

法援五十年 跨步再向前

50 Years of Legal Aid,
Moving Forward with Pride

法律援助署五十周年紀念特刊
50th Anniversary Commemorative Publication

50
法援
ANNIVERSARY
LEGAL AID DEPARTMENT
法律援助署五十周年

法援

法律援助

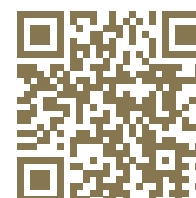
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香港擁有世界上其中一個最好的法律援助制度
Hong Kong has one of the best legal aid systems in the world

香港特別行政區行政長官獻辭

今年是法律援助署（法援署）成立五十周年，謹此衷心致賀。香港是一個國際化社會和經濟體，一直以來，法治是我們賴以成功的基石。過去半個世紀，法援署對香港及法治作出了非常重要的貢獻，角色舉足輕重。

香港推行的法律援助制度涵蓋全面，在國際間備受推崇。過去五十年，法援署為超過42萬人提供協助，確保香港市民不會因缺乏經濟能力而無法尋求公義。我亦樂見法援署多年來致力擴展服務範圍，並提高法律援助計劃的財務資格限額，積極回應社會不斷轉變的需要。公眾對香港法律援助服務的滿意度一直維持在高水平，工作成績無容置疑。

為慶祝成立五十周年，法援署特別舉辦巡迴展覽，回顧法律援助在香港的歷史和發展，內容包括一些重要的法庭裁決，以及這些裁決如何影響政府政策以至整個社會。此外，一連六集的法律援助五十周年電視紀錄特輯，透過不同的法律援助個案，闡述香港的法律發展。

法援署亦必定一如以往，與司法機構和法律援助服務局，以及一眾專業團體和其他持份者緊密合作，確保香港繼續以法治為本。

再次恭賀法援署邁向五十周年的重要里程碑。我深信在未來五十年，法援署及署內的專業人才定會繼續肩負使命，盡心盡力服務香港。



Message from the Chief Executive Hong Kong Special Administrative Region

I am pleased to congratulate the Legal Aid Department on its Golden Jubilee, a half century of critical contributions to Hong Kong and the rule of law, which has been so central to our longstanding success as an international economy and community.

Hong Kong's legal aid system is among the most comprehensive and well-regarded in the world. Over the past 50 years, it has assisted more than 420 000 people in their pursuit of justice, ensuring that no one is denied access to justice because of a lack of means. In response to changing needs, the scope of services has been expanded and the financial eligibility limit for legal aid raised over the years, I am pleased to add. Not surprisingly, the satisfaction rate for legal aid services in Hong Kong has remained consistently high.

In celebration of its 50th Anniversary, the Department has organised a roving exhibition on the history and development of legal aid in Hong Kong, including prominent court decisions and how they have influenced government policies and the community at large. In addition, a six-part TV documentary will feature legal aid cases that will showcase the development of law in Hong Kong.

The Department, of course, works closely with the Judiciary and Legal Aid Services Council, as well as a host of professional bodies and other stakeholders, in ensuring that the rule of law remains fundamental to Hong Kong.

Once again, my congratulations to the Legal Aid Department on reaching this significant milestone. I am confident that the Department and its talented professionals will continue to serve Hong Kong with pride, dedication and honour over the next 50 years.




林鄭月娥 Mrs Carrie Lam

香港特別行政區行政長官
Chief Executive
Hong Kong Special Administrative Region



馬道立 Geoffrey Ma

終審法院首席法官
Chief Justice of the Court of Final Appeal

終審法院首席法官獻辭

五十年前，法律援助署開始在香港提供法律援助服務。這展現了香港在昔日以至現今的兩個特色：社會相對繁榮富足，能提供必要的社會服務；以及社會認定尋求司法公義是香港司法制度的主要元素。《基本法》的主要功能之一，是使在香港一直行之有效且有助確保香港未來成就的體制得以延續。體制的其中一環，是沿用原有的法律制度。《基本法》有多項與此相關的條文，當中第三十五條特別訂明「向法院提起訴訟」的權利，也就是現在慣常所指尋求司法公義的權利。第三十五條同時述明香港居民有權得到秘密法律諮詢、有權獲得律師及時保護自己的權益或在法庭上為其代理，以及有權對行政部門的行為提起訴訟。凡此種種都體現於法律援助署的角色及其履行的眾多職能；這是《基本法》第三十五條的規定得以貫徹實現的最佳明證之一。司法公義的質素是衡量法律制度成效的準則。有健全穩當的法援制度，社會便會因此更趨繁榮興旺，而且變得更公正公義。

我衷心祝賀法律援助署邁向這重要的里程碑，並期待法律援助署今後繼續成果豐碩，貢獻殊多。

Message from the Chief Justice

Fifty years ago, the Legal Aid Department began providing legal aid services in Hong Kong. This exemplified two characteristics of Hong Kong at that time which continue through to today: a relatively affluent society that could afford to provide essential social services and the recognition that access to justice was an essential component of the system of justice here. One of the primary functions of the Basic Law was the continuation of those institutions that had served Hong Kong well and which would help ensure the success of Hong Kong in the future. One such institution was the continuation of the system of law. Among the numerous provisions in the Basic Law relating to this aspect was Article 35 which specifically refers to "access to the courts". This term is usually now referred to as access to justice and in Article 35, it is mentioned alongside confidential legal advice, the existence of lawyers providing timely protection of rights, representation in the courts and also the right to institute legal proceedings against the acts of the executive authorities. All this is synonymous with the Legal Aid Department and the many functions it fulfils. It is one of the clearest manifestations of the attainment of the requirements of Article 35. The effectiveness of any system of law is measured by the quality of justice that is delivered. With a proper system of legal aid in place, a society becomes much richer for it and one that is significantly more just.

I congratulate the Legal Aid Department in reaching this important milestone and expect it to go from strength to strength in the many years to come.

政務司司長獻辭

欣逢法律援助署成立五十周年，謹致熱烈賀忱。

香港特別行政區政府堅守法治，而法律援助服務是香港法律制度的重要一環，以確保需要法律協助的人士不會因為經濟困難而無法訴諸司法。

香港的法律援助制度全面、穩健、經費充足，在全球名列前茅。法律援助署在維護本港法治和公義方面，一直擔當着重要的角色。自一九七零年成立以來，該署一直為有理據提出訴訟或抗辯而欠缺經濟能力的人士，提供可靠和優質的法律援助服務，以確保他們不會因經濟問題而無法尋求公義。

法律援助署與時並進，五十年來不斷擴展服務，除擴大民事及刑事法援範圍外，還推出普通法援計劃和法援輔助計劃。每年平均超過八千人受惠於法援服務。在香港法院每年處理的刑事案件中，逾八成被告獲得法援服務。

展望將來，我深信法律援助署定必繼續與社會各界並肩攜手，確保香港法援制度一如以往，效率與效益兼備。

際此金禧之慶，謹向法律援助署全體人員衷心致意，感謝他們多年來努力不懈。我亦祝願該署工作穩步向前，繼續服務市民，貢獻社會。

張建宗

Message from the Chief Secretary for Administration

I wish to extend my warmest congratulations to the Legal Aid Department on its 50th Anniversary.

The Hong Kong Special Administrative Region Government attaches great importance to upholding the rule of law in Hong Kong. Legal aid is an integral part of the legal system in Hong Kong that seeks to ensure that those in need of legal assistance will not be denied access to justice owing to lack of means.

The legal aid system in Hong Kong has been ranked as one of the most comprehensive, well-established and adequately funded systems in the world. The Legal Aid Department has all along been playing a vital role in upholding the rule of law and justice in Hong Kong. Since its establishment in 1970, the Department has been committed to providing reliable and quality legal aid services to persons with reasonable grounds for pursuing or defending legal action, with a view to ensuring that they would not be deprived of justice because of financial constraints.

Over the past 50 years, the Department has been moving with the times and continuously expanding its scope of services. These include extending the coverage of civil and criminal legal aid, as well as launching the Ordinary Legal Aid Scheme and the Supplementary Legal Aid Scheme. An annual average of over 8 000 people benefit from the legal aid services. Among the criminal court cases in Hong Kong, over 80 percent of defendants are granted with legal aid.

Looking ahead, I am confident that the Department will continue to work closely with all quarters of society to maintain an efficient and effective legal aid system in Hong Kong.

On this joyous occasion of the Department's Golden Jubilee, I would like to express my sincere gratitude to all members of its staff for their relentless effort in serving Hong Kong people over the years. I also wish the Department continuous success in serving Hong Kong in the years ahead.





張建宗 Matthew Cheung Kin-chung

政務司司長
Chief Secretary for Administration



梁永祥博士 Dr William Leung

法律援助服務局主席
Chairman of Legal Aid Services Council

法律援助服務局主席獻辭

今年是香港特別行政區法律援助署（法援署）成立五十周年，我謹致以衷心祝賀。

自一九七零年成立以來，法援署一直擔當著重要的角色，致力為缺乏經濟能力的人士提供法援服務，伸張正義。為了配合不斷轉變的社會需要，法援署除了積極擴大法援服務的涵蓋範圍外，亦努力推出不同形式的電子系統推廣法援服務，協助有意申請法援的人士提交預辦申請所需資料，及更快捷地處理法援申請，成績令人鼓舞。這些進步全賴法援署內每位同事竭誠盡心的服務。

我誠摯祝願法援署在未來五十年或以後續創佳績。本局定必繼續與法援署攜手合作，竭盡所能確保市民可尋求公義，以助維護和鞏固香港的法治精神。

A handwritten signature in black ink, reading '梁永祥' (Leung Wing Cheung).

Message from the Chairman of Legal Aid Services Council

I would like to extend my warmest congratulations to the Legal Aid Department of the Government of the Hong Kong Special Administrative Region on the occasion of its 50th anniversary.

Since its establishment in 1970, the Legal Aid Department has assumed an important role in providing access to justice for people of limited means. It has been making unfaltering efforts in enhancing its services to meet the evolving needs of the community. Apart from expanding the coverage of legal aid services, it is encouraging to see that the department has also developed various electronic systems to promote legal aid services, facilitate intended legal aid applicants in submitting pre-application information, and to speed up the processing of legal aid applications. That growth would not have been possible without the dedicated service by colleagues of the department.

I sincerely wish the Legal Aid Department every success in the next 50 years and beyond. The Council will certainly continue to work hand in hand with the department in ensuring the accessibility of legal aid services to the public to contribute towards upholding and enhancing the rule of law in Hong Kong.

A handwritten signature in black ink, reading 'William Leung'.



法律面前人人平等
All are equal before the law



署長前言

本署於2000年出版「法義之門」紀念特刊，為部門三十周年誌慶。本署一直堅守使命，繼往開來，藉着前人奠下的堅實穩固基礎，不斷拓展及提升法律援助服務，確保所有符合資格接受法律援助的人，不會因欠缺經濟能力而沒法尋求公義。多年來，法援署無懼種種改變和挑戰，與社會一同茁壯成長，成績令人振奮。

過去二十年，香港發展一日千里，為緊貼社會步伐，與時並進，本署除了主動檢視服務範疇及工作流程外，還引進嶄新科技，以及為工作注入新元素。就整體法律援助服務而言，本署喜見普通法律援助計劃（普通計劃）及法律援助輔助計劃（輔助計劃）的範圍擴大至涵蓋更多類別的訴訟。目前，本署每年處理逾15,000宗民事法援申請，以及超過3,000宗刑事法援申請，當中大部分個案的性質複雜，而且影響深遠。本署亦不時就評定法援申請人財務資格的準則，以及申請人的財務資格限額進行檢討。為落實2019年《施政報告》的措施，經本署提請後，普通計劃及輔助計劃的財務資格限額已於2020年6月26日起，分別調高至420,400港元及2,102,000港元。

Director's Preview

We publicised a commemorative publication “Access to Justice” in 2000 to mark the 30th Anniversary of the Department. Riding on the solid foundation laid by our predecessors, we continue to expand and enhance the legal aid services by upholding our mission that no one who qualifies for legal aid is denied access to justice because of a lack of means. It is heartening to see that the Department has been growing robustly with the community amidst all the changes and challenges.

Hong Kong has been developing in a sheer speed in the past 20 years. To be in tune with the pace of the community, apart from initiating reviews on the scope of our service and work process, we also introduce technology and new elements into our work. On the overall provision of legal aid services, we are very pleased to have the scope of the Ordinary Legal Aid Scheme (OLAS) and Supplementary Legal Aid Scheme (SLAS) expanded to cover more types of proceedings. Today we handle over 15,000 civil legal aid applications and over 3,000 criminal legal aid applications in a year, most of which are complicated and have far-reaching effect. We also conduct reviews on the criteria for assessing the financial eligibility of legal aid applicants and on the financial eligibility limit (FEL) from time to time. As one of the initiatives in the 2019 Policy Address, we have sought to further increase the FEL. As from 26 June 2020, the FELs of the OLAS and SLAS have increased to HK\$420,400 and HK\$2,102,000 respectively.

