of a student (University of San Agustin, Inc. vs. Court of Appeals, 230 SCRA 761).



ALTERNATIVE ANSWER:

The claim of Bobby's family is not meritorious. It is provided under Section 5(2), Article XIV of the 1987 Constitution that Academic Freedom shall be enjoyed in all institutions of higher learning. Colleges, publicly- or privately-owned, if they offer collegiate courses, enjoy academic freedom.

From the standpoint of the educational institution, the university has the freedom to determine "who may teach; what may be taught, how it shall be taught; and who may be admitted to study" (*Sweezy v. State of New Hampshire*, 354 U.S. 234).

Education; Academic Freedom (2008)

No.XVII. As a reaction to the rice shortage and the dearth of mining engineers. Congress passed a law requiring graduates of public science high schools henceforth to take up agriculture or mining engineering as their college course. Several students protested, invoking their freedom to choose their profession. Is the law constitutional?

SUGGESTED ANSWER:

The law is unconstitutional because creating occupation against the will of the student in making a living is a form of involuntary servitude, not constitutionally encourage.

The Constitution provides that every citizen has the right to select a profession or a course of study, subject to a fair, reasonable and equitable admission and academic requirements.

Although the freedom to choose a profession can be regulated, the limitation should not be oppressive, unreasonable and unfair so as to restrict the freedom of choice. It is not for the State to decide what a student would take up in college. But if it were for national security in order to defend the State then a compulsory rendition of military service may be made through a law.

Education; Academic Freedom (2007)

No.I (b) The 1987 Constitution has increased the scope of academic freedom recognized under the previous Constitution.

SUGGESTED ANSWER:

The statement is true. The 1987 Constitution provides that academic freedom shall be enjoyed in all institutions of higher learning. This is more expansive in scope than the 1973 Constitution which stated that: All institutions of higher learning shall enjoy academic freedom. While the 1973 Charter suggests that academic freedom was institutional in the sense that it belonged to the colleges and



universities, the present Charter gives the guaranty to all other components of the institution, including faculty and possibly students.

ALTERNATIVE ANSWER:

The statement is false. The scope of academic freedom remains the same. Article XIV, Section 5 (2) of the Constitution provides that academic freedom shall be enjoyed in all institutions of higher learning. As held in U.P. Board of Regents v. Court of Appeals, G.R. No. 134629, August 31, 1999, "This (provision) is nothing new. The 1935 and the 1973 Constitution likewise provided for academic freedom or, more precisely, for the institutional autonomy of universities and institutions of higher learning."

Education: Communication and Instruction (2007)

No.I. (a) For purposes of communication and instruction, the official languages of the Philippines are English and Filipino, until otherwise

SUGGESTED ANSWER:

The statement is false. Article XIV, Section 7 of the 1987 Constitution provides that for "purposes of communication and instruction, the

official languages of the Philippines are Filipino and, until otherwise provided by law, English." Thus, while Filipino will always be an official language, Congress may, by law, remove English as the other official language. Hence, the statement is false as the continuation of English as an official language is subject to the control and discretion of Congress.

ALTERNATIVE ANSWER:

The statement is true. To be more precise, however, what is only to remain as official until otherwise provided by law is English. Filipino will always be an official language under the Charter.

Education; Teaching of Religion (2010)

No. XIX. To instill religious awareness in the Students of Dona Trinidad High School, a public school in Bulacan, the Parent-Teacher's Association of the school contributed funds for the construction of a grotto and a chapel where ecumenical religious services and seminars are being held after school hours. The use of the school grounds for these purposes was questioned by a parent who does not belong to any religious group. As his complaint was not addressed by the school officials, he filed an administrative complaint against the principal before the DECS. Is the principle liable?

SUGGESTED ANSWER:



The principal is liable. Although the grotto and the chapel can be used by different religious sects without discrimination, the land occupied by the grotto and the chapel will be permanently devoted to religious use without being required to pay rent. This violates the prohibition against the establishment of religion enshrined in Section 5 of the Bill of Rights. (Opinion No.12 of the Secretary of Justice dated February 2, 1979). Although religion is allowed to be taught in public elementary and high schools, it should be without additional cost to the government. (Section 3(3), Article XIV of the Constitution).

Education; Foreign Ownership (2009)

No.I.d. An educational institution 100% foreign-owned may be validly established in the Philippines.

SUGGESTED ANSWER:

TRUE. If it is established by religious groups and mission boards. (Sec.4(2), Art. XIV).

As a general rule, educational institution must be owned exclusively to citizens of the Philippines or qualified corporation at least 60% of the capital of which is owned by Filipino citizen.

However, 100% foreign owned educational institution may be established here in the Philippines for religious groups and mission boards.

Education: Scholarship Grants (2007)

No. IX. The Department of Education (DepEd) requires that any school applying for a tuition fee increase must, as a condition for the increase, offer full tuition scholarships to students from low-income families. The Sagrada Familia Elementary School is a Catholic school and has applied for a tuition fee increase. Under this regulation by the DepEd, it will end up giving tuition scholarships to a total of 21 students next year. At a cost of P50,000 per student, the school will lose a total of P1.05 million for next year.

a. Is this DepEd requirement valid?

SUGGESTED ANSWER:

The requirement is valid. Under Section 7 of Presidential Decree No. 451, as a condition to the grant of any increase in tuition, private schools with a total enrollment at least 1,000 are required to provide scholarships to poor but deserving students at the rate of one scholarship for every 500 students enrolled.

ALTERNATIVE ANSWER:

No. It constitutes deprivation of property without due process of law. The law is confiscatory as it unduly shifts the



burden of providing for the welfare of the poor to the private sector. The objective may be laudable but the means would be arbitrary and unreasonable. (Quezon City v. Judge Ericta, G.R. No. 34195, June 24, 1983).

b. If instead the DepEd requires a full tuition scholarship for the highest ranking students in each grade, determined solely on the basis of academic grades and rank, will the DepEd requirement be valid?

SUGGESTED ANSWER:

No, would still constitute a deprivation of property without due process of law. (Balacuit v. CFI, G.R. no. 38429, June 30, 1988).

ALTERNATIVE ANSWER:

Yes. Here, the matter may be considered as a reasonable regulation exacted from those who seek some form of accommodation from the government. (Telebap v. COMELEC, G.R. No. 132922, April 21, 1998). In exchange for what they get as a concession from the State, these institutions may be required to shoulder part of the cost of promoting quality education for deserving citizens.

ALTERNATIVE ANSWER:

The requirement will be void, because under section 7 of Presidential Decree No. 44, the grant of scholarships by the private schools to the students with scholastic distinctions is left to the determination of the private schools.

Education; Study of Religion (2008)

No.XV. The principal of Jaena High School, a public school, wrote a letter to the parents and guardians of all the school's pupils, informing them that the school was willing to provide religious instruction to its Catholic students during class hours, through a Catholic priest. However, students who wished to avail of such religious instruction needed to secure the consent of their parents and guardians in writing.

(a) Does the offer violate the constitutional prohibition against the establishment of religion?

SUGGESTED ANSWER:

No. the offer is valid, under the constitution, at the option expressed in writing by the parents or guardians, religion shall be allowed to be taught to their children or wards in public elementary and high schools within the regular class hours by instructors designated or approved by the religious authorities of the religion to which the children or wards belong, without additional cost to the Government (Sec. 3(3), Art. XIV).

(b) The parents of evangelical Christian students, upon learning of the offer, demanded that they too be entitled to have their children instructed in their own religious faith during class hours. The



principal, a devout Catholic, rejected the request. As counsel for the parents of the evangelical students how would you argue in support of their position? (3%)

SUGGESTED ANSWER:

The rejection made by the principal is in violation equal protection of the laws. The option given by the constitution to teach religion in public schools is without distinction to what religion should only be taught. It does not discriminate neither should the principal.

For classification to be valid the following requisite must be present:

- a. Classification is based on substantial distinction
- b. It must be germane to the purpose of the law
- c. Must apply equally to all members of the same class
- d. Not limited to existing conditions

ARTICLE XVI General Provisions

National Anthem (2009)

No.I. a. A law making “Bayan Ko” the new national anthem of the Philippines, in lieu of Lupang Hinirang is constitutional.

SUGGESTED ANSWER:

TRUE. Under the constitution, Congress may, by law, adopt a NEW NAME FOR THE COUNTRY, A NATIONAL ANTHEM, OR A NATIONAL SEALS, which shall all be truly reflective and symbolic of the ideals, history and traditions of the people. Such law shall take effect only upon its ratification by the people in a NATIONAL REFERENDUM (Section 2, Article XVI of the Constitution).

ARTICLE XVII Amendments or Revisions

Amendments (2007)

No. VI.a. An amendment to the Constitution shall be valid upon a vote of three-fourths of all the Members of the Congress.

SUGGESTED ANSWER:

The statement is false. First, an amendment proposed by Congress must be approved by at least three-fourths (3/4) vote of the members of the Senate and of the House of Representatives voting separately. It is inherent in a bicameral legislature for two houses to vote separately (II Record of the Constitutional Commission 493). Second, the amendment shall be valid only when ratified by a majority of the votes cast in a plebiscite (Constitution, Art. XVII, sec.4).



Amendments; People's Initiative (2009)

No.XVIII. What are the essential elements of a valid petition for a people's initiative to amend the 1987 constitutions?

SUGGESTED ANSWER:

The essential elements of a valid petition for a people's initiative are:

- 1. The people must author and sign the entire proposal; no agent or representative can sign in their behalf;**
- 2. The proposal must be embodied in the petition; and**
- 3. The number of people who petitioned must be at least 12% of the total number registered voter, of which every legislative district must be represented by at least 3% of the registered voter therein.**
- 4. Any amendment through people's initiative shall be valid when ratified by a majority of the votes cast in a plebiscite which shall be held not earlier than 60 days nor later than 90 days after the certification by the Commission on Election of the sufficiency of the petition.**

PUBLIC INTERNATIONAL LAW

Basic Principles; Reparation (2007)

No. IV. In 1993, historians confirmed that during World War II, "comfort women" were forced into serving the Japanese military. These women were either abducted or lured by false promises of jobs as cooks or waitresses, and eventually forced against their will to have sex with Japanese soldiers on a daily basis during the course of the war, and often suffered from severe beatings and venereal diseases. The Japanese government contends that the "comfort stations" were run as "onsite military brothels" (or prostitution houses) by private operators, and not by the Japanese military. There were many Filipina "comfort women."

a. Name at least one basic principle or norm of international humanitarian law that was violated by the Japanese military in the treatment of the "comfort women."

SUGGESTED ANSWER::

The treatment of "comfort women" by the Japanese military violated Article XXVII of the Geneva Convention (IV), which provides that: "Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault."

ALTERNATIVE ANSWER:

The treatment of “comfort women” by the Japanese military violated Article III of the Geneva Convention (IV) which prohibits outrages upon personal dignity in particular humiliation and degrading treatment.

ALTERNATIVE ANSWER:

The principle of military necessity was violated. It prohibits the use of any measure that is not absolutely necessary for the purposes of the war. Military necessity is governed by several constraints: An attack or action must be intended to help in the military defeat of the enemy, it must be an attack on a military objective and the harm caused to civilians or civilian property must be proportional and not excessive in relation to the concrete and direct military advantage anticipated. Having to force women of the enemy state to serve the sexual needs of the soldiers is not absolutely necessary for the conduct of the war.

b. The surviving Filipina "comfort women" demand that the Japanese government apologize and pay them compensation. However, under the 1951 San Francisco Peace Agreement -the legal instrument that ended the state of war between Japan and the Allied Forces -all the injured states, including the Philippines, received war reparations and, in return, waived all claims against Japan arising from the war. Is that a valid defense?

SUGGESTED ANSWER:

The defense is not valid. Under the preamble of San Francisco Treaty, Japan Undertook to conform to the protection and observance of human rights. The San Francisco Treaty must yield to the United Nations Charter which provides for respect of human rights. Article 103 of the United Nations Charter provides that the obligation of the member-States prevail over any other international agreement. The waiver in Article 14(a) of the San Francisco Treaty is qualified by Article 14(b), which stated that Japan had no resources presently sufficient to make complete reparation for all such damages and sufferings and meet its other obligations. Thus the waiver was operative only while Japan had inadequate resources.

ALTERNATIVE ANSWER:

No, that is not a valid defense. Even if it could be argued that the Philippines, by signing said Peace Agreement had the right as a state to bring further claims, it had no authority to waive the individual right to reparations vested directly in its nationals who were victims of sexual slavery. The Philippines can only validly waive its right to recovery of reparations for injuries to the state. Moreover, there is no defense for the violation of jus cogens norms.

ALTERNATIVE ANSWER:

No. The claim is being made by the individuals, not by the State and it is



recognized that individuals may also be subjects of international law apart from the state. Further, the San Francisco Peace Agreement could not be interposed as a valid defense as this could not have been contemplated therein. The use of “comfort women” was only confirmed long after that Agreement. Moreover, Article 17 (3) of the New Civil Code provides that “prohibitive laws concerning persons, their acts or property, and those which have for their object public order, policy and good customs, shall not be rendered ineffective by laws or judgments promulgated, or by determinations or conventions agreed upon in a foreign country.

c. The surviving Filipina "comfort women" sue the Japanese government for damages before Philippine courts. Will that case prosper?

SUGGESTED ANSWER:

The Filipina “comfort women” cannot sue Japan for damages, because a foreign State may not be sued before Philippine courts as a consequence of the principles of independence and equality of States (Republic of Indonesia vs. Vinzon, 405 SCRA 126 [2003]).

ALTERNATIVE ANSWER:

The case will not prosper in view of the doctrine of sovereign immunity from suit. However, a person who feels aggrieved by the acts of a foreign

sovereign can ask his own government to espouse his cause through diplomatic channels. The “comfort women” can request the Philippine government, through the Department of Foreign Affairs, to espouse its claims against the Japanese government. (Holy See v. Rosario, G.R. No. 101949, December 1, 1994). The sovereign authority of a State to settle the claims of its national against foreign countries has repeatedly been recognized. This may be made without the consent of the nationals or even without consultation with them. (Dames and Moore v. Regan, 433 U.S. 654, [1981])

ALTERNATIVE ANSWER:

No. since the Philippines is a signatory to that Agreement, courts may not entertain a suit since that has been waived by the State. Moreover, it can be argued that there was no state action since the prostitution houses were being run by private operators, without the control or supervision of the Japanese government. (Southeast Case, United States v. Wilhelm List, Nuremberg Case No. 7, 1949)

Concept of Association (2010)

No. XXVII What is the concept of association under international law?

Under international law, an association is formed when two states of unequal



power voluntarily establish durable links. In the basic model, one state, the associate, delegates certain responsibilities to the other, the principal, while maintaining its international status as a state. Free associations represent a middle ground between integration and independence.

Association under international Law, is a formal arrangement between a non-self-governing territory and independent State whereby such territory becomes an associated State with internal self-government, but the independent state is responsible for foreign relations and defense.

For an association to be lawful, it must comply with the general conditions prescribed in the UN General Assembly Resolution 1541 (XV) of 14 December 1960: (1) the population must consent to the association; and (2) the association must promote the development and well-being of the dependent state (the non-self-governing territory). Association subject to UN approval.

