

PCLL CONVERSION EXAMINATION JUNE 2019

Title of Paper : Hong Kong Legal System
Date : 20 June 2019
Time : 3:00 p.m. – 4:30 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. **NO** reading time is designated for this paper.
6. This is a closed book examination.
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 June 2019

Hong Kong Legal System

Question 1 (50 marks)

Nine persons concerned with the “Occupy Central” incident between September and December 2014 were convicted in the District Court on 9 April 2019 (*HKSAR v Tai Yiu Ting & Ors* (DCCC 480/2017, 9 April 2019), [2019] HKDC 450). The Director of the Liaison Office of the Central People’s Government in the Hong Kong Special Administrative Region, Mr Wang Zhimin, stated on 15 April 2019 in a speech in Chinese that the verdict sent a signal to Hong Kong society of respect and upholding the “rule of law” (法治/*fazhi*) against “unlawful occupation dressed up with so-called justice”, and that the convictions represented an important page for “rule of law and justice” and described the convictions as a “Victory for Hong Kong, Victory for Rule of Law”.

- (a) What are the elements of the Rule of Law in the context of the common law based legal system of the Hong Kong Special Administrative Region? **(20 Marks)**
- (b) The concept of *fazhi* in the context of the Mainland Chinese legal and political systems was previously translated as “rule of law” but is nowadays officially translated into “law-based governance”. What are the main elements of “law-based governance”? **(10 Marks)**
- (c) From your understanding of Rule of Law and “law-based governance”, discuss, with reasons, (i) which of these two concepts Mr Wang was likely to have applied in his speech; and (ii) whether you agree with Mr Wang’s opinions. **(20 Marks)**

Question 2 (50 marks)

The Hong Kong Bar Association has consulted its members on a proposal to introduce a parental support scheme for practising members during the initial stages of parenthood. The consultation document claims that the membership of the Hong Kong Bar should be “sufficiently diverse to be representative of the society it serves” and that in light of the fact that women leave private practice in the Bar at a much higher rate than men, a parental support scheme should be commenced to provide a one-off subsidy of HK\$20,000 to an applicant member to support the member’s early parenthood of a child. The subsidy would be funded by, inter alia, an increase in membership subscription fees for at least 3 years.

- (a) (i) Identify the possible reasons why the Hong Kong Bar Association considers it important that the Bar should be “sufficiently diverse to be representative of the society it serves”? **(12 Marks)**

(ii) What are the features of private practice in the Hong Kong Bar that reasonably contributes to a much higher rate of women leaving private practice than men?

(12 Marks)

(iii) Would you support the proposal in the consultation document? Support your answer with reasons.

(6 Marks)

(b) In light of your understanding of the profession of solicitors in Hong Kong, do you consider that a parental support scheme similarly structured and funded as above should be introduced for solicitors in Hong Kong? Support your answer with reasons.

(20 Marks)

Question 3 (50 marks)

Chief Justice Ma recently underlined that, given the contentious (and sometimes controversial) nature of legal disputes, the independence of the Hong Kong Judiciary is essential when dealing with the many complex legal issues before the courts.

(a) Why is the independence of the Hong Kong Judiciary essential in resolving legal issues? Please refer to examples in your answer.

(25 Marks)

(b) What are the practicable arrangements that can safeguard the independence of the Judiciary in Hong Kong?

(25 Marks)

~ End of Examination Paper ~