

PCLL Conversion Examination
January 2025 Examiner's Comments
Hong Kong Constitutional Law

Question 1:

Candidates are expected to examine those relevant Hong Kong Basic Law provisions on autonomy and critically discuss the nature and extent of autonomy, including the following: executive, legislative and judicial power commonly exercised in autonomous areas; its relevance to the interpretation of the Basic Law as specified in Article 158 of the Basic Law; its relevance to the application of national laws under the framework of 'One Country, Two Systems'. Relevant concrete case laws are expected to be used to support the analysis. Failing answers tended to simply mention relevant provisions and/or case law without providing satisfactory legal analysis.

Question 2:

Candidates are expected to analyse the nature and legitimacy of judicial review arising from judicial independence for Hong Kong's rule of law; the evolution of the judicial review system through the development of relevant cases laws (e.g. *HKSAR v Ma Wai Kwan David* and *Ng Ka Ling v Director of Immigration*; the constitutional obligation of judges for judicial review; the proper role of courts in judicial review). Relevant concrete case laws are expected to be used to support the analysis. Failing answers merely mentioned relevant case law or quoted relevant statements about judicial review, but did not provide a satisfactory legal analysis or a convincing argument regarding the relevant issues.

Question 3:

Candidates are expected to discuss the importance of national security as an essential part of Hong Kong's constitutional order, provide a descriptive analysis of the existing framework of human rights protection (including these constitutional rights specified in the Basic Law, the Bill of Rights Ordinance and its application, where legislative provisions that are inconsistent with the BORO provisions are invalidated), examine the restriction on human rights where national security is involved and engage with an analysis of proportionality test applicable to the limits on human rights. Relevant concrete case laws are expected to be used to support the analysis. Few candidates chose to answer this question, and among those who did, only a few were able to provide a focused analysis.

Overall, performance on the exam was good. Most candidates successfully answered Questions 1 and 2, while few candidates chose to answer Question 3. Some strong answers provided critical analyses of relevant points.