

## **BAR EXAMS UPDATE**

**November 25, 2010**

The following were among the matters taken up during the dialogue between the Officers and Members of the Philippine Association of Law Schools and Justice Roberto A. Abad, Chairman of the 2011 Bar Examinations held in Tagbilaran, Bohol, on November 20, 2010.

### **Random Selection of Topic Items for the MCQs**

There is a principle in statistical data-gathering called “random sampling.” Take small random samples from a group (your universe) and you will get a good picture of what makes up the group. They did random sampling in the last elections.

Survey firms asked just 2,500 randomly chosen voters their preferences and, based on the answers, those firms announced who were leading among the candidates nationwide and by how much. The survey claimed a possible error of only 3% from reality. And they proved right in their claims.

Testing the students for what they learned is a form of statistical sampling. When you have taught your students 1,000 principles in Evidence, you usually pick out 10 principles and use these to test them. If a student gets 80% correct, you assume that he has learned at least 80% of the 1,000 principles you taught him.

You are probably right, but the level of your accuracy is not high because you took just a small sample, 10, and you did not do random sampling, which would have improved the chances that you are right.

How can we improve the chances of our getting fairly accurate results in the bar exams? Let us assume that ideally bar candidates should know 5,000 principles (our universe) in Remedial Law. We will ask them 100 multiple choice questions, instead of just 10, to increase the statistical chances that the result would be fairly accurate. But, how do we choose the 100 questions or items from our data bank at random, and avoid leaving the choice to the bias of the examiner?

We need to build up in our Data Bank the things that a candidate ought to know in a particular bar subject. So we plan to put about 2,000 topic items in a basket from which we can later draw 300 such items for construction into 200 MCQs. We have so far put in our Data Bank our COVERAGE INDEX. This is the coverage of the bar exams by subject as published in the Supreme Court website.

But the topics in our Coverage Index are still few and too broad for writing into the needed MCQs. For example, the Coverage Index in Remedial law has the following topic items:

- I. General principles
  - A. Concept of remedial law
    - xxx                      xxx                      xxx
- III. Civil Procedure
  - B. Motions
    - 3. Motion to Dismiss
      - a. Grounds

Looking at the above, the topic item “Concept of remedial law” appears to have the same importance as the topic item “Grounds for motion to dismiss.” But there are 10 grounds for a motion to dismiss, each one important enough for developing into an MCQ. If we make a random selection from the various topic items in the Coverage Index, the topic item “Concept of remedial law” has the same one chance of being chosen as the topic item “grounds for a motion to dismiss” when the latter item has greater possibilities for being developed into good MCQs.

To remedy the disproportion, we are building up in our Data Bank a COVERAGE ROLL, which is an expanded version of the Coverage Index, to include smaller but significant sub-topic items. For example, we can expand the single topic item “Civil procedure; Motion to Dismiss; Grounds” by adding “improper venue” and further down the line, “waiver of (improper venue).” Thus, we create additional topic items covering each of the other 9 grounds for motion to dismiss.

But we have another problem. Three topic items in Remedial Law might appear in the Coverage Roll like this:

- 1. General principles; concept of remedial law
  - xxx                                      xxx                                      xxx

29. Jurisdiction of Courts; Supreme Court; petition  
for review of CA decision

xxx

xxx

xxx

97. Civil procedure; motion to dismiss; grounds;  
improper venue; waiver of

xxx

xxx

xxx

Does the knowledge of the three topic items above have the same value for a beginning practitioner? The answer is of course no. You might forget the correct significance of the term “remedial law” but, if you go into practice, you must not forget the jurisdiction of courts and the grounds for dismissal of any complaint you might file in court.

Our solution is that the examiner or an expert in the covered law subject shall give every topic item in the Coverage Roll a numerical weight:

1 – For topic items the candidate should be familiar with

2 – For topic items he needs to be proficient with

3 – For topic items that often generate disputes regarding their applications.

A topic item with 1 value will be given 1 chance of being drawn during the random selection for MCQs. Items with 2 or 3 values will be given 2 or 3 chances.

For this purpose, we shall build up in our Data Bank a RAFFLE LIST. This is a reformed list of every topic item in the Coverage Roll, numbered consecutively, and multiplied by value for the purpose of random selection.

Thus --

1. General principles; concept of remedial law (1)

xxx

xxx

xxx

29. Jurisdiction of Courts; Supreme Court; petition  
for review of CA decision (2)

30. Jurisdiction of Courts; Supreme Court; petition  
for review of CA decision (2)

xxx

xxx

xxx

97. Civil procedure; motion to dismiss; grounds;  
improper venue; waiver of (3)

98. Civil procedure; motion to dismiss; grounds; improper venue; waiver of (3)
99. Civil procedure; motion to dismiss; grounds; improper venue; waiver of (3)

The random selection of topic items shall span the length of the coverage of each subject, taking into account the importance of each of its subdivisions to beginning practitioners. For example, in civil law, the questions should be fairly distributed among Persons, Property, Obligations and Contracts, Wills and Successions, etc., according to the percentage weight of each subdivision.

Further, Examiners shall construct the selected topic items into three kinds of MCQs:

- 1) Know-and-recall type (20%)
- 2) Understanding type (40%) and
- 3) Analysis-and-solution type (40%).

