

PCLL Conversion Examination
June 2015
Examiner's Comments
Hong Kong Constitutional Law

1. For Question 1, students are expected to:
 - (a) illustrate how filibustering affects the proceedings of the Legislative Council;
 - (b) explain the doctrine of separation of powers under the Basic Law, and in particular the role of the HK Courts in reviewing constitutionality of legislative and executive acts (*Ng Ka Ling*);
 - (c) explain the principle of executive-led form of government under the Basic Law and the power of the Legislative Council to monitor the work of the executive branch of the HKSAR;
 - (d) illustrate how filibustering can be prevented or limited;
 - (e) Apply the doctrine of separation of powers and the principle of executive-led form of government and explain whether she agrees that “a court should, ‘so far as possible’, avoid interfering in the legislative process” (see *LEUNG KWOK HUNG v. THE PRESIDENT OF THE LEGISLATIVE COUNCIL OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION*, CACV 123/2012).

2. The overall performance of students answering Question 1 was not satisfactory. Many students were not answering the question but were restating the principles of separation of powers and executive-led form of government. Some students did state the jurisdiction of the courts and the courts’ power to review legislation but they failed to discuss the constitutional limitation on the courts’ power to review the internal working of the Legislative Council.

3. For Question 2, students are expected to:
 - (a) explain the two features of the Rule of Law;
 - (b) illustrate how far the laws of Hong Kong provide protection to rights and the dignity of people by referring to cases on human rights protection in Hong Kong and actual practices of the HKSAR Government (e.g. the police force);
 - (c) illustrate how far the independence of the judiciary is maintained in Hong Kong by referring to cases decided by the Hong Kong Courts and the relationship with the power of interpretation of the Basic Law by the Standing Committee of the National People’s Congress.

4. The overall performance of students answering Question 2 was satisfactory. Most students can provide an adequate account of the two features of the rule of law. Better answers are those that can provide actual examples on how the two principles are being practiced.

5. For Question 3, students are expected to:
 - (a) illustrate the understanding of “One Country, Two Systems” put forward in the extract of the White Paper;

- (b) provide his/her understanding of the “One Country, Two Systems” and compare it with the understanding of the extract;
 - (c) provide reasons to support the similarities or the differences between his/her understanding and the understanding of the extract of “One Country, Two Systems”;
 - (d) provide incidents (examples: controversies over interpretation of the Basic Law by the Standing Committee of the National People’s Congress, Article 23 legislation, constitutional reforms, etc.) happening in the past years to support the similarities or the differences between his/her understanding and the understanding of the extract of “One Country, Two Systems”.
6. The overall performance of students answering Question 3 was good. Most students can demonstrate an adequate understanding on the nature of “One Country Two Systems” and its application in Hong Kong.