We always attach great importance to the provision of quality customer service to the general public. With the benefit of advance technology, we have invested our efforts and resources to improve our service with successful results through innovative ways. In the past two decades, we introduced a number of new services which included the Legal Aid Electronic Services Portal for the public to submit pre-application information online and for legal practitioners to submit legal aid case reports through the system, Means Tests Calculator on our website as a guide for the public to have a preliminary understanding of their financial eligibility for legal aid, Phone Payment Service, Automated Teller Machine and internet banking to afford greater convenience to the public in making payment, QR codes to enable instant and easy access via mobile devices to our leaflets, electronic appointment system for intended legal aid applicants to make appointment to obtain different types of application-related forms and documents through our website. To provide a more comfortable environment for our applicants, we have upgraded our

本署向來重視為市民提供優質的顧客服務。我們致力創新，積極投入資源，利用先進科技的優點提升服務，並取得顯著成效。過去二十年，本署推出了各項嶄新的服務，為市民帶來方便，當中包括設立法律援助電子服務入門網站，讓市民在網上提交預辦申請所需資料，執業律師亦可經該系統提交法援個案報告。本署的網站亦設有經濟審查計算程式，市民可藉此初步了解自己的財務狀況是否符合申請法援的財務資格。此外，市民可利用繳費靈、自動櫃員機及網上銀行等，更便捷地繳付款項，還可透過掃描二維碼即時簡易地經流動裝置閱覽本署的小冊子。本署的網站亦新增了電子預約系統，供擬申請法援的人在網上預約索取各類與申請法援相關的表格及文件。另外，為向申請人提供更舒適的環境，本署翻新了總部及九龍分署的等候區及會面室。本署一直努力不懈，全力以赴地提供優質服務，並獲得社會肯定，成績令人鼓舞。本署分別在2009年及2016年榮獲申訴專員嘉許獎(公營機構獎)大獎，並在2015年獲頒申訴專員嘉許獎(公營機構獎)。此外，本署更獲頒2019年公務員優質服務獎勵計劃「特別嘉許獎—安健工作間」及「部門精進服務獎(小部門組別)銅獎」，成就獲得肯定。

公正透明的法律援助制度，對維護法治起着舉足輕重的作用。多年來，本署一直十分珍視與各界的溝通，並通過不同途徑及活動，與法律援助服務局、立法會、法律界、持份者、非政府機構及市民接觸。富有成效的交流有助各方面互相理解，並指引着本署不斷改進。

法律援助政策範疇在2007年7月從政務司司長辦公室轉移至民政事務局。其後，法律援助服務局在參考當時一個顧問研究報告後，建議法援署重新定位，本署於是於2018年7月起，在架構上重新撥歸政務司司長直接管轄。不管過去經歷怎麼樣的轉變，未來又會面對什麼樣的挑戰，法律援助署署長都會竭盡所能，以公正、透明及負責任的態度執行法定職能，而法援署一直以來不偏不倚地提供法援服務的立場亦會始終不變。

多年來，本署職員克盡厥職，辦事高效專業，並懷着滿腔熱誠盡心為市民服務，任重而道遠。本人衷心希望本紀念特刊不但記錄了法援署在過去半世紀所作的貢獻，更會啟迪讀者，從中明白法律援助對維護司法公正是不可或缺的，而本署亦會藉着提供卓越的法援服務，繼續擔當守護香港法治的基石。

waiting areas as well as the interview rooms in the Headquarters and the Kowloon Branch Office. It is also encouraging to know that our efforts and determination to provide quality service have earned the recognition from the community. We were selected for the Grand Award of The Ombudsman's Awards for Public Organisations in 2009 and 2016 respectively and the Award of The Ombudsman's Awards for Public Organisations in 2015. The Department was also awarded a Special Citation (Workplace Safety and Wellness) and Bronze Prize in Departmental Service Enhancement Award (Small Department Category) under the Civil Service Outstanding Service Award Scheme 2019 in recognition of our efforts.

A transparent and impartial legal aid system plays a significant role in upholding the rule of law. In all these years, we value the opportunities to meet with the Legal Aid Services Council (LASC), Legislative Council, legal profession, stakeholders, non-governmental organisations and the public through different channels and activities. The fruitful exchange of views helps foster mutual understanding and provide insight for our continuous improvement.

The legal aid portfolio was transferred from the Office of the Chief Secretary for Administration (CS) to the Home Affairs Bureau in July 2007. Since July 2018, on the recommendation of LASC after a recent consultancy study, the Department has been re-positioned and made directly accountable to CS. Whatever the change has been and will be, the Director of Legal Aid has endeavoured to exercise the statutory functions in an impartial, transparent and accountable manner. The established independence in the delivery of legal aid services will never be affected.

Over the years, our dedicated staff members have worked with efficiency and professionalism, coupled with a strong sense of mission to serve the community. I hope this publication will, not only serve as a recollection of the contributions the Department made in the past half century, but also help inspire our readers that legal aid is indispensable to the course of justice and, by delivering quality legal aid services, the Department maintains the role as a cornerstone of the rule of law in Hong Kong.

鄭寶昌 Thomas Edward Kwong

法律援助署署長
Director of Legal Aid





1966.11.23

《法律援助條例》

Legal Aid Ordinance

《法律援助條例》通過，除襲擊和毆打案件外，法援計劃涵蓋幾乎所有在合議庭、最高法院及地方法院審理的民事訴訟。法援計劃並沒有為經費設定預算上限，申請者須接受案情審查和經濟審查。

Legal Aid Ordinance was passed, which sought to make legal aid available in all civil proceedings in the Full Court, Supreme Court and the District Court, except for assault and battery. There was no cap on the legal aid budget and the granting of legal aid is subject to a means test and a merits test.



1978

設立九龍分署

Kowloon Branch Office Established

法援署於旺角彌敦道麗斯大廈設立分署，在接收和處理民事法援申請方面，為申請者提供方便的選擇。九龍分署於1991年遷往旺角政府合署現址。

LAD established a branch office at Ritz Building, Nathan Road, Kowloon as a convenient alternative for receiving and handling civil legal aid applications. In 1991, the Kowloon Branch Office moved to its present location at Mongkok Government Offices.

1973

訴訟組成立

Litigation Unit

成立訴訟組，並於德己立街設立臨時辦事處。

Litigation Unit of LAD was set up and occupied temporary quarters in D'Aguiar Street.

1960

1967.1.12

法援計劃投入運作

Legal Aid Scheme Came into Operation

在司法機構開設一個名為法律援助組的附屬部門，標誌著法律援助計劃正式投入運作。

Legal aid scheme came into operation when a sub-department of the Judiciary called the Legal Aid Section was set up within the Judiciary.



1970

1970.7.1

正式成立

Establishment

法律援助署（法援署）正式成立，並遷往位於炮台里、俗稱「紅磚屋」的前法國外方傳道會大樓。

The Legal Aid Department (LAD) was established and moved to the old French Mission building on Battery Path, nicknamed the "Red Brick Building".

1978.4.1

擴大刑事法援範圍

Widening Coverage of Criminal Legal Aid

修訂《刑事案件法律援助規則》，所有於地方法院審訊的刑事案件均列入法援範圍。

Legal Aid in Criminal Cases Rules were amended to cover all criminal cases in the District Court.



1984.10.1

法律援助輔助計劃 The Supplementary Legal Aid Scheme

推行法律援助輔助計劃，為未能通過經濟審查但有合理理據提出申索，而財政資源又未能負擔高昂訴訟費用的人士提供協助。該計劃為全球首個以訴訟結果決定收費的法律援助計劃，並於1990年代轉為自負盈虧營運。

The Supplementary Legal Aid Scheme came into operation to provide legal representation for people who had reasonable grounds to claim but did not qualify for legal aid because they did not pass the means tests but, nonetheless, were unable to afford the high costs of litigation from their own financial resources. It was the first contingency legal aid fund in the world and became self-financing in 1990s.

1992.7.1

更公平機制 Fairer System

《1991年法律援助(修訂)條例》生效，以「經濟能力」作為經濟審查的單一準則，取代以可動用收入和可動用資產作為審查標準，為只有入息或只有資產的申請者提供更公平的審查機制。

The Legal Aid (Amendment) Ordinance 1991 came into operation to replace the criteria of disposable income and disposable capital in the means test with a single criterion of “financial capacity” with the aim of achieving a system fairer to persons having only income or capital.



1996.9.1

法律援助服務局 Legal Aid Services Council

法律援助服務局正式成立，負責監管由法律援助署提供的法律援助服務，並就法律援助政策向政府提供意見。

Legal Aid Services Council was set up to supervise the provision of legal aid services provided by LAD and to advise the Government on legal aid policy.

1980

1982.4.23

涵蓋樞密院 All the Way to Privy Council

法律援助擴大至涵蓋上訴到英國樞密院的案件。

Legal aid was extended to cover appeals to the Privy Council.



1984.1.1

擴大刑事法援 Criminal Legal Aid Extended

刑事法援擴大至包括在裁判司署進行的交付審判程序。

Criminal legal aid was extended to cover committal proceedings in the Magistrates' Court.

1990

1991.8.1

法定代表律師條例 Official Solicitor Ordinance

《法定代表律師條例》通過，由法律援助署署長出任首位法定代表律師，在訴訟中代表法律上無行為能力(即未滿18歲或精神上無行為能力)的人士的利益。

The enactment of the Official Solicitor Ordinance appointing DLA as the first Official Solicitor who represents the interests of persons under a disability of age or mental capacity in proceedings (i.e. persons under the age of 18 or mentally incapacitated persons).



法定代表律師

OFFICIAL SOLICITOR

1995.7.28

進一步支援 Further Support

《1995年法律援助(修訂)條例》生效，若申請者依據《香港人權法案條例》和《公民權利和政治權利國際公約》適用於香港的規定而提出合理理據的申索，法援署署長可酌情免除其財務資源審查的限額。

Legal Aid (Amendment) Ordinance 1995 came into operation and DLA has discretion to waive the limit of financial resources in the cases of applicants who have satisfied DLA that they have reasonable grounds to claim under the Hong Kong Bill of Rights Ordinance and the International Covenant on Civil and Political Rights as applied to Hong Kong.

1997.11

服務承諾 Performance Pledge

公布審批申請所需時間的服務承諾，同年亦發表「抱負、使命及信念」的聲明。其後，於1999年進一步公布有關付款安排的服務承諾。

Performance pledge on processing time was introduced. Vision, mission and values statements were also launched. Subsequently in 1999, the performance pledge on payment was introduced.



1999

加強公眾認識 Enhance Public Understanding

推出題材廣泛的小冊子，以加強公眾對法律援助服務的認識，包括怎樣申請法律援助、法律援助訴訟的分擔費及法律援助署長的第一押記。

Pamphlets covering a wide range of topics were published to enhance public understanding of legal aid services, such as ways to apply for legal aid, legal aid contribution and DLA's First Charge.



2006

市場機制 Market Mechanism

根據《法律援助（財產的押記）（利率）規例》，法律援助署長第一押記的利率每年會隨市場走勢而變動，而非如以往般把年息率固定為10%。

According to Legal Aid (Charge on Property) (Rate of Interest) Regulation, DLA's first charge interest rate would vary annually according to market movement instead of fixed annual rate of 10%.

1990

1997.10

法律援助網頁 Homepage of LAD

推出網頁，方便公眾於網上獲得法律援助的資訊。

Homepage was launched for the public to obtain on-line information about LAD.



1998.10

全新小冊子 New Pamphlet

出版《香港法律援助服務指南》小冊子。

A pamphlet entitled "A Guide to Legal Aid Services in Hong Kong" was published.



2000

2005.3

調解試驗計劃 Pilot Scheme on Mediation

推行「法律援助婚姻訴訟個案家事調解試驗計劃」。

Introduction of the "Pilot Scheme on Legal Aid for Mediation in Matrimonial Cases".



2008

關注不同族裔的需要 Respond to Concern of People of Different Races

出版不同族裔語言的法律援助服務小冊子。

Leaflets on legal aid services published in languages of people of different races.



2008

網上預辦申請 Online Pre-application

推出法律援助電子服務入門網站，供申請者於網上提交預辦申請所需資料。

Launching of Legal Aid Electronic Services Portal (LAESP) for legal aid applicants to submit pre-application information through online.



2012.3

改善刑事法律援助的付費結構 Criminal Legal Aid Fees Restructured

改善刑事法律援助的付費結構，包括律師聆訊前的工作按時計酬，以及會議費用按時數付予律師。此外，個別案件的分類和相關費用，以及所需準備時間，會經事先評估，並在外判個案時註明報聘費。

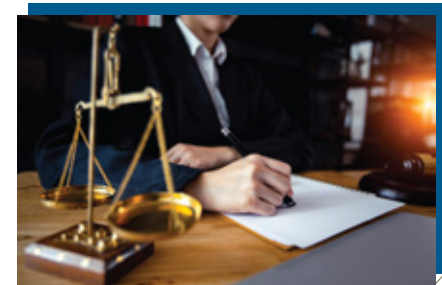
The structure of payment of criminal legal aid fees was enhanced by remunerating pre-trial work of lawyers according to the time required; assessing conference fee payable to solicitors on an hourly basis; and classifying a particular case and assessing the rates and the required preparation time beforehand and having them marked on the brief on assignment.

