

MACALAWI, Amer P.

**Re: RA No. 1080 Eligibility;
Shari' a Lawyers; Query**

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RESOLUTION NO. 001185

Amer P. Macalawi of the Commission on Higher Education- Autonomous Region in Muslim Mindanao (CHED-ARMM), Cotabato City, interposed the following query relative to the applicability of Republic Act No. 1080 (An Act Declaring the Bar and Board Examinations as Civil Service Examinations), quoted hereunder, as follows:

"This is a letter query respectfully seeking the legal opinion of the Civil Service Commission in connection with the legal status of the Philippines Shari'a Bar Examinations to Republic Act No. 1080, Otherwise known as 'AN ACT DECLARING THE BAR AND BOARD EXAMINATIONS AS CIVIL SERVICE EXAMINATION'. Whether such special bar passed may be automatically conferred eligibility to second level position in the government service under RA 1080.

"I clarify it for the benefit of all professional Shari'a Lawyers in the Philippines by quitting doubt of some government employers such as agencies, offices, instrumentalities, among others except the judiciary that has cognized of it.

"Philippine Shari'a Bar Examination is one being administered by the Supreme Court of the Philippines every two years for purposes of, to wit:

"1. Qualifying for the position of JUDGESHIP in the Shari'a courts.

"2. Admission to special membership in the Philippine Bar to practice to practice in the Shari'a courts (P.D. 1083)

"Presidential Decree No. 1083, Otherwise known as the "Code of Muslim Personal Laws of the Philippines" provides, inter alia, for the creation of Shari'a District Courts and Circuit Courts under the administrative supervision of the supreme court (sic).

"Pursuant to the 1987 Constitution (sic), RA 6734, Otherwise known as the Organic Act for the Autonomous Region in Muslim Mindanao was enacted into law. Under this act, Shari'a District and Circuit Courts with personal. (sic) Family and property law (sic) jurisdiction created under PD 1083 are mandated to function as provided therein (Art. IX RA 6734). In addition, a Shari'a appellate court with limited jurisdiction shall be created under the latter act.

"The supreme court (sic) promulgated on September 20, 1983 the special rules of procedure governing the Shari'a courts as

in accordance with the provisions of PD 1083 and the Philippine constitution.

"In view of the foregoing, there is a clear manifestation that a Shari'a lawyer belongs to a distinct line of profession whose primary purpose is the pursuit of a learned art in the interest of public service. Gaining livelihood is merely incidental thereof. Practicing this profession include, among others, the rendition of services requiring knowledge and the Shari'a law principle and techniques to serve the interest of another with his/her consent. Said services include judicial and extra-judicial processes.

"Therefore, the nature and purpose of the Philippine Shari'a bar Examination aforecited satisfy the pertinent provisions of RA 1080. Hence, Shari'a BAR PASSER professionally known as SHARI'A LAWYER or COUNSELOR AT Shari'a law is considered first grade eligible suitable for appointment to second level positions in the civil service."

In an En Banc Resolution dated September 20, 1983, the Supreme Court approved the rules governing the conduct of the Special Bar Examinations for the Shari'a Courts and the Special Rules of Procedures in the Shari'a Courts (Ijra-at al Mahakim Al Shari'a). The particular provisions covering the Shari'a bar Examinations are as follows:

"Legal Basis

"No person shall be appointed Judge of the Shari'a Circuit Court unless he is a natural born citizen of the Philippines, at least twenty five years of age, and has passed an examination in the Shari'a and Islamic Jurisprudence (figh) to be given by the Supreme Court for admission to special membership in the Philippine Bar to practice in the Shari'a Courts (Art.152, PD 1083 otherwise known as the 'Code of Muslim Personal Laws of the Philippines'.)

