

PCLL Conversion Examination
January 2021
Examiner's Comments
Hong Kong Constitutional Law

1. For Question 1, students are expected to:
 - (a) provide a brief explanation of the requirements of the features of the rule of law mentioned in the quotation: (i) the State is accountable to laws; (ii) laws are publicly promulgated; (iii) law are equally enforced; (iv) independent adjudication, (v) consistent with human rights norms. (10 marks);
 - (b) refer to the provisions of the Basic Law concerning the feature of the rule of law mentioned in the quotation: (i) the State is accountable to laws; (ii) laws are publicly promulgated; (iii) law are equally enforced; (iv) independent adjudication; (v) consistent with human rights norms. (15 marks);
 - (c) analyze whether the implementation of the Basic Law can satisfy the requirements of the feature of the rule of law mentioned in the quotation by referring to incidents in the past years: (i) the State is accountable to laws; (ii) laws are publicly promulgated; (iii) law are equally enforced; (iv) independent adjudication; (v) consistent with human rights norms. (25 marks).
2. The overall performance of students answering Question 1 was satisfactory. Most students could identify the relevant provisions in the Basic Law concerning the different aspects of the rule of law mentioned in the quotation. Better answers could provide an adequate analysis on the latest implementation of the Basic Law in safeguarding the different aspects of the rule of law mentioned in the quotation.
3. For Question 2, students are expected to:
 - (a) explain the dual responsibilities of the Chief Executive (5 marks);
 - (b) explain the dual role of the Chief Executive (5 marks);
 - (c) analyze whether the dual responsibilities and the dual role of the Chief Executive establish a special constitutional status for the Chief Executive that transcends the executive, legislature and judiciary of the HKSAR (15 marks);
 - (d) analyze how the relationship between the Legislative Council and the HKSAR Government led by the Chief Executive would be affected if such a special constitutional status were to be established (25 marks).
4. The overall performance of students answering Question 2 was satisfactory. Most students could give an adequate account of the constitutional powers of the Chief

Executive and the Legislative Council but some failed to relate the analysis directly to the dual responsibilities and dual roles of the Chief Executive.

5. Similarly, many students discussed the constitutional principles of executive-led and separation of powers but did not relate directly to the dual responsibilities and dual roles of the Chief Executive.
6. For Question 3, students are expected to:
 - (a) illustrate the specific human right that would be infringed if there is any inappropriate use of force or other abuse of power by the police; (10 marks);
 - (b) illustrate how that specific human right would be infringed if there is no 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 (20 marks);
 - (c) analyze whether the existing statutory framework of the investigation into complaints against police can satisfy the requirements of constitutional protection of human rights (20 marks).
7. The overall performance of students answering Question 3 was not satisfactory. Many students failed to point out the specific human rights that might be infringed by not having an independent mechanism to investigate abuse of powers by the police. They only stated generally the constitutional framework of human rights protection and the constitutional principles of restricting human rights.