2012

擴大專業疏忽申索的範圍 Scopes Expanded for Negligence Claims

擴大法律援助輔助計劃範圍，新增8項專業疏忽的申索、保險人或其中介人在銷售個人保險產品時涉及疏忽的申索、就售賣一手住宅物業向賣方提出的金錢申索、以及在針對勞資審裁處所作裁決而提出的上訴中，為僱員提供法律代表。

The scope of SLAS was expanded to cover negligence claims against eight types of professionals, negligence claims against insurers or their intermediaries in respect of the taking out of personal insurance products, monetary claims against vendors in the sale of first hand residential properties, and representation for employees in appeals from Labour Tribunal.



2010

2011.5.18

提高限額 A Further Increase

普通法律援助計劃的財務資格限額由175,800港元調高至260,000港元；法律援助輔助計劃的財務資格限額，則由488,400港元調高至1,300,000港元。

Financial eligibility limit for Ordinary Legal Aid Scheme was raised from HK\$175,800 to HK\$260,000 and that for the Supplementary Legal Aid Scheme (SLAS) from HK\$488,400 to HK\$1,300,000.

2015

更多繳款方式 New Payment Methods

受助人和公眾可使用自動櫃員機提款卡或信用卡在自動櫃員機向法援署繳付款項，或使用網上銀行服務繳款，能讓受助人和公眾更方便地繳付款項。

Aided persons and the public may make payment to LAD with their ATM cards or credit cards at ATMs or through internet banking. The new payment methods afford greater convenience to aided persons and the public.



2018

加強電子通訊 Enhancement of E-communication

推出電子預約系統，讓公眾可通過本署網頁進入法律援助電子服務入門網站，預約索取與申請有關的表格及文件。由2019年起，電子預約系統更可支援流動裝置。

An electronic appointment system was launched for the public to make appointment to obtain application-related forms and documents via the LAESP on LAD's website. The electronic appointment system further supports mobile device since 2019.

公義根基、精英團隊

*An Elite Team
for Justice*



抱負、使命及信念

Vision, Mission & Values

抱負 Vision

提供高質素的法律援助服務，作為本港法治精神的基石。
To be a cornerstone of the rule of law in Hong Kong by delivering quality legal aid services.

使命 Mission

確保所有符合資格接受法律援助的人士不會因欠缺經濟能力而沒法尋求公義。
To ensure that no one who qualifies for legal aid is denied access to justice because of lack of means.

維持高水準的專業工作表現和操守。
To maintain the highest standards of professional excellence and ethics.

培養並維繫一支精益求精、積極進取、訓練有素及盡忠職守的工作隊伍。
To develop and maintain a highly-motivated, dynamic, well-trained and committed workforce.

與法律界人士維持緊密合作和聯繫，共同達成本署的抱負。
To work in partnership with the legal profession to reach our vision.

使法援工作盡量配合社會需求。
To anticipate and meet the ever-changing needs of society.

信念 Values

公正獨立
Independence

凡事悉力以赴
Commitment

講求效率
Efficiency and effectiveness

專業精神
Professionalism

齊心協力
Teamwork

對市民體恤關懷及積極回應
Caring and responsive

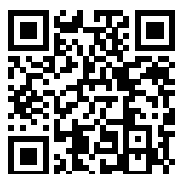
法律援助團隊合照

Group Photos of the Legal Aid Team



首長級人員

Directorate Grade Officers



如欲觀看團隊合照花絮，請掃描二維碼。

Please scan the QR code for the highlights of group photo taking.

職員合照 Staff Group Photo





維護社會平等 Equality for Everyone

「香港的法律援助服務獲提供充裕資源，而且不論居住地和國籍，任何人都可申請法律援助。」

“Legal aid here is well resourced and is available to everyone irrespective of residence or nationality.”

鄺寶昌 Thomas Edward Kwong

法律援助署署長
Director of Legal Aid

追求公義，可說是鄺寶昌署長的家族傳統。縱使兩人從未見面，但啟發署長在法律界發展的，正正就是他的祖父。

「在我成長的時期，父親告訴我關於祖父的故事：他在台山經常主動協助村民維護法律權益。」他憶述：「我覺得祖父的工作很有意義。如非戰爭的緣故，我父親也會攻讀法律。所以他全力鼓勵和支持我成為律師。」

It may be argued that a desire for justice is a trait prevalent in Thomas Edward Kwong's family. The Director of Legal Aid admits that his grandfather was the inspiration for his pursuit of a law career—although the two men have never met.

“When I was growing up, my father told me stories about how my grandfather used to voluntarily help fellow villagers in Taishan on legal matters,” Kwong recalls. “By all accounts, he did a lot of good. If it was not for the war intervening, my father would have followed the same path. And he fully supported my decision to become a lawyer.”

同儕互助

第二次世界大戰爆發後，署長的父親離開故鄉，先後定居香港和署長成長的地方－澳洲墨爾本。18歲時，署長選擇到悉尼升讀大學。「在高中時對法律科產生興趣，於是自然而然地以此為事業方向。」他說：「我讀大學時曾經以學生領袖的身分，積極提倡學生權益，為來自不同種族的所有學生爭取平等待遇。此外，也建立網絡協助離鄉別井的海外留學生。」

取得政治學學士和法學士學位後，署長於澳洲律師學院完成法律訓練，並於1986年獲認許為新南威爾斯最高法院的律師。同年，香港政府積極招聘海外律師。「我看到廣告便提出申請。」他至今記憶猶新：「我對法律援助的工作非常有興趣。雖然知道私人執業律師的工資遠比政府律師的為高，但我十分希望為大眾市民服務，因為我相信任何人都應該有平等的權利尋求公義。」

Students Helping Students

Kwong's father left their ancestral village after the outbreak of World War II, first for Hong Kong and subsequently for Melbourne, Australia where he was brought up. At the age of 18, he opted to continue his university education in Sydney. "After developing an interest in legal studies at high school, it was natural for me to pursue this career path," Kwong explains. "I was very active in my university days as a student leader advocating for student's rights as well as equality for all students irrespective of races. Networks were also set up to assist overseas students who were studying far from home."

After he graduated with a Bachelor of Political Science and a Bachelor of Laws, Kwong completed his training at the College of Law in Australia. He was eventually admitted as Solicitor of the Supreme Court of New South Wales in 1986. The same year, the Hong Kong Government was actively recruiting overseas lawyers. "I saw an advertisement and applied," he remembers. "I was very interested in pursuing a career in legal aid despite knowing that salaries in the private sector were much higher than in government jobs. I guess I was leaning strongly towards public service because of my belief that everyone should have equal access to justice."



署長於1986年獲認許為新南威爾斯最高法院的律師。

Kwong was admitted as Solicitor of the Supreme Court of New South Wales in 1986.



署長(右三)為香港律師會舉辦的「法律周2018及青teen講場2018」主持開幕典禮。

Kwong (third right) officiated at the opening ceremony of Law Week 2018 and Teen Talk 2018 which was organised by The Law Society of Hong Kong.

登上高峰

1987年，署長回到香港加入法律援助署，成為法律援助律師。他回港時正值1984年中英聯合聲明簽署之後，不少人才紛紛移居外地。到了1994年，他獲認許為英格蘭和威爾斯最高法院及香港高等法院的律師，並於2008年獲委任為法律援助署副署長。2013年，他接替陳香屏成為署長。

「我加入法援署時並沒有想過會當上署長。」署長笑言，並分享獲委以重任時的感受：「我接任署長時，首要任務是與各界持份者加強溝通，以鞏固我們協助尋求公義的目標。通過溝通，我們知道不同人士的需要，以及可以改進的地方。我們主動接觸相關的持份者，包括兩個法律專業團體、法律援助服務局、非政府機構、立法會及區議會，以及法援申請人，商討如何改善我們的服務。例如在提供法援服務後，我們邀請申請人填寫問卷。這讓我們了解需要改善的範疇。我們達到的整體成效令人鼓舞，真的感謝各界的支持。我亦非常高興政府繼續給予我們很大的自由度，讓我們妥善地處理現時的工作。」

Path to Top Job

Kwong returned to Hong Kong and joined Legal Aid Department in 1987 as Legal Aid Counsel. He came back at a time when many of the city's leading residents were exiting following the 1984 signing of the Sino-British Joint Declaration. Kwong was admitted as a solicitor of the Supreme Court of England and Wales and the High Court of Hong Kong in 1994, and was appointed Deputy Director of the Department in 2008. In 2013, he succeeded William Chan Heung Ping and took over as Director of the Department.

“I never thought I would be Director of the Department,” Kwong admits with a chuckle, recalling the moment when he was awarded the top job. “Strengthening communication with our stakeholders as a means to enhance access to justice was my top priority when I first took over. Through communication, we learn who needs what. We learn where we can do better. We reach out to our stakeholders, including the two Legal Professional Bodies, the Legal Aid Services Council, non-governmental organisations, Legislative and District Councillors, and legal aid applicants, to determine how we could improve our services. For example, after we provide legal aid services to applicants, we ask them to fill out a questionnaire. This enables us to determine what aspects we could improve upon. The results have been most encouraging overall, and we are grateful for our stakeholders' support. Further, I am very happy that the government continues to give us a very free hand to do our jobs properly.”

卓越功績

署長對法援署過去7年的成就感到自豪。這包括分擔費計算方法的持續更新，以及普通法律援助計劃（普通計劃）和法律援助輔助計劃（輔助計劃）的財務資源限額的上調等。

「普通計劃的財務資源限額目前為420,400元，輔助計劃的限額則為2,102,000元。」他指出：「現時，超過72%的法援受助人無須繳交任何分擔費；超過81%受助人的分擔費則少於1,536元。」署方更在全面檢討刑事法律援助費用後，大幅上調大律師、訟辯律師及發出指示的律師辦理刑事法援案件的費用。

「在協助更多人尋求公義方面，司法機構對法援署致力提供優質法援服務亦予以充分肯定。」署長指出：「正如終審法院首席法官馬道立於2016年法律年度開啟典禮演辭所言：『法律援助讓眾多訴訟人獲得向法院尋求公道所需的途徑，他們包括嚴重受傷的人士、其家屬，以及其他需要法律保障但並無經濟能力聘請法律代表的人士。當然，在公法這個重要的範疇裏，法律援助對確保香港的公法和憲法的正常發展作出貢獻。』」

直接獲法援署幫助的人亦對署方表達稱許和謝意，現時法援服務的整體滿意程度為90%。部門亦榮獲2015年申訴專員嘉許獎（公營機構獎），以及2016年申訴專員嘉許獎（大獎）。此外，在過去7年，部門亦有9名同事分別獲得申訴專員嘉許獎的公職人員獎。最近，部門更獲得2019年公務員優質服務獎勵計劃的部門精進服務獎（小部門組別）銅獎。



Personal and Professional Highs

Kwong is proud of the Department's various achievements over the past seven years. These include ongoing updates of the Department's method for computation of contributions and increase of financial eligibility limits (FEL) for legal aid under the ordinary (OLAS) and supplementary (SLAS) legal aid schemes. "The current FEL for OLAS is \$420,400 and for SLAS is \$2,102,000," he states. "At present, more than 72% of legally aided persons are not required to pay any contribution. And more than 81% pay contribution less than \$1,536." Following a comprehensive review of criminal legal aid fees, significant upward adjustments have been made for fees payable to counsel, solicitor advocate, and instructing solicitor undertaking criminal legal aid work.

"In terms of enhancing access to justice, the Department's effort to maintain a robust legal aid scheme was acknowledged by encouraging comments from the Judiciary," notes Kwong. "For example, at the opening of the Legal Year in 2016, the Chief Justice of the Court of Final Appeal, Geoffrey Ma commented: 'Legal aid has provided the necessary access to justice for many litigants. These have included people who have suffered serious injuries, their family members, and those persons who have needed the protection of the law but did not have the means to engage private legal representation. Certainly, in the area of public law, legal aid has played its part in ensuring that Hong Kong's public and constitutional laws have properly developed.'"

Kind words and gratitude also come from people the Department helped directly, with overall satisfaction level of legal aid services users currently at 90%. The Department garnered Award of The Ombudsman's Award 2015 for Public Organisations and the Grand Award of The Ombudsman's Award 2016 for Public Organisations. Further, 9 individual Department officers were awarded The Ombudsman's Award for Officers of Public Organisations over the past 7 years. Most recently, the Department won the Bronze Prize of the Departmental Service Enhancement Award (Small Department Category) under the Civil Service Outstanding Service Award Scheme 2019.

法援署榮獲2016年申訴專員嘉許獎大獎。

The Department garnered the Grand Award of The Ombudsman's Award for Public Organisations in 2016.

