

PCLL CONVERSION EXAMINATION, JANUARY 2015

Title of Paper : Hong Kong Constitutional Law
Date : 6 January 2015
Time : 2:30 p.m. – 2:45 p.m. (Reading Time)
2:45 p.m. – 4:15 p.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 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 January 2015

Hong Kong Constitutional Law

Question 1 (50 marks)

Article 45 of the Basic Law:

“The Chief Executive of the Hong Kong Special Administrative Region shall be selected by election or through consultations held locally and be appointed by the Central People's Government.

The method for selecting the Chief Executive shall be specified in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress. The ultimate aim is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures.

The specific method for selecting the Chief Executive is prescribed in Annex I: ‘Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region’.”

Apply the purposive approach of interpretation and analyze whether civil nomination is compatible with Article 45 and other provisions of the Basic Law.

Question 2 (50 marks)

The Public Order Ordinance is amended as follows:

“Any person who takes part in or forms or continues to form part of any such unauthorized assembly and wears a mask or other disguise to conceal their identity without lawful excuse shall be guilty of an offence and shall be liable on conviction on indictment, to imprisonment for 5 years.”

Consider the constitutionality of this provision by analyzing whether it can satisfy the constitutional requirements for restricting a right protected under the bill of rights.

Question 3 (50 marks)

“...the Standing Committee [of the National People’s Congress]’s power to interpret the Basic Law is a power which should only be considered for exercise in the most exceptional circumstances. This view is widely held in Hong Kong and I believe, also in Beijing. In any event, in my view, the Standing Committee’s power to interpret the Basic Law should not be exercised to override a court judgment in Hong Kong, especially one of the Court of Final Appeal. Although it would be legally valid and binding, such an interpretation after a court judgment would have an adverse effect on judicial independence in Hong Kong, which is an essential principle of the rule of law under our system.”

(Extract from “The Importance of the Rule of Law,” a speech by Andrew Li, Former Chief Justice of the Court of Final Appeal, 13 November 2013)

Analyze the position of Andrew Li on the relationship between the Court of Final Appeal and the Standing Committee of the National People’s Congress with reference

to the high degree of autonomy enjoyed by the Hong Kong Special Administrative Region under “One Country Two Systems”, and explain why you agree or disagree it.

~ End of Examination Paper ~