

PCLL Conversion Examination August 2007

Title of Paper : Hong Kong Constitutional Law
Date : 25 August 2007
Time : 2:30p.m. – 2:45p.m. (Reading Time)
2:45p.m. – 3:45p.m.

Instructions

1. Write your **candidate number** on the cover of each answer book. Do **NOT** write your name in the answer book.
2. Start each answer on a separate page of the answer book.
3. Write your answers only in the answer books provided.
4. This is a one-hour examination.
5. This is an open book examination.
6. Reading time for this paper is 15 minutes. Do **NOT** begin writing in your answer books during this period until you are instructed to do so.
7. This paper consists of 2 pages, including three questions. Candidates are only required to answer **ONE** question out of three. A total of 100 marks may be awarded.

**DO NOT OPEN THIS QUESTION BOOK
UNTIL YOU ARE TOLD TO DO SO**

**YOU MUST RETURN THIS QUESTION PAPER WITH YOUR SCRIPT
AT THE END OF THE EXAMINATION**

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Hong Kong Constitutional Law

Question 1

“‘One country, two systems’ is an integral concept. ‘One country’ is the prerequisite of ‘two systems.’ Without ‘one country’ there will be no ‘two systems’. ‘One country’ and ‘two systems’ cannot be separated from each other. Still less should they be set against each other.

The ‘one country’ means that the power vested in the central government according to law to maintain national sovereignty, unity and security must be upheld. The ‘two systems’ means that the high degree of autonomy enjoyed by the Hong Kong Special Administrative Region according to law must be ensured and governing according to law by the Chief Executive and the Hong Kong Special Administrative Region Government must be supported.

Only when these two points are fully observed, can the strength of the ‘one country, two systems’ be brought into play to the real benefit of the people of Hong Kong.”

Hu Jintao, President of the PRC, in the speech marking the swearing in of the third term HKSAR Government on 1 July 2007

Do you agree with President Hu’s understanding on “one country, two systems”? Support your view with reference to the Hong Kong Basic Law and the Sino-British Joint Declaration.

Question 2

In a speech delivered in a seminar marking the 10th anniversary of the Basic Law on 6 June 2007, Wu Bangguo, Chairman of the Standing Committee of the National People’s Congress reemphasized that the most important characteristic of the political structure of the Hong Kong Special Administrative Region is that it is executive-led.

Illustrate the provisions of the Basic Law that establish the executive-led form of government in the Hong Kong Special Administrative Region and review whether the design of the Basic Law can achieve its objective in the actual implementation in the last ten years.

Question 3

Article 45 of the Basic Law provides that:

*“The method for selecting the Chief Executive shall be specified in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress. The ultimate aim is the selection of the Chief Executive by universal suffrage upon **nomination by a broadly representative nominating committee in accordance with democratic procedures.**”*

Apply the purposive approach of interpretation of the Basic Law suggested by the Court of Final Appeal in *Ng Ka Ling v. Director of Immigration* [1999] 1 HKLRD 315 and recommend a set of nomination procedures required by Article 45 of the Basic Law. Illustrate in your recommendation how the different requirements in your proposal can be explained by the purposive approach of interpretation.

~ End of Examination Paper ~