

Clinical Legal Education Programme

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The Project

- It is the first Clinical Legal Education programme established in Hong Kong to provide much needed pro bono legal service to the community
- Legal advice provided by experienced legal practitioners (with the support and research provided by law students) through the Free Legal Advice Scheme on campus

Summary of Impact

Since the introduction of the Clinical Legal Education (CLE) programme in 2010,

- more than 600 clients have received free legal advice and gave very positive feedback to students;
- more than 10 successful appeals or legal aid applications upon free legal representation through the CLE programme;
- an erroneous approach to the merits test by the Legal Aid Department was rectified upon a successful case handled by the CLE programme; and
- wide media coverage (including in a TVB documentary series) and burgeoning demand from the public for CLE service have been received.

Underpinning Teaching & Learning:

(1) Teachers (the nominees)

1. Dissemination of sophisticated legal knowledge to lay clients in real-life cases and empowerment of the community
2. Nominees facilitate / enable quadripartite collaboration between students, teachers (the nominees), outside pro bono lawyers and lay clients in the provision of legal service

Underpinning Teaching & Learning:

(2) Students

3. Learning 'law in action': Placing students in real life situations where they combine academic knowledge with practical lawyering skills to solve actual legal problems.
4. Nurturing in students a heart to serve the needy with passion and professionalism.
5. Apprenticeship with practising lawyers allows thinking out of the box and on-the-job mentoring.

Underpinning Teaching & Learning:

(3) Lay Clients

6. Filling a gap in society by providing wide-ranging non-means tested pro bono legal service, and through this enhancing citizens' rights and empowering the community.
7. Contributing to the rule of law in Hong Kong and rectifying 'miscarriage of justice'.
8. Community witness at first hand the impact of HKU legal expertise in their lives.

Underpinning Teaching & Learning:

(4) Practising Lawyers

8. Releases hitherto untapped resources of practising lawyers in educating and mentoring our students by pairing them up with students – lawyers become on-the-job trainers as they handle cases with students.
9. With the support and research provided by students under supervision of the nominees, volunteer outside lawyers are better empowered to provide quality legal advice and service to the clients.

Underpinning Teaching & Learning: Quadripartite stakeholder synergy

10. All in all, the CLE programme designed by the nominees provides a platform for synergy that taps resources to generate and disseminate legal knowledge to meet unmet needs in real life situations in society.
11. It has now become an iconic programme of HKU.

Engagement process

1. Answering community needs

- Legal service is extremely expensive in Hong Kong, and legal aid for civil law cases is limited in scope and subject to a means test.
- Students often lack on-the-ground opportunities to learn law in action.
- The CLE programme bridges the gap by contextualising students' textbook knowledge and disseminating HKU's legal expertise to fill important legal knowledge and service gaps in the community.

Engagement process

2. Engaging local and overseas collaborators

- Extensive consultation with Professor Stacy Caplow at Brooklyn Law School, which runs a successful legal clinic, in setting up the CLE programme
- Shares experience with overseas experts and legal clinics at the International Journal of Clinical Legal Education Conference
- Collaborates with the Duty Lawyer Service (which is administered jointly by the Hong Kong Law Society and the Bar Association) in setting up the Free Legal Advice Scheme on campus for engaging volunteer lawyers to supervise students and provide legal advice to clients.
- Currently over 60 participating solicitors and barristers.

Engagement process

3. Provision of legal service to lay clients

- The nominees (teachers running the CLE programme) shepherd students in interviewing clients, writing case summaries , conducting research, and pair them up with experienced practising lawyers in handling real cases.
- Over 600 cases handled since the CLE programme was established in 2010.

Engagement process

4. Education of students and lay clients in a life-changing situation

- Through handling real clients, students learn how to explain technical and sophisticated legal concepts in layman terms
- Through helping some clients who feel distressed or are emotionally unstable as a result of the daunting legal process, students see the important role a conscientious and passionate lawyer can play and learn how to use soft lawyering skills
- Lay clients acquire knowledge of the law pertaining to a case that affects them and feel relieved upon receiving proper practical legal advice

Engagement process

5. The media volunteered to help promote the CLE programme to the community at large :-

- RTHK: <http://utalks.etvonline.tv/article60.php>
- TVB: Pearl Report (2010)

“For the Public Good”

<http://programme.tvb.com/news/isode/20100829/>

--TVB: Tuesday Report(2013)

“Fighting for What is Right”

-- Various newspapers reports



Impacts Achieved

1. Very positive and encouraging feedback from clients –out of 518 clients surveyed since 2010, 95% gave a very positive score of 4 or 5 out of a 5-point scale for their satisfaction level with the advice given