### **Use of MCQ's from Law Schools**

The MCQs contributed by law schools and other sources shall be collected, printed out, and assigned to the Bar Chairman's legal staffs for attachment to the related topic item in the Raffle List.

Each contributed MCQ shall be attached as an end note of the appropriate topic item in the Raffle List to which such MCQ belongs. Thus --

8. Civil procedure; motion to dismiss; grounds; improper venue; waiver of 3

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3 1. There is a waiver of improper venue when when the defendant a) voluntary appears before the court; b) changes residence without notice; c) files no answer; d) files a motion to dismiss on ground of improper venue.

Thus, when a topic item is selected at random and taken out of the Raffle List, it will bring with it the contributed MCQs that come under such topic item's end notes for the examiner's consideration.

### **Run-Through Test**

Law schools desiring to take part on the July 3, 2011 Run-Through test shall be required to submit the names of their incoming 4th year students, with his or her stated class standing and average grade in the last semester, who wish to volunteer for the Run-Through. Participating law schools should send no more than 20 names each not later than June 3, 2011. The Bar Chairman shall communicate to each school the names of the students selected from their school.

The chosen student-candidates shall be divided into four groups of 50 students per group for a total of 400 students. One group shall take the exam intended for the first Sunday while each of the other three groups, the exams for the second, third, and fourth Sundays.

The student-candidates in each group will be consecutively numbered from 1 to 50 based on class standing. For the purpose of computing the results of the examinations, it will be assumed that the four identically numbered students from the four groups represent but just one bar candidate.

The answer sheets in each examination shall be immediately scanned for results by a scanning machine to determine:

- (a) The grades of each candidate, represented by 4 students;
- (b) The number and percentage of candidates who reach each notch of the grade scale; and
- (c) Such other data as may be needed to help the Court establish the reasonable passing grade for MCQ exams.

### **The Essay Exams**

One Readers' Panel shall be constituted to grade the memorandum essay and another to grade the opinion essay. Each Panel shall have three or four Examiners, preferably but not necessarily the examiners in the MCQ exams.

The candidate shall receive three things at the start of his morning and afternoon essay exams: a) the Test Questions; b) a Draft Pad; and c) an Answer Pad.

The cover sheet of the Test Questions shall contain the following:

Instructions:

*You are presented with a hypothetical case plus research materials (provisions of law and jurisprudence) that you may want to use in your work.*

*Choose the side of the dispute that you want to uphold and defend and prepare a trial memorandum in support of your side.*

*Omit the case caption.*

*Do not write more than four arguments.*

*You have been given, apart from this Test Question, a Draft Pad, and an Answer Pad.*

*Use the Draft Pad for making a draft of your memorandum. This will permit you to freely edit and rewrite your work. Editing and rewriting are essential to sound legal writing.*

*The bells will be rung one hour before the end of the exam to signal the need for you to begin transferring your work to your Answer Pad.*

*You may, of course, prefer to skip the preparation of a draft and write your essay directly on your Answer Pad. That is allowed.*

*Quality of writing, not length is desired.*

*You are free to jot notes or place helpful markings like underlines on the test questions and the enclosed materials.*

*Corrections even on your final essay on the Answer Pad are allowed and will not result in any deduction.*

*When the bell rings a second time to signal the end of the exam, your test questions, Draft Pad, and Essay Pad will be collected whether you are finished or not. The time pressure is a part of the exam.*

*You will not be graded for a technically right or wrong answer but for the quality of your legal advocacy.*

*The test is intended to measure your skills in:*

- 1) communicating in English -- 20%;*
- 2) sorting out the conflicting claims and extracting those facts that are relevant to the issue or issues in the case -- 15%;*
- 3) identifying the issue or issues presented -- 15%;*
- and*
- 4) constructing your arguments and persuading your reader to your point of view -- 50%*

Students and their trainers should be free to adopt what they think is the best approach to writing a memorandum or a legal

opinion. The following suggestions might, however, be helpful to candidates:

- 1) Read the problem and get a sense of what the issue or issues are;
- 2) Pick out the facts claimed by the parties that are relevant to such issue or issues and drop those that are not;
- 3) Make a brief summary of the admitted facts and those that are disputed;
- 4) State the issue or issues on which the resolution of the dispute will depend;
- 5) Prepare the arguments that support your side; and
- 6) End with the relief you want, your prayer.

The Answer Pads shall contain 20 pages of lined short bond papers. Its cover sheet shall be colored, using three color schemes for alternate distribution to discourage any attempt to swap answers. The Answer Pads shall have the size of a short bond paper. They shall each have a Cover Sheet which shall contain the following:

- a. On the topmost section of such cover sheet, where the stapler wires bind the pages, the words:

**USE AS ANSWER PAD:  
For Your Final and Edited Essay.**

- b) On the next four perforated sections of the cover sheet or the Examiners' separate Score-Sheets shall appear: (1) the Examiner's identity code; (2) the pass [ ] or fail [ ] marks; (3) the ovals for marking the grade; and (4) the warning:

**DO NOT MARK.  
FOR THE EXAMINER'S USE ONLY.**

- c) On the lowest perforated section of the cover sheet, the candidate's name and bar code.