

CLARIFICATION QUESTIONS AND ANSWERS 2013

1. What company or entity conducted the opinion poll referred to in paragraph 40 of the hypothetical case, what methods were used, and what degree of certainty do they provide?

The opinion poll was conducted by a private company, "Consultex," through a sample of telephone calls and in-person surveys. After examining the results with its specialists, the government accepted the results as valid; the poll has also been broadly accepted by civil society and academia, which have stated that the results of the poll accurately reflect the social perceptions in Elizabetia.

2. Do the opinion polls regarding the government's political agenda referred to in paragraph 40 of the hypothetical case have any legal or legislative effect?

The poll was about the government's political agenda. The government studies this type of feedback as one element to bear in mind when formulating its policies and plans. It also takes account of news articles, opinion articles, public statements, communications from citizens, and other ~~its~~ that reflect the public's opinion of its work.

3. Paragraphs 4 and 33 make reference to the fact that Elizabetia has a "solid system of shared social values." What are those values?

There is no single catalog of Elizabetian values. However, Elizabetian discourse makes frequent reference to democratic society, the rule of law, respect for the individual person, and the separation of powers.

4. According to paragraph 61, Adriana told Serafina that she had suffered from the same disorder previously. What medical treatment did Adriana receive in order to recover that time?

Adriana did not tell Serafina the specifics of her treatment. Unfortunately, the hospital where Adriana was treated and all its physical records were completely destroyed in a devastating fire caused by a nurse who was secretly smoking in a closet. The doctor who treated Adriana died some time ago in an unfortunate hot air balloon accident.

5. As stated in the case, "There are many aspects of Granti culture that have been assimilated into the customs, traditions, beliefs, and the very idiosyncrasies of the Elizabetian people"; Can it be inferred from the phrase: "for each Indian woman they brought another Indian girl to serve her, and all of them were the daughters of Indian chiefs" that unions between people of the same sex would be part of this cultural legacy?

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Article 397

The parties to a marriage share the responsibility for the family and its guidance. Together they create the joint ownership of property, which includes the duty of deciding and managing domestic affairs, and ensuring the prospects of their offspring. They also have the obligation to respect one another, to be mutually faithful, and to come to one another's aid. They have the right to share social security. In the event of the death intestate of one of the parties to a marriage, the other has the right of first priority to inherit the assets of the deceased party in their entirety.

18. What does the special protection granted to the family pursuant to common-law marriage between a man and a woman entail according to Article 85 of the Constitution?

There is no exact statement of all of the consequences of the special protection described in Article 85; this is the result of interpretative developments.

19. How is the special protection referred to in Article 85 of the Constitution of Elizabethia different from the protection granted under the Elizabethian legal system to other types of families pursuant to Article 406 of the Civil Code?

There is no exact statement of all of the consequences of the special protection described in Article 85; this is the result of interpretative developments.

20. In addition to the type referred to in Article 85 of the Constitution, are other types of families recognized under the State's legal system?

The constitutional and legal references to the family that are relevant to the case are described in the hypothetical case.

21. With respect to paragraph 42, what requirements—besides those contained in Article 396 of the Civil Code—must be met in order for the National Secretariat of the Family to authorize a marriage?

The only requirements are those described in Article 396. It is assumed that the State possesses any information that could be used to determine the requirements.

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The word “spouse” is used in paragraph 59 of the case according to its common meaning.

23. Regarding Article 406.2, on what basis did the legislators exclude “domestic partnership” between two persons of the same sex from the category of “family” within the meaning of Article 85 of the Constitution and from the opportunity to adopt [a child] jointly?

There is no written statement of the reasons for this specific language. Recent academic research into the legislative session debates on the amendment found multiple references to Elizabethian social values and morals.

24. Paragraphs 36 and 37 indicate that the draft Gender Identity Act was introduced two weeks after November 28, 2006, and entered into force 3 months later, which would be March 13, 2007. In this respect, was the January 13, 2007 recognition of Serafina’s gender identity (paragraph 38) valid?

Serafina’s gender identity was recognized by means of an act of the Executive Branch, as part of the State’s compliance with the IACHR’s recommendations in petition 300-00. That act used the same methods that would be described in the draft bill that was being debated in parliament at the time

25. According to paragraphs 16 and 17 of the facts of the case, when was the Civil Code amended with respect to the legal concept of domestic partnership, in 2009 or 2010?

The reform had its beginnings in 2009, with the judgment of the Constitutional Chamber of the Supreme Court; it culminated in 2010 when the legislative reform process ended and the amendment entered into force.

26. What are the legal effects of domestic partnership with respect to social security in the State of Elizabetia?

A domestic partnership that meets the requirements of Article 406 of the Civil Code creates for the parties full rights of succession and assignment to the same social security system.

27. What recommendations did the IACHR make to the State of Elizabetia in Petition P-300-00?

In accordance with its standard practice, and in view of the proven violations stemming from the refusal to recognize Serafina’s gender identity, the IACHR recommended that the State adopt measures to:

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identify a number of traditional dishes in the Elizabethan cuisine as coming from Granti traditions.

33. Are there any witnesses/written documents that can prove that Adriana told Serafina that she would risk death over amnesia?

This is something that was said by Adriana to Serafina in the course of a conversation they held concerning what each of them would want if placed in extreme health impairment.

34. In paragraph 43 did the National Secretariat of the Family take into account Serafina's genetic sex in accordance with article 13 of the Gender Identity Act?

The motivation of the resolution is as cited in the record: pursuant to Article 396 of the Civil C-2(u)-4(o6t)-4(.)3(Td (Ro4(h)10(e)3(3)2(9)11he)13()J)6-sah6 >ivie4(r)1 ()]4(ro)3(h)1

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There are no known cases of a single person that is openly lesbian, gay, bisexual

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All of the relevant legal provisions are described in the facts of the case.

45. According to article 406 of the Civil Code, a judicial declaration is necessary for the recognition of a de facto union of marriage. Has this declaration been issued to homosexual couples? To what extent?

There are no exact figures, but there is ample information that many same-sex couples have obtained a domestic partnership decree.

46. Are there laws in Elizabetia that regulate the decision-making process of the Regional Medical Committee in situations like that of Adriana? For example, can related parties in the case of Adriana make a declaration to the Committee or is there any judicial appeal of the Committee's decision?

All action by the authorities affecting the rights of one or several individuals is subject to constitutional protections and to the protections of the American Convention on Human Rights and other Inter-American treaties on this subject.

47. Can a judge of first instance declare a law unconstitutional or is only the Supreme Court authorized to do so?