

**PCLL Conversion Examination**  
**January 2024 Examiner's Comments**  
**Hong Kong Legal System**

This paper consisted of three questions of which candidates needed to answer two. This is the same format as last year's examinations.

**Question One**

This question tested candidates' knowledge about the sources of law in Hong Kong and their relationship with one another in each sub question. Candidates were expected to describe what each source of law is first and how it applies to Hong Kong. Then they were expected to discuss the relationship of the sources of law stated in each sub question. The three sub questions asked about the Hong Kong Basic Law and the National Security Law ('NSL'); primary and subsidiary legislation; and case law and international law.

Candidates were generally able to describe what the Basic Law, the NSL, primary legislation, and case law are. Where they struggled were in the relationship aspect of the question. Surprisingly, many candidates struggled with identifying what subsidiary legislation is, with answers being either left blank, partially answered, or answered incorrectly. There were also misconceptions about international law and how it may apply in Hong Kong's legal system.

**Question Two**

Not many candidates attempted this question compared to the other two questions. This was an interesting question that came up in recent years where certain members of LegCo called for a sentencing council like that of England and Wales for Hong Kong. The Sentencing Council for England and Wales have sentencing guidelines for most common types of offences. The Hong Kong Government and Judiciary rejected this notion, emphasizing that sentencing and the setting of any sentencing guidelines is in the Judiciary's purview. This question tests students' understanding of the court system, namely the jurisdiction of the courts with respect to establishing sentencing guidelines. Sentencing is a fundamental aspect of the criminal justice system.

Unfortunately, candidates misunderstood this question and discussed a variety of matters other than sentencing guidelines, including prosecutorial decisions in whether to prosecute someone of a criminal offence, judicial independence in Hong Kong more generally, and the jury system in Hong Kong.

**Question Three**

This question was also divided into three sub questions and asked about various aspects of the jury system in Hong Kong. The first sub question asked about whether there is a right to a jury trial for criminal cases tried in the Court of First Instance. Overall, candidates did well for this sub question, citing relevant authorities to support their answer.

The second sub question asked about qualifications to be a juror in Hong Kong. Answers were able to quote the qualifications set out under section 4 of the Jury Ordinance (Cap. 3). However, the explanations of each qualification left a lot to be desired.

The third sub question asked about exemption from jury service and whether exemptions should be made more restrictive. Answers were able to quote the exemptions set out under section 5 of the Jury Ordinance (Cap. 3). What was missing was discussions about applications for exemption from jury service. The discussions about whether exemptions should be made more restrictive varied.