In deciding the constitutionality of the Memorandum of Agreement on the Ancestral Domain (MOA-AD) Aspect of the GRP-MILF Tripoli Agreement on Peace of 2001, the Supreme Court had ruled that the concept of association under international law is not recognized under the 1987 Constitution as it runs

counter to the national sovereignty and territorial integrity of the Republic. (Province of North Cotabato v. GRP Peace Panel on Ancestral Domain, G.R. No. 183591, Oct. 14, 2008)

Extradition: Double Criminality (2007)

No. III. Lawrence is a Filipino computer expert based in Manila who invented a virus that destroys all the files stored in a computer. Assume that in May 2005, this virus spread all over the world and caused \$50 million in damage to property in the United States, and that in June 2005, he was criminally charged before United States courts under their anti-hacker law. Assume that in July 2005, the Philippines adopted its own anti-hacker law, to strengthen existing sanctions already provided against damage to property. The United States has requested the Philippines to extradite him to US courts under the RP-US Extradition Treaty.

a. Is the Philippines under an obligation to extradite Lawrence? State the applicable rule and its rationale.

SUGGESTED ANSWER:

The Philippine is under no obligation to extradite Lawrence. Under the principle of dual or double criminality, the crime must be punishable in both the requesting and requested states to make it extraditable. In this case, only the United States had anti-hacker law at the



time of the commission of the crime in May 2005. The rationale for the principle of dual criminality rests “in part on the basic principle of reciprocity” and “in part of the maxim nulla poena sine lege.” (LA Shearer, 1971 Extradition in International Law, Manchester University Press, Manchester, p. 137.)

ALTERNATIVE ANSWER:

Even if there was no anti-hacker law in the Philippines when the United States requested the extradition of Lawrence, if the act is similar to malicious mischief under Article 327 of the Revised Penal Code, The Philippines will be under the obligation to extradite Lawrence (Coquia and Defensor, International law and World Organizations, 4th ed. P.342).

b. Assume that the extradition request was made after the Philippines adopted its anti-hacker legislation. Will that change your answer?

SUGGESTED ANSWER:

The Philippines will be under the obligation to extradite Lawrence. Both the Philippines and the United States have an anti-hacker law. The requirement of double criminality is satisfied even if the act was not criminal in the requested state at the time of its occurrence if it was criminal at the time that the request was made (Bassouni, International Extradition, 4th ed. p.469).

ALTERNATIVE ANSWER:

The Philippines is under no obligation to extradite Lawrence. The rule is that the crime must be punishable in both countries at the time of the commission of the offense. Since there was yet no such crime in the Philippines at the time when the acts complained of were done, in so far as the Philippines is concerned, Lawrence did not commit any crime; hence, an extradition of Lawrence is tantamount to an ex post facto application of the Philippine anti-hacker law, prohibited by section 22, Article III of the 1987 Constitution.

Genocide (2010)

No. I. The dictatorial regime of the President A of the Republic of Gordon was toppled by a combined force led by Gen. Abe, former royal guards and the secessionist Gordon People’s Army. The new government constituted a Truth and Reconciliation Commission to look into the serious crimes committed under President A’s regime. After the hearings, the Commission recommended that an amnesty law be passed to cover even those involved in mass killings of members of indigenous groups who opposed President A. International human rights groups argued that the proposed amnesty law is contrary to international law. Decide with reasons. (4%)



SUGGESTED ANSWER:

The proposed amnesty law is contrary to international law.

The indigenous group may constitute an ethnic group which is protected by the law on Genocide. If the mass killing was committed with the intent to destroy (*dolus specialis*) the said ethnic group as such, in whole or in part, then the crime of Genocide was committed. The international norm for the prevention, prosecution and punishment of Genocide is a peremptory (*ius cogens*) norm of international law and, therefore, non-derogable. (Prosecutor v. Blagojevic and Jokic, ICTY, January 17, 2005)

Even if the mass killing was not committed with the *dolus specialis* to destroy the ethnic group as such, the same may still constitute the Crime Against Humanity of Extermination if the mass killing was widespread and systematic or the War Crime of Intentionally Attacking Civilians if the same took place in the context of or was associated with an armed conflict. The norm for the prevention, prosecution and punishment of crimes against humanity and war crimes are also customary norms of international and therefore binding on all States. (Prosecutor v. Stakic, ICTY, July 31, 2003)

Thus, Republic of Gordon has the obligation under international law to prosecute and punish all those involved in the mass killing of the members of the indigenous group and providing amnesty to those involved is violative of this obligation.

Hard Law vs. Soft Law (2008)

No.I b. Under the International law, differentiate hard law from soft law. (3%)

SUGGESTED ANSWER:

Hard law refers to binding international legal norms or those which have coercive character. Examples of hard law are the provisions of the:

- a. UN Charter
- b. The Vienna convention on diplomatic relations
- c. The Geneva Conventions of 1949

Soft law refers to norms that are non-binding in character. Soft law usually serves as a precursor of hard law. the Universal Declaration of Human Rights (UDHR) is one such example. It was a soft law when it was adopted by resolution of the UN General Assembly in 1948, but it has led to the development of Hard Law with the adoption of 2 binding covenants on human rights, ie., the ICCPR and ICESCR.

Examples of soft law are:



- a. **Resolutions of the UN General Assembly**
- b. **Draft of the International Law Commission.**

ALTERNATIVE ANSWER:

b) **“Hard Law” refers to international agreements formalized as treaties, established customary international law and generally accepted principles common to the major legal systems of the world.**

“Soft Law” has reference to international agreements not covered by treaties and therefore not covered by the Vienna Convention. They are sometimes referred to as “non-treaty agreements” or emerging law. In addition “Soft Law” also refers to administrative rules which guide the practice of states in relation to international organizations. (Pharmaceutical Health care Assn. vs. Duque, G.R. No. 173034, Oct. 9, 2007.)

Human Rights; Civil and Political Rights (2007)

No. II. The City Mayor issues an Executive Order declaring that the city promotes responsible parenthood and upholds natural family planning. He prohibits all hospitals operated by the city from prescribing the use of artificial methods of contraception, including condoms, pills,

intrauterine devices and surgical sterilization. As a result, poor women in his city lost their access to affordable family planning programs. Private clinics, however, continue to render family planning counsel and devices to paying clients.

(b) Is the Philippines in breach of any obligation under international law? Explain.

SUGGESTED ANSWER:

The acts of the City Mayor may be attributed to the Philippines under the principle of state responsibility Article 26 of the International Covenant on Civil and Political rights requires that Philippine law shall prohibit any discrimination and shall guarantee to all persons equal and effective protection against discrimination on any ground such as social origin, birth or other status. The Executive Order of the City Mayor discriminates against poor women.

ALTERNATIVE ANSWER:

The Philippines is in breach of its obligations under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) of which the country is a signatory. Under the CEDAW, “ State Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on basis of equality of men and women, access to health care services,



including those related to family planning” (Article 12, Section 1) Women shall likewise have “access to adequate health care facilities, including information, counseling and services in family planning.” (Article 14, Section 2[b]).

ALTERNATIVE ANSWER:

The Philippines is not in breach of any obligation under international law. The protection of the life of the unborn from conception is consistent with Article 6(1) of the Convention on the Rights of the Child, which Recognizes the inherent life of every child. While Article 24(2)(f) of the Convention of the Rights of the Child requires that States Parties to develop family planning, education, and services and Article 10(h), Article 12(2) and Article 14(b) of the Convention on the Elimination of all forms of Discrimination against Women requires that States Parties to provide access to information, advice and services in family planning, they do not prescribe any specific form of such information and services.

Human Rights; Civil and Political Rights; Freedom from Torture (2010)

No. XI. Which statement best completes the following phrase:

“Freedom from torture is a right

- a. Subject to derogation when national security is threatened
- b. Confined only during custodial investigation
- c. Which is non-derogable both during peacetime and in a situation of armed conflict
- d. Both (a) and (b)
- e. None of the above

SUGGESTED ANSWER:

C. “Freedom from torture is a right which is non-derogable both during peacetime and in a situation of armed conflict.”

Article 2(2) of the U.N. Convention Against Torture provides that “No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.”

Because of the importance of the values it protects, the prohibition of torture has evolved into a peremptory norm or jus cogens, that is, a norm that enjoys a higher rank in the international hierarchy than treaty law and even ordinary customary rules. The most conspicuous consequence of this higher rank is that the norm prohibiting torture cannot be derogated from by States through international treaties or local or special customs or even general



customary rules not endowed with the same normative force. (Prosecutor v. Furundzija, ICTY, December 10, 1998).

Int'l Court of Justice vs. Int'l Criminal Court (2010)

No. II. Compare and contrast the jurisdiction of the International Criminal Court (ICC) and International Court of Justice (ICJ). (3%)

SUGGESTED ANSWER:

The jurisdiction of the International Criminal Court (ICC) primarily deals with the prosecution of individuals for core international crimes, while the jurisdiction of the International Court of Justice (ICJ) deals with contentious proceedings between States.

As to subject matter jurisdiction (*ratione materiae*), the jurisdiction of the ICC is limited to the most serious crimes of concern to the international community as a whole, particularly:

- (a) the Crime of Genocide;
- (b) Crimes against Humanity;
- (c) War crimes; and
- (d) the Crime of Aggression. (R. Sarmiento, Public International Law Bar Reviewer, 2009 Revised Edition, p. 308).

On the other hand, the jurisdiction of the ICJ covers legal disputes which the States refer to it. This includes disputes concerning:

- (a) the interpretation of a treaty;
- (b) any question of international law;
- (c) the existence of any fact which, if established, would constitute a breach of an international obligation; and
- (d) the nature or extent of the reparation to be made for the breach of an international obligation. (Article 36, ICJ Statute)

The ICJ also has jurisdiction to give an advisory opinion on any legal question as may be requested by the General Assembly or the Security Council or on legal questions arising within the scope of the activities of other organs and specialized agencies of the U.N. upon their request and when so authorized by the General Assembly. (Article 96, U.N. Charter)

As to jurisdiction over the persons or parties (*ratione personae*), the ICC shall have the power to exercise its jurisdiction over persons for the most serious crimes of international concern, and shall be complementary to national criminal jurisdictions. (Art. 1, Rome Statute) On the other hand, only States may be parties in cases before the ICJ and their consent is needed for the ICJ



to acquire jurisdiction. (R. Sarmiento, Public International Law Bar Reviewer, 2009 Revised Edition, p. 185)

International Law Violation; Treaty (2008)

No.II. May a treaty violate international law? if your answer is in the affirmative, explain when such may happen. If you answer is in the negative, explain why? (5%)

SUGGESTED ANSWER:

Yes, a treaty may violate international law when at the time of its conclusion, it conflicts with peremptory norm of general international law (jus cogens) or if its conclusion has been procured by the threat or use of force in violation of the principles of international law embodied in the Charter of the United Nations. (Vienna Convention on the Law of Treaties, Art. 52 & 53).

ALTERNATIVE ANSWER:

Treaty may contain provisions that depart from general rules of international law provided that the provisions do not violate jus cogens, which refer to rules of peremptory norms of international law so fundamental that no nation may ignore them or attempt to contract out of them through treaties. For example, the prohibitions on the use of force, genocide and participating in a

slave trade are regarded as jus cogens. When a treaty is in conflict with a jus cogens rule, the treaty is deemed void. When a treaty is in conflict with the other rules of international law, the treaty amounts to a waiver of rights that prevents the parties from raising legal claims against other over these rules.

Opinio Juris (2012)

No. VI. President Black of the Republic of Pasensya (RP) had a telephone conversation with President Blue of the People's Republic of Conquerors (PRC). In that conversation, both leaders agreed that they will both pull-out all their vessels, civilian or otherwise, sea crafts and other ships from the hotly disputed Kalmado Shoal area within eight (8) days in order to de-escalate the situation. After eight days, all RP ships and vessels have left the area. However, several military and civilian ships carrying the PRC flag remained in the area and began construction of a dock that could provide fuel and other supplies to vessels passing by.

(d) What is opinio juris in International Law? (1%)

SUGGESTED ANSWER

To establish customary international law, two elements must concur: General state practice and opinio juris sire



necessitatis. State practice refers to the continuous repetition of the same or similar kind of acts or norms by states. Opinio juris requires that the state practice or norm be carried out in such a way as to be evidence of the belief that it is obligatory by the existence of a rule of law requiring it. (Bayan Muna vs. Romulo, 641 SCRA 244.)

Opinio Juris (2008)

No. I a. The legal yardstick in determining whether usage has become customary international law is expressed in the maxim *opinio juris sive necessitates* or *opinio juris* for short. What does the maxim mean? (3%)

SUGGESTED ANSWER:

Opinio juris sive necessitates means the common belief among states and actors that a certain practice is obligatory. This is the subjective or psychological requirement of customary law that makes state practice a binding rule of customary international law.

Principle of Attribution or Imputation (2010)

No. III. A, a British photojournalist, was covering the violent protests of the Thai Red-Shirts Movement in Bangkok. Despite

warnings given by the Thai Prime Minister to foreigners, specially journalists, A moved around the Thai capital. In the course of his coverage, he was killed with a stray bullet which was later identified as having come from the ranks of the Red-Shirts. The wife of A sought relief from Thai authorities but was refused assistance.

(A) Is there state responsibility on the part of Thailand?

SUGGESTED ANSWER:

No, there is no state responsibility on the part of Thailand because the acts of the Thai Red-Shirts were not the acts of Thailand. Under the Principle of Attribution or Imputation, a State only incurs liability for individual acts or omission which can be attributed to it. The Thai Red-Shirts are not its officials, agents, or representatives and they were not acting on the instructions of, or under the direction or control of, the Thai Government. (R. Sarmiento, Public International Law Bar Reviewer, 2009 Revised Edition, pp. 65-66)

(b) What is the appropriate remedy available to the victim's family under international law?

SUGGESTED ANSWER:

Unless the Red-Shirts become the new Government of Thailand or Thailand acknowledges and adopts the conduct of the Red-Shirts as its own, the victim's family has no appropriate remedy under



international law. Their remedy, if any, is only available under the domestic laws of Thailand by the institution of the appropriate criminal cases against the persons responsible for A's killing and the filing of an action to recover damages arising from A's death.

Principle of Auto-Limitation (2009)

No.XII. William, a private American Citizen, a university graduate and frequent visitor to the Philippines, was inside the US embassy when he got into a heated argument with a private Filipino citizen. Then, in front of many shocked witnesses, he killed the person he was arguing with. The police came, and brought him to the nearest police station. Upon reaching the station, the police investigator, in halting English, informed William of his Miranda rights, and assigned him an independent local counsel. William refused the services of the lawyer, and insisted that he be assisted by a Filipino lawyer currently based in the US. The request was denied, and the counsel assigned by the police stayed for the duration of the investigation.

William protested his arrest.

(a) He argued that since the incident took place inside the US embassy, Philippine courts have no jurisdiction because the US embassy grounds are not part of the Philippine Territory; thus, technically, no

crime under the Philippine law was committed. Is William correct? Explain your answer? (3%)

SUGGESTED ANSWER:

No, William is not correct. While Article 22 of the Vienna Convention on Diplomatic Relations provides that the premises of a diplomatic mission shall be inviolable, and may not be entered by the police or by any other agent of the receiving State, except with the consent of the Ambassador or the head of the mission, it does not alter the fact, however, that such premises are still part of Philippine territory. The concept of "exterritoriality," under which diplomatic premises are deemed to be part of the sovereign territory of the sending State, has not been adopted in the Vienna Convention. Hence, a crime committed on or within such premises by a private person like Williams who enjoys no diplomatic immunity falls within the jurisdiction of Philippine courts.

ALTERNATIVE ANSWER:

William is not correct. The premises occupied by the United States Embassy do not constitute territory of the United States but of the Philippines. Crimes committed within them are subject to the territorial jurisdiction of the Philippines. Since William has no diplomatic immunity, the Philippines



can prosecute him if it acquires custody over him (Reagan vs. Commissioner of Internal Revenue, 30 SCRA 968 [1969]).

