

PCLL CONVERSION EXAMINATION JANUARY 2024

Title of Paper : Hong Kong Legal System

Date : 4 January 2024

Time : 9:30 a.m. – 11:00 a.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-hour examination.
5. No reading time is designated for this paper.
6. This is an open book examination.
7. The paper consists of 3 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 2024

Hong Kong Legal System

Question 1 (50 marks)

Discuss the following sources of law as they apply in Hong Kong and their relationship with each other:

- a) The Basic Law of the Hong Kong Special Administration ('Basic Law') and the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region ('NSL'). **(15 marks)**

- b) Primary and subsidiary legislation. **(15 marks)**

- c) Case law and international law. **(20 marks)**

Question 2 (50 marks)

In a reply made at the Meeting of the Legislative Council on 10 June 2020, the Chief Secretary for Administration stated, among others:

“From time to time, views have been expressed in the public arena that a ‘sentencing committee’ be established to set binding sentencing standards for all criminal cases. The Judiciary emphasises that sentencing is a judicial function to be exercised by the courts independently and exclusively. The courts make sentencing decisions day in and day out in a very large number of different cases. The circumstances which arise in the cases are of an infinite variety. Deciding on a just and appropriate sentence in each case is a challenging and difficult task for the courts and is a matter for balanced judicial judgment.”

This quote was referred to by Chief Justice Geoffrey Ma in a statement he made on 23 September 2020.

<https://www.legco.gov.hk/yr19-20/english/counmtg/hansard/cm20200610-translate-e.pdf>

and

[https://www.hkcfa.hk/filemanager/common/pdf/Statement%20by%20CJ%20of%20CFA%20\(23%20Sep%202020\)%20Eng.pdf](https://www.hkcfa.hk/filemanager/common/pdf/Statement%20by%20CJ%20of%20CFA%20(23%20Sep%202020)%20Eng.pdf)

With reference to relevant authorities, discuss this quote with respect to sentencing guidelines and the Judiciary in Hong Kong.

Question 3 (50 marks)

- a) Is there a right to a jury trial for criminal cases tried in the Court of First Instance (CFI)? Explain with references to relevant authorities. **(10 marks)**
- b) Who is qualified to be a juror in Hong Kong? Explain each of the qualifications. **(20 marks)**
- c) Can a person be exempted from jury service? Should exemptions be made more restrictive? Discuss. **(20 marks)**

~ End of Examination Paper~