

PCLL CONVERISION EXAMINATION JANUARY 2020

Title of Paper : Hong Kong Legal System
Date : 7 January 2020
Time : 3:00 p.m. – 4:30 p.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 and a half-hours examination.
5. **NO** reading time is designated for this paper.
6. This is a closed book examination.
7. The paper consists of 2 pages, including three questions. Candidates are only required to answer **TWO** questions out of three. A total of 100 marks may be awarded.
8. Each question is worth 50 marks.
9. The passing mark for this paper is 50 marks.

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

PCLL Conversion Examination January 2020

Hong Kong Legal System

Question 1 (50 marks)

It is widely accepted that our courts are accountable to the public and to the other branches of government. In particular, they must be convinced that when adjudicating cases, courts are acting in an impartial manner. Slapper and Kelly opined that,

‘The popular perception of the judicial process is described... as government by law, not people; together with the understanding that the law is separate from, and superior to politics, economics, culture and the values and preferences of judges. This ruling perception is based on particular attributes of the decision making process itself... and the judicial recognition of their subservient role in constitutional theory (in relation to the other branches of government)...’

(Slapper and Kelly, *Sourcebook on English Legal System* (Cavendish Sourcebook Series, 2012) p.18)

Lord Scarman in *Duport Steels Ltd v Sirs* [1980] 1 All ER 529, remarked that,

‘...if people and Parliament come to think that the judicial power is to be confined by nothing other than the judge’s sense of what is right... confidence in the judicial system will be replaced by fear of it becoming uncertain and arbitrary in its application.’

In the light of the above, explain the principles and/or practices that common law (including Hong Kong) courts have adopted and applied in the process of adjudicating cases to inspire confidence in the impartiality of the judiciary. **(50 marks)**

Question 2 (50 marks)

- (a) Describe the main features of the jury system in Hong Kong. **(20 marks)**
- (b) Identify the arguments both for and against the use of juries in Hong Kong’s criminal trials. **(30 marks)**

Question 3 (50 marks)

- (a) What are the types of powers that our laws currently confer on police officers in the execution of their duties? **(15 marks)**
- (b) Explain the current institutional mechanisms in place to hold police officers accountable for their misconduct. **(15 marks)**
- (c) With reference to the institutional mechanisms that you listed in (b), what are the possible limitations of such mechanisms which may affect their effectiveness in holding police officers accountable? **(20 marks)**

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