

**Set A**

**MULTIPLE CHOICE QUESTIONS (MCQs)  
INSTRUCTIONS**

The following questionnaire consists of one hundred (100) MCQs numbered 1 up to 100 contained in TWENTY TWO (22) pages.

Answer each question on the MCQ Answer Sheet by shading completely the appropriate circle corresponding to the letter you have chosen. (Read the Marking Instructions on the Answer Sheet)

Avoid erasures on the Answer Sheet. If you need to make corrections, erase completely the answer you want to change.

Do not explain your answers in the MCQ portion of the exam. You will not earn any credit for that.

Keep the Answer Sheet clean. Do not make unnecessary marks on it. Do not fold, roll, scratch, crumple or tear it.

You may write on the questionnaire and use it as scratch paper but make sure to transfer your answer to the Answer Sheet. Provide ample time to transfer the answers if you choose to do this.

Answer first the MCQs completely before going to the essay-type questions.

**HAND IN YOUR ANSWER SHEET. THERE IS NO NEED TO RETURN THIS QUESTIONNAIRE TO THE HEAD WATCHER.**

**GOODLUCK!!!**

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**MARTIN S. VILLARAMA, JR.**

*Chairperson*

*2012 Bar Examinations Committee*

**PLEASE CHECK THAT THIS SET CONTAINS TWENTY THREE (23) PAGES (INCLUDING THIS PAGE).**

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

<b>POLITICAL AND INTERNATIONAL LAW</b>
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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.

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.

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.

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.

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.
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.
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.
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.
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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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

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

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.

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.

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.

27. When the Supreme Court sits en banc, cases are decided by the concurrence of a majority of the members who:
- actually sent in memos on matters for deliberation and called in their votes thereon;
  - actually participated in the oral arguments and voted thereon;
  - actually took part in the deliberations on the issues in the case and voted thereon;
  - actually took part in the voting thereon and took notes on the actual deliberations.
28. When the Supreme Court sits in division, cases can be decided by as few as a minimum of:
- three votes;
  - four votes;
  - five votes;
  - six votes.
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:
- understanding to challenge the governmental act;
  - standing to challenge the governmental act;
  - opportunity to challenge the governmental act;
  - familiarity to challenge the governmental act.
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?
- No, because Fr. Gal has no personal and substantial interest that will be prejudiced by the implementation of the law;
  - No, the law concerns neither citizens nor expenditure of public funds;
  - Yes, because the issue is of transcendental importance;
  - Yes, because as priest, Fr. Gal has special interest in the well-being of the youth.
31. Where there is "the impossibility of a courts 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 potentially 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.

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

- a. operative;
- b. factual;
- c. constitutional;
- d. unconstitutional.

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.

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.

35. 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.

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 Pots 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 Pots 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 Pots 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 Pots wishes, the prosecutor moves for dismissal over the objections of Pot. Granted.

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.

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.

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.

40. The Gangnam Styles 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.

41. Which one is NOT a recognized limitation to the right to information on matters of public concern:

- a. national security matters;
- b. trade secrets and banking transactions;
- c. criminal matters or classified law enforcement matters;
- d. government research data used as a basis for policy development.

42. Which one of the following circumstances is NOT an element of taking under eminent domain:

- a. entering upon public property for a momentary period;
- b. under color of legal authority;
- c. devoting it to public use;
- d. as substantially to cust the owner of all beneficial ownership.

43. Market value for purposes of determining just compensation in eminent domain has been described as the fair value of property:

- a. between one who desires to purchase and one does not desire to sell;

- b. between one who desires to purchase and one who wants to delay selling;
- c. between one who desires to purchase and one who desires to sell;
- d. between one who desires to purchase on terms and one who desires to sell after a period of time.

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:

- a. preliminary investigation;
- b. summary investigation;
- c. criminal investigation;
- d. custodial investigation.

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.

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.

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.

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.

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.

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.

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.

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.

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.

54. The independent Constitutional Commissions enjoy:

- a. decisional autonomy;
- b. organizational autonomy;
- c. fiscal autonomy;
- d. quasi-judicial autonomy.

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.

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.

57. In a unitary system of government, such as the government under the Philippine Constitution, local government can only be:
- an imperium in imperio;
  - an infa-sovereign subdivision;
  - a sovereign nation;
  - a sovereign entity.
58. Which one is NOT among the Constitutionally mandated grounds for impeachment of impeachable officials:
- culpable violation of the Constitution;
  - treason, bribery, graft and corruption and other high crimes;
  - betrayal of public trust;
  - culpable violation of the duty to be at all times accountable to the people.
59. Which is NOT an impeachable public officer:
- a justice of the Supreme Court;
  - a commissioner of the Comelec;
  - the administrator of the Supreme Court;
  - the Ombudsman.
60. Which has the exclusive power to initiate all cases of impeachment:
- the Senate;
  - the House of Representatives;
  - the Senate President;
  - the Speaker of the House of Representatives.
61. At least one-third of all the members of the House of Representatives may file articles of impeachment by:
- verified bill and resolution;
  - verified complaint and resolution;
  - verified notice and resolution;

d. verified complaint and notice.