"Persons Allowed to take the Special Bar Examinations

"A. Non-Lawyer

"1. All college degree holders who have completed the seminar on Islamic Law and Jurisprudence required and authorized by the Supreme Court;

"2. All college degree holders in Islamic Law and Jurisprudence of the AL-AZHAR UNIVERSITY and of other Islamic Institutions of the same category in other countries duly recognized by their respective government; and

"3. All graduates of Islamic Secondary Schools duly authorized by the Philippine Government where Islamic Law and Jurisprudence are taught as part of the curriculum and who have completed the seminar on Islamic Laws and Jurisprudence required and authorized by the Supreme Court.

"B. Lawyers

"1. Members of the Philippine Bar who aspire to be appointed to any of the Shari'a Courts must first pass the examinations to be given by the Supreme Court for admission to Special membership in the Philippine Bar to practice in the Shari'a Courts."

Evidently, a college degree is not the controlling factor in allowing a person to take the Special bar Examinations (Shari'a Bar) for even a graduate of Islamic Secondary Schools (high school) may be allowed to take it provided, the applicant has completed the seminar on Islamic Law and Jurisprudence as required and authorized by the Supreme Court.

On the other hand, Section 1 of Republic Act No.1080 provides, as follows:

"SECTION 1. The bar examinations and the examinations given by the various board examiners of the Government are declared as civil service examinations, and shall for purposes of appointment to positions in the classified service the duties of which involve knowledge of the respective profession, except positions requiring highly specialized knowledge not covered by the ordinary board examinations, be considered as equivalent to the first grade regular examination given by the Bureau of Civil Service if the profession requires at least four years of study in college and the person has practiced his profession for at least two years, and as equivalent to the second grade regular examination if the profession requires less than four years of college study." (Underscoring ours)

To implement RA No. 1080, the Civil Service Commission promulgated CSC Memorandum Circular No. 6, series of 1990 which provides, in part, as follows:

"The CIVIL SERVICE COMMISSION in its Resolution No. 90073 dated January 22, 1990 adopted the policy that civil service eligibilities resulting from bar or board examinations, or assembled specialized written examinations conducted by the Civil Service Commission or departments or agencies with the assistance of, or in coordination with, the Civil Service Commission, and eligibilities granted under PD 907 as amended, and PD 997 shall be allowed for permanent appointment to corresponding levels of positions in the career service, training and experience and other requirements for the position prescribed in the approved qualification standards.

"To provide uniform interpretation and application of the said eligibilities, the following guidelines are hereby prescribed:

"1. Eligibilities resulting from specialized written examination conducted by the Civil Service Commission or departments or agencies with the assistance of, or in coordination with, the CSC or board or bar examination which require at least four (4) years of college studies shall be appropriate for appointment to first and second level positions not covered by examination as required by law, provided that the person appointed to these positions possess the education, training and experience and other qualifications required for the position.

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"3. The corresponding RA 1080 (Board/Bar) eligibilities shall be required for appointment to positions, the duties of which

constitutes practice of a profession regulated by the Philippine bar or board laws."

In light of the foregoing provisions, passing the Shari'a Bar Examinations conducted by the Supreme Court will not automatically bestow upon a person/examinee a civil service eligibility. It is still necessary that the latter meet the qualifications required of the position, specifically the educational requirement, before he can be issued eligibility. Accordingly, for not meeting the educational requirement, a graduate of Islamic Secondary Schools (high school) who passed the Shari' a Bar examinations cannot be considered as civil service eligible.

Further, in case eligibility is conferred, the same is appropriate to first and second level positions in the government except to those positions which need the passing of the bar or board examinations.

Thus, a Shari'a Bar eligibility is not appropriate to an Accountant, Engineer or Lawyer (except in the Shari'a court system) positions if it can be shown that the appointee lacks the necessary requirements, particularly education, specified in the Qualification Standards Manual.

WHEREFORE, the qualification requirements prescribed in the Qualification Standards Manual, particularly education, must first be met before a Shari'a Bar passer may be considered a civil service eligible.

Quezon City, May 22, 2000

(SGD.)**JOSE F. ERESTAIN, JR.**

Commissioner

(SGD.)**CORAZON ALMA G. DE LEON**

Chairman

Attested by:

(SGD.)**ARIEL G. RONQUILLO**

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