完善制度

「香港擁有世上其中一個最好的法援制度。」署長謙和地說。自成立以來，法援署致力確保所有具合理理據在香港法院提出訴訟或抗辯的人，不會因欠缺經濟能力而沒法尋求公義。「香港的法律援助服務獲提供充裕資源，而且不論居住地和國籍，任何人都可申請法律援助。」他續指：「援助範疇方面，我們的民事法援幾乎涵蓋所有區域法院和高等法院的訴訟，並延伸至廣泛的案件類別，包括人身傷害、追討欠薪、醫療疏忽、婚姻訴訟，以及入境事務和公法訴訟。在絕大部分實施普通法的司法管轄區，法律援助都不再涵蓋人身傷害索償。」

時至今日，法援署共聘請超過80名律師，以及逾500名員工，協助實踐部門的目標。「由於部門人手有限，以及個別案件與部門有利益衝突，我們把約80%的案件交由外委律師處理。」他亦補充指，原訟法庭及區域法院審理的刑事案件，約90%屬法援個案。「過去5年，民事法援案件的整體勝訴率維持在88%至91%的高水平。」由法援署直接或間接處理的個案比例之多可見，部門的工作與香港的民生息息相關。

Best of the Best

“Hong Kong has one of the best legal aid systems in the world,” Kwong modestly acknowledges. Since its inception, the Department’s objective aims to ensure that those with reasonable grounds for pursuing or defending a legal action in Hong Kong’s courts will not be denied access to justice due to lack of means. “Legal aid here is well resourced and is available to everyone irrespective of residence or nationality,” Kwong elaborates. “In terms of scope, civil legal aid here covers almost all kinds of proceedings in the District Court and higher courts, and extends to a wide range of case types including personal injuries, wages claims, medical negligence, matrimonial, and immigration and public law. In most if not all of the common law jurisdictions, personal injury claims are no longer covered by legal aid.”

Today, the Department employs more than 80 lawyers with over 500 staff members to achieve its goal. “We do outsource some 80% of our cases because of the limitation of capacity and where there is conflict of interest,” notes Kwong, adding that around 90% of all criminal trials in the Court of First Instance and the District Court originated from the Department. “The overall success rate for civil legal aid cases remains at a relatively high level of 88% to 91% in the past 5 years.” With such a large percentage of cases handled directly and indirectly by the Department, it is clear that the Department’s efforts closely link with the livelihood of many Hong Kong people.

成就更好

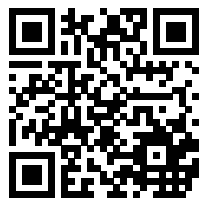
在慶祝法援署成立50周年的同時，署長對下一個50年亦充滿計劃和信心。懷着力求進步的精神，他相信法援署未來應充分利用科技，精簡流程，以進一步提升服務效率。

「法律援助對確保市民享有《基本法》第35條訂明的尋求公義權利，扮演着重要角色。」他指：「《法律援助條例》和《刑事案件法律援助規則》均訂明法援署運作獨立，因此我有信心法律援助署在維護香港法治方面，繼續扮演重要角色。」

Onwards and Upwards

As the Department celebrates its 50th anniversary this year, Kwong is optimistic and full of plans for the next 50 years. Never one to rest on his laurels, he believes that streamlining to achieve greater efficiency for those in need by making full use of technology is the way forward. “Legal aid plays an important role in ensuring access to justice as prescribed under Article 35 of the Basic Law,” he states. “With its operational independence enshrined in the Legal Aid Ordinance and the Legal Aid in Criminal Cases Rules, I am confident that the Legal Aid Department will continue to play its part as an important component of Hong Kong’s rule of law.”

署長有信心法律援助會繼續作為香港法治的重要部分。
Kwong is confident that legal aid will continue to play its part
as an important component of Hong Kong’s rule of law.



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談法援 憶往事 Age of Reason

「同事之間志同道合，深信工作意義重大，努力不懈使法援署的工作受人賞識。」

“Within the officers in the Department, there was a strong sense of belief in what they were doing and a camaraderie that made the LAD a force to be reckoned with.”

穆士賢 Patrick Moss

法律援助署署長 1984-1993
Director of Legal Aid 1984-1993

對穆士賢來說，七十年代的香港是一個富吸引力的地方。他本來在牛津郡私人執業，負責大部分的訴訟和商業工作；儘管如此，合伙人仍不願增加他的報酬。他於是決定遠赴一直渴望前往的遠東區尋求發展。在通過法律援助主任的面試後，他和妻子及女兒於1977年3月抵達香港。人群急速的腳步、五光十色的景象，以及海底隧道旁耀眼的中文字廣告等，都令這位初來乍到的西方人著迷不已。

Hong Kong in the 1970s was an attractive place to Patrick Moss. Having a long held ambition to travel to the Far East, he took the opportunity to leave private practice in Oxfordshire when his partners were disinclined to share more of the profits despite the fact that he had been a major contributor with litigation and commercial work. Having been successfully interviewed for the post of Legal Aid Officer, he arrived with his wife and daughter in Hong Kong in March 1977. He was immediately fascinated by the crowds scurrying everywhere, the bright lights and the large Chinese characters then displayed along the Cross Harbour Tunnel.

七十年代的高低起伏

法律援助署當年位於德輔道的先施大廈。1977年的愚人節（4月1日），穆士賢在這個擁有約250名員工的部門正式履新，成為第13名法律援助主任。翌日，他獲派到九龍裁判司署出席一位死於醫院手術台上的女士的死因研訊。當時，窗外的飛機低飛掠過，準備降落在附近的啟德機場。他在聽取駭人的證供時，一邊開始思考來港發展的決定是否正確。幸而，這位後來被派駐交通意外組的新人很快便安心下來了。

法援署交通意外組的工作，對比穆士賢過去私人執業的經驗可謂大相逕庭。眼見大眾在複雜的法律制度下，負擔不起聘請律師的費用，對穆士賢而言，工作的動力不再是金錢回報，取而代之的是協助他人的使命。當時，願意接手這類工作的律師實在不多。魯莽的司機在遇上意外時，都會用上對其有利的藉口，他們總會以「有狗隻路過，我要突然轉軌，因此造成意外」作為理由。穆士賢對此說法半信半疑，直到他駕車經過新界，發現路上真的有很多流浪狗，這才真正釋除疑慮。

同樣地，在刑事組的日子加深了穆士賢對香港生活的了解。他在私人執業期間處理過不少刑事案件，但大多只是由下級法院審理的性質較輕微案件，而在法援署刑事組的經歷則令他眼界大開。在香港，需尋求法援的刑事案件相對於英國的嚴重得多，英國的同業應該很少機會接觸到這類案件。



Highs and Lows of 1970s Hong Kong

The Legal Aid Department (LAD) was in those days located at the aptly named Sincere Building on Des Voeux Road. Moss reported for duty as the 13th Legal Aid Officer in a department of about 250 in total on April Fool's Day 1977. He was posted to the Running Down Section after he spent his second day at Kowloon Magistracy attending an inquest on a woman who had died on the operating table in a local hospital. As he listened to the horrifying evidence and watched through the window as low flying aircraft approached nearby Kai Tak Airport, he began to wonder whether he had made the right decision. Fortunately, reassurance was soon to follow.

Life in the Running Down Section was a complete change for him. Gone was the profit motive of private practitioners. In its stead was the conviction that he was helping people through the intricacies of the legal system because they could not afford to consult a solicitor. In those days, solicitors who were prepared to undertake such cases were few in number. Wayward drivers seemed to adopt whatever excuse for accidents were in favour at the time. For a long time, it was “a dog ran out and made me swerve to have the accident.” The explanation drew skepticism until when he drove through the New Territories, when it became apparent that there really were many stray dogs around.

Time spent in the Criminal Section was yet another insight into Hong Kong life. Having done quite a lot of criminal work in private practice but generally at a lower level of court, the time spent in the Criminal Section was an eye opener. Few UK practitioners would ever have the opportunity to act on behalf of those accused of such serious crimes as those that came to the Section on a regular basis.

Under LAD's first Director, Desmond Mayne QC, the work of the Department increased steadily. One development that was, sadly, less successful was “The Van”. Donated by the Rotary Club, the vehicle travelled to various District Offices in the New Territories to enable applications for legal aid to be made there rather than attending the offices in Hong Kong or Kowloon. Rota duty for officers was not popular since there were few who chose to apply for aid at the van. The only big queue for the van was when a number of school kids waited for what they thought was ice cream.

法援外展車。

The Legal Aid Van.

在第一任法援署署長梅恩(Desmond Mayne)的管領下，法援署的工作漸上軌道。可惜，「外展車」計劃是當中的例外。外展車由扶輪社捐贈，負責走訪新界各區，協助當區居民申請法援，免卻他們往返香港九龍的不便。可是，外展車的服務並未廣受歡迎，經由這方法申請法援的人始終不多，唯一次出現排隊人龍，竟然是因為一群小朋友誤將外展車當作雪糕車。

穆士賢強調：「同事之間志同道合，深信工作意義重大，努力不懈使法援署的工作受人賞識。」法援署的婚姻訴訟組負責處理本港大部分的離婚訴訟；清盤破產小組則經常忙於處理被拖欠薪金員工的申索，當中包括滯留海上、孤立無援的海員。不少個案的船隻在駛進香港海域後被扣留，員工因此能根據本港法例得到應有的工資。他曾經處理一宗希臘郵輪的個案，受害的員工包括在船上表演歌舞的舞蹈員，這令案件添上一份傳奇色彩。然而，真正令法援署為人稱道的，是署方處理的人身傷害和僱員補償個案，成績堪稱全港最佳。對於能夠參與其中，協助不能獨力尋求公義的人，穆士賢至今仍感到自豪。

晉升高位

1982年，時任副署長布幹禮(Tom Pokorny)達到退休之齡，啟程返回英國；同一周末，署長祁景舒(Brian Clancy)抱恙入院。在周一早上返回辦公室後，穆士賢奉召到布政司辦公室，獲委任為署理署長。他認為當時並非沒有更具條件勝任的人選，但他承認因天時地利之助而成為幸運兒。

穆士賢掌舵時是困難重重的年代，大量越南船民湧入尋求庇護，令法援署和政府產生對立。有關問題只能隨時間慢慢解決。當年，他因容許大量船民申請法援而備受批評，更要多

八十年代初期，有大量越南船民湧入尋求庇護。

During the early 1980s, there were large numbers of Vietnamese boat people seeking asylum.

Moss emphasised that “within the officers in the Department, there was a strong sense of belief in what they were doing and a camaraderie that made the LAD a force to be reckoned with.” The Matrimonial Section practically dominated the divorce litigation in Hong Kong. The Insolvency Section was very busy dealing with claims by unpaid workers including those by seamen on ocean-going vessels for whom no one else would act. On a number of occasions, ships were arrested once they had sailed into Hong Kong where the crews’ wages would be paid under local law. He recalls the arrest of a Greek cruise liner complete with GoGo dancers which lent a more colourful aspect to the case. It was however in the fields of personal injury and employees’ compensation that the LAD began to establish an awesome reputation and its work was second to none in the Territory. Moss was proud to have been part of this team which achieved so much for those unable to obtain access to justice on their own.

Life at the Top

In 1982 the then deputy Director, Tom Pokorny, left Hong Kong for retirement and on the same weekend the then Director, Brian Clancy, went into hospital. Moss arrived at work on the Monday morning to be summoned to the Chief Secretary’s office, and was told that he had been appointed acting Director. There were others with what he thought were stronger claims, but he admitted that he was fortunate in having been in the right place at the right time.

Moss’ decade at the helm was at times difficult. The influx of Vietnamese boat people in large numbers seeking asylum put the Department at odds with the Government. At times this was a problem that only time resolved. He was criticised for allowing so many applications and repeatedly had to tell critics that under the Legal Aid Ordinance boat people in Hong Kong were entitled to apply for legal aid. It was the statutory duty of the Department to consider whether on the evidence it should be granted, even though it proved to be unpopular in many quarters.



番解釋根據《法律援助條例》，船民有權在香港申請援助。雖然很多人對此都不以為然；然而，根據佐證審批申請卻是部門的法定職責。

穆士賢坦言，法援署的工作很少冷場。無論是扣留船隻、在署方取得法庭命令前與申請了21項法援的男子周旋、為受虐的婦女爭取賠償、替受傷的乘客或行人起訴運輸機構、為欠薪的公司進行清盤、或為涉嫌犯下駭人罪行的疑犯辯護等，這些都是法援署的工作範疇。

法律援助輔助計劃(輔助計劃)是穆士賢任內的其中一項成就，計劃讓「夾心階層」獲得法援以進行訴訟，並從所追討得的賠償金額中，扣除一定百分比作為分擔費，撥入計劃基金。獎券基金慷慨撥出的種子基金使計劃得以推行，「我們必須格外小心，只可批出援助予勝算高的案件。」他解釋：「因為如果敗訴，我們就得支付所有訟費，基金根本負擔不來。」

使命不變

穆士賢相信，今天法援署面對的挑戰與他當年遇到的相似。向財政部門爭取撥款，是部門恆常而重要的挑戰，然而日益政治化的社會亦令部門的工作更形艱巨。法律援助署在輔助計劃的範疇上處於領導地位，得到海外不少法律支援組織的尊重。他有信心法援署作為政府的一員，會繼續贏得公眾信任和海外機構的認同。

「希望他們事事順利。」他祝願。

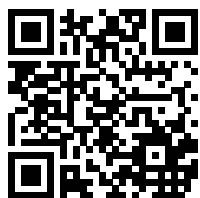
“There were few dull moments,” Moss said. Whether it was arresting ships, dealing with one gentleman who made 21 applications for aid before the Department obtained a court order to stop him, obtaining redress for battered wives, suing transport providers for injuries sustained by passengers or pedestrians, seeking to wind up companies which had failed to pay their staff or defending those accused of horrendous crimes—it was all within the scope of the Department.

