

PCLL CONVERSION EXAMINATION JANUARY 2017

Title of Paper: Hong Kong Constitutional Law
Date: 4 January 2017
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 three pages, including three questions. Candidates are only **required** to answer **TWO** questions 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 2017

Hong Kong Constitutional Law

Question 1 (50 marks)

“Hong Kong exercises an *executive-led* political structure with the *chief executive at the core*, where there are both *checks and balances* of power and *cooperation* between the legislative and executive branches, as well as an independent judiciary...the *separation of powers* political system, which is normally based on a sovereign state with complete authority, is *at best a point of reference* for the HKSAR and cannot be applied to the HKSAR in its entirety.”

Is this an accurate description of the constitutional system of the Hong Kong Special Administrative Region on paper and in practice? Support your views with provisions of the Basic Law and their implementation in the past years.

Question 2 (50 marks)

Joshua who is 19 years old applies for judicial review to challenge the following provision of the Legislative Council Ordinance (Cap. 542):

“Section 37(1) A person is eligible to be nominated as a candidate at an election for a geographical constituency only if the person -
(a) has reached 21 years of age...”

Section 29(a) of the Legislative Council Ordinance provides that a person is not eligible to be registered as an elector unless he has reached 18 years of age.

Article 26 of the Basic Law provides that: “*Permanent residents of the Hong Kong Special Administrative Region shall have the right to vote and the right to stand for election in accordance with law.*”

Article 21(b) of the Bill of Rights provides that “*Every permanent resident shall have the right and opportunity...and without unreasonable restrictions...to vote and be elected at genuine periodic elections...*”

Advise Joshua.

Question 3 (50 marks)

A: “Autonomy presumes democratic governance of internal affairs. An autonomous arrangement without democratic election cannot be a genuine autonomy not to say high degree of autonomy.”

B: “Autonomy is autonomy; democracy is democracy. They are two different concepts. Hong Kong enjoys a wide range of autonomous powers that cannot be found in most other autonomies in the world. A high degree of autonomy is clearly attained in Hong Kong.”

Do you agree with the view of A or B concerning the nature and practice of autonomy in Hong Kong under the Basic Law? Support your view by referring to incidents of the application of the Basic Law in the past years.

~ End of Examination Paper ~