Retorsion (2010)

No.IV. A state which resorts to retorsion in international law

- a. Must ensure that all states consent to its act
- b. Cannot curtail migration from the offending state
- c. Can expel the nationals of the offending state
- d. Should apply appropriate response within appreciable limit
- e. None of the above

Explain you answer/ (2%)

SUGGESTED ANSWER:

D. “A State which resorts to retorsion in international law should apply proportionate response within appreciable limits.”

Retorsion consists in retaliation where the acts complained of do not constitute a legal ground of offense but are rather in the nature of unfriendly acts done primarily in pursuance of legitimate State interests but indirectly hurtful to other States. (R. Sarmiento, Public International Law Bar Reviewer, 2009 Revised Edition, p. 233)

To be valid in international law, acts of retorsion should not be excessive when compared to the unfriendly acts committed by the offending State. Moreover, they should not violate a State’s obligation under Article 2(3) of the U.N. Charter to settle their disputes by peaceful means in such a manner that international peace and security and justice are not endangered.

Use of Force; Self-Defense (2009)

No. XVIII. A terrorist group called the Emerald Brigade is based in the State Asyaland. The government of Asyaland does not support the terrorist group, but being a poor country, is powerless to stop it.

The Emerald Brigade launched an attack on the Philippines firing two missiles that killed thousands of Filipinos. It then warned that more attacks were forthcoming. Through diplomatic channels the Philippines demanded that Asyaland stop the Emerald Brigade; otherwise, it will do whatever is necessary to defend itself.

Receiving reliable intelligence reports of another imminent attack by the Emerald Brigae, and it appearing that Asyaland was incapable of preventing the assault, the Philippines sent a crack commando team to Asyaland. The team stayed only for a few



hours in Asyaland, succeeded in killing the leaders and most of the members of the Emerald Brigade, then immediately returned to the Philippines.

(a) Was the Philippine action justified under the international law principle of self-defense? explain your answer (3%)

SUGGESTED ANSWER:

The Philippines action cannot be justified as self-defense. Self-defense is an act of a State by reason of an armed attack by another State. The acts of terrorism in this case were acts of private group and cannot be attributed to Asyaland, which does not support the Emerald Brigade. Article 51 of the Charter of the United Nations has no applicability, because self defense in Article 51 contemplates a response to a legitimate armed attack by a State against another State. The attack of Emerald Brigade is an attack by a private group without authority as an organ of Asyaland.

ALTERNATIVE ANSWER:

Yes, the Philippine action was justified. Article 51 of the U.N. Charter affirms the inherent right of States to individual or collective self-defense. The terrorist group Emerald Brigade had already launched actual armed attacks on the Philippines which killed thousands of Filipinos with a warning that more

attacks were forthcoming. Asyland, on the other hand, had failed to fulfill its obligations, under international law, to prevent the use of its territory for the staging of terrorist acts against the Philippines. As such, in the face of another imminent attack by the Emerald Brigade, and it appearing that Asyland was incapable of preventing the assault, the Philippines was therefore justified in resorting to military action to protect its own security as an act of self-defense.

(b) As a consequence of the foregoing incident, Asyaland charges the Philippines with violation of Article 2.4 of the United Nations Charter that prohibits “the threat or use of force against the territorial integrity or political independence of any State. The Philippines counters that its commando team neither took any territory nor interfered in the political processes of Asyaland. Which contention is correct? Reasons (3%)

SUGGESTED ANSWER:

The contention of Asyaland is correct. The Philippines violated Article 2(4) of the Charter of the United Nations, which prohibits States from the threat or use of force against territorial integrity of any State.

ALTERNATIVE ANSWER:

The contention of the Philippines is the correct one. State practice and the U.N.



Security Council's actions after 9/11 indicate a trend towards recognizing that a State that suffers large-scale violence perpetrated by non-State actors located in another State has a right to use force when (1) that other State proves unwilling or unable to reduce or eliminate the source of the violence, (2) the use of force is proportional to the threat posed by the non-State actor, and (3) the use of force is temporary and does not result in non-consensual occupation or annexation of territory.

(c) Assume that the commando team captured a member of the Emerald Brigade and brought him back to the Philippines. The Philippine Government insists that a special international tribunal should try the terrorist. On the other hand, the terrorist argues that terrorism is not an international crime and, therefore, the municipal laws of the Philippines, which recognize access of the accused to constitutional rights, should apply. Decide with reasons. (3%)

SUGGESTED ANSWER:

The terrorist should be tried in the Philippines. Section 58 of Republic Act No. 9372, the Human Security Act provides for its extraterritorial application to individual persons who, although outside the territorial limits of the Philippines, commit an act of terrorism directly against Filipino

citizens where their citizenship was a factor in the commission of the crime.

Verbal Agreement; Source of Int'l Law (2012)

No. VI. President Black of the Republic of Pasensya (RP) had a telephone conversation with President Blue of the People's Republic of Conquerors (PRC). In that conversation, both leaders agreed that they will both pull-out all their vessels, civilian or otherwise, sea crafts and other ships from the hotly disputed Kalmado Shoal area within eight (8) days in order to de-escalate the situation. After eight days, all RP ships and vessels have left the area. However, several military and civilian ships carrying the PRC flag remained in the area and began construction of a dock that could provide fuel and other supplies to vessels passing by.

(a) Assuming that President Black and President Blue both had full capacity to represent their states and negotiate with each other under their respective systems of government, and further assuming that both leaders acknowledge the existence of the conversation, is the verbal agreement via telephone binding under international law? Explain. (5%)

SUGGESTED ANSWER



The verbal agreement by telephone is binding between the parties on the basis of customary international law. (In 1992 the dispute between Denmark and Finland about the construction of a bridge was settled by a telephone conversation between the Danish and Finnish Prime Ministers. In return for payment by Denmark, Finland agreed to discontinue the case filed. (Aust, Modern Treaty Law and Practice, p.7.))

(b) Assuming the answer to (a.) is in affirmative, does that agreement constitute a Treaty under the 1969 Vienna Convention on the Law on Treaties? (2%)

SUGGESTED ANSWER

The verbal agreement does not constitute a treaty under the Vienna Convention on the Law of treaties. Article 3 requires that for an international agreement to be a treaty, it must be in written form.

(c) What are the sources of International Law? (2%)

SUGGESTED ANSWER

The following are the sources of international law:

(1) International conventions, whether general or particular, establishing rules expressly recognized by the contesting states;

(2) International custom, as evidence of a general practice accepted as law;

(3) The general principles of law recognized by civilized nation;

-End-



MULTIPLE CHOICE QUESTIONS (MCQ)

2013 Political Law Exam MCQ (October 6, 2013)

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.

SUGGESTED ANSWER:

(D), International School Alliance of Educators vs. Quisumbing 333 SCRA 13

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.

SUGGESTED ANSWER:

(D), Tinker vs. Des Moines, 396 US 503

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.

SUGGESTED ANSWER:

(C), Maquerra vs. Borra, 15 SCRA 7

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.

SUGGESTED ANSWER:

(C), Article 59 of the ICJ Statute

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.

SUGGESTED ANSWER:

(E), Note: the nearest to the accurate answer may be (C) but it proposes that EEZ cannot go beyond 200 nautical miles “from the baseline from which the outer limit of the territorial sea is measured.”

This is not correct because the baseline is the point from which the entire breadth of the territorial sea is measured pursuant to Article 57 of the UNCLOS, not only from its outer limit as indicated in Letter (C). Letter (C) excludes the entire breadth of the territorial sea of 12 n.m. from the EEZ contrary to the text of said Article 57.

If Letter (C) is followed, EEZ will only measure 200 n.m. minus 12 n.m. of the territorial sea, resulting in the EEZ measuring only 188 n.m. in breadth.

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

SUGGESTED ANSWER:

(C), Sec. 1(2) of Article III of the 1973 Constitution and Sec. 1(2) of Article IV of the 1987 Constitution

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.

SUGGESTED ANSWER:

(A), Lawyers Against Monopoly and Poverty vs. Secretary of Budget and Management, 670 SCRA 373

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.

SUGGESTED ANSWER:

(C), Sec. 5, Article X of the 1987 Constitution

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

SUGGESTED ANSWER:

(D), Sec. 13, Article VIII of the 1987 Constitution

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.

SUGGESTED ANSWER:

(A), Article IX-A of the 1987 Constitution

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. (SAP!) 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

SUGGESTED ANSWER:

(C), In re: Letters of Atty. Estelito Mendoza, 668 SCRA 11

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.

SUGGESTED ANSWERS:

(B) and (C), U.P. vs. Dizon, 679 SCRA 54

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.

SUGGESTED ANSWERS:

(A), (B), and (C) are all found in Article II of the 1987 Constitution. They are not self-executing. D is a right found in the



Bill of Rights (Section 7, Article III of the 1987 Constitution). It is self-executing and does not require legislation.

(D), The right to information is found in Article III, Section 7 of the 1987 Constitution. It is self-executory and is not a mere guideline for legislation (Legaspi vs. Civil Service Commission, 150 SCRA 530).

ALTERNATIVE ANSWER:

(E), Kilosbayan, Inc. vs. Morato, 246 SCRA 540; Article III, Section 8 includes the phrase “subject to such limitations as may be provided by law.”

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.

SUGGESTED ANSWER:

(A), Gonzales vs. Hechanova, 9 SCRA 230

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

SUGGESTED ANSWER:

(E), Engel vs. Vitale, 370 US 421

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

SUGGESTED ANSWER:

(A)

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.

SUGGESTED ANSWER:

(E), Sec. 24, Article VI of the 1987 Constitution

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.

SUGGESTED ANSWER:

(B), Sec. 20, Article VII of the 1987 Constitution

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

SUGGESTED ANSWER:

(B), Estrada vs. Escritor, 492 SCRA 1

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 third 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.

SUGGESTED ANSWER:

(D), Rodriguez vs. Tan, 91 Phil 724

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2012 Political Law Exam MCQ (October 7, 2012)

1. Constitution is defined by Cooley as:
 - a. a body of statutory, administrative and political provisions by which the three branches of government are defined;
 - b. a body of rules and maxims in accordance with which the powers of sovereignty are habitually exercised;**
 - c. a body of rules and edicts emanating from the rulings of courts and written guidelines of the executive and the legislature by which government is governed;
 - d. a body of interpretations and rules by which the three branches of government are judged for purposes of sovereign compliance with good corporate governance.

SUGGESTED ANSWER:

(b) Cooley, Constitutional Limitations, p.4

2. The three essential parts of a Constitution are:
 - a. the bill of rights, governmental organization**



and functions, and method of amendment;

- b. the preamble, the bill of rights, and provisions on checks and balances;
- c. the national territory, the declaration of principles and state policies, and the transitory provisions;
- d. the executive department, the legislative department and the judiciary.

SUGGESTED ANSWER:

(a) Nachura, Outline Reviewer in Political Law, p.3

3. The constitutional provision on initiative and referendum is not self-executory. This is so because it requires:
 - a. an implementing resolution from the COMELEC;
 - b. an implementing resolution from the Supreme Court;
 - c. **an implementing legislation;**
 - d. an implementing resolution from the party-list representative of the House of Representatives.

SUGGESTED ANSWER:

(c) Section 32, Article VI of Constitution

4. In an amendment to the constitution by "initiative and referendum", the "initiative" phase is meant that the people propose the amendments. There is a valid proposal when a proposition has received the approval of:
 - a. at least 3% of the persons of majority age of each district, and 12% of the registered voters of the region from proposal emanates;
 - b. at least 3% of the registered voters of each province and 12% of the total number of registered voters nationwide;
 - c. **at least 3% of the registered voters of each district and 12% of the total number of registered voters nationwide;**
 - d. more than 3% of the 3% of the registered voters of each district but less than 12% of the total number of registered voters nationwide.

SUGGESTED ANSWER:

(c) Section 2, Article XVII of Constitution

5. The Constitution declares that the Philippines is a republican state. Republicanism means:



- a. the form of government must be presidential;
- b. the representatives of the government are elected by the people;**
- c. sovereignty resides in the elected representatives of the government;
- d. the form of government cannot be changed by the people.

SUGGESTED ANSWER:

(b) Cruz, Philippine Political Law, 2005 ed., p.50

6. A chief characteristic of the presidential form of government is:
 - a. concentration of power in the judiciary thru the power of expanded judicial review;
 - b. supremacy of the presidency compared to the totality of powers of the legislative;**
 - c. regular periodic election of the President for a fixed term;**
 - d. unlimited term for the President for as long as elected by the people in free and honest elections.

SUGGESTED ANSWER:

(b) Free Telephone Workers Union vs. Minister of Labor and Employment, 108 SCRA 757; and (c) Section 4, Article VII of Constitution. It is suggested that either (b) or (c) may be accepted as a correct answer.

7. Which of the following best exemplifies how the system of checks and balances is carried out:
 - a. the legislature passes a law that prohibits the president from commuting a judiciary imposed sentence, as a check of the president;
 - b. the President pardons a convict as a way to set aside or modify a judgment of the judiciary;**
 - c. the judiciary overturns a pardon granted by the President as a check on executions;
 - d. the President pardons an accused after arraignment in the interest of justice.

SUGGESTED ANSWER:

(b) Section 19, Article VII of Constitution

8. Which phrase best completes the statement – The starting point of the principle of separation of powers is the assumption of the division of the



functions of government into three distinct classes:

- a. the bill of rights, state policies, and social justice and human rights;
- b. the accountability of public officers, the constitutional commissions, and the national economy and patrimony;
- c. **the self-executing provisions, the non-self-executing provisions, and the self-evident social justice provisions;**
- d. the executive, the legislative, and the judicial.

SUGGESTED ANSWER:

(c) Cruz, Philippine Political Law, 2005 ed., p.70

9. The Constitution provides that the "separation of church and state shall be inviolable." This is implemented most by the constitutional principles embodied in:
 - a. the free exercise clause;
 - b. **the non-establishment clause;**
 - c. the freedom of religious belief clause;
 - d. the freedom of religion clause.

SUGGESTED ANSWER:

(b) Section 5, Article III of Constitution

10. Which one of the following is a non-self-executing provision of the Constitution:
 - a. no law shall be passed abridging the freedom of speech;
 - b. no law shall be made respecting an establishment of religion;
 - c. no person shall be held to answer for a criminal offense without due process of law;
 - d. **the state shall encourage and support researches and studies on the arts and culture.**

SUGGESTED ANSWER:

(d) Section 15, Article XIV of Constitution

11. Basic Philippine law, in respect of the modes of acquiring citizenship, follows the rule(s) of:
 - a. jus soli and jus sanguinis;
 - b. naturalization and provides for jus soli;
 - c. **jus sanguinis and provides for naturalization;**
 - d. none of the above.

SUGGESTED ANSWER:



(c) Section 1, Article IV of Constitution

12. Dual allegiance by citizen is:

- a. inimical to the national interest and is therefore proscribed by law;
- b. inimical to the national interest and is therefore prescribed by law;
- c. **inimical to the national interest and therefore shall be dealt with by law;**
- d. inimical to the national interest and is therefore outside of coverage of law.

SUGGESTED ANSWER:**(c) Section 5, Article IV of Constitution**

13. Margarita was born in 1986 to a Filipino mother and Swedish father. She has been living and continues to live in the US for the last 20 years and has also been naturalized as a US citizen. She recently reacquired Philippine citizenship under RA 9225, the Citizenship Retention and Reacquisition Act of 2003. Can Margarita vote in the next national elections?