One achievement Moss made was to implement the Supplementary Legal Aid Scheme (SLAS). SLAS enables the “sandwich class” to obtain legal aid to bring proceedings in return for which a percentage is deducted from the amount they recover. It was through the generosity of the Lotteries Fund that seed money was provided to start the scheme. “We had to be even more careful than ever only to grant SLAS to potentially winning cases because if we lost, we had to pay all the costs and there simply was not enough in the Fund to enable that,” he said.

Same Mission, Different Time

Moss said that he believes that the LAD faces similar challenges today that he faced whilst Director. The constant battles to obtain funding from the Finance Branch looms high on the list but the politicisation of Hong Kong must make the LAD’s task a lot more of a minefield. The LAD has won considerable respect from overseas legal assistance bodies and was a world leader with SLAS. He is confident that the Department as a branch of the Hong Kong Government will continue to earn public confidence as well as overseas recognition in the future.

“I wish them success,” Moss said.



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發揮團隊力量 The Power of Team Spirit

「法律援助的同事在龐大工作壓力下，仍能協助維護香港社會的法治。」

“Colleagues of the Department are able to work under immense pressure to help the city in maintaining the rule of law.”

嚴賢麟 Ivan Yim

法律援助署高級法律援助律師
Senior Legal Aid Counsel of the Legal Aid Department

Ivan自2001年起成為私人執業律師，主要處理刑事案件。為能接觸行內更廣泛的工作，他在2007年加入法律援助署，並在申請及審查科服務。其後，他曾於署內不同科別工作，包括訴訟科的刑事組及民事訴訟(2)組，處理不同類型的案件。在2017年，他被調回申請及審查科。

Ivan Yim started working as a private practice lawyer in 2001, specialising in criminal litigation. With an intention to broaden his experiences in the legal field, he joined the Legal Aid Department in 2007 and was posted to the Application and Processing Division. Since then he has served in various sections within the Department, including Crime Section and Civil Litigation (2) Section, working on cases of different natures. He was posted back to the Application and Processing Division in 2017.

在團隊內扮演不同角色

申請及審查科的工作主要是處理法援申請，包括就每宗申請進行經濟及案情審查，及監察外判個案等。記得剛加入法援署時，Ivan是部門的新手，前輩們縱使工作繁重仍樂於指導他並與他分享經驗。Ivan至今仍心存感激：「每位同事的工作量都不少，但他們仍願意幫助新同事，實在很難得。」相隔八年再回到申請及審查科，Ivan已成為較有經驗的法律援助律師，也擔當有如當年前輩們的角色，積極幫助身邊的新同事。

談到本身的性格，Ivan坦言善於聆聽多於表達自己。他認為：「申請人來自不同背景，面對不同的狀況。我們要虛心聆聽申請人的想法、感受，才能找到最佳的方法去幫助他們。」

Playing Different Roles

The main responsibilities in the Application and Processing Division include processing legal aid applications and monitoring assigned out cases. When Ivan first arrived in the Division, the experienced colleagues and supervisors were always happy to offer advice and share their experience. Till this day, Ivan is still incredibly grateful of the guidance he received as a newbie: “Everyone had a lot of work on their plates, yet they were still willing to lend a helping hand to a new colleague — I really treasured the camaraderie.” Eight years later, Ivan returned to his old division as an experienced counsel; since then, he has taken on the role of his previous mentors and has been offering generous assistance and support to newcomers.

Speaking of his personality, Ivan admits that he is a better listener than a talker. “Our applicants come from all walks of life and are facing different situations,” he explains. “In order to find the best ways to help them, we have to really listen to them and understand their thoughts and feelings.”



面對繁重的工作，Ivan與同事們積極商討案件、互相幫忙。

Facing heavy workload, Ivan and his colleagues proactively discuss with and assist each other at work.

見證社會的變遷

案件的處理有緩急先後，處理有可能為社會帶來重大影響的緊急案件，更是考驗團隊合作的一大挑戰。當與申請相關的訴訟並無先例可循，或涉及複雜的法律爭議問題時，法援署可根據《法律援助條例》第9(d)條，就審批有關申請的理據向大律師（包括資深大律師）徵詢獨立法律意見。

Ivan與團隊曾處理一宗非常緊急的司法覆核申請，由提出申請到在法院進行聆訊，時間不足一個月。他憶述：「在過程中，我們需要向多方人士蒐集大量資料，並徵詢大律師的意見。整個過程非常緊迫，加上部門平日的工作已十分繁重，幸好我們仍能夠在短時間內完成審批，這充分顯示法援署的同事在龐大工作壓力下，仍能協助維護香港社會的法治。」

現今社會變化不斷，不同的文化和價值觀難免互相衝擊。面對富爭議性的議題，其中一個解決爭議的方法就是把議題帶到法庭，尋求最公平合理的解決方案。公務員爭取同性配偶的平等福利便是一例，而法援署在當中亦扮演了重要的角色。入境處一名高級入境事務主任於海外與同性伴侶註冊結婚，他因未能獲得公務員配偶福利和兩人未可合併報稅等事宜而提出司法覆核。在法援署的協助下，案件上訴至終審法院並獲勝訴。Ivan表示：「法援署有責任確保有需要的人士獲得所需及足夠的協助，以保障他們的權益。」他認為此案反映社會對婚姻的觀念正在逐步改變，也欣喜法援署的工作可與香港社會的發展與時並進。



Witnessing Social Changes

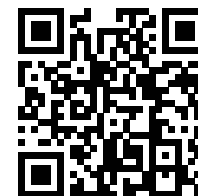
The level of priority and severity is different in each case. The Department is no stranger to important or urgent cases that can have great social impacts. When an application involves new, complex or controversial legal issue(s), the Department may seek independent legal advice on the merits of the application from Counsel (including Senior Counsel) under section 9(d) of the Legal Aid Ordinance.

Ivan and his team have once encountered an extremely urgent judicial review application. They were given less than a month from the application to the court hearing. “During the process, we needed to collect information from various parties and consult barristers,” he recalls. “The whole thing was in a massive rush. Thankfully, even with the already heavy daily workload, we managed to complete the processing in such a short period of time. This shows that colleagues are able to work under immense pressure to help the city in maintaining the rule of law.”

As the world evolves, there are inevitable clashes between cultures and values. One of the best ways to settle controversial issues is to seek fair and just solutions in court. In a civil servant’s fight for equality in same sex marriage, the Department served an important role. A senior immigration officer of Immigration Department married his same-sex partner overseas. He and his partner were denied spousal benefits and joint tax assessment in Hong Kong. With the assistance of the Department, they applied for judicial review and eventually received a favorable ruling from the Court of Final Appeal. Ivan comments: “It is the Department’s duty to ensure that those in need can obtain the appropriate and sufficient assistance in order to protect their rights and benefits.” He believes that this case is evident of the changing attitudes of society towards marriage, and he is glad that the work of the Department has progressed with the times and kept pace with the social development in Hong Kong.

Ivan認為法援署與香港社會的發展與時並進。

Ivan believes the Department has kept pace with the social development in Hong Kong.



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儘管法律援助署的日常工作繁重，Ivan仍竭力參與工作以外的各種活動。

Despite his busy work schedule, Ivan makes a conscious effort to participate in other activities.

以專業態度迎接挑戰

Ivan剛調任刑事組時，須處理一宗疏忽照顧嬰兒的案件。在有關檔案中，他看到該女嬰屍體的照片時，感到非常難過。但他明白在刑事組工作，不時都會接觸到跟刑事案件相關的照片，當中有些難免令人深感不安，並會因此觸動一些個人情緒和感受。然而，作為法律援助律師，他必須放下這些個人情緒和感受，持平地就每宗申請進行審查及監察案件的進度，確保申請人及受助人的法律權益獲得保障。

在工作以外，Ivan亦加入了法律援助律師協會，致力連繫前線同事和管理層。Ivan指：「協會的角色與工會類似，讓同事向管理層反映在工作上的感受、需要和困難。管理層在了解前線同事的情況後，可以更有效地作出政策和管理上的配合，從而提升部門的整體效率。」

在法援署工作的十多年間，Ivan見證了部門的重大改變與發展，以及堅定不移地為社會提供優質的法援服務。然而，隨着社會不斷進步，須面對的問題亦越趨複雜，法援署難免會遇到更大、更棘手的挑戰。因此他希望與同事共勉：「期望大家在未來的日子繼續不負市民所托、盡忠職守，實踐捍衛香港法治的服務承諾。」

Facing Challenges with Professionalism

By the time Ivan took up a post in Crime Section, he had to handle a case related to child abuse. He came across with an image of a baby girl's dead body when going through the documents. Though being struck by the image, he understands that viewing offence related photos is part of the job for the professional officers in Crime Section. Brutal imagery can take an emotional toll on everyone. He must let go of his personal emotions in order to ensure that the legal rights of all applicants and aided persons are protected.

In addition, as a member of the Legal Aid Counsel Association, Ivan has been dedicated to connect fellow colleagues with the management. "The Association works like a union in the sense that it enables frontline employees to express their needs and difficulties to the management," says Ivan. "With a better understanding of the working conditions of our colleagues, the management strives to formulate appropriate policies and decisions to enhance the efficiency and effectiveness of the Department as a whole."

Having spent over a decade in the Department, Ivan has witnessed the amazing changes in the Department, as well as its extraordinary growth and unwavering commitment to providing quality legal aid services to society. However, as the modern society encounters increasingly complicated social issues, the Department will undoubtedly face bigger and tougher challenges in the days to come. For that, Ivan offers some words of encouragement to his colleagues: "I would like to see all of us continue to live up to the public expectations by working with dedication and diligence, so as to fulfil our performance pledge of safeguarding the rule of law in Hong Kong."

致力法援 盡心服務 Serve with Wholehearted Devotion

「希望大家繼續上下齊心，共同構建一個重公義、揚真理、顯關懷的社會。」

“Hope all of us continue to work together and help create a society of justice, truth and kindness.”

蔡楚如 Helen Choi

法律援助署高級法律援助律師
Senior Legal Aid Counsel of the Legal Aid Department

蔡楚如 (Helen) 在1996年加入法律援助署 (法援署)，曾在申請及審查科和訴訟科工作。由於法援署的主要工作是協助在法律上有合理理據，但經濟上未能負擔訟費的人進行訴訟，出身草根家庭的Helen因此深感法援服務意義重大，於是加入法援署，展開了至今逾20年的法援工作。

Helen Choi joined the Legal Aid Department in 1996 and has served in two divisions: the Application and Processing Division, and the Litigation Division. The Department's main mission is to provide legal representation to those with reasonable grounds for taking or defending a legal action but unable to afford the legal costs required. Coming from a grassroots background, Helen understands the importance of the Department's work and has dedicated herself to its cause for more than 20 years.

在困難中體現團隊互助

申請及審查科和訴訟科的工作可謂截然不同。在申請及審查科工作時，Helen主要負責處理法援申請，然後交由法援署訴訟科的律師或委託在法律援助律師名冊上的私人執業律師辦理個案；而在訴訟科期間，Helen隸屬民事訴訟組，主要負責處理民事案件及進行訴訟工作。

在法援署工作，經常會面對林林總總的案件和法援申請。Helen坦言，工作中最大的困難就是處理不熟悉的個案。遇到這種情況，除了翻查資料外，Helen很多時都會在同事及上司的協助下找到解決方法。她說：「法援署的特別之處，在於同事們的熱忱和互相幫助的精神。」因此，在遇到困難時，她都會請教同事和上司。憑着這樣的團隊互助精神，難題最終都會迎刃而解。

Teamwork is Key

The Application and Processing Division and the Litigation Division have vastly different responsibilities. The former handles legal aid applications, and assigns cases to the Litigation Division of the Department or lawyers in private practice on the Legal Aid Panel. While working in the Litigation Division, she spent most of her time in the Civil Litigation Section, in charge of civil litigation and relevant proceedings.

Having dealt with a wide variety of applications and cases during her time at the Department, Helen admits that the biggest challenge to her is how to handle cases that she is unfamiliar with. At times like that, on top of researching information on her own, Helen also regularly seeks help and guidance from colleagues and supervisors. “One of the best things about the Department is that all of our colleagues are incredibly nice and helpful,” she says, adding that teamwork is the key to solving problems at work.



Helen認為憑着團隊互助精神，難題最終都會迎刃而解。

To Helen, teamwork is the key to solving problems at work.