Clients' Survey since Jan 2010

- Q3: How would you describe the **level of satisfaction to the Advice Session** of the Free Legal Advice Scheme?
- Very satisfied <--5, 4, 3, 2, 1--> Very Dissatisfied

	Score 5	Score 4	Score 3	Score 2	Score 1
Jan 2010	33	6	1	1	1
Sept 2010	28	7	0	1	0
Jan 2011	27	6	0	0	0
Sept 2011	23	7	2	0	2
Jan 2012	32	5	0	0	0
Sept 2012	26	3	0	0	0
Jan 2013	34	10	2	0	0
Jun 2013	28	4	1	1	0
Sep 2013	45	10	4	1	1
Jan 2014	58	15	6	0	0
Jun 2014	26	1	2	0	0
Sep 2014	49	7	2	0	0
Total	409 (78.96%)	81 (15.64%)	20 (3.86%)	4 (0.77%)	4 (0.77%)

Impacts Achieved

2. Successfully assisted a client to obtain legal aid for leave to appeal to Court of Final Appeal despite contrary views of the Senior Counsel representing the client in the Court of Appeal
3. Successfully overturned an erroneous approach adopted by the Legal Aid Department on the merits test. Affirmation by professional bodies & reports in media:-
 - ‘All Counsel need to be informed of this pitfall arising from the erroneous interpretation ... of the Merits Test’, Bar Association statement (21 Feb 2014)
 - SCMP Repot (7 April 2014) and ONC Lawyers Newsletter (March 2014)



ONC Lawyers
柯伍陳律師事務所
in association with Zhonghao Law Firm (Hong Kong)

Newsletter • March 2014

Litigation & Dispute Resolution

Relying on the Department's Assessment of Your Legal Aid Application? Think Twice!

Introduction

Legal aid is fundamental to the access to justice. In the case of *Chung Yuk Ying v the Registrar of High Court* [2013] HKCU 2449, the Court of First Instance criticized the Department of Legal Aid ("DLA") for its failure to apply the correct test to assess the merits of the Plaintiff's case, which resulted in the discharge of the Plaintiff's legal aid certificate. This article provides an overview of the legal aid scheme in Hong Kong.

Impacts Achieved

4. Rectified miscarriage of justice

- Successfully represented wrongfully convicted defendants in over 10 appeal cases in the High Court (in a couple of these cases legal aid was originally refused because the Director of Legal Aid considered that there was no merits in the appeal)
- Successfully represented a cross-border truck driver in his application for leave to appeal to the CFA on the substantial and grave injustice ground (FAMC 16/2013, 24 September 2013) and subsequently in the actual appeal (FACC 7/2013, 28 May 2014, reported in (2014) 17 HKCFAR 303)



"In this course, we met clients who seem to suffer injustice but cannot afford to use law as a tool to achieve remedies due to their financial situations. I agree that the significance of law is to provide a set of rules for all to comply with, which at least ensures equality and fair treatment of everyone. Yet, it seems that more is needed to be done to allow law to help more people in a more effective way."



Impacts Achieved

5. Extensive positive coverage in media:
- TVB: Pearl Report “For the Public Good” (29 August 2010)
 - TVB – Tuesday Report programme “Fighting for What is Right” (26 November 2013)
 - Next Magazine (21 Feb 2013)
 - Numerous English and Chinese Newspapers



無償出頭揮實戰經驗 港大法律生義助洗冤



港大義助市民 法律諮詢幫到人

【本報訊】「我唔知點樣多謝佢，無以為報。」商人陳樹雄2010年被控刑盜，審訊中途獲判官批評誣誣無倫，撇開保釋，終他選擇等候審訊精神鬆弛，無辜坐監14日；他其後向香港大學法律系求助，由該院助理教授張達明替他無償「出頭」，最終在法院上訴得直。張表示，該院臨床法律教育中心三年前開始為市民提供免費法律諮詢服務，遇上特殊情況會義務上庭。今年起人手

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■得到港大法律系助理教授張達明(左)的幫助，商人陳樹雄最終在法院上訴得直。

港大義助兩案上訴得直

【本報訊】成功替兩案的兩名院助理教授張達明，本身是一刑事上訴案，但他今年參加港計劃，義務為市民提供法律服務原來亦頗為傳奇。刑罰案的亦曾惹官非，當時由張擔任其上訴人霍有華，原本沒有律師到張，主審法官遂邀請張協助

司機爆粗上訴得直 官：為人師表被激怒也會爆粗



■法官在沒有嚴重誤會下，為何會說粗話？認為乘客沒說出全部真相，故判司機上訴得直，應給定罪官官更似有所指：即使為人師表，在激怒下也會說粗口。

【本報訊】正當社會就老師林慧恩口罵學生事件鬧得不可開交之際，高院法官馮驊(圖)昨在審訊一宗士司機爆粗口罵乘客被罰款的上訴案件，頒下判詞，實就司機「在沒有嚴重誤會下，為何會說粗話」，認為乘客沒說出全部真相，故判司機上訴得直，應給定罪官官更似有所指：即使為人師表，在激怒下也會說粗口。