- a. **Yes. Dual citizens who are not residents may register under the Overseas Absentee Voting Law.**
- b. Yes. Margarita is a Filipino citizen and thus may enjoy

the right to suffrage like everyone else without registering as an overseas absentee voter.

- c. No. Margarita fails the residency requirement under Section 1, Article V of the Constitution for Filipinos.
- d. No. Dual citizens upon renunciation of their Filipino citizenship and acquisition of foreign citizenship, have practically and legally abandoned their domicile and severed their legal ties to their homeland as a consequence.

SUGGESTED ANSWER:**(a) Macalintal vs. COMELEC, 405 SCRA 614**

14. Identify which one is an invalid exercise of the legislative power:

- a. legislation by local government on purely local matters;
- b. **law granting an administrative agency the power to define policy and fix standards on price control;**
- c. law authorizing the President, in times of war or other national emergency, for



a limited period, subject to prescribed restrictions, to exercise powers necessary and proper to carry out a declared national policy;

- d. law authorizing the President to fix, within specific limits, tariff rates, import and export quotas, and other duties, within the framework of the national development program of the government.

SUGGESTED ANSWER:

(b) United States vs. ANg Tang Ho, 43 Phil. 1

15. Which one of the following theories does not support the valid delegation of authority by the Congress to an administrative agency:

- a. an administrative agency may "fill up the details" of a statute;
- b. the legislature may leave to another body the ascertainment of facts necessary to bring the law into actual operation;
- c. **an administrative agency has equal expertise with the legislature in crafting and implementing laws;**
- d. contingent legislation.

SUGGESTED ANSWER:

(c) United BF Homeowner's Association vs. BF homes, INC., 310 SCA 304

16. The rule in Article VI, Section 5 (3) of the Constitution that "Each legislative district shall comprise, as far as practicable, contiguous, compact and adjacent territory" is a prohibition against:

- a. re-apportionment;
- b. commandeering of votes;
- c. **gerrymandering;**
- d. re-districting.

SUGGESTED ANSWER:

(c) Navarro vs. Ermita, 612 SCRA 131

17. Article VI, Section 5(3) of the Constitution requires that for a city to be entitled to have at least one representative, its population shall be at least:

- a. **250,000;**
- b. 150,000;
- c. 100,000;
- d. 175,000.

SUGGESTED ANSWER:

(a) Section 5(3), Article VI of Constitution

18. A Senator or Member of the House of Representatives shall be



privileged from arrest while Congress is in session for all offenses punishable by imprisonment of not more than:

- a. life imprisonment;
- b. reclusion perpetua;
- c. six years imprisonment;**
- d. four years imprisonment.

SUGGESTED ANSWER:

(c) Section 11, Article VI of Constitution

19. No Senator or member of the House of Representatives may personally appear as counsel before:

- a. any regional court;
- b. any court of justice;**
- c. any inferior court;
- d. any appellate court.

SUGGESTED ANSWER:

(b) Section 14, Article VI of Constitution

20. Which of the following can be changed by an ordinary law enacted by Congress?

- a. Commencement of the term of office of Senators;**
- b. Date of regular election for President and Vice Presidential;**
- c. Authority to transfer appropriation;
- d. Regular election of the members of Congress.**

SUGGESTED ANSWERS:

- (a) Section 4, Article VI of Constitution;**
(b) Section 4, Article VII of Constitution;
(d) Section 8, Article VI of Constitution

21. Congress shall have the sole power to declare the existence of a state of war by vote of:

- a. three-fourths of both Houses in joint session assembled, voting jointly;
- b. two-thirds of both Houses in joint session assembled, voting jointly;
- c. two-thirds of both Houses in separate session assembled, voting jointly;
- d. two-thirds of both Houses in joint session, voting separately.**

SUGGESTED ANSWER:

(d) Section 23(2), Article VI of Constitution

22. If by the end of any fiscal year, the Congress shall have failed to pass the general appropriations bill for the ensuing fiscal year, the general appropriations law for the preceding fiscal year shall be deemed:

- a. referred;
- b. unacted;
- c. refilled;
- d. re-enacted.**



SUGGESTED ANSWER:**(d) Section 25(7), Article VI of Constitution**

23. Provisions unrelated to an appropriation bill are considered prohibited. These are called:

- a. interlopers;
- b. riders;**
- c. outriggers;
- d. add-ons.

SUGGESTED ANSWER:**(b) Garcia vs. Mata, 65 SCRA 517**

24. The requirement that "Every bill shall embrace only one subject which shall be expressed in the title thereof" prevents:

- a. rollercoaster legislation;
- b. log-rolling legislation;**
- c. rolling fields legislation;
- d. loggerhead legislation.

SUGGESTED ANSWER:**(b) Cooley, Constitutional Limitations, p.143**

25. The power of the President to veto any particular part in an appropriation revenue, or tariff bill, is called the:

- a. specific veto;
- b. revenue veto;

c. item veto;

- d. monetary veto.

SUGGESTED ANSWER:**(c) Section 27(2), Article VI of Constitution**

26. A tax is progressive when:

- a. the rate fluctuates as the tax base decreases;
- b. the rate increases as the tax base remains the same;
- c. the rate increases as the tax base increases;**
- d. the rate decreases as the tax base increases.

SUGGESTED ANSWER:**(c) Reyes vs. Almanzor, 196 SCRA 327**

27. When the Supreme Court sits en banc, cases are decided by the concurrence of a majority of the members who:

- a. actually sent in memos on matters for deliberation and called in their votes thereon;
- b. actually participated in the oral arguments and voted thereon;
- c. actually took part in the deliberations on the issues in the case and voted thereon;**



- d. actually took part in the voting thereon and took notes on the actual deliberations.

SUGGESTED ANSWER:

(c) Section 4(2), Article VII of Constitution

28. When the Supreme Court sits in division, cases can be decided by as few as a minimum of:

- a. **three votes;**
- b. four votes;
- c. five votes;
- d. six votes.

SUGGESTED ANSWER:

(a) Section 4(3), Article VII of Constitution

29. A person who has a personal and substantial interest in the case, such that he has sustained, or will sustain, direct injury as a result of its enforcement is considered to have:

- a. understanding to challenge the governmental act;
- b. **standing to challenge the governmental act;**
- c. opportunity to challenge the governmental act;
- d. familiarity to challenge the governmental act.

SUGGESTED ANSWER:

(b) People vs. Vera, 65 Phil. 56

30. Congressman Sugar Oll authored a bill called House Bill No, 0056 which legalizes jueteng. When the Bill became law (RA 10156), Fr. Nosu Gal, a priest, filed a petition seeking for the nullification of RA 10156 on the ground that it is unconstitutional as it violates Section 13, Article II, of the 1987 Constitution which states that "The state recognizes the vital role of the youth in nation-building and shall promote and protect their physical, moral, spiritual, intellectual, and social well-being". Fr. Gal filed the petition as a concerned citizen and as taxpayer. Does Fr. Gal have locus standi?

- a. **No, because Fr. Gal has no personal and substantial interest that will be prejudiced by the implementation of the law;**
- b. No, the law concerns neither citizens nor expenditure of public funds;
- c. **Yes, because the issue is of transcendental importance;**
- d. Yes, because as priest, Fr. Gal has special interest in the well-being of the youth.



SUGGESTED ANSWER:

(a) Basco vs. PAGCOR, 197 SCRA 52; and (c) Francisco vs. Houes of Representatives, 415 SCRA 44. It is suggested that either (a) or (c) may be accepted as a correct answer.

31. Where there is "the impossibility of a court's undertaking independent resolution without expressing lack of the respect due coordinate branches of government; or an unusual need for unquestioning adherence to a political decision already made; or the potentiality of embarrassment from multifarious pronouncement by various departments on a question," describes what kind of political question:

- a. adherence kind;
- b. prudential kind;**
- c. respectful kind;
- d. deference kind.

SUGGESTED ANSWER:

(b) Bernas, The 1987 Constitution of the Republic of the Philippines: A Commentary (2009 ed.), p.986

32. The "operative fact" doctrine of constitutional law is applied when a law is declared:

- a. operative;
- b. factual;

- c. constitutional;
- d. unconstitutional.**

SUGGESTED ANSWER:

(d) De Agbayani vs. Philippine National Bank, 38 SCRA 429

33. The totality of governmental power is contained in three great powers:

- a. police power, power of sequestration, power of foreign policy;
- b. power of immigration, municipal power, legislative power;
- c. executive power, legislative power, judicial power;**
- d. police power, power of eminent domain, power of taxation.**

SUGGESTED ANSWER:

(c) and (d). It is suggested either (c) or (d) may be accepted as a correct answer.

34. The most essential, insistent and the least limitable of (government) powers, extending as it does to all the great public needs, is:

- a. emergency power;
- b. police power;**
- c. legislative power;
- d. power to declare martial law.



SUGGESTED ANSWER:**(b) Edu vs. Ericta, 35 SCRA 482**

35. In the hierarchy of civil liberties, which right occupies the highest preferred position:

- a. right to academic freedom;
- b. right to a balanced and healthful ecology;
- c. right to freedom of expression and of assembly;**
- d. right to equal health.

SUGGESTED ANSWER:**(c) Philippine Blooming Mills Employees Organization vs. Philippine Blooming Mills Company, Inc., 51 SCRA 189**

36. In which of the following would there be no double jeopardy even if a subsequent case is filed?

- a. Pot is accused before the RTC of qualified theft. After innumerable postponements against Pot's wishes, he moves for dismissal for denial of the right to a speedy trial. Prosecutor objected. Dismissal granted;
- b. Pot is accused before the RTC of qualified theft. After innumerable postponements against Pot's wishes, the**

prosecutor moves for dismissal with the consent of Pot. Granted;

- c. Pot is accused before the RTC of qualified theft. After innumerable postponements against Pot's wishes, he moves for dismissal for denial of the right to a speedy trial. Prosecutor posts no objections. Dismissal granted;
- d. Pot is accused before the RTC of qualified theft. After innumerable postponements against Pot's wishes, the prosecutor moves for dismissal over the objections of Pot. Granted.

SUGGESTED ANSWER:**(b) Section 8, Rule 117 of the Rules on Criminal Procedure**

37. Under Article III, Section 2 of the Bill of Rights, which provides for the exclusion of evidence that violate the right to privacy of communication and correspondence, to come under the exclusionary rule, the evidence must be obtained by:

- a. private individuals acting on their own;
- b. government agents;**



- c. private individuals acting on orders of superiors;
- d. former high government officials.

SUGGESTED ANSWER:**(b) People vs. Albofera, 152 SCRA 123**

38. The complementing regime that best characterizes the guarantees of freedom of speech and of the press are:

- a. prior punishment and moderate punishment;
- b. prior censorship and subsequent remedies;
- c. no prior restraint and subsequent punishment;
- d. **no prior restraint and no subsequent punishment.**

SUGGESTED ANSWER:**(d) Chavez vs. Gonzales, 55 SCRA 441**

39. The free exercise and non-establishment clauses pertain to which right under the Bill of Rights:

- a. liberty of movement;
- b. liberty of abode;
- c. **religion;**
- d. life and liberty.

SUGGESTED ANSWER:**(c) Section 5, Article III of Constitution**

40. The Gangnam Style's Witnesses (whose tenets are derogatory to the Catholic Church), applied for a permit to use the public plaza and kiosk to hold their religious meeting on the occasion of their founding anniversary. Mayor Lebron allowed them to use the northwestern part of the plaza but not the kiosk (which is a few meters away from the Catholic church). Members of the Gangnam Style Witnesses claim that the act of Mayor Lebron is a violation of their freedom of assembly and religion. Is this correct?

- a. No, because this is valid exercise of police power;
- b. Yes, because the plaza being of public use can be used by anybody regardless of religious belief;
- c. **No, because historical experience shows that peace and order may be disturbed whenever two opposing religious groups or beliefs expound their dogmas;**
- d. **Yes, because there is no clear and present danger in holding a religious meeting by another religious group near a catholic church.**

SUGGESTED ANSWER:

(c) Ignacio vs. De la Cruz, 99 Phil. 346; and (d) Iglesia ni Cristo vs. CA, 259 SCRA 529. It is suggested that either (c) or (d) may be accepted as a correct answer.

41. Which one is NOT a recognized limitation to the right to information on matters of public concern:
- national security matters;
 - trade secrets and banking transactions;
 - criminal matters or classified law enforcement matters;
 - government research data used as a basis for policy development.**

SUGGESTED ANSWER:

(d) Section 7, Article III of Constitution

42. Which one of the following circumstances is NOT an element of taking under eminent domain:
- entering upon public property for a momentary period;**
 - under color of legal authority;
 - devoting it to public use;
 - as substantially to cust the owner of all beneficial ownership.

SUGGESTED ANSWER:

(a) Republic vs. Castellvi, 58 SCRA 336

43. Market value for purposes of determining just compensation in eminent domain has been described as the fair value of property:
- between one who desires to purchase and one does not desire to sell;
 - between one who desires to purchase and one who wants to delay selling;
 - between one who desires to purchase and one who desires to sell;**
 - between one who desires to purchase on terms and one who desires to sell after a period of time.

SUGGESTED ANSWER:

(c) City of Manila vs. Estrada, 25 Phil. 208

44. Under Article III, Section 12 of the Constitution, any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent, etc. The investigation referred to is called:
- preliminary investigation;**
 - summary investigation;
 - criminal investigation;**
 - custodial investigation.**



SUGGESTED ANSWER:

(a) People vs. Sunga, 339 SCRA 624; (c) Galman vs. Pamaran, 138 SCRA 294; (d) Section 12, Article III of Constitution.

45. All persons charged shall, before conviction, be bailable by sufficient sureties, except those charged with:

- a. offenses punishable by death when evidence of guilt is strong;
- b. offenses punishable by life imprisonment when evidence of guilt is strong;
- c. offenses punishable by death when evidence of guilt is weak;
- d. offenses punishable by reclusion perpetua when evidence of guilt is strong.**

SUGGESTED ANSWER:

(d) Section 13, Article III of Constitution

46. Criminal trial may proceed, notwithstanding the absence of the accused provided that he has been duly notified, and his failure to appear is unjustifiable, after:

- a. preliminary investigation;
- b. arraignment;**
- c. sentencing;
- d. prosecution has rested its case.

SUGGESTED ANSWER:

(b) Section 19, Article III of Constitution

47. The requisites of a valid trial in absentia exclude:

- a. Wherein his/her failure to appear is unjustifiable;
- b. Wherein he/she allows himself/herself to be identified by the witness in his/her absence, without further unqualified admitting that every time a witness mentions a name by which he/she is known, it shall be understood to refer to him/her;**
- c. Wherein he/she has been duly notified of the trial;
- d. Wherein the accused has already been arraigned.

SUGGESTED ANSWER:

(b) Carredo vs. People, 183 SCRA 373

48. The privilege of the writ of habeas corpus shall not be suspended except in cases of:

- a. imminent danger of invasion or rebellion when the public safety requires it;
- b. grave danger of invasion or rebellion when the public safety requires it;



- c. clear and present danger of invasion or rebellion when the public safety requires it;
- d. **invasion or rebellion when the public safety requires it.**

SUGGESTED ANSWER:

(d) Section 18, Article VII of Constitution

49. The right of the accused against self-incrimination will be violated if:

- a. **he is charged with violation of the Anti-Money Laundering Act and he was required to produce his bank passbook;**
- b. he is a public officer charged with amassing ill-gotten wealth and his statement of assets and liabilities will be presented as evidence;
- c. his gun was subjected to a ballistics test;
- d. a sample of his blood was taken if his blood type matches the blood type found at the scene of the crime.