以客為本

在這20多年裏，Helen處理過不少令她印象深刻的個案。其中一宗個案的申請人是一位末期病患者，由於他在工作期間意外受傷，於是尋求法援署協助，以根據《僱員補償條例》和普通法提出申索。「這位申請人很特別，縱使已經離婚並再婚，他的前妻和與前妻所生的女兒仍陪伴他一起來。」這情景令Helen深受感動：「當時他的身體已經很虛弱，需要加快處理申請。」

慶幸他獲批法援，而外委律師亦非常積極處理個案，多番緊急到醫院探望受助人，並安排專家醫生評估傷勢。「時間配合很重要。由於情況緊急，我們必須在受助人昏迷之前集齊所有資料，以及備妥所需的法律文件。」最後，在家屬、律師和法援團隊各方的群策群力下，只用了短短4個月，便成功為受助人的兩項申索取得賠償及訟費。



盡心服務帶來的滿足感

不少獲批法援的受助人，在案件完結後都會向曾幫助他們的法援署人員表達謝意。「他們通常會送上心意卡，或會以口頭和書面致謝。」有一位受助人在10年前接受過法援，至今雖已事隔多年，仍然會不時致電署方，送上問候，這令Helen感到特別欣慰：「這位受助人曾申索疏忽賠償，大家由最初的律師與當事人的關係，發展到現在如朋友一般，令我們非常有滿足感。」

Caring for Customers

For more than two decades, Helen has come across a number of memorable cases. She recalls the time when a terminally-ill applicant who sustained injuries in a work-place accident sought assistance from the Department regarding his claims under the Employees' Compensation Ordinance and common law. "He was a special one — although he had divorced and remarried, his ex-wife and their daughter came along with him." Helen was deeply touched: "He was already extremely frail by that time, so there was urgency to process his application."

Immediately after the application was approved, the assigned lawyers worked fast on his case, visiting him frequently on an urgent basis in the hospital and arranging medical specialists to evaluate his injuries. "Time was of the essence," Helen says. "We needed to collect all the materials and complete all the legal documents before he fell into a coma. It was an emergency situation." Thanks to the tireless efforts from family members, assigned lawyers and the legal aid team, it took only four months for the applicant to obtain compensation together with legal costs.

申請人獲前妻和與前妻所生的女兒陪伴到法援署申請法援，令Helen印象深刻。

The applicant's ex-wife and their daughter came along with him, which was memorable to Helen.

A Fulfilling Career

Often times, successful applicants would express their gratitude to the Department staff after their cases are wrapped up. "They would usually send us cards, but there were also verbal and written compliments." One aided person, who received legal aid 10 years ago, still calls up the Department from time to time just to send greetings to her. Helen speaks of this individual fondly: "We helped this aided person with his negligence claim, and since then, we have become friends. It is very rewarding."

至於未能獲批法援的申請人，署方亦會就申請的條件、勝訴機會等因素，盡力向他們解釋未能批出法援的原因。Helen提到一個讓她記憶猶新的申索傷亡賠償個案。署方經了解個案後，認為申索到的賠償金額可能會很少，屬於小額錢債審裁處管轄範圍，而法律援助不涵蓋審裁處案件。「在向申請人解釋後，他很不開心，甚至表示不再信任政府。」但故事的結局卻出乎意料：「不久之後，竟收到這位申請人的電郵，感謝我們提供的服務和解釋。」真誠的付出終得到申請人的理解，這令Helen倍覺鼓舞。

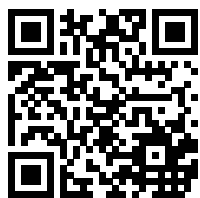
憑藉對公義的追求和為市民服務的熱誠，法援署不斷改善服務，務求為申請人和受助人提供更多協助。Helen希望在這法援署金禧之年與同事互勉：「感謝部門為我們提供了一個理想的服務機會，希望大家繼續上下齊心，幫助構建一個重公義、揚真理、顯關懷的社會。」

As for applicants who fail to obtain legal aid, the Department always tries its best to explain the reason of refusal to them based on application requirements and prospect of success. In one case Helen recalls, the applicant wanted to file an injury claim, but after looking into the case, the Department considered that the compensation would likely be very limited and the claim fell within the jurisdiction of the Small Claims Tribunal, for which legal aid does not cover. “Right after we explained that to him, he was quite upset and even said that he had lost faith in the Government.” However, the story comes with a twist. “Shortly after, we received an email from this applicant thanking us for our services and explanation,” Helen finds it encouraging that the Department’s sincerity receives understanding and recognition from applicants.

With a relentless pursuit for justice and wholehearted devotion to public service, the Department has been consistently improving its services over the years, striving to make legal aid more accessible for the public. As the Department celebrates its golden jubilee, Helen wishes to share the joy and inspiration with her colleagues: “I’m so thankful to have a wonderful, fulfilling career in the Department. I hope all of us continue to work together and help create a society of justice, truth and kindness.”

真誠的付出終得到申請人的理解，令Helen倍覺鼓舞。

Helen finds it encouraging that the Department’s sincerity receives understanding and recognition from applicants.



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竭誠服務 孜孜不倦 To Serve with Dedication

「能夠幫助不同的受助人，我覺得這份工作很有意義。」

“Being able to help so many different people made my job a very meaningful one.”

謝淑芬 Sabrina Tse

法律援助署前高級一等律政書記
Former Senior Law Clerk I of the Legal Aid Department

在法律援助署(法援署)工作超過30年並於2015年退休的謝淑芬，曾任職署內不同科別，並處理過不同的工作。回想多年來在法援署的工作，Sabrina認為那是畢生難忘的經歷，過程充滿挑戰、滿足感和美好回憶。

Sabrina Tse retired from the Legal Aid Department in 2015 after spending over 30 years working in various divisions. Looking back at her long career, she says that it was an unforgettable experience of a lifetime — one that is full of challenges, satisfaction and beautiful memories.

盡心服務30載

Sabrina於1982年從破產管理署調職到法援署，最初在人身傷害訴訟組擔任律政書記；其後在1995年晉升為高級二等律政書記，並先後於九龍分署和金鐘總部服務。2005年，Sabrina被調派至刑事組，負責行政工作，並於翌年晉升為高級一等律政書記。

高級一等律政書記的工作往往需要協調不同組別和持份者，Sabrina用了一個比喻來說明：「高級一等律政書記是上司和下屬之間的一道橋樑，這個角色在部門內很重要。」為解釋她的職責，Sabrina分享了她的一次工作經驗。有一年，部門要將刑事組的申請組由大樓向海的位置，遷到向山的一方。由於這搬遷項目所牽涉的職員數目不少，亦需要實施優化的工作流程，為確保順利遷移，Sabrina與另一位高級一等律政書記同事通力合作：「我們一方面要讓同事能擁有一個舒適的工作環境，另一方面亦要讓申請人覺得舒服自在。除此之外，新辦公室環境及設施亦要配合整個工作流程，並兼顧申請人的私隱。」這工作須考慮各方面的需要，周詳的計劃和適當地實施，以及各方人士的參與，絕不簡單，但Sabrina充滿幹勁，出色地完成任務。

Three Decades of Dedication

Sabrina was transferred from the Official Receiver's Office to the Department in 1982, when she started out as a law clerk in the Personal Injury Litigation Section. After her promotion to Senior Law Clerk II in 1995, she had worked in the Department's Kowloon Branch Office and Headquarters. In 2005, she was transferred to the Crime Section and was responsible for administrative work, and was promoted to Senior Law Clerk I in the following year.

Part of a Senior Law Clerk I's job is to coordinate between various sections and stakeholders. "A Senior Law Clerk I is essentially a bridge between the supervisor and their subordinates. Law clerk plays a significant role in the Department," Sabrina explains. To help us understand her job, she shares one particular instance: One year, the Department was relocating the Crime Registry from the sea-facing side of the building to the mountain-facing side. As this relocation project involved a considerable number of staff and there was a need to implement an improved workflow, she worked closely with a fellow Senior Law Clerk I to ensure a smooth transition. "On one hand, we wanted to provide a nice work environment for our colleagues; on the other hand, we also had to make the applicants feel comfortable," she says. "At the same time, we had to make sure that the new office environment and facilities would tie in with the overall workflow while keeping in mind the privacy of applicants." It was a tough assignment that involved many aspects and required a well conceived plan with proper implementation and participation of different parties. It was in no way an easy task, yet Sabrina accomplished it brilliantly with flying colours.



Sabrina曾協助將刑事組的申請組由大樓向海的位置，遷到向山的一方。

Sabrina helped moving Department's Crime Registry from the sea-facing side of the building to the mountain-facing side.

重要的橋樑角色

提到Sabrina在法援署最難忘的工作，要數2012年進行的一個項目，以改善向律師及大律師支付刑事法律援助費用的付費結構。這次結構改動牽涉範圍廣泛，除外委律師的聆訊前工作和律師的會議費用改為按時計算外，案件的分類、相關費用和所需準備時間亦會經事先評估，外判個案亦會註明報聘費。

為配合有關改動，Sabrina需要進行不少預備工作。「例如修改委聘書，更新電腦軟件等。其後，還需要進行多項測試，以及安排多次同事間的會議，收集意見。」

在這項重要工作中擔任橋樑角色，Sabrina坦言是一大挑戰。可幸天道酬勤，在完成挑戰後，迎來的是莫大的滿足感：「同年，公務員事務局局長向我頒發了嘉許狀，我感到很高興，這代表我的工作獲得部門的肯定。」

An Important Bridge

Speaking of her most memorable project, Sabrina recalls that in 2012, enhancements were made to the fee structure of criminal legal aid fees paid to solicitors and counsel. The scope of the enhancements was wide, which included changing the remuneration of assigned solicitors' pre-trial work and their conference fee to time-cost basis; classification of cases and hence assessment of the fees in advance, as well as the required preparation time beforehand, and marking them on the brief when making assignment.

She did a lot of preparatory work for the upcoming adjustments. "It included making amendments to the assignment letters, enhancements of computer software, etc.," she says. "After that, we had to run multiple tests and arrange meetings with colleagues to gather feedback and suggestions."

Sabrina admits that acting as the bridge in this important project comes with huge challenges, but the gratification that comes after a job well done makes all the hard work worth it: "I received the Secretary for the Civil Service's commendation that year. I am so delighted as it represented a recognition of my work by the Department."



Sabrina出席頒獎典禮的酒會。

Sabrina attended the cocktail reception following the award presentation ceremony.



意義重大的工作

在法援署工作30多年的日子裡，Sabrina參與過不同組別的工作，亦曾處理過不少的項目。回望過去的工作，她深感意義重大，具有滿足感：「能夠幫助不同的受助人，我覺得這份工作很有意義。」

退休後，Sabrina平日參與林林總總的活動，過着和從前一樣有意義的生活。在享受人生的同時，她亦不忘鼓勵一眾法援署的同事：「我知道現時在政府工作並不容易，希望藉此機會為各位同事打氣！順祝法援署50周年，生日快樂！」

退休後，Sabrina過着和從前一樣有意義的人生。
Sabrina is making the most of her retirement life.

A Meaningful Career

For more than 30 years in the Department, Sabrina worked in a number of sections and handled many projects. Looking back, she feels deeply grateful to have had such a rewarding and satisfying career: “Being able to help so many different people made my job a very meaningful one.”

These days, Sabrina is making the most of her retirement life and enjoying her free time by taking part in a variety of activities, but her heart is always with colleagues of the Department: “I know that government work isn’t easy nowadays, so I would like to take this opportunity to offer some encouragement to our colleagues, and wish the Department a happy 50th birthday!”

