

PCLL CONVERSION EXAMINATION JUNE 2021

Title of Paper : Hong Kong Legal System
Date : 29 June 2021
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-hours examination.
5. **NO** reading time is designated for this paper.
6. This is an open 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 June 2021

Hong Kong Legal System

Question 1 (50 marks)

“Since Article 13 of the United Nations Guidelines on the Role of Prosecutors (1990) requires the prosecutor to ‘protect the public interest’ and to ‘act with objectivity’, the chief prosecutor must be genuinely free of political interference, in whatever guise, and should not have to keep looking over his or her shoulder at a political master every time an important decision is to be made.

The fiction that a member of the government ... can legitimately wear two hats, one as a politician and the other as prosecutor, is now largely discredited, and has been discarded in many places.”

(Grenville Cross, *Hong Kong Lawyer*, March 2011)

Explain and critically assess this statement in the context of Hong Kong; with particular reference to controversial decisions to prosecute or not to prosecute subsequent to the 1997 handover.

Question 2 (50 marks)

The debate over “fusion” of the legal profession in Hong Kong, and the resulting end of the separate Bar has raged for many years. What are the major arguments for and against fusion? To what extent have recent political developments posed an increased threat to the continuation of a separate Bar in Hong Kong?

Question 3 (50 marks)

“There is hope that the initial concerns over the new legislation will be similar to those experienced by many Hong Kong residents in 1997. At that time, many predicted the end of Hong Kong and its Rule of Law, however, Hong Kong continued to flourish ..The NSL legislation has rightly sparked global concern from governments and human rights organisations, but until we are able to see its central implementation in light of reassurances given by the government, one cannot predict with accuracy at this early stage exactly how this new legislation will be dealt with under ‘One Country, Two Systems’. Yet again, as in 1997, Hong Kong is breaking new ground with new legal concepts to be developed and monitored by a global audience.”

(Hong Kong Lawyer, *An Overview of Hong Kong’s National Security Law* [10.07.2020])

Explain and critically assess this view of the Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (“the Law”), with particular reference to the effect of the legislation on Hong Kong’s promised ‘high degree of autonomy’ and fundamental rights and freedoms.

~ End of Examination Paper ~