去年7月15日，一名男乘客在銅鑼灣百德新街搭李之的士，指示她駛大坑道在雲景道或景山。途中乘客抱怨她行錯路及車速太慢，她稱「唔識路使用唔識嘅態度」，更連說四次「乜你咁慢」，乘客下車後，她罵一句「你快啲嚟死」便駛離。乘客稍後報警，

指雙方或沒說出全部真相
李之後被控作偽的士司機無合理理解而無禮及不守規則，她不認罪，指乘客沒有說出確實目的地，卻無視她的道歉，不斷罵她，更驅車離地，令

地站驚慌，最後乘客用腳大力踢開車門，只抽出一張20元紙幣便離去，而欠4.5元，司機好努力跟她是好嗎，從未跟她說粗口。

李被原審區區裁判法院判罰款及罰款，高院法官馮驊在判詞中指出：「一般人說粗口，可能是性格習慣，亦可能是受誤會激怒下之發洩。」但一名司機即使沒有跟乘客面示而被斥責，第一反應是不會加上極端粗鄙的語言及惡言相向。

馮官又謂，從法庭審本可見該乘客係非首肯長尾的人，多次面對粗口罵罵罵未有即時控訴「司機爆粗口」，或警告會報警，是於理不合。

張達明為教學 首戰裁判法院

港大法律學院首席講師張達明昨為其法律系學生「以身作教」，親自上陣為「代客探監」案3名被告辯護。他透露今次因臨床法律教育計劃，機緣巧合造就在裁判法院「處身登場」，昨以當值律師身分上陣，其學生則擔當「最強後盾」。

張達明一直積極參與港大臨床法律教育計劃，義務為市民提供法律服務。他昨透露本案一些被告惹上官非

後，曾前來尋找免費法律意見，其中3名被告鄧志紅(33歲)、潘定基(34歲)及關巧用(38歲)希望由他代表應審，遂透過當值律師服務延聘。



港大法律學院首席講師張達明昨稱上演「處男作」，以當值律師身分首次在裁判法院審訊為3名被告辯護。

(何偉攝)

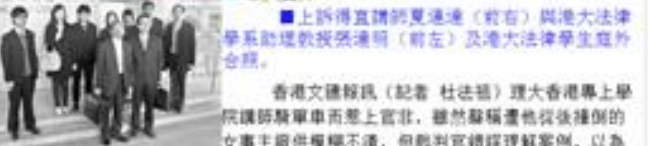


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行人路踩單車 請師上訴得直

行人路踩單車 請師上訴得直

【2011-02-19】 我要評論(1)



■上訴得直請師夏連連(前右)與港大法律學系助理教授張達明(前左)及港大法律學生庭外合照。

香港文匯報訊(記者 杜法禧)理大香港專上學院講師騎單車而惹上官非，雖然聲稱撞他後撞倒的女車主提供模糊不清，但裁判官錯誤理解案情，以為在行人路上騎單車就是足以構成「不小心騎單車罪」。去年裁定講師罪名兼罰款

【本報訊】基智的團體思光學團體聯聯林謙初律師，疑於今年初在藍田一間超級市場盜竊價值37元的肥牛和肉片，經審訊後被判入獄三個月，罰款三年。

林謙初不願判處提出上訴。高等法院法官昨天指出，林可能出於失誤才沒有付錢，判他上訴得直，廢除定罪。林堅決與在場十多名失業者難免及對簿，然後集體新滿。

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Impacts Achieved

6. Numerous thank you cards/emails from clients

港大校園免費法律諮詢計劃負責人：

你們好，今次我寫這電子郵件的目的，是想代表我家人表達感激及謝意。

上星期我透過電話熱線，希望你們能就著我哥哥的案件提供法律意見。雖然有違正常程序，但最後你們都願意耐情處理。我在為你們添加額外的麻煩而感到抱歉的同時，亦非常感激你們能在我們最無助的時候提供援助。

我哥最後被判社會服務令100小時。這個結果都令我們鬆一口氣，因為我哥都不希望坐監。雖然我並不希望他背負此不光彩的罪名，但也要接受，因為是他自己作的決定。

縱然最後結果一樣，但透過今次法律諮詢，我們了解到我們所擁有的選擇，以及各選擇的後果。如果沒有你們的幫助，我們只能逆來順受，此時此刻必定仍有許多疑惑，質疑自己是否做得足夠。