SUGGESTED ANSWER:

(a) Khetin vs. Villareal, 42 Phil. 886

50. The death penalty shall not be imposed:

- a. unless for compelling reasons involving death penalty crimes and the executive hereafter provides for it;
- b. unless for compelling reasons involving heinous crimes and a constitutional amendment provides for it;
- c. **unless for compelling reasons involving heinous crimes and Congress hereafter provides for it;**
- d. unless for compelling reasons involving heinous crimes and the Supreme Court hereafter upholds it.

SUGGESTED ANSWER:

(c) Section 19(1), Article III of Constitution

51. An ex post facto law has been defined as one:

- a. which aggravates a crime or makes it lesser than when it was committed;
- b. which mitigates a crime or makes it lesser than when it was committed;
- c. **which aggravates a crime or makes it greater than when it was committed;**



- d. which aggravates a crime or makes it non-criminal after it was committed.

SUGGESTED ANSWER:

(c) Republic vs. Eugenio, 545 SCRA 384

52. A bill of attainder is:

- a. an executive act which inflicts punishment without tender;
- b. a judicial act which inflicts punishment without tender;
- c. **a legislative act which inflicts punishment without trial;**
- d. a legislative act which pardons punishment after tender.

SUGGESTED ANSWER:

(c) People vs. Ferrer, 48 SCRA 382

53. Which one of the following is NOT an independent Constitutional Commission under Article IX, Section 1 of the Constitution:

- a. Commission on Elections;
- b. **Commission on Human Rights;**
- c. Civil Service Commission;
- d. Commission on Audit.

SUGGESTED ANSWER:

(b) Section 1, Article IX-A of Constitution

54. The independent Constitutional Commissions enjoy:

- a. decisional autonomy;
- b. organizational autonomy;
- c. **fiscal autonomy;**
- d. quasi-judicial autonomy.

SUGGESTED ANSWER:

(c) Section 5, Article IX-A of Constitution

55. The Civil Service shall be administered by the Civil Service Commission composed of a:

- a. Chairman and a Commissioner;
- b. **Chairman and two (2) Commissioners;**
- c. Chairman and three (3) Commissioners;
- d. Chairman and four (4) Commissioners.

SUGGESTED ANSWER:

(b) Section 1(1), Article IX-B of Constitution

56. In Oposa vs. Factoran, Jr., G.R. No. 101083, July 30, 1993, the Supreme Court held that the personality of the petitioners to sue is based on the concept of:

- a. ecological responsibility;



- b. environmental accountability;
- c. intergenerational responsibility;**
- d. interdisciplinary responsibility.

SUGGESTED ANSWER:**(c) Oposa vs. Factoran, 224 SCRA 792**

57. In a unitary system of government, such as the government under the Philippine Constitution, local government can only be:

- a. an imperium in imperio;
- b. an infa-sovereign subdivision;**
- c. a sovereign nation;
- d. a sovereign entity.

SUGGESTED ANSWER:**(b) Magtajas vs. Pryce Properties Corporation, 234 SCRA 55**

58. Which one is NOT among the Constitutionally mandated grounds for impeachment of impeachable officials:

- a. culpable violation of the Constitution;
- b. treason, bribery, graft and corruption and other high crimes;
- c. betrayal of public trust;

- d. culpable violation of the duty to be at all times accountable to the people.**

SUGGESTED ANSWER:**(d) Section 2, Article XI of Constitution**

59. Which is NOT an impeachable public officer:

- a. a justice of the Supreme Court;
- b. a commissioner of the Comelec;
- c. the administrator of the Supreme Court;**
- d. the Ombudsman.

SUGGESTED ANSWER:**(c) Section 2, Article XI of Constitution**

60. Which has the exclusive power to initiate all cases of impeachment:

- a. the Senate;
- b. the House of Representatives;**
- c. the Senate President;
- d. the Speaker of the House of Representatives.

SUGGESTED ANSWER:**(b) Section 3(1), Article XI of Constitution**

61. At least one-third of all the members of the House of Representatives may file articles of impeachment by:

- a. verified bill and resolution;
- b. verified complaint and resolution;**
- c. verified notice and resolution;
- d. verified complaint and notice.

SUGGESTED ANSWER:

(b) Section 3(1), Article XI of Constitution

62. The President cannot grant pardon in cases of impeachment. He may however exercise such power when:

- a. A person convicted in an impeachment proceeding is subject to prosecution, trial and punishment in an ordinary criminal action;**
- b. A person convicted in an impeachment proceeding is granted an absolute pardon;
- c. A person convicted in an impeachment proceeding files his appeal before the Supreme Court;
- d. None of the above.

SUGGESTED ANSWER:

(a) Section 19, Article VII of Constitution

63. A public officer impeached and removed from office shall:

- a. nevertheless be immune from prosecution, trial and punishment according to law;
- b. nevertheless be liable and subject to prosecution, trial and punishment under the Anti-Graft and Corrupt Practices Act;
- c. nevertheless be liable and subject to prosecution, trial and punishment according to law;**
- d. nevertheless be liable and subject to prosecution, trial and punishment only for criminal acts under the law.

SUGGESTED ANSWER:

(c) Section 3(7), Article XI of Constitution

64. The Ombudsman and his deputies are appointed by the President from a list prepared by:

- a. the Integrated Bar of the Philippines;
- b. the Commission on Appointments;
- c. the Judicial and Bar Council;**
- d. the Supreme Court.

SUGGESTED ANSWER:



(c) Section 9, Article XI of Constitution

65. SALN means:

- a. Summary of assets, liabilities and net worth;
- b. Statement of assets in banks, liabilities and net worth;
- c. Statement of assets, liabilities and net worth;**
- d. Statement of personal assets, liabilities and net worth.

SUGGESTED ANSWER:**(c) Section 17, Article XI of Constitution**

66. The independent economic planning agency of the Government as provided for by the Constitution is the:

- a. National Privatization Office;
- b. National Productivity Commission;
- c. National Economic Development Authority;**
- d. National Economic Council.

SUGGESTED ANSWER:**(c) Section 9, Article XII of Constitution**

67. The Independent Central Monetary Authority of the Government is the:

- a. Bankers Association of the Philippines;

b. Philippine Mission of the International Monetary Fund;

c. Central Bank of the Philippines;

d. World Bank, Philippine Affiliate.

SUGGESTED ANSWER:**(c) Section 20, Article XII of Constitution**

68. The President may contract or guarantee foreign loans on behalf of the Republic of the Philippines only upon prior concurrence of the:

- a. House of Representatives;
- b. Senate;
- c. Central Bank;
- d. Monetary Board.**

SUGGESTED ANSWER:**(d) Section 20, Article VII of Constitution**

69. Bona fide associations of citizens which demonstrate capacity of promote the public interest and with identifiable leadership, membership, and structure are:

- a. independent party-list organizations;
- b. independent sectoral organizations;
- c. independent indigenous organizations;



d. independent people's organizations.

SUGGESTED ANSWER:

(d) Section 15, Article XIII of Constitution

70. The principal function of the Commission on Human Rights is:

- a. issue writs of injunction/restraining orders;
- b. investigatory;**
- c. quasi-judicial;
- d. rule-making.

SUGGESTED ANSWER:

(b) Section 18(1), Article XIII of Constitution

71. Optional religious instruction in public elementary and high schools is allowed provided it be:

- a. without additional overtime cost to Government;
- b. without additional cost to Government;**
- c. without additional cost for religious books to Government;
- d. without additional power consumption costs to Government.

SUGGESTED ANSWER:

(b) Section 3(3), Article XIV of Constitution

72. Academic freedom shall be enjoyed:

- a. in all public institutions;
- b. in all elementary and high schools;
- c. in all schools;
- d. in all institutions of higher learning.**

SUGGESTED ANSWER:

(d) Section 5(2), Article XIV of Constitution

73. Under Article 38(1) of the Statute of the International Court of Justice, which one of the following is NOT considered a source of international law:

- a. international conventions;
- b. international custom;
- c. international humanitarian law;**
- d. general principles of law.

SUGGESTED ANSWER:

(c) Article 38 of Statute of International Court of Justice (Int'l humanitarian law is embodied in both customary and conventional int'l law. (Fleck, the Handbook of Int'l Humanitarian Law, 2nd ed., p.11)



74. In international law, it is a norm which States cannot derogate or deviate from their agreements:

- a. terra nullius;
- b. opinio juris;
- c. jus cogens;**
- d. jus cogens.

SUGGESTED ANSWER:

(c) Article 53 of Vienna Convention on the Law of Treaties

75. In international law, the status of an entity as a State is accepted by other States through this act. It is the "act by which another State acknowledges that the political entity recognized possesses the attributes of statehood."

- a. accession;
- b. recognition;**
- c. acknowledgment;
- d. attribution.

SUGGESTED ANSWER:

(b) Brownlie, Principles of Public International Law, 7th ed., p.86

76. An act or process by which a State, in compliance with a formal demand or request, surrenders to another State an alleged offender or fugitive criminal who has sought refuge in the territory of the first State, in

order to stand trial or complete his prison term:

- a. extramediation;
- b. exterritoriality;
- c. extradition;**
- d. extraterritoriality.

SUGGESTED ANSWER:

(c) Government of the United States of America vs. Purganan, 389 SCRA 623

77. This doctrine considers the general or customary norms of international law as a part of municipal law and are to be enforced as such, without regard as to whether they are enacted as statutory or legislative rules or not:

- a. accession;
- b. incorporation;**
- c. accretion;
- d. adoption.

SUGGESTED ANSWER:

(b) Magallona, Fundamentals of Public International Law, p.523

78. Under the United Nations Conference of the Law of the Sea (UNCLOS), the extent of the contiguous zone is:

- a. 3 nautical miles from the lowest water mark;
- b. 12 miles from the outer limits;



- c. **12 miles from the lowest water mark;**
- d. 200 miles from the outer limits.

SUGGESTED ANSWER:

(c) Articles 3 and 5, Convention on the Law of the Sea [Note: In the statement of the problem, the word “Conference” should read “Convention.” None of the items in this MCQ is correct. Reference to lowest water mark may not be accurate because this applies only to normal baseline, not to straight baseline. Reference to “outer limit” is misleading because it does not indicate the maritime zone of which it is the outer limit, such as the “outer limit of the territorial sea.”]

79. It is a line from which the breadth of the territorial sea and other maritime zones is measured:
- contiguous line;
 - economic line;
 - baseline;**
 - archipelagic line.

SUGGESTED ANSWER:

(c) Articles 5,6 and 7, Convention on the Law of the Sea

80. It is a maritime zone adjacent to the territorial seas where the coastal

state may exercise certain protective jurisdiction:

- baseline zone;
- contiguous zone;**
- transit zone;
- appurtenant zone.

SUGGESTED ANSWER:

(b) Article 33, Convention on the Law of The Sea

81. Butchoy installed a jumper cable.

He was prosecuted under a Makati ordinance penalizing such act. He moved for its dismissal on the ground that the jumper cable was within the territorial jurisdiction of Mandaluyong and not Makati. The case was dismissed. The City of Mandaluyong thereafter filed a case against him for theft under the Revised Penal Code (RCP). Is there double jeopardy?

- No. The first jeopardy was terminated with his express consent;
- Yes. This is double jeopardy of the second kind – prosecution for the same act under an ordinance and a law;
- Yes. He is prosecuted for the same offense which has already been dismissed by the City of Makati;



- d. **No. The second kind of double jeopardy under Section 21, Article III only contemplates conviction or acquittal which could terminate a first jeopardy.**

SUGGESTED ANSWER:

(d) Zapatos vs. People, 411 SCRA 148

82. One of the cardinal primary due process rights in administrative proceedings is that evidence must be "substantial." "Substantial evidence" is:

- a. less than a mere scintilla;
- b. less than preponderant scintilla;
- c. more than a glint of scintilla;
- d. **more than a mere scintilla.**

SUGGESTED ANSWER:

(d) Ang Tibay vs. CIR, 69 Phil. 636

83. A statutory provision requiring the President or an administrative agency to present the proposed implementing rules and regulations of a law to Congress which by itself or through a committee formed by it, retains a "right" or "power" to approve or disapprove such regulations before they may take effect, is a:

- a. legislative encroachment;

- b. **legislative veto;**
- c. **legislative oversight;**
- d. legislative scrutiny.

SUGGESTED ANSWER:

(b) and (c) Abakada Guro Party List vs. Purisima, 562 SCRA 251. It is suggested that either (b) or (c) may be accepted as a correct answer.

84. Which one of the enumeration below does not come under the Administrative Code definition of a "rule":

- a. agency statement of general applicability that implements or interprets a law;
- b. fixes and describes the procedures in or practice requirements of, an agency;
- c. includes memoranda and statements concerning internal administration;
- d. **an agency process for the formulation of a final order.**

SUGGESTED ANSWER:

(d) Section 2(2), Chapter 1, Book VII of Administrative Code

85. Under the Administrative Code, "adjudication" means:

- a. whole or any part of any agency permit, certificate, or



other form of permission, or regulation of the exercise of a right or privilege;

b. an agency process for the formulation of a final order;

- c. agency process for the formulation, amendment, or repeal of a rule;
- d. agency process involving the grant, renewal, denial, revocation or conditioning of a license.

SUGGESTED ANSWER:

(b) Section 2(9), Chapter 1, Book VII of Administrative Code

86. The requirement of the Administrative Code on "public participation" is that, if not otherwise required by law, an agency shall:

- a. in all cases, publish or circulate notices of proposed rules and afford interested parties the opportunity to submit their views prior to the adoption of any rule;
- b. in all clear and proper cases, publish or circulate notices of proposed rules and afford interested parties the opportunity to submit their

views prior to the adoption of any rule;

- c. as far as practicable, publish or circulate notices of proposed rules and afford the party-list parties the opportunity to submit their views prior to the adoption of any rule;

d. as far as practicable, publish or circulate notices of proposed rules and afford interested parties the opportunity to submit their views prior to the adoption of any rule.

SUGGESTED ANSWER:

(d) Section 9(1), Chapter 2, Book VII of Administrative Code

87. Under the Administrative Code, in the fixing of rates, no rules or final order shall be valid unless:

- a. the proposed rates shall have been submitted to the U.P. Law Center for publication at least two weeks before the first hearing thereon;
- b. the proposed rates shall have been published in the Official Gazette at least two weeks before the final hearing thereon;



- c. **the proposed rates shall have been published in a newspaper of general circulation at least two weeks before the first hearing thereon;**
- d. the proposed rates shall have been published in a newspaper of general circulation at least two weeks before the final hearing thereon.

SUGGESTED ANSWER:

(c) Section 9(2), Chapter 2, Book VII of Administrative Code

88. In the judicial review of decisions of administrative agencies, the Administrative Code requires that the review shall be made:

- a. on the basis of the pleadings taken as a whole;
- b. **on the basis of the record taken as a whole;**
- c. on the basis of the evidence taken as a whole;
- d. on the basis of the memoranda taken as a whole.

SUGGESTED ANSWER:

(b) Section 25(7), Chapter 4, Book VII of Administrative Code

89. In the judicial review of decisions of administrative agencies, the Administrative Code requires that, except when specifically provided otherwise by law:

- a. the findings of law of agency when supported by substantial evidence, shall be final;
- b. **the findings of fact of the agency when supported by preponderant evidence, shall be final;**
- c. the findings of fact of the agency when supported by substantial evidence, shall be final;
- d. the findings of law of the agency when supported by credible evidence, shall be final.

SUGGESTED ANSWER:

(b) Section 25(7), Chapter 4, Book VII of Administrative Code

90. The right of the accused to be informed is violated if:

- a. **he was accused of killing his wife by strangulation but it was proven that his wife died of poisoning;**
- b. it was proven that he killed somebody on a date different



from the one alleged in the information;

- c. he was charged with parricide but was convicted of murder, because it turned out that he and the victim were not married;
- d. the accused was charged with commission of acts of lasciviousness and was convicted of unjust vexation.