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.

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.

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.

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.

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.

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.

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.

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 peoples organizations.

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.

71. Optional religious instruction in public elementary and high schools is allowed provided it be:
- without additional overtime cost to Government;
  - without additional cost to Government;
  - without additional cost for religious books to Government;
  - without additional power consumption costs to Government.
72. Academic freedom shall be enjoyed:
- in all public institutions;
  - in all elementary and high schools;
  - in all schools;
  - in all institutions of higher learning.
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:
- international conventions;
  - international custom;
  - international humanitarian law;
  - general principles of law.
74. In international law, it is a norm which States cannot derogate or deviate from their agreements:
- terra nullius;
  - opinio juris;
  - jus cogens;
  - jus cogentus.
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."
- accession;
  - recognition;

c. acknowledgment;

d. attribution.

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.

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.

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.

79. It is a line from which the breadth of the territorial sea and other maritime zones is measured:

a. contiguous line;

b. economic line;

c. baseline;

d. archipelagic line.

80. It is a maritime zone adjacent to the territorial seas where the coastal state may exercise

certain protective jurisdiction:

- a. baseline zone;
- b. contiguous zone;
- c. transit zone;
- d. appurtenant zone.

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?

- a. No. The first jeopardy was terminated with his express consent;
- b. Yes. This is double jeopardy of the second kind prosecution for the same act under an ordinance and a law;
- c. 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.

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.

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.

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.
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.
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.
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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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 others 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.

99. Accused was charged with slight illegal detention. On the day set for the trial, the trial court proceeded as follows:

"Court: to the accused: Q: "Do you have an attorney or are you going to plead guilty?"

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.
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.

**- NOTHING FOLLOWS -**

HAND IN YOUR ANSWER SHEET.

**THERE IS NO NEED TO RETURN THIS QUESTIONNAIRE TO HEAD WATCHER.**

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**2012 BAR EXAMINATIONS  
POLITICAL AND INTERNATIONAL LAW**

7 October 2012

10 A.M.-12 NN.

**Set B**

**ESSAY TYPE QUESTIONS  
INSTRUCTIONS**

The following questionnaire consists of ten (10) questions (numbered I to X) contained in FIVE (5) pages.

Begin your answer to each numbered question on a separate page; an answer to a sub-question/s under the same number may be written continuously on the same page and succeeding pages until completed.

Answer the question directly and concisely. Do Not repeat the question. Write legibly.

**HAND IN YOUR NOTEBOOK. THERE IS NO NEED TO RETURN THIS QUESTIONNAIRE TO THE HEAD WATCHER.**

GOOD LUCK!!!

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**MARTIN S. VILLARAMA, JR.**  
*Chairperson*  
*2012 Bar Examinations Committee*

**PLEASE CHECK THAT THIS SET CONTAINS SIX (6) PAGES (INCLUDING THIS PAGE).**

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

<b>POLITICAL AND INTERNATIONAL LAW</b>
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**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%)
- 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%)

**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%)
- b. What is the purpose of Impeachment? Does conviction prevent further prosecution and punishment? Explain. (3%)
- c. Enumerate the grounds for impeachment. Is graft and corruption a ground for impeachment? (2%)

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

### 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%)
- 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%)
- c. What is the composition of the PET? (2%)
- d. What is judicial power? Explain Briefly. (2%)

### 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%)

- 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 officials discharge of his duties and functions? Explain. (3%)
- c. Who are required by the Constitution to submit a declaration under oath of his assets, liabilities, and net worth? (2%)

## VI.

President Black of the Republic of Pasensya (RP) had a telephone conversation with President Blue of the Peoples 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%)
- 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%)
- c. What are the sources of International Law? (2%)
- d. What is *opinio juris* in International Law? (1%)

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

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

### VIII.

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

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

### X.

- a. What do you understand by the term "heirarchy of civil liberties"? Explain. (5%)
- b. Distinguish fully between the "free exercise of religion clause" and the "non-establishment of religion clause". (3%)
- c. When can evidence "in plain view" be seized without need of a search warrant? Explain. (2%)

**- NOTHING FOLLOWS -**

HAND IN YOUR ANSWER SHEET.

**THERE IS NO NEED TO RETURN THIS QUESTIONNAIRE TO THE HEAD WATCHER.**