非常非常感謝張律師特別抽時間來會見我們，並作出詳細分析講解，使我們能在足夠的資訊下，作出一個決定，而不是“被決定”。亦要多謝學生Evangeline, Sonia及男學生臨時抽時間會見我們以及在緊迫的時間下完成所需的文書。此外，多謝林律師肯耐情處理允許這次諮詢。多謝曾小姐的協調工作，安排時間場地以促成此事。因為你們的幫助，使得我們一家於判決過後，能心無芥蒂，重新上路。

這恩情，也許無以為報。我所能做的，是效法你們助人的精神，於自己所能做到的範圍中，略盡綿力幫助其他有需要的人，使他人亦得著援助。

最後，祝各位身體健康！

敬上

Wan

Dear Mr Chan/2 x Beautiful Students,

Thank you so much for your fruitful help to assist me presenting my unfair dismissal case with the previous employer - [REDACTED].

Finally, I won the case with receiving the in lieu notice payment from them.

Have a good day!!!

Many thanks and warm regards
[REDACTED]

自案件的發生到完成所有的訴訟程序，至法官閣下宣佈：

「罪名不成立」，歷時近一個月。期間不但令我身心能受極大的壓力，也給家人造成了諸多困擾……所幸在我彷徨無助之際、在我覺得無路可走之時，我遇見了您們！您們細心傾聽、剖析案件的經過，您們秉持專業解釋法律常識和當事人的權益，您們依據法理給予中肯的分析和設身處地之建議，您們本著仁愛之心加以關注和協助，真可謂雪中送炭、濟困解危！在此借薄薄的信箋謹致深謝。感謝香港大學法律學院臨床法律教育服務中心！感謝陳文瀚大律師！感謝Rose同學、Joe同學！

曾有法律界人士說：這類案件實屬「小事一椿」，但相對我「風平浪靜」的生活卻是一次難得的歷練。所幸求助了香港大

學法律學院臨床法律教育服務中心！所幸得到陳文瀚大律師的指點和協助！更令我感動的是您們幫助了人卻不留名，陳文瀚大律師的高姓大名是我瀏覽貴校網頁時才發現，兩位同學的名字就無法得知了（不知有否聽錯她們的英文名）！

「法理仁心 義助市民」是我的由衷感慨，在此特送上錦旗一面以表感激之情！在此，我和我的家人再次向您們致以誠摯的謝意！並祝願陳文瀚大律師培育出更多與己類「法理仁心」的學生，祝願Rose同學、Joe同學盡得導師的真傳，祝願臨床法律教育服務中心工作順利！

蘇同學:

多謝你盡力的幫助,
讓我案的資料整理好
給丘律師幫我。

再次多謝你的幫助!

此致

文 [REDACTED] 敬上

2014.11.21.

Dear Bobo,

May I take this opportunity to extend my sincere thanks to you, the two law students, Mr. Chan and other staff members of the office in helping and assisting me in this legal matter.

I do appreciate it, it means a lot to me while I was very lost and had no direction on this issue. I do hope this issue will be set aside as time goes by.

I am very impressed by the two students who have been seeing me, they are very professional, I can foresee their bright futures in helping other needy in our society. May I also wish them very success in the years to come in their academic pursuit.

Thank you again for your help.

Wish you have a good night.

Regards,

葉同學

多謝你盡力的幫助,
讓我案的資料整理好
給丘律師幫我。

再次多謝你的幫助!

此致

文 [REDACTED] 敬上
2014.11.21

丘律師

多謝你仗義的幫助給我
提供寶貴的意見去處理
我的辯護案。

無論結果如何,我都非常
感激你。

再次多謝丘律師!

此致

文 [REDACTED] 敬上

2014.11.21.

林大律師尊鑑

您好! 我十分感激您為我的人身傷害案件作出多番艱而不
捨的努力。回想當初, 當我在外工作的時候, 在一座商業大
厦的大堂, 因第三者的不小心而被絆倒, 引致身體嚴重受傷。
我於是申請法律援助並獲批准。當時, 我心想我可以為自己
取回公道。但是晴天霹靂, 法律援助署其後說我的理據不足, 把
我的法律援助書撤回。我四出奔走, 求助無門, 但非常幸運地
得到正義凜然的林大律師及兩位見習律師義務及無償的幫
助。向高等法院就法律援助撤銷我的法律援助書的決定提出反對。
雖然當時未克成功, 但最終也能成功地申請司法覆核, 使我
可以繼續我的人身傷害案件的索償。我深深明白林大律師的
高風亮節及專業精神, 令弱勢社群也可以沐浴司法正義。就
林大律師及兩位見習律師的幫助, 我再次深表謝意, 祝身心
康泰。 Chris Betty

日期: 2014年9月19日

鍾 [REDACTED] 謹上