SUGGESTED ANSWER:

(a) People vs. Ortega, 276 SCRA 166

91. A criminal statute that "fails to give a person of ordinary intelligence fair notice that his contemplated conduct is forbidden by statute" is:

- a. void for fair notice;
- b. void for arbitrariness;
- c. **void for vagueness;**
- d. void conclusively.

SUGGESTED ANSWER:

(c) Estrada vs. Sandiganbayan, 369 SCRA 394

92. "Chilling effect" is a concept used in the area of constitutional litigation affecting:

- a. **protected speech;**
- b. protected executive privilege;
- c. protected legislative discretion;

- d. protected judicial discretion.

SUGGESTED ANSWER:

(a) Chavez vs. Gonzales, 545 SCRA 441

93. In the law of libel and protected speech, a person who, by his accomplishments, fame, or mode of living, or by adopting a profession or calling which gives the public a legitimate interest in his doings, his affairs, and his character, has become a:

- a. **public figure;**
- b. celebrity;
- c. public official;
- d. de facto public officer.

SUGGESTED ANSWER:

(a) Ayers Production Pty., Ltd. vs. Capulong, 160 SCRA 861

94. Which one of the following is not a proper test in cases of challenges to governmental acts that may violate protected speech:

- a. clear and present danger;
- b. balancing of interests;
- c. reasonable relation;
- d. **dangerous tendency.**

SUGGESTED ANSWER:

(d) Chavez vs. Gonzales, 545 SCRA 441

95. Commercial speech is entitled to:



- a. more protection compared to other constitutionally guaranteed expression;
- b. equal protection compared to other constitutionally guaranteed expression;
- c. **lesser protection compared to other constitutionally guaranteed expression;**
- d. none of the above.

SUGGESTED ANSWER:**(c) Iglesia ni Cristo vs. CA, 259 SCRA 529**

96. No liability can attach to a false, defamatory statement if it relates to official conduct, unless the public official concerned proves that the statement was with knowledge that it was false or with reckless disregard of whether it was false or not. This is known as what rule?

- a. libel malice rule;
- b. **actual malice rule;**
- c. malice in fact rule;
- d. legal malice rule.

SUGGESTED ANSWER:**(b) Vasques vs. CA, 314 SCRA 460**

97. It is form of entrapment. The method is for an officer to pose as a buyer. He, however, neither instigates nor induces the accused

to commit a crime because in these cases, the "seller" has already decided to commit a crime. The offense happens right before the eyes of the officer. Under these circumstances:

- a. there is a need for an administrative but not a judicial warrant for seizure of goods and arrest of the offender;
- b. there is need for a warrant for the seizure of the goods and for the arrest of the offender;
- c. **there is no need for a warrant either for the seizure of the goods or for the arrest of the offender;**
- d. the offender can be arrested but there is a need for a separate warrant for the seizure of the goods.

SUGGESTED ANSWER:**(c) People s. Bohol, 560 SCRA 232**

98. Where a police officer observes unusual conduct which leads him reasonably to conclude in light of his experience that criminal activity may be afoot and that the persons with whom he is dealing may be armed and dangerous and he identifies himself and makes



reasonable inquiries, but nothing serves to dispel his reasonable fear for his own or other's safety, he is entitled to conduct a carefully limited search of the outer clothing of such persons for weapons. Such search is constitutionally permissible and is known as a:

- a. stop and search;
- b. stop and frisk;**
- c. stop and interrogate;
- d. stop and detain.

SUGGESTED ANSWER:

(b) Terry vs. Ohio, 392 U.S.I

99. Accused was charged with slight illegal detention. On the day set for the trial, the trial court proceeded as follows:

"Court: to Q: "Do you have an attorney or are you going to plead guilty?"
the accused:

A: "I have no lawyer and i will plead guilty."

Accused was then arraigned, pleaded guilty, was found guilty and sentenced. On appeal, the Supreme Court reversed. The accused was deprived of his:

- a. right to cross-examination;

- b. right to be presumed innocent;
- c. right to counsel;**
- d. right to production of evidence.

SUGGESTED ANSWER:

(c) People vs. Holgado, 85 Phil. 752

100. The constitutional right of an accused "to meet the witnesses face to face" is primarily for the purpose of affording the accused an opportunity to:

- a. identify the witness;
- b. cross-examine the witness;**
- c. be informed of the witness;
- d. be heard.

SUGGESTED ANSWER:

(b) People vs. Montenegro, 436 SCRA 33

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2011 Political Law Exam MCQ (November 6, 2011)

(1) Filipino citizenship may be acquired through judicial naturalization only by an alien

(A) born, raised, and educated in the Philippines who has all the qualifications and none of the disqualifications to become a Filipino citizen.

(B) who has all the qualifications and none of the disqualifications to become a Filipino citizen.

(C) born and raised in the Philippines who has all the qualifications and none of the disqualifications to become a Filipino citizen.

(D) whose mother or father is a naturalized Filipino and who himself is qualified to be naturalized.

(2) Jax Liner applied for a public utility bus service from Bacolod to Dumaguete from the Land Transportation Franchising and Regulatory Board (LTFRB). BB Express opposed. LTFRB ruled in favor of Jax. BB appealed to the Secretary of the Department of Transportation and Communication (DOTC), who reversed the LTFRB decision. Jax appealed to the Office

of the President which reinstated the LTFRB's ruling. BB Express went to the Court of Appeals on certiorari questioning the decision of the Office of the President on the ground that Office of the President has no jurisdiction over the case in the absence of any law providing an appeal from DOTC to the Office of the President. Will the petition prosper?

(A) No, exhaustion of administrative remedies up to the level of the President is a pre-requisite to judicial recourse.

(B) No, the action of the DOTC Secretary bears only the implied approval of the President who is not precluded from reviewing the decision of the former.

(C) Yes, when there is no law providing an appeal to the Office of the President, no such appeal may be pursued.

(D) Yes, the doctrine of qualified political agency renders unnecessary a further appeal to the Office of the President.

(3) Where A is set for promotion to Administrative Assistant III and B to the post of Administrative Assistant II vacated by A, the appointing authority must



(A) submit to the CSC the two promotional appointments together for approval.

(B) not appoint B until the CSC has approved A's appointment.

(C) submit to the Civil Service Commission (CSC) the second appointment after its approval of the first.

(D) simultaneously issue the appointments of A and B.

(4) When a witness is granted transactional immunity in exchange for his testimony on how his immediate superior induced him to destroy public records to cover up the latter's act of malversation of public funds, the witness may NOT be prosecuted for

(A) direct contempt.

(B) infidelity in the custody of public records.

(C) falsification of public documents.

(D) false testimony.

(5) Mario, a Bureau of Customs' examiner, was administratively charged with grave misconduct and preventively suspended pending investigation. The head of office found him guilty as charged and ordered his dismissal. The decision against him was executed pending appeal. The Civil Service

Commission (CSC) subsequently found him guilty and after considering a number of mitigating circumstances, reduced his penalty to only one month suspension. Is Mario entitled to back salaries?

(A) Yes, the reduction of the penalty means restoration of his right to back salaries.

(B) No, the penalty of one month suspension carries with it the forfeiture of back salaries.

(C) No, he is still guilty of grave misconduct, only the penalty was reduced.

(D) Yes, corresponding to the period of his suspension pending appeal less one month.

(6) Althea, a Filipino citizen, bought a lot in the Philippines in 1975. Her predecessors-in-interest have been in open, continuous, exclusive and notorious possession of the lot since 1940, in the concept of owner. In 1988, Althea became a naturalized Australian citizen. Is she qualified to apply for registration of the lot in her name?

(A) Yes, provided she acquires back her Filipino citizenship.

(B) No, except when it can be proved that Australia has a counterpart



domestic law that also favors former Filipino citizens residing there.

(C) Yes, the lot is already private in character and as a former natural-born Filipino, she can buy the lot and apply for its registration in her name.

(D) No, foreigners are not allowed to own lands in the Philippines.

(7) The privacy of communication and correspondence shall be inviolable except upon lawful order of the court or when

(A) public safety or public health requires otherwise as prescribed by law.

(B) dictated by the need to maintain public peace and order.

(C) public safety or order requires otherwise as prescribed by law.

(D) public safety or order requires otherwise as determined by the President.

(8) One advantage of a written Constitution is its

(A) reliability.

(B) permanence.

(C) flexibility.

(D) expediency.

(9) An appointment held at the pleasure of the appointing power

(A) essentially temporary in nature.

(B) requires special qualifications of the appointee.

(C) requires justifiable reason for its termination.

(D) is co-extensive with the term of the public officer who appointed him.

(10) The city government filed a complaint for expropriation of 10 lots to build a recreational complex for the members of the homeowners' association of Sitio Sto. Tomas, the most populated residential compound in the city. The lot owners challenged the purpose of the expropriation. Does the expropriation have a valid purpose?

(A) No, because not everybody uses a recreational complex.

(B) No, because it intends to benefit a private organization.

(C) Yes, it is in accord with the general welfare clause.



(D) Yes, it serves the well-being of the local residents.

(11) An example of a content based restraint on free speech is a regulation prescribing

(A) maximum tolerance of pro-government demonstrations.

(B) a no rally-no permit policy.

(C) when, where, and how lawful assemblies are to be conducted.

(D) calibrated response to rallies that have become violent.

(12) The President forged an executive agreement with Vietnam for a year supply of animal feeds to the Philippines not to exceed 40,000 tons. 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?

(A) Yes, the executive agreement is contrary to our existing domestic law.

(B) No, the President is the sole organ of the government in external relations and all his actions as such form part of the law of the land.

(C) No, international agreements are sui generis which must 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.

(13) Jose Cruz and 20 others filed a petition with the COMELEC to hold a plebiscite on their petition for initiative to amend the Constitution by shifting to a unicameral parliamentary form of government. Assuming that the petition has been signed by the required number of registered voters, will it prosper?

(A) No, only Congress can exercise the power to amend the Constitution.

(B) Yes, the people can substantially amend the Constitution by direct action.

(C) Yes, provided Congress concurs in the amendment.

(D) No, since they seek, not an amendment, but a revision.

(14) The Comelec en banc cannot hear and decide a case at first instance EXCEPT when



(A) a Division refers the case to it for direct action.

(B) the case involves a purely administrative matter.

(C) the inhibition of all the members of a Division is sought.

(D) a related case is pending before the Supreme Court en banc.

(15) Each of the Constitutional Commissions is expressly described as "independent," exemplified by its

(A) immunity from suit.

(B) fiscal autonomy.

(C) finality of action.

(D) collegiality.

(16) There is double jeopardy when the dismissal of the first case is

(A) made at the instance of the accused invoking his right to fair trial.

(B) made upon motion of the accused without objection from the prosecution.

(C) made provisionally without objection from the accused.

(D) based on the objection of the accused to the prosecution's motion to postpone trial.

(17) The new Commissioner of Immigration, Mr. Suarez, issued an Office Order directing the top immigration officials to tender courtesy resignation to give him a free hand in reorganizing the agency. In compliance, Director Sison of the Administrative Department tendered his resignation in writing which Mr. Suarez immediately accepted. Director Sison went to court, assailing the validity of his courtesy resignation and Mr. Suarez's acceptance of the same. Will the action prosper?

(A) No, Director Sison tendered his resignation and it was accepted.

(B) No, estoppel precludes Director Sison from disclaiming the resignation he freely tendered.

(C) Yes, for so long as no one has yet been appointed to replace him, Director Sison may still withdraw his resignation.

(D) Yes, Director Sison merely complied with the order of the head of office; the element of clear intention to relinquish office is lacking.

(18) An administrative rule that fixes rates is valid only when the proposed rates are



(A) published and filed with the UP Law Center.

(B) published and hearings are conducted.

(C) published and posted in three public places.

(D) published and all stakeholders are personally notified.

(19) The government sought to expropriate a parcel of land belonging to Y. The law provides that, to get immediate possession of the land, the government must deposit the equivalent of the land's zonal value. The government insisted, however, that what apply are the rules of court which require an initial deposit only of the assessed value of the property. Which should prevail on this matter, the law or the rules of court?

(A) Both law and rules apply because just compensation should be fixed based on its zonal or assessed value, whichever is higher.

(B) Both law and rules apply because just compensation should be fixed based on its zonal or assessed value, whichever is lower.

(C) The law should prevail since the right to just compensation is a substantive right that Congress has the power to define.

(D) The rules of court should prevail since just compensation is a procedural matter subject to the rule making power of the Supreme Court.

(20) After X, a rape suspect, was apprised of his right to silence and to counsel, he told the investigators that he was waiving his right to have his own counsel or to be provided one. He made his waiver in the presence of a retired Judge who was assigned to assist and explain to him the consequences of such waiver. Is the waiver valid?

(A) No, the waiver was not reduced in writing.

(B) Yes, the mere fact that the lawyer was a retired judge does not cast doubt on his competence and independence.

(C) Yes, the waiver was made voluntarily, expressly, and with assistance of counsel.

(D) No, a retired Judge is not a competent and independent counsel.

(21) Governor Paloma was administratively charged with abuse of authority before the Office of the President. Pending hearing, he ran for reelection and won a second term. He then moved to dismiss the charge



against him based on this supervening event. Should the motion be granted?

(A) Yes, Governor Paloma's reelection is an expression of the electorate's obedience to his will.

(B) No, Governor Paloma's reelection cannot extinguish his liability for malfeasance in office.

(C) No, Governor Paloma's reelection does not render moot the administrative case already pending when he filed his certificate of candidacy for his reelection bid.

(D) Yes, Governor Paloma's reelection is an expression of the electorate's restored trust.

(22) The decision of the Regional Trial Court on appeals pertaining to inclusions or exclusions from the list of voters

(A) is inappealable.

(B) is subject to an action for annulment.

(C) may be brought straight to the Supreme Court.

(D) is appealable to the Commission on Elections.

(23) The equal protection clause allows valid classification of subjects that applies

(A) only to present conditions.

(B) so long as it remains relevant to the government.

(C) for a limited period only.

(D) for as long as the problem to be corrected exists.

(24) The President wants to appoint A to the vacant post of Associate Justice of the Supreme Court because of his qualifications, competence, honesty, and efficiency. But A's name is not on the list of nominees that the Judicial and Bar Council (JBC) submitted to the President. What should the President do?

(A) Request the JBC to consider adding A to the list.

(B) Decline to appoint from the list.

(C) Appoint from the list.

(D) Return the list to JBC.

(25) Courts may still decide cases that have otherwise become academic when they involve

(A) the basic interest of people.

(B) petitions for habeas corpus.

(C) acts of the Chief Executive.



(D) Presidential election protests.

(26) The right of the State to prosecute crimes by available evidence must yield to the right of

(A) the accused against self-incrimination.

(B) another State to extradite a fugitive from justice.

(C) the State to deport undesirable aliens.

(D) the complainant to drop the case against the accused.

(27) A temporary appointee to a public office who becomes a civil service eligible during his tenure

(A) loses his temporary appointment without prejudice to his re-appointment as permanent.

(B) has the right to demand conversion of his appointment to permanent.

(C) automatically becomes a permanent appointee.

(D) retains his temporary appointment.

(28) Upon endorsement from the Senate where it was first mistakenly filed, the

House of Representatives Committee on Justice found the verified complaint for impeachment against the President sufficient in form but insufficient in substance. Within the same year, another impeachment suit was filed against the President who questioned the same for being violative of the Constitution. Is the President correct?

