

PCLL CONVERSION EXAMINATION JANUARY 2021

Title of Paper: Hong Kong Constitutional Law
Date: 4 January 2021
Time: 9:30 a.m. – 9:45 a.m. (Reading Time)
9:45 a.m. – 11:15 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-hours 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 3 pages, including three questions. Candidates are only required to answer **TWO** questions 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 2021

Hong Kong Constitutional Law

Question 1 (50 marks)

Secretary-General Annan of the United Nations in the *Report of the Secretary-General: The rule of law and transitional justice in conflict and post-conflict societies (2004)* described the rule of law as:

“a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards.”

How far have the provisions of Basic Law and their implementation achieved this understanding of the rule of law in Hong Kong?

Question 2 (50 marks)

In her Policy Address 2020, Chief Executive Mrs Carrie Lam emphasized that,

“...to ensure the robustness of “One Country, Two Systems”, the HKSAR must uphold the “One Country” principle and handle the relationship between the Central Government and the HKSAR correctly. The Chief Executive is responsible to both the HKSAR and the Central People’s Government. Under the constitutional function of “dual responsibility”, the Chief Executive is required to comprehensively, accurately and firmly implement the “One Country, Two Systems” principle and uphold the Basic Law.

Under the Basic Law, the Chief Executive is vested with the dual role as head of the executive authorities of the HKSAR, that is, the HKSAR Government, and that of the HKSAR representing the whole Region.”

How would the dual responsibilities and the dual role of the Chief Executive determine the constitutional status of the Chief Executive and affect the inter-relationship between the Legislative Council and the HKSAR Government led by the Chief Executive?

Question 3 (50 marks)

The United Nations Human Rights Committee under the International Covenant on Civil and Political Rights in the *Concluding Observations on the third periodic report of Hong Kong, China (2013)* made the following recommendation:

“While noting that the statutory framework has reinforced the role of the Independent Police Complaint Council (IPCC), the Committee remains concerned that investigations of police misconduct are still carried out by the police themselves through the Complaints Against Police Office (CAPO) and that IPCC has only advisory and oversight functions to monitor and review the activities of the CAPO and that the members of IPCC are appointed by the Chief Executive. Hong Kong, China, should take necessary measures to establish a fully independent mechanism mandated to conduct independent, proper and effective investigation into complaints about the inappropriate use of force or other abuse of power by the police and empowered to formulate binding decisions in respect of investigations conducted and findings regarding such complaints.”

Do you agree with the recommendation of the Human Rights Committee? Illustrate your analysis by referring to the constitutional principles of the protection of human rights.

~ End of Examination Paper ~