

PCLL CONVERSION EXAMINATION JANUARY 2019

Title of Paper : Hong Kong Legal System
Date : 7 January 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 January 2019

Hong Kong Legal System

Question 1 (50 marks)

Chief Justice Ma of the Hong Kong Court of Final Appeal stated in a lecture he gave in November 2018 that Hong Kong is a typical jurisdiction where “commerce has always depended, indeed critically depended, on the common law.”

- (a) What are the features of the common law method or model in the adjudication or resolution of commercial disputes that may contribute to the prospering of business and finance? **(20 Marks)**
- (b) Can the features you have identified in part (a) be readily introduced or implemented in the legal system of the Guangdong Province of Mainland China, which, together with the Macao Special Administrative Region, form the other parts of the Guangdong-Hong Kong- Macau Greater Bay Area Initiative? State in your answer any of the currently existing institutions and arrangements (or the lack of institutions and arrangements) that either facilitate or create a difficulty for such introduction or implementation. **(20 Marks)**
- (c) What are the ways you would suggest to strengthen Hong Kong’s advantages as a common law jurisdiction? **(10 Marks)**

Question 2 (50 marks)

- (a) Many commentators, committees, organizations and media outside Hong Kong have expressed concerns about the “deterioration” in the Rule of Law of Hong Kong in recent years. By way of actual events or examples, discuss the reasons that led to such concerns and your views on whether such concerns are justified. **(25 Marks)**
- (b) When Mr. Justice Robert Tang retired from his position as Permanent Judge of the Court of Final Appeal of the HKSAR in October 2018, he gave an address at the Farewell Sitting that included the following:

“If the judiciary is unfairly attacked, you should hold firm and stand up for them. But, support should not only be events driven. That is not enough. It may be too late. You should endeavour to nurture an atmosphere friendly to the rule of law. We have a free press and free elections in Hong Kong. Make your voice heard and your vote count. Believe me, the price of freedom is indeed eternal vigilance. Above all else, do not give up or underestimate your strength. If we as a

community insist on the rule of law, it cannot be taken from us easily. Do not make it easy.”

By reference to one or more of the events or examples you have referred to in your answer to part (a), discuss the reasons or bases for the quoted remarks and state your own evaluation of the effectiveness the endeavour Mr. Justice Tang had urged the Hong Kong public to engage in. **(25 Marks)**

Question 3 (50 marks)

Should lawyers practising in Hong Kong be required to be under a professional obligation to provide a fixed number of hours of *pro bono* (free) legal service to individuals who cannot afford legal services in Hong Kong? Support your answer with facts on the present system and arrangements in Hong Kong which aim at facilitating affordable access to justice. **(50 Marks)**

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