(A) No, "initiated" means the Articles of Impeachment have been actually filed with the Senate for trial; this did not yet happen.

(B) No, the first complaint was not deemed initiated because it was originally filed with the Senate.

(C) Yes, the dismissal of the first impeachment proceeding bars the initiation of another during the same term of the President.

(D) Yes, no impeachment proceeding can be filed against the President more than once within a year.

(29) The Solicitor General declines to institute a civil action on behalf of a government agency due to his strained relation with its head, insisting that the agency's lawyers can file the action. Is the Solicitor General correct?



(A) Yes, when he deems he cannot harmoniously and effectively work with the requesting agency.

(B) No, he must, in choosing whether to prosecute an action, exercise his discretion according to law and the best interest of the State.

(C) Yes, as in any lawyer-client relationship, he has the right to choose whom to serve and represent.

(D) No, the Solicitor General's duty to represent the government, its offices and officers is mandatory and absolute.

(30) A department secretary may, with the President's consent, initiate his appearance before the Senate or the House of Representatives which

(A) must seek the concurrence of the other House before acting.

(B) must hold an executive session to hear the department secretary.

(C) may altogether reject the initiative.

(D) must accept such initiated appearance.

(31) The Metro Manila Development Authority (MMDA) passed a rule authorizing traffic enforcers to impound illegally parked vehicles, for the first offense, and confiscate their registration plates for the second. The MMDA issued this rule to implement a law that authorized it to suspend the licenses of drivers who violate traffic rules. Is the MMDA rule valid?

(A) No, since the MMDA does not have rule-making power.

(B) Yes, it is a valid exercise of the power of subordinate legislation.

(C) Yes, it is an implicit consequence of the law upon which it acted.

(D) No, the rule goes beyond the sphere of the law.

(32) Senator Bondoc was charged with murder and detained at the Quezon City Jail. He invoked, in seeking leave from the court to attend the session of the Senate, his immunity from arrest as a Senator. How should the court rule on his motion?

(A) Deny the motion unless the Senate issues a resolution certifying to the urgency of his attendance at its sessions.



(B) Grant the motion provided he posts bail since he is not a flight risk.

(C) Grant the motion so as not to deprive the people who elected him their right to be represented in the Senate.

(D) Deny the motion since immunity from arrest does not apply to a charge of murder.

(33) X, an administrative officer in the Department of Justice, was charged with grave misconduct and preventively suspended for 90 days pending investigation. Based on the evidence, the Secretary of Justice found X guilty as charged and dismissed him from the service. Pending appeal, X's dismissal was executed. Subsequently, the Civil Service Commission (CSC) reversed the Secretary's decision and the reversal became final and executory. What is the effect of X's exoneration?

(A) X is entitled to reinstatement and back salaries both during his 90 day preventive suspension and his suspension pending appeal.

(B) X is entitled to reinstatement and back salaries corresponding only to the period of delay caused by those prosecuting the case against him.

(C) X is entitled to reinstatement but not to back salaries on ground of "damnum absque injuria."

(D) X is entitled to reinstatement and back salaries during his suspension pending appeal.

(34) Courts may dismiss a case on ground of mootness when

(A) the case is premature.

(B) petitioner lacks legal standing.

(C) the questioned law has been repealed.

(D) the issue of validity of law was not timely raised.

(35) Alfredo was elected municipal mayor for 3 consecutive terms. During his third term, the municipality became a city. Alfredo ran for city mayor during the next immediately succeeding election. Voltaire sought his disqualification citing the 3 term limit for elective officials. Will Voltaire's action prosper?

(A) No, the 3 term limit should not apply to a person who is running for a new position title.

(B) Yes, the 3 term limit applies regardless of any voluntary or involuntary interruption in the service of the local elective official.



(C) Yes, the 3 term limit uniformly applies to the office of mayor, whether for city or municipality.

(D) No, the 3 term limit should not apply to a local government unit that has assumed a different corporate existence.

(36) In what scenario is an extensive search of moving vehicles without warrant valid?

(A) The police became suspicious on seeing something on the car's back seat covered with blanket.

(B) The police suspected an unfenced lot covered by rocks and bushes was planted to marijuana.

(C) The police became suspicious when they saw a car believed to be of the same model used by the killers of a city mayor.

(D) The driver sped away in his car when the police flagged him down at a checkpoint.

(37) Pre-proclamation controversies shall be heard

(A) summarily without need of trial.

(B) through trial by commissioner.

(C) ex parte.

(D) through speedy arbitration.

(38) When the President orders the Chief of the Philippine National Police to suspend the issuance of permits to carry firearms outside the residence, the President exercises

(A) the power of control.

(B) the Commander-in-Chief power.

(C) the power of supervision.

(D) the calling out power.

(39) Carlos, a foreign national was charged with and convicted of a serious crime in State X and sentenced to life imprisonment. His country applied for relief with the International Court of Justice (ICJ), arguing that State X did not inform Carlos of his right under Article 36 of the Vienna Convention to be accorded legal assistance by his government. State X, as signatory to the Vienna Convention, agreed to ICJ's compulsory jurisdiction over all disputes regarding the interpretation or application of the Vienna Convention. ICJ ruled that State X violated its obligation to provide consular notification to the foreign national's country. ICJ also required State X to review and reconsider the life sentence imposed on the foreign national. State X then wrote the United Nations informing



that it was withdrawing from the Optional Protocol on Vienna Convention and was not bound by the ICJ decision. What principle of international law did State X violate?

(A) Pacta Sunt Servanda

(B) Act of State Doctrine

(C) Protective Principle

(D) Jus Cogens

(40) An informer told the police that a Toyota Car with plate ABC 134 would deliver an unspecified quantity of ecstasy in Forbes Park, Makati City. The officers whom the police sent to watch the Forbes Park gates saw the described car and flagged it down. When the driver stopped and lowered his window, an officer saw a gun tucked on the driver's waist. The officer asked the driver to step out and he did. When an officer looked inside the car, he saw many tablets strewn on the driver's seat. The driver admitted they were ecstasy. Is the search valid?

(A) No, the rule on warrantless search of moving vehicle does not allow arbitrariness on the part of the police.

(B) Yes, the police officers had the duty to verify the truth of the information they got and pursue it to the end.

(C) Yes, the police acted based on reliable information and the fact that an officer saw the driver carrying a gun.

(D) No, police officers do not have unbridled discretion to conduct a warrantless search of moving vehicles.

(41) The Commission on Elections is an independent body tasked to enforce all laws relative to the conduct of elections. Hence, it may

(A) conduct two kinds of electoral count: a slow but official count; and a quick but unofficial count.

(B) make an advance and unofficial canvass of election returns through electronic transmission.

(C) undertake a separate and unofficial tabulation of the results of the election manually.

(D) authorize the citizens arm to use election returns for unofficial count.

(42)The President may proclaim martial law over a particular province subject to revocation or extension

(A) by Congress,subject to ratification by the Supreme Court.



(B) by the Supreme Court.

(C) by Congress alone

(D) by Congress, upon recommendation of the respective Sangguniang Panlalawigan.

(43) During his incumbency, President Carlos shot to death one of his advisers during a heated argument over a game of golf that they were playing. The deceased adviser's family filed a case of homicide against President Carlos before the city prosecutor's office. He moved to dismiss the case, invoking presidential immunity from suit. Should the case be dismissed?

(A) Yes, his immunity covers his interactions with his official family, including the deceased adviser.

(B) No, his immunity covers only work-related crimes.

(C) Yes, his immunity holds for the whole duration of his tenure.

(D) No, his immunity does not cover crimes involving moral turpitude.

(44) The School Principal of Ramon Magsaysay High School designated Maria, her daughter, as public school teacher in her school. The designation was assailed on ground of nepotism. Is such designation valid?

(A) No, because the law prohibits relatives from working within the same government unit.

(B) Yes, because Maria's position does not fall within the prohibition.

(C) No, because her mother is not the designating authority.

(D) No, because Maria is related to the supervising authority within the prohibited degree of consanguinity.

(45) The President's appointment of an acting secretary although Congress is in session is

(A) voidable.

(B) valid.

(C) invalid.

(D) unenforceable.

(46) Congress passed a bill appropriating P50 million in assistance to locally based television stations subject to the condition that the amount would be available only in places where commercial national television stations do not operate. The President approved the appropriation but vetoed the condition. Was the veto valid?

(A) Yes, since the vetoed condition may be separated from the item.



(B) Yes, the President's veto power is absolute.

(C) No, since the veto amounted to a suppression of the freedom to communicate through television.

(D) No, since the approval of the item carried with it the approval of the condition attached to it.

(47) In the exercise of its power of legislative inquiries and oversight functions, the House of Representatives or the Senate may only ask questions

(A) that the official called is willing to answer.

(B) that are relevant to the proposed legislation.

(C) to which the witness gave his prior consent.

(D) material to the subject of inquiry.

(48) An ordinance prohibits "notorious street gang members" from loitering in public places. The police are to disperse them or, if they refuse, place them under arrest. The ordinance enumerates which police officers can make arrest and defines street gangs, membership in them, and public areas. The ordinance was challenged for being vague regarding the meaning of

"notorious street gang members." Is the ordinance valid?

(A) No, it leaves the public uncertain as to what conduct it prohibits.

(B) No, since it discriminates between loitering in public places and loitering in private places.

(C) Yes, it provides fair warning to gang members prior to arrest regarding their unlawful conduct.

(D) Yes, it is sufficiently clear for the public to know what acts it prohibits.

(49) The people may approve or reject a proposal to allow foreign investors to own lands in the Philippines through an electoral process called

(A) referendum.

(B) plebiscite.

(C) initiative.

(D) certification.

(50) Where a candidate for the Senate stated in his certificate of candidacy that he is single, when he is very much married, though separated, his certificate of candidacy



(A) may be canceled.

(B) will subject him to a quo warranto action.

(C) remains valid.

(D) may be denied due course.

(51) A candidate who commits vote buying on Election Day itself shall be prosecuted by the

(A) COMELEC.

(B) Secretary of Justice.

(C) police and other law enforcement agencies.

(D) City or Provincial Prosecutor.

(52) A law authorized the Secretary of Agriculture to require the quarantine of animals that suffer from dangerous communicable diseases at such place and for such time he deems necessary to prevent their spread. The Secretary of Agriculture issued a regulation, imposing a penalty of imprisonment for 10 days on persons transporting quarantined animals without his permission. The regulation is

(A) a valid exercise of the power of subordinate legislation.

(B) invalid for being ultra vires.

(C) a valid exercise of police power.

(D) invalid for being discriminatory.

(53) Small-scale utilization of natural resources by Filipino citizens may be allowed by

(A) Congress.

(B) either the Senate or the House of Representatives.

(C) the President.

(D) the President with the consent of Congress.

(54) When the Civil Service Commission (CSC) approves the appointment of the Executive Director of the Land Transportation Franchising and Regulatory Board who possesses all the prescribed qualifications, the CSC performs

(A) a discretionary duty.

(B) a mix discretionary and ministerial duty.

(C) a ministerial duty.

(D) a rule-making duty.

(55) Xian and Yani ran for Congressman in the same district. During the canvassing, Yani objected to several returns which he said were tampered with. The board of



canvassers did not entertain Yani's objections for lack of authority to do so. Yani questions the law prohibiting the filing of pre-proclamation cases involving the election of Congressmen since the Constitution grants COMELEC jurisdiction over all pre-proclamation cases, without distinction. Is Yani correct?

(A) Yes, the Constitution grants jurisdiction to COMELEC on all pre-proclamation cases, without exception.

(B) No, COMELEC's jurisdiction over pre-proclamation cases pertains only to elections for regional, provincial, and city officials.

(C) No, COMELEC's jurisdiction over pre-proclamation cases does not include those that must be brought directly to the courts.

(D) Yes, any conflict between the law and the Constitution relative to COMELEC's jurisdiction must be resolved in favor of the Constitution.

(56) When the Supreme Court nullified the decisions of the military tribunal for lack of jurisdiction, it excluded from their coverage decisions of acquittal where the defendants were deemed to have acquired a vested right. In so doing, the Supreme Court applied

(A) the operative fact doctrine.

(B) the rule against double jeopardy.

(C) the doctrine of supervening event.

(D) the orthodox doctrine.

(57) Accused X pleaded not guilty to the charge of homicide against him. Since he was admitted to bail, they sent him notices to attend the hearings of his case. But he did not show up, despite notice, in four successive hearings without offering any justification. The prosecution moved to present evidence in absentia but the court denied the motion on the ground that the accused has a right to be present at his trial. Is the court correct?

(A) No, the court is mandated to hold trial in absentia when the accused had been arraigned, had notice, and his absence was unjustified.

(B) Yes, it remains discretionary on the court whether to conduct trial in absentia even if the accused had been arraigned and had notice and did not justify his absence.

(C) Yes, it is within the court's discretion to determine how many postponements it will grant the



accused before trying him in absentia.

(D) No, the court may reject trial in absentia only on grounds of fraud, accident, mistake, or excusable negligence.

(58) Following COMELEC Chairman Bocay's conviction for acts of corruption in the impeachment proceedings, he was indicted for plunder before the Sandiganbayan and found guilty, as charged. Can he get Presidential pardon on the plunder case?

(A) No, plunder is not a pardonable offense.

(B) No, conviction in a criminal case for the same acts charged in the impeachment proceedings is not pardonable.

(C) Yes, convictions in two different fora for the same acts, are too harsh that they are not beyond the reach of the President's pardoning power.

(D) Yes, conviction in court in a criminal action is subject to the President's pardoning power.

(59) A private person constituted by the court as custodian of property attached to secure a debt sought to be recovered in a civil proceeding is

(A) a private sheriff.

(B) a public officer.

(C) a private warehouseman.

(D) an agent of the party to whom the property will ultimately be awarded.

(60) The COMELEC en banc shall decide a motion for reconsideration of

(A) the House or Representatives and the Senate electoral tribunals.

(B) the decision of the election registrar.

(C) the decision of the COMELEC division involving an election protest.

(D) its own decision involving an election protest.

(61) Adela served as Mayor of Kasim for 2 consecutive terms. On her third term, COMELEC ousted her in an election protest that Gudi, her opponent, filed against her. Two years later, Gudi faced recall proceedings and Adela ran in the recall election against him. Adela won and served as Mayor for Gudi's remaining term. Can Adela run again for Mayor in the next succeeding election without violating the 3 term limit?



(A) No, she won the regular mayoralty election for two consecutive terms and the recall election constitutes her third term.

(B) A. No, she already won the mayoralty election for 3 consecutive terms.

(C) Yes, her ouster from office in her third term interrupted the continuity of her service as mayor.

(D) Yes, the fresh mandate given her during the recall election erased her disqualification for a third term.

(62) A child born in the United States to a Filipino mother and an American father is

(A) a Filipino citizen by election.

(B) a repatriated Filipino citizen.

(C) a dual citizen.

(D) a natural born Filipino citizen.

(63) Involuntary servitude may be required as

(A) part of rehabilitation of one duly charged with a crime.

(B) substitute penalty for one who has been duly tried for a crime.

(C) punishment for a crime where one has been duly convicted.

(D) condition precedent to one's valid arraignment.

(64) Van sought to disqualify Manresa as congresswoman of the third district of Manila on the ground that the latter is a greencard holder. By the time the case was decided against Manresa, she had already served her full term as congresswoman. What was Manresa's status during her incumbency as congresswoman?

(A) She was a de jure officer, having been duly elected.

(B) She was not a public officer because she had no valid existing public office.

(C) She was a de jure officer since she completed her term before she was disqualified.

