

PCLL Conversion Examination
June 2017
Examiner's Comments
Hong Kong Constitutional Law

Question 1

For Question 1, students are expected to:

- (a) explain the constitutional requirements for restricting a right protected under the bill of rights including the requirements of “prescribed by law,” “legitimate purpose,” “rational connection” and “proportionality”;
- (b) identify the right and the scope of the right that may be affected by the proposed offence: freedom of expression;
- (c) illustrate how the proposed offence will limit the enjoyment of the right;
- (d) apply the various constitutional requirements to the proposed offence and provide an analysis supporting her conclusion, i.e. whether the restriction imposed by the proposed offence can satisfy the constitutional requirements.

The overall performance of students answering Question 1 was satisfactory. Most students can provide the relevant constitutional tests to determine the constitutionality of the provision. Better answers are those that can apply the tests and provide a critical analysis on whether the limitation imposed on the right of citizens can be justified under the tests.

Question 2

For Question 2, students are expected to:

- (a) illustrate the constitutional mechanism of the interpretation of the Basic Law by the Standing Committee of the National People’s Congress;
- (b) illustrate the constitutional mechanism of the interpretation of the Basic Law by the Courts of the HKSAR;
- (c) illustrate the differences between the Standing Committee and the Courts of the HKSAR in their approaches of interpreting the Basic Law in past cases and incidents;
- (d) consider what are the challenges to One Country Two Systems as generated from the differences.

The overall performance of students answering Question 2 was satisfactory. Most students can give an adequate account of the constitutional arrangements of interpretation of the Basic Law and provide some examples of the interpretations by the Standing Committee. Better answers can illustrate how the differences in the approaches of interpretation and the actual interpretations given reflect the underlying conflicts between One Country and Two Systems.

Question 3

For Question 3, students are expected to:

- (a) the meaning of executive-led and separation of powers;
- (b) provisions of the Basic Law concerning the interrelationships between the executive branch and the legislative branch of the HKSAR Government which

- may throw light on whether the system is executive-led or separation of powers;
- (c) incidents in the past years illustrating how the provisions were being implemented;
 - (d) explain his or her understanding of the interrelationship between the legislative and executive branches of the HKSAR Government.

The overall performance of students answering Question 3 was satisfactory. Most students can provide an adequate explanation of the meanings of “executive-led” and “separation powers.” They can also illustrate the wide powers enjoyed by the Chief Executive as well as the checks imposed by the Legislative Council. Good answers are those that can indicate clearly their views and justify their views on the basis of the analysis of the interrelationships among the branches of government.