

INSTRUCTIONS

This questionnaire consists of ten (10) numbers contained in seven (7) pages. Read each question very carefully. Answer *legibly, clearly, and concisely*. Start each number on a separate page; an answer to a sub-question under the same number may be written continuously on the same page and immediately succeeding pages until completed. Do not repeat the question. A mere "Yes" or "No" answer without any corresponding discussion will not be given any credit.

HAND IN YOUR NOTEBOOK WITH THIS QUESTIONNAIRE

GOOD LUCK!!!

Signed **ANGELINA S. GUTIERREZ**

Chairperson

20006 Bar Examination Committee

PLEASE CHECK THE NUMBER OF PAGES IN THIS SET

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POLITICAL AND PUBLIC INTERNATIONAL LAW

- I -

1. What do you mean by the "Calling-out Power" of the President under Section 18, Article VII of the Constitution? 5%
2. On February 24, 2006, President Gloria Macapagal-Arroyo issued Proclamation No.1017 declaring a state of national emergency. Is this Proclamation constitutional? Explain. 2.5%
3. During the effectivity of this Proclamation, Gener, Lito, and Bong were arrested by the police for acts of terrorism. Is the arrest legal? Explain. 2.5%

- II -

The Samahan Ng Mga Mahihirap (SM) filed with the Office of the City Mayor" of Manila an application for a permit to hold a rally on Mendiola Street on September 5, 2006 from 10:00 a.m. to 3:00 p.m. to protest the political killings of journalists. However, the City Mayor denied their application on the ground that a rally at the time and place applied for will block the traffic in the San Miguel and Quiapo Districts. He suggested the Liwasang Bonifacio, which has been designated a Freedom Park, as venue for the rally.

1. Does the SM have a remedy to contest the denial of its application for a permit? 2.5%
2. How should a wage distortion be settled?
3. Does the availability of a Freedom Park justify the denial of SM's application for a permit? 2.5%

4. Assuming that despite the denial of SM's application for a permit, its members hold a rally, prompting the police to arrest them. '- Are the arrests without judicial warrants lawful? 2.5%

- III -

The President issued Proclamation No.1018 placing the Philippines under Martial Law on the ground that a rebellion staged by lawless elements is endangering the public safety .Pursuant to the Proclamation, suspected rebels were arrested and detained and military tribunals were set up to try them. Robert dela Cruz, a citizen, filed with the Supreme Court a petition questioning the validity of Proclamation No.1018.

1. Does Robert have a standing to challenge Proclamation No.1018? Explain. 2.5%
2. In the same suit, the Solicitor General contends that under the Constitution, the President as Commander-in-Chief, determines whether the exigency has arisen requiring the exercise of his power to declare Martial Law and that his determination is conclusive upon the courts. How should the Supreme Court rule? 2.5%
3. The Solicitor General argues that, in any event, the determination of whether the rebellion poses dangers to public safety involves a question of fact and the Supreme Court is not a trier of facts. What should be the ruling of the Court? 2.5%
4. Finally, the Solicitor General maintains that the President reported to Congress such proclamation of Martial Law, but Congress did not revoke the proclamation. What is the effect of the inaction of Congress on the suit brought by Robert to the Supreme Court? 2.5%

- IV -

State whether or not the following laws are constitutional. Explain briefly.

1. A law prohibiting Chinese citizens from engaging in retail trade. 2%
2. A law denying persons charged with crimes punishable by *reclusion perpetua* or death the right to bail. 2%
3. A law fixing the terms of local elective officials, other than *barangay officials*, to 6 years. 2%
4. A law changing the design of the Philippine flag. 2%
5. A law creating a state corporation to exploit, develop, and utilize compressed natural gas. 2%

- V -

1. What is the function of the Senate Electoral Tribunal and the House of Representatives Electoral Tribunal? 2.5%

2. What is the composition of each? 2.5%
3. Differentiate an election protest from an action for quo warranto. 2.5%
4. What is a quasi-judicial body or agency? 2.5%

- VI -

1. a) What is the principal identifying feature of a presidential form of government? Explain. 2.5%
b) What are the essential characteristics of a parliamentary form of government? 2.5%
2. What Constitutional provisions institutionalize the principle of civilian supremacy? 2.5%
3. Does a Permit to Carry Firearm Outside Residence (PTCFOR) constitute a property right protected by the Constitution? 2.5%

- VII -

Select the best answer and explain.

1. An accused's right against self-incrimination is violated in the following cases: 5%
 - a. When he is ordered by the trial court to undergo a paraffin test to prove he is guilty of murder;
 - b. When he is compelled to produce his bankbooks to be used as evidence against his father charged with plunder;
 - c. When he is ordered to produce a sample of his handwriting to be used as evidence that he is the author of a letter wherein he agreed to kill the victim;
 - d. When the president of a corporation is subpoenaed to produce certain documents as proofs he is guilty of illegal recruitment.
2. The legislature may abolish this body: 5%
 - a. Commission on Appointments
 - b. Ombudsman
 - c. Judicial and Bar Council
 - d. Court of Tax Appeals
 - e. Commission on Audit

- VIII -

1. Atty. Emily Go, a legitimate daughter of a Chinese father and a Filipino mother, was born in 1945. At 21, she elected Philippine citizenship and studied law. She passed the bar examinations and engaged in private practice for many years. The Judicial and Bar Council nominated her as a candidate for the position of Associate Justice of the Supreme Court. But her nomination is being contested by Atty. Juris Castillo, also an aspirant to the position. She claims that Atty. Emily Go is not a natural-born citizen, hence, not qualified to be appointed to the Supreme Court. Is this contention correct? 5%
2. Atty. Richard Chua was born in 1964. He is a legitimate son of a Chinese father and a Filipino mother. His father became a naturalized Filipino citizen when Atty. Chua was still a minor. Eventually, he studied law and was allowed by the Supreme Court to take the bar examinations, subject to his submission to the Supreme Court proof of his Philippine citizenship. Although he never complied with such requirement, Atty. Chua practiced law for many years until one Noel Eugenio filed with the Supreme Court a complaint for disbarment against him on the ground that he is not a Filipino citizen. He then filed with the Bureau of Immigration an affidavit electing Philippine citizenship. Noel contested it claiming it was filed many years after Atty. Chua reached the age of majority. Will Atty. Chua be disbarred? Explain. 5%

- IX -

1. Where is the seat of the International Court of Justice? 1%
2. How many are its members? 1 %
3. What is the term of their office? 1 %
4. Who is its incumbent president? 1 %
5. What is his/her nationality? 1 %
6. In 1980, the United States filed with the International Court of Justice a complaint against Iran alleging that the latter is detaining American diplomats in violation of International Law. Explain how the International Court of Justice can acquire jurisdiction over these contending countries. 5%

- X -

1. How is state sovereignty defined in International Law? 2.5%
2. Is state sovereignty absolute? 2.5%
3. What is the principle of auto-limitation? 2.5%
4. What is the relationship between reciprocity and the principle of auto-limitation? 2.5%

NOTHING FOLLOWS.