(D) She was a de facto officer since she was elected, served, and her disqualification only came later.

(65) Whose appointment is NOT subject to confirmation by the Commission on Appointments?

(A) Chairman of the Civil Service Commission



(B) Chief Justice of the Supreme Court

(C) Chief of Staff of the Armed Forces of the Philippines

(D) Executive Secretary

(66) The system of checks and balances operates when

(A) the President nullifies a conviction in a criminal case by pardoning the offender.

(B) Congress increases the budget proposal of the President.

(C) the President does not release the countryside development funds to members of Congress.

(D) Congress expands the appellate jurisdiction of the Supreme Court, as defined by the Constitution.

(67) The price of staple goods like rice may be regulated for the protection of the consuming public through the exercise of

(A) power of subordinate legislation.

(B) emergency power.

(C) police power.

(D) residual power.

(68) Associate Justice A retires from the Supreme Court 90 days before the forthcoming Presidential election. May the incumbent President still appoint Justice A's successor?

(A) No, it will violate the Constitutional prohibition against midnight appointments.

(B) Yes, vacancies in the Supreme Court should be filled within 90 days from occurrence of the vacancy.

(C) Yes, vacancies in the Supreme Court should be filled within 90 days from submission of JBC nominees to the President.

(D) No, the incumbent President must yield to the choice of the next President

(69) The President may set a limit on the country's import quota in the exercise of his

(A) delegated power.

(B) concurring power.

(C) residual power.

(D) inherent power.

(70) Amor sued for annulment of a deed of sale of Lot 1. While the case was ongoing, Baltazar, an interested buyer, got a



Certification from Atty. Crispin, the Clerk of Court, that Lot 1 was not involved in any pending case before the court. Acting on the certification, the Register of Deeds canceled the notice of lis pendens annotated on Lot 1's title. Amor filed a damage suit against Atty. Crispin but the latter invoked good faith and immunity from suit for acts relating to his official duty, claiming he was not yet the Clerk of Court when Amor filed his action. Decide.

(A) Atty. Crispin is immune from suit since he enjoys the presumption of regularity of performance of public duty.

(B) Atty. Crispin's defense is invalid since he issued his certification recklessly without checking the facts.

(C) Atty. Crispin's defense is valid since he was unaware of the pendency of the case.

(D) As Clerk of Court, Atty. Crispin enjoys absolute immunity from suit for acts relating to his work.

(71) The Housing and Land Use Regulatory Board (HLURB) found Atlantic Homes, Inc. liable in damages arising from its delayed release of the title to the house and lot that it sold to Josephine. Atlantic appealed to the Office of the President which rendered a one page decision, affirming the attached

HLURB judgment. Atlantic challenges the validity of the decision of the Office of the President for not stating the facts and the law on which it is based. Is the challenge correct?

(A) No, the Office of the President is governed by its own rules respecting review of cases appealed to it.

(B) Yes, the decision of the Office of the President must contain its own crafted factual findings and legal conclusions.

(C) Yes, administrative due process demands that the Office of the President make findings and conclusions independent of its subordinate.

(D) No, the Office of the President is not precluded from adopting the factual findings and legal conclusions contained in the HLURB decision.

(72) A collision occurred involving a passenger jeepney driven by Leonardo, a cargo truck driven by Joseph, and a dump truck driven by Lauro but owned by the City of Cebu. Lauro was on his way to get a load of sand for the repair of the road along Fuente Street, Cebu City. As a result of the collision, 3 passengers of the jeepney died. Their families filed a complaint for damages against Joseph who in turn filed a third



party complaint against the City of Cebu and Lauro. Is the City of Cebu liable for the tort committed by its employee?

(A) The City of Cebu is not liable because its employee was engaged in the discharge of a governmental function.

(B) The City of Cebu is liable for the tort committed by its employee while in the discharge of a non-governmental function.

(C) The City of Cebu is liable in accord with the precept of respondeat superior.

(D) The City of Cebu is not liable as a consequence of its non-suitability.

(73) During promulgation of sentence, the presence of the accused is mandatory but he may appear by counsel or representative when

(A) he is charged with a light offense.

(B) he was able to cross-examine the prosecution's witnesses.

(C) he waives his right to be present.

(D) he is convicted of a bailable offense.

(74) An information for murder was filed against X. After examining the case records forwarded to him by the prosecution, the trial judge granted bail to X based on the prosecution's manifestation that it was not objecting to the grant of bail. Is the trial judge correct?

(A) Yes, the trial judge may evaluate the strength or weakness of the evidence based on the case records forwarded to him.

(B) No, the trial judge should have held a hearing to ascertain the quality of the evidence of guilt that the prosecution had against X.

(C) No, the trial judge should have conducted a hearing to ascertain first whether or not X was validly arrested.

(D) Yes, the trial judge may reasonably rely on the prosecution's manifestation that he had no objection to the grant of bail.

(75) The President CANNOT call out the military

(A) to enforce customs laws.

(B) to secure shopping malls against terrorists.



(C) to arrest persons committing rebellion.

(D) to raid a suspected haven of lawless elements.

(76) Mass media in the Philippines may be owned and managed by

(A) corporations wholly owned and managed by Filipinos.

(B) corporations 60% owned by Filipinos.

(C) corporations wholly owned by Filipinos.

(D) corporations 60% owned and managed by Filipinos.

(77) Procedural due process in administrative proceedings

(A) requires the tribunal to consider the evidence presented.

(B) allows the losing party to file a motion for reconsideration.

(C) requires hearing the parties on oral argument.

(D) permits the parties to file memoranda.

(78) The Constitution prohibits cruel and inhuman punishments which involve

(A) torture or lingering suffering.

(B) primitive and gross penalties.

(C) unusual penal methods.

(D) degrading and queer penalties.

(79) Judge Lloyd was charged with serious misconduct before the Supreme Court. The Court found him guilty and ordered him dismissed. Believing that the decision was not immediately executory, he decided a case that had been submitted for resolution. The decision became final and executory. But the losing party filed a certiorari action with the Court of Appeals seeking to annul the writ of execution issued in the case and bar Judge Lloyd from further acting as judge. Can the relief against Judge Lloyd be granted?

(A) No, Judge Lloyd's right to stay as judge may be challenged only by direct proceeding, not collaterally.

(B) Yes, the action against Judge Lloyd may be consolidated with the case before the Court of Appeals and decided by it.

(C) Yes, Judge Lloyd 's right to stay as judge may be challenged as a necessary incident of the certiorari action.



(D) No, the losing party has no standing to challenge Judge Lloyd's right to stay as judge.

(80) Executive Secretary Chua issued an order prohibiting the holding of rallies along Mendiola because it hampers the traffic flow to Malacanang. A group of militants questioned the order for being unconstitutional and filed a case against Secretary Chua to restrain him from enforcing the order. Secretary Chua raised state immunity from suit claiming that the state cannot be sued without its consent. Is the claim correct?

(A) No, public officers may be sued to restrain him from enforcing an act claimed to be unconstitutional.

(B) Yes, the order was not a proprietary act of the government.

(C) No, only the president may raise the defense of immunity from suit.

(D) Yes, Secretary Chua cannot be sued for acts done in pursuance to his public office.

(81) Anton was the duly elected Mayor of Tunawi in the local elections of 2004. He got 51% of all the votes cast. Fourteen months later, Victoria, who also ran for mayor, filed with the Local Election Registrar, a petition for recall against

Anton. The COMELEC approved the petition and set a date for its signing by other qualified voters in order to garner at least 25% of the total number of Bar Examination Questionnaire for Political Law Set A registered voters or total number of those who actually voted during the local election in 2005, whichever is lower. Anton attacked the COMELEC resolution for being invalid. Do you agree with Anton?

(A) No, the petition, though initiated by just one person, may be ratified by at least 25% of the total number of registered voters.

(B) No, the petition, though initiated by just one person may be ratified by at least 25% of those who actually voted during the 2004 local elections.

(C) Yes, the petition should be initiated by at least 25% of the total number of registered voters who actually voted during the 2004 local elections.

(D) Yes, the petition should be initiated by at least 25% of the total number of registered voters of Tunawi.

(82) Using the description of the supplier of shabu given by persons who had been arrested earlier for selling it, the police conducted a surveillance of the area



indicated. When they saw a man who fitted the description walking from the apartment to his car, they approached and frisked him and he did not object. The search yielded an unlicensed gun tucked on his waist and shabu in his car. Is the search valid?

(A) No, the man did not manifest any suspicious behavior that would give the police sufficient reason to search him.

(B) Yes, the police acted on reliable information which proved correct when they searched the man and his car.

(C) Yes, the man should be deemed to have waived his right to challenge the search when he failed to object to the frisking.

(D) No, reliable information alone, absent any proof beyond reasonable doubt that the man was actually committing an offense, will not validate the search.

(83) A law interfering with the rights of the person meets the requirements of substantive due process when

(A) the means employed is not against public policy.

(B) it is in accord with the prescribed manner of enforcement as to time, place, and person.

(C) all affected parties are given the chance to be heard.

(D) the interest of the general public, as distinguished from those of a particular case, requires such interference.

(84) A judge of the Regional Trial Court derives his powers and duties from

(A) statute.

(B) the President, the appointing power.

(C) Supreme Court issuances.

(D) the rules of court.

(85) When an elective official's preventive suspension will result in depriving his constituents of his services or representation, the court may

(A) require the investigating body to expedite the investigation.

(B) hold in abeyance the period of such suspension.

(C) direct the holding of an election to fill up the temporary vacancy.



(D) shorten the period of such suspension.

(86) When the State requires private cemeteries to reserve 10% of their lots for burial of the poor, it exercises its

(A) eminent domain power.

(B) zoning power.

(C) police power.

(D) taxing power.

(87) In the valid exercise of management prerogative consistent with the company's right to protect its economic interest, it may prohibit its employees from

(A) joining rallies during their work shift.

(B) marrying employees of competitor companies.

(C) publicly converging with patrons of competitor companies.

(D) patronizing the product of competitor companies.

(88) The President issued an executive order directing all department heads to secure his consent before agreeing to appear during question hour before Congress on matters pertaining to their departments. Is the executive order

unconstitutional for suppressing information of public concern?

(A) No, because those department heads are his alter egos and he is but exercising his right against self-incrimination.

(B) Yes, the President cannot control the initiative of the department heads to conform with the oversight function of Congress.

(C) Yes, the President cannot withhold consent to the initiative of his department heads as it will violate the principle of check and balance.

(D) No, the President has the power to withhold consent to appearance by his department heads during question hour.

(89) When the President contracted a personal loan during his incumbency, he may be sued for sum of money

(A) during his term of office.

(B) during his tenure of office.

(C) after his term of office.

(D) after his tenure of office.

(90) The Senate Blue Ribbon Committee summoned X, a former department



secretary, to shed light on his alleged illicit acquisition of properties claimed by the Presidential Commission on Good Government. X sought to restrain the Committee from proceeding with its investigation because of a pending criminal case against him before the Sandiganbayan for ill-gotten wealth involving the same properties. Decide. The investigation may

(A) not be restrained on ground of separation of powers.

(B) be restrained on ground of prejudicial question.

(C) not be restrained on ground of presumed validity of legislative action.

(D) be restrained for being sub judice.

(91) A government that actually exercises power and control as opposed to the true and lawful government is in terms of legitimacy

(A) a government of force.

(B) an interim government.

(C) a de facto government.

(D) an illegitimate government.

(92) The Special Committee on Naturalization is headed by

(A) the Secretary of Justice.

(B) the Secretary of Foreign Affairs.

(C) the National Security Adviser.

(D) the Solicitor General.

(93) The President issued Proclamation 9517 declaring a state of emergency and calling the armed forces to immediately carry out necessary measures to suppress terrorism and lawless violence. In the same proclamation, he directed the government's temporary takeover of the operations of all privately owned communication utilities, prescribing reasonable terms for the takeover. Is the takeover valid?

(A) Yes, it is an implied power flowing from the President's exercise of emergency power.

(B) No, it is a power reserved for Congress alone.

(C) Yes, subject to ratification by Congress.

(D) No, it is a power exclusively reserved for the People's direct action.

(94) A candidate for Senator must be at least 35 years old on

(A) the day he is duly proclaimed.



(B) the day the election is held.

(C) the day he files his certificate of candidacy.

(D) the day he takes his oath of office.

(95) The Office of the Special Prosecutor may file an information against a public officer for graft

(A) on its own initiative subject to withdrawal of the information by the Ombudsman.

(B) independently of the Ombudsman, except in plunder cases.

(C) only when authorized by the Ombudsman.

(D) independently of the Ombudsman.

(96) Since the Constitution is silent as to who can appoint the Chairman of the Commission on Human Rights, the President appointed W to that position without submitting his appointment to the Commission on Appointments for confirmation. Is W's appointment by the President valid?

(A) No, since the position of Chairman of the Commission was created by statute, the appointment

of its holder requires the consent of Congress.

(B) Yes, since the power to appoint in the government, if not lodged elsewhere, belongs to the President as Chief Executive.

(C) Yes, since the power to fill up all government positions mentioned in the Constitution has been lodged in the President.

(D) No, because absent any express authority under the Constitution, the power to appoint does not exist.

(97) The Chief Justice appointed X, the President's sister, as Assistant Court Administrator in the Supreme Court during the President's tenure. Claiming that the Constitution prohibits the appointment in government of a President's relative, a taxpayer asks for its nullification. Will the challenge prosper?

(A) Yes, since the appointment essentially violates the law against nepotism.

(B) Yes, because relatives of the President within the fourth civil degree cannot be appointed as heads of offices in any department of government.



(C) No, X's appointment, although in the government, is not in the Executive Department that the President heads.

(D) No, the position to which X was appointed is not among those prohibited under the Constitution.

(98) May an incumbent Justice of the Supreme Court be disbarred as a lawyer?

(A) No, it will amount to removal.

(B) No, his membership in the bar is secure.

(C) Yes, by the Supreme Court itself.

(D) Yes, by Congress in joint session.

(99) Mayor Lucia of Casidsid filed her certificate of candidacy for congresswoman of the district covering Casidsid. Still, she continued to act as mayor of Casidsid without collecting her salaries as such. When she lost the election and a new mayor assumed office, she filed an action to collect the salaries she did not get while serving as mayor even when she ran for congresswoman. Is her action correct?

(A) No, salaries can be waived and she waived them.

(B) No, because her acts as de facto officer are void insofar as she is concerned.

(C) Yes, public policy demands that a de facto officer enjoy the same rights of a de jure officer.

(D) A. Yes, it is but just that she be paid for the service she rendered.

(100) X, a Filipino and Y, an American, both teach at the International Institute in Manila. The institute gave X a salary rate of P1,000 per hour and Y, P1,250 per hour plus housing, transportation, shipping costs, and leave travel allowance. The school cited the dislocation factor and limited tenure of Y to justify his high salary rate and additional benefits. The same package was given to the other foreign teachers. The Filipino teachers assailed such differential treatment, claiming it is discriminatory and violates the equal protection clause. Decide.

(A) The classification is based on superficial differences.

(B) The classification undermines the "Filipino First" policy.

(C) The distinction is fair considering the burden of teaching abroad.



(D) The distinction is substantial and uniformly applied to each class.

References:

- ***Answers to Bar Examination Questions by the UP LAW COMPLEX (2007, 2009, 2010)***
- ***PHILIPPINE ASSOCIATION OF LAW SCHOOLS (2008)***
- ***R. Sarmiento, Bar Exam Notebooks***
- ***C.P. Sana, Suggested Answers To 2013 Political Law Bar Examination Questions; University of Pangasinan College of Law***
- ***lawphil.net***