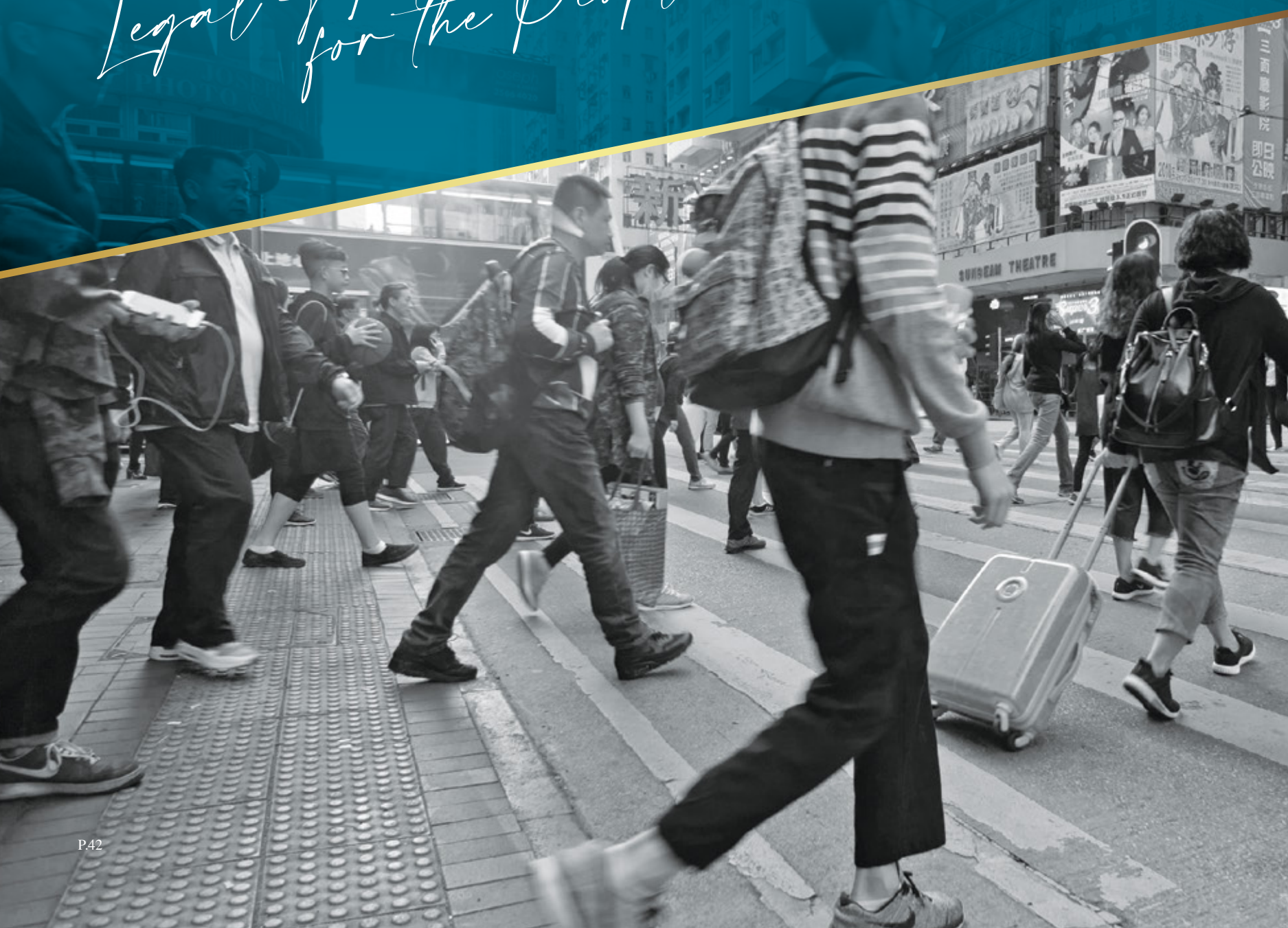


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法援服務、關愛惠民

Legal Aid for the People



法援歲月 Legal Aid over the Years

1844-1963

對未能負擔律師服務的人士來說，唯一訴諸法律的途徑就是透過「窮民訴狀」。根據1844年《最高法院條例》，擁有資產價值不超過50港元的人士（資產價值上限於1954年提高至500港元），法官會替他們委派一名代表律師。除非對方被判須支付訟費或案件獲勝後所討回的財產可用以支付訟費，受委派的律師不可收取費用，所以他們一般對這類案件不感興趣。就刑事案件而言，免費法律代表的服務拓展至在最高法院可被判死刑的被告人，及在法官行使酌情權下，案件所涉及的法律觀點需待最高法院裁斷的上訴人或被告人。

The only option for anyone in Hong Kong who was unable to afford a lawyer's services was to present a Pauper's Petition. According to the Supreme Court Ordinance 1844, a judge-appointed lawyer would represent a person if he possessed property not exceeding HK\$50 (raised to HK\$500 in 1954). Lawyers were assigned to represent the pauper free of charge except when costs were recovered from the opponent or from property recovered. Lawyers were therefore unmotivated to do pauper's cases. In criminal matters, free legal representation was extended to accused person in capital cases in the Supreme Court and, subject to the judge's discretion, to appellants and accused person whose cases involved point of law to be determined by the Supreme Court.

1963-1966

政府成立民事案件法律援助工作小組，並委任擁有專業資格和豐富經驗的署長於司法機構展開工作。法援申請人須通過經濟和案情審查。

Government established a working party on legal aid for civil cases and professionally qualified and experienced director was appointed to work in the Judiciary. Applicants for legal aid must pass means and merits tests.

1966

1966.11.23 《法律援助條例》通過。
Legal Aid Ordinance enacted.

1967

1967.1.12 司法機構附屬部門法律援助部正式運作。
A sub-department of the Judiciary called the Legal Aid Section came into operations.

1970

1970.1.1

《1969年刑事案件法律援助規則》生效；法律援助署署長有權就刑事案件給予法律援助，並負責管理及提供法律援助服務，處理最高法院審訊的案件，以及由最高法院和地方法院的上訴案，以及裁判司署上訴。

Legal Aid in Criminal Cases Rules 1969 came into force; the Director of Legal Aid became the granting authority and took over the administration of legal aid in criminal cases, which was available for trials in the Supreme Court, appeals from the Supreme Court and District Court and magistracy appeals.

1970.7.1

法律援助署正式成立，於炮台里的法國傳道會大樓展開工作。

Legal Aid Department officially established and began operations at the French Mission building on Battery Path.



法律援助署第一所辦公室。
First Legal Aid Department Office.

1972

調整法援申請人的經濟審查規定，每月可動用收入上限由500港元提升至700港元；可動用資產上限則由3,000港元增至4,000港元。

Means test for potential legal aid recipients adjusted, with monthly disposable income increased from HK\$500 to HK\$700 and disposable capital from HK\$3,000 to HK\$4,000.

1973

訴訟組成立。
Litigation Unit established.

1973.8

法律援助署由炮台里遷到德輔道中的先施大廈。

The Department relocated from Battery Path to Sincere Building in Des Voeux Road Central.

1978

於旺角彌敦道625號麗斯大廈設立分署。

Branch office at Ritz Building, 625 Nathan Road, Mongkok opened.

1978.4.1

修訂《刑事案件法律援助規則》將法援擴大至涵蓋所有在地方法院的刑事案件。

Legal Aid in Criminal Case Rules amended to cover all District Court criminal trials.

1982

1982.4.23

法律援助涵蓋上訴到英國樞密院司法委員會的案件。

Legal aid extended to appeals to the UK Privy Council.

1983

1983.1.3

民事法律援助案件經濟審查下可動用收入及資產上限獲提高。修訂《刑事案件法律援助規則》，以提高刑事法律援助案件的資產審查上限，使民事與刑事法律援助的財務資格看齊。修訂《法律援助（評定資源及分擔費用）規例》，因超逾限額而須繳付分擔費的門檻提高，分擔費用表有所擴大。

The limits for disposable income and disposable capital for civil legal aid cases were increased. At the same time, the Legal Aid in Criminal Case Rules were amended to increase the limits of the means test for criminal legal aid to the same levels as civil legal aid, for uniform financial eligibility under the two legal aid schemes. Legal Aid (Assessment of Contributions) Regulations were amended for higher threshold at which contributions became payable, with contributions scales extended.



照片由星島日報提供
Photo provided by Sing Tao Daily

早期香港人民生活艱苦，法律援助署的出現幫助了很多有需要的市民。

In the past, life of Hong Kong people was not easy. The establishment of the Legal Aid Department has helped a lot of people.

法援歲月 Legal Aid over the Years

1984

1984.1.1

刑事法援範圍擴大至包括在裁判司署進行的交付審判程序。

Criminal legal aid extended to committal proceedings in the magistrates' court.

1984.10.1

推出法律援助輔助計劃。

Supplementary Legal Aid Scheme (SLAS) launched.

1986

1986.8.2.

法律援助署從先施大廈遷至金鐘道政府合署。

Legal Aid Department moved from Sincere Building to Queensway Government Offices.



辦公室內與申請人會面。
Meeting with applicants in the office.

1991

九龍分署遷到旺角政府合署。

Branch office in Mongkok moved to Mongkok Government Offices.

1991.6

《香港人權法案條例》通過，將《公民權利和政治權利國際公約》適用於香港條文納入香港法律。法援署署長翌年獲賦予酌情權，可向財務資源超出上限的刑事法援申請人批出法援，進一步維護司法公正。

Introduction of the Hong Kong Bill of Rights Ordinance, by which provisions of the International Covenant on Civil and Political Rights as applied to Hong Kong were incorporated into the domestic law of Hong Kong. The Director of Legal Aid was given the discretion in the next year to grant legal aid in criminal cases where financial resources exceeded the limit, further serving the interests of justice.

1991.8.1

《法定代表律師條例》實施。

Official Solicitor Ordinance came into operations.



相片由Klaus Liphard提供
Photo provided by Klaus Liphard

上世紀八十年代的香港經濟開始蓬勃，法律援助署的服務範圍亦不斷擴大。
In the 1980s, the services of the Legal Aid Department kept expanding to keep pace with Hong Kong's booming economy.

1992

政府推行「服務市民」計劃。法援署在嚴格檢討整體運作過程及與公眾的溝通情況後，根據目標與表現準則評核各項職能，並通過發展以客為本的服務文化，再提升各項服務的質素。

The government launched a "Serving the Community" programme. By taking a critical review of its operational processes and public interface, the Department defined its work in terms of objectives and performance measures, promoting quality of service through enhancing a client-based culture.

1992.7.1

《1991年法律援助（修訂）條例》實施，設立財務能力為經濟審查的統一準則。而財務資格限額定為120,000港元。

Legal Aid (Amendment) Ordinance 1991 enacted introducing a single criterion of financial capacity in means test. The financial eligibility limit (FEL) was set at HK\$120,000.

1993

推行多項全新的客戶服務，包括24小時電話熱線及數碼顯示輪候系統等。

New customer service measures introduced, including 24-hour telephone hotline and a digital display queuing system.

1993.10

發表首份服務承諾，讓公眾知道法援署的服務範圍及標準，亦可使法援署有效監察及優化服務質素。

The first performance pledge was published, allowing the public to understand the scope and standard of service available. It was an effective tool for the Department to monitor and enhance performance.



推行數碼顯示輪候系統。
Digital display queuing system introduced.

法援歲月 Legal Aid over the Years

1995

1995.7.28

《1995年法律援助（修訂）條例》實施。

普通法律援助計劃及法律援助輔助計劃的財務資格限額，分別提升至144,000港元及400,000港元。普通計劃的範圍擴大至包括向汽車保險局申索特惠補償的人，以及向精神健康覆核審裁處提出申請的人。另外，因遭襲擊及毆打而在地方法院提出的索償亦納入法律援助範圍。

輔助計劃基金獲注資2,700萬港元。

加強顧客服務，包括提供24小時查詢熱線，安裝電子資料顯示屏，以改善金鐘總部和九龍分署的輪候情況。

改善外判個案制度，向《法律援助律師名冊》內的律師發出辦理法援案件的指引。

Legal Aid (Amendment) Ordinance 1995 enacted.

FELs of the Ordinary Legal Aid Scheme (OLAS) and SLAS raised to HK\$144,000 and HK\$400,000 respectively; the OLAS expanded to cover application for ex-gratia payments from Motor Insurers' Bureau and application to Mental Health Review Tribunal. Exception provision for claims arising from assault and battery in District Court removed.

Capital injection of HK\$27 million for Supplementary Legal Aid Fund approved.

Customer services enhanced i.e. 24 hour hotline, electronic display panels for improved queuing in Queensway Headquarters and Kowloon Branch Office.

Assigning-out system improved through issuing Guidance Notes to lawyers on Legal Aid Panel handling legal aid cases.

1996

推出法援署網頁。

Legal Aid Department homepage launched.

1996.5

根據《法律援助服務局條例》，成立法律援助服務局。成員包括由法律界人士提名的律師，以及由當時總督（現行政長官）分別於商界、政界、學術界及慈善機構等界別所挑選的業外人士（包括主席）。法援署署長則為當然成員。

Pursuant to Legal Aid Services Council Ordinance, the Legal Aid Services Council was established, comprising lawyers nominated by the legal profession and lay members (including the chairman) selected by formerly the Governor (now the Chief Executive) from business, politics, academia and charitable organisations. The Director of Legal Aid was an ex-officio member.

1996.9

法律援助服務局正式投入運作。

Legal Aid Services Council began operations.



1997年處理有關年輕人居留權查詢的臨時櫃檯。

Temporary enquiry tables for young right of abode claimants in 1997.

1997

1997.2.17

開設地面樓層辦公室以擴充九龍分署。

Expansion of Kowloon Branch Office with the opening of a ground floor office.

1997.5.1

實施《1997年法律援助（修訂）條例》，普通法律援助計劃及法律援助輔助計劃的財務資格限額，分別提升至169,700港元及471,600港元。

Legal Aid (Amendment) Ordinance 1997 increased FELs of the OLAS and SLAS to HK\$169,700 and HK\$471,600 respectively.

1997.9

法援署從社會福利署接手經濟狀況調查的工作，以便監控整個程序，並為申請人提供一站式的服務。

The Department took over means investigation from the Social Welfare Department for better control of the whole process, allowing a one-stop service for applicants.

1997.10

成立新聞組，處理傳媒查詢，推廣公共關係及統籌宣傳活動。

Information Unit established, handling enquiries from the media and implementing public relation and publicity programmes.

1997.11

發表審批申請所需時間的服務承諾：由申請當日起計3個月內完成民事案件的審查（80%）；由申請當日起計2個月內完成要求減刑的刑事上訴的審查（80%）；由申請當日起計3個月內完成要求推翻原判的刑事上訴的審查（80%）；由申請當日起計10個工作天內完成高等法院原訟法庭/區域法院案件的審查（90%）；以及由申請當日起計8個工作天內完成交付審判程序的審查（90%）。

發表「抱負、使命及信念」聲明，為法援署訂立發展方向及企業文化綱領，同時表明提高服務質素的決心。

Performance Pledge on Processing Time introduced: civil cases within 3 months of application (80%); criminal appeal against sentence within 2 months of application (80%), criminal appeal against conviction within 3 months of application (80%), Court of First Instance of High Court/District Court cases within 10 working days of application (90%), and committal proceedings within 8 working days of application (90%).

Vision, mission and value statement launched, to provide a sense of direction and a framework for the Department's corporate culture and demonstrate its determination to improve the quality of services.

1998

1998.5

在灣仔合和中心開設香港分處。

Opening of Hong Kong Sub-office in Hopewell Centre, Wanchai.

1998.6

成立內部審核組，負責協助管理層監管部門程序及系統。

Internal Audit Section established, assisting management on control procedures and systems.

1999

發表有關付款安排的服務承諾。

出版小冊子以加深公眾對法律援助的認識。

Performance pledge on payment introduced.

Pamphlets enhancing public understanding of the Department published.



1998年無線電視翡翠台法律劇集「法門」開幕禮。

Opening ceremony of legal television drama series at TVB Jade in 1998.

法援歲月 Legal Aid over the Years

2000

為慶祝法援署成立三十周年，署方舉辦了一系列宣傳活動，加深公眾對法援服務的認識。

To celebrate the 30th Anniversary of the Department, a series of publicity programmes were organised to enhance public understanding of the Department's services.

2000.7.3

實施《1999年法律援助(修訂)條例》。

法律援助輔助計劃的受助人須繳付中期分擔費。

法律援助服務的範圍擴大，為維護社會公義需要，死者的家屬也可在死因研訊中獲給予法律援助。

法律援助輔助計劃的分擔費比率由15%降至12%。

Implementation of Legal Aid (Amendment) Ordinance 1999.

Legally-aided persons were required to pay interim contribution under the SLAS.

Coverage of OLAS was extended to deceased's family members in coroners' inquests where interests of public justice so required.

Final contribution under the SLAS was lowered from 15% to 12%.

2001

民事案件由申請當日起計3個月內完成審查的服務承諾，由80%提升至85%。

Performance pledge for civil legal aid cases processed within three months from application increased from 80% to 85%.

2002

推行資訊系統策略計劃，職員可隨時通過系統查閱最新資料，方便解答查詢、審批法援申請，以及支付費用和款項。

Implementation of the Information Systems Strategy project, allowing staff ready access to up-to-date information so as to facilitate responses to enquiries, processing of legal aid applications and payment of fees and monies.

2003

《2003年刑事案件法律援助(修訂)規則》首次下調刑事法律援助的收費。

Legal Aid in Criminal Cases (Amendment) Rules 2003 adjusted criminal fees downward for the first time in history.

2003.3.17

立法會首次決議降低財務資格限額以反映2000年至2003年期間的通貨緊縮情況。普通法援計劃及輔助計劃的財務資格限額，分別下調至155,800港元及432,900港元，並於2004年7月12日生效。

Legislative Council resolution reduced FELs for the first time in history, reflecting deflation between 2000 and 2003. FELs for the OLAS and SLAS reduced to HK\$155,800 and HK\$432,900 respectively, with effect from 12.7.2004.

2004

2004.7

實施《2004年刑事法律援助(修訂)規則》以涵蓋被拘留等候行政酌情決定的囚犯，以及被判酌情性終身監禁刑罰或強制性終身監禁刑罰的囚犯，以協助他們在原訟法庭進行由法官訂定最低刑期的訴訟。

Legal Aid in Criminal Cases (Amendment) Rules 2004 was enacted to cover prisoners detained at Executive discretion or serving discretionary or mandatory life sentences to assist them in proceedings in the Court of First Instance before a judge for determining minimum sentence to serve.



2000年法律援助署三十周年紀念開幕禮。
Legal Aid Department's 30th Anniversary kick-off ceremony in 2000.



2000年法援署為工業傷亡權益會舉辦講座。
Legal aid talk for the Association for the Rights of Industrial Accident Victims in 2000.

法援歲月 Legal Aid over the Years

2005

修訂《2005年法律援助（評定資源及分擔費用）規例》，法律援助申請人支付的贍養費及其於工作期間為照顧其受養人而須支付的款項可獲扣減；在法援人身傷害案中收取的保險賠款亦可獲扣減。

Legal Aid (Assessment of Resources and Contributions) Regulation 2005 Amendments introduced deduction of expenses for dependant's care whilst applicant at work and maintenance paid by applicant; deduction for insurance money received in personal injury claim.

2005.3

推出「法援婚姻訴訟個案家事調解試驗計劃」。

The “Pilot Scheme on Legal Aid for Mediation in Matrimonial Cases” was introduced.

2005.5

展開司法覆核及臨時禁制令申請，以阻止警務處處長於法援署的刑事組辦公室執行搜查令以調查一宗刑事事件。如果警方執行搜查令，該搜查將侵犯法律專業保密權，亦即訴訟的基本權利。該司法覆核其後獲批出許可。同年7月，警務處處長承諾不執行該搜查令，法援署於是撤回司法覆核申請。

An application was commenced by the Department for judicial review and interim injunction to restrain the Commissioner of Police from executing a search warrant at the office of the Crime Section of the Department in furtherance of an investigation into an offence. If executed, purported search violates legal professional privilege which is a fundamental right of litigation. Leave for judicial review was granted to the Department. In July 2005, upon the Commissioner's undertaking not to execute the search warrant, the Department withdrew the judicial review.

2006

推行試驗計劃，利用電子文件管理系統處理刑事法律援助個案。

法律援助輔助計劃的最終分擔費比率由12%降至10%。

法援署署長第一押記的利率改為隨每年的市場走勢作出調整，而非如以往般把利率固定為每年10%。

Pilot scheme on electronic document management system for criminal legal aid cases launched.

The rate of final contribution paid by aided persons under the SLAS reduced from 12% to 10%.

First charge interest rate to be adjusted annually according to market movement instead of fixed annual rate of 10%.

2007

2007.7.1

撥歸民政事務局管轄，制訂法律援助政策及監察各項法律援助計劃運作的職務，改由該局負責。

The Home Affairs Bureau took over the responsibilities for formulating legal aid policy and overseeing the implementation of the legal aid schemes.

2008

推出法律援助電子服務入門網站。

Legal Aid Electronic Services Portal launched.

2009

2009.5.29

普通法援計劃及輔助計劃的財務資格限額，自2004年以來經過4次調整後，分別提升至175,800港元及488,400港元。

After four adjustments since 2004, FELs for the OLAS and SLAS increased to HK\$175,800 and HK\$488,400 respectively.

2009.11

獲頒「2009年申訴專員嘉許獎大獎」（部門/機構）。

The Department received the Grand Award of The Ombudsman's Awards 2009 for Departments/Organisations.

法律援助
電子服務
入門網站



2008年推出法律援助電子服務。
Legal Aid Electronic Services Portal launched in 2008.



2009年申訴專員嘉許獎大獎。
Grand Award of The Ombudsman's Awards 2009.

法援歲月 Legal Aid over the Years

2010

全面更新部門網站，令瀏覽和使用更為便捷。自網站更新後，不論點擊率或署方刊物和公用表格的下載量均錄得顯著升幅。

The Departmental website was revamped which made the homepage easier to navigate and more user friendly. Since the revamp, notable increase in the click rate and the download rate on publications and public forms were recorded.

2011

推出手機版的經濟審查計算程式，方便市民評估其財務狀況是否符合申請法援的資格。

Mobile version of the Means Test Calculator was launched, providing a convenient way for users to find out whether they are eligible for legal aid on means.

2011.5.18

普通法援計劃及輔助計劃的財務資格限額大幅提高，前者由175,800港元提升至260,000港元，升幅達48%，後者由488,400港元提升至1,300,000港元，升幅達166%。

FELs for the OLAS and SLAS substantially increased. For the former, it was raised from HK\$175,800 to HK\$260,000, which represented an increase of 48%, while the latter was adjusted by 166% from HK\$488,400 to HK\$1,300,000.

2012

擴大普通法律援助計劃及法律援助輔助計劃的援助範圍（詳情請參閱第十五頁）。

Scope of services under the OLAS and SLAS expanded (Please refer to P.15 for details).

2013

進一步提升部門入門網站，方便法律援助律師使用。《法律援助律師名冊》內的所有律師均獲發個人用戶識別碼和密碼，以便隨時登入門網站。

The Department's Portal was further enhanced to make it more user friendly for legal aid practitioners. All lawyers on Legal Aid Panel were issued with individual ID and password for instant access to the Portal.

2014

2014.11

金鐘道政府合署的申請組接待處完成翻新。全新設計的諮詢及申請組設有5個專用會面室，為申請人提供更舒適的地方，讓他們可在私隱度更高的環境下向法援署職員提供個案資料，而無障礙的設計更方便有需要的人士使用法援署服務。

Refurbishment of reception area of the application unit at the Queensway Government Offices completed. A newly designed Information & Application Services Unit with five designated interview rooms were opened. Apart from offering a more comfortable and private environment for the applicants to provide their case information to the staff, its barrier free design also facilitates those in need to have better access to services.



2010年推出更新網站。
Revamped website in 2010.



2011-2012年製作有關法律援助服務影片。
Videos about legal aid services produced in 2011-2012.

法援歲月 Legal Aid over the Years

2015

受助人和公眾可使用自動櫃員機提款卡或信用卡在自動櫃員機，向法援署繳付款項，或使用網上銀行服務繳款。新的繳款方式讓受助人和公眾繳款更為方便。

Aided persons and the public may make payment to LAD with their ATM cards or credit cards at ATMs or through internet banking. The new payment methods afford greater convenience to aided persons and the public.

2016

修訂《刑事案件法律援助規則》第21條及附表之法例，各項調整包括刑事法援的大律師費用增加50%；發出指示律師的費用增加25%；以及在區域法院擔任訟辯律師的費用增加40%。上述修訂亦為享有較高級法院出庭發言權的訟辯律師新增一個刑事法援費用類別，以處理高等法院的案件。

Rule 21 of the Legal Aid in Criminal Cases Rules and the Schedule of the Legal Aid in Criminal Cases Rules were amended. Adjustments included a 50% increase in criminal legal aid fees for counsel, a 25% increase for instructing solicitors and a 40% increase for solicitor advocates in the District Court. A new category of fees for High Court cases was also introduced for solicitor advocates with higher rights of audience.

獲頒「2016年申訴專員嘉許獎」（大獎）。

The Department received the Grand Award of The Ombudsman's Awards for 2016.

2018

2018.7.1

撥歸政務司司長辦公室管轄。

The Department was transferred back to the Chief Secretary's Office.

2018.11.23

普通法援計劃及輔助計劃的財務資格限額，自2011年以來經過4次調整後，分別提升至307,130港元及1,535,650港元。

After four adjustments since 2011, FELs for the OLAS and SLAS increased to HK\$307,130 and HK\$1,535,650 respectively.

2019

2019.12.10

獲頒2019年公務員優質服務獎勵計劃「特別嘉許獎—安健工作間」及「部門精進服務獎（小部門組別）銅獎」。

The Department was awarded a Special Citation (Workplace Safety and Wellness) and Bronze Prize in Departmental Service Enhancement Award (Small Department) at Civil Service Outstanding Service Award Scheme 2019.

2020

2020.4.1

輔助計劃的涵蓋範圍再進一步擴大至涵蓋以下類別的申索：涉及持牌或註冊金融中介人從事受規管活動，包括證券交易（第1類）、期貨合約交易（第2類）或提供證券保證金融資（第8類）的專業疏忽申索。就涉及欺詐、欺騙或失實陳述的證券衍生工具、貨幣期貨或其他期貨合約交易而提出的金錢申索。

Further expansion of the SLAS to cover: professional negligence claims against financial licensed or registered intermediaries dealing in regulated activities including securities (Type 1), futures contracts (Type 2) or securities margin financing (Type 8); and monetary claims in respect of securities derivatives, currency futures or other futures contracts when fraud, deception or misrepresentation involved.

2020.6.26

普通法援計劃及輔助計劃的財務資格限額，分別大幅提升至420,400港元及2,102,000港元。

就署長第一押記，贍養費豁免金額由4,800港元提高至9,100港元，遭遇嚴重困苦個案豁免額由57,400港元提高至108,850港元。同時引入機制，每年按一般物價變動檢討並調整上述兩項豁免額。

Substantial adjustment of FELs for the OLAS and SLAS to HK\$420,400 and HK\$2,102,000.

Exempted amount of periodical maintenance under Director of Legal Aid's First Charge adjusted upwards from HK\$4,800 to HK\$9,100 and the amount of waiver in serious hardship cases from HK\$57,400 to HK\$108,850. At the same time, a mechanism taking into account general price movement has been introduced to review and adjust the amounts annually.

使用「繳費靈」
繳付法律援助款項

推出「繳費靈」付款方式。
New payment method by 'PPS' introduced.

新的
法律援助
財務資格
限額

提升法律援助財務資格限額，幫助更多市民。
Increased financial eligibility limits for Legal Aid Schemes benefit more people.

前任及現任法律援助署署長 Former and Current Directors

1968 - 1981



梅恩 Desmond Francis O'Reilly Mayne

1981 - 1983



祁景舒 Brian Patrick Clancy

1996 - 2004



陳樹鏞 Chan Shu-Ying

2004 - 2010



張景文 Benjamin Cheung King-Man

of Legal Aid Department

1984 - 1993



穆士賢 Patrick Ronald Moss

1993 - 1996



張鄭寶蓮 Pauline Cheung Cheng Po-Lin

2010 - 2013



陳香屏 William Chan Heung-Ping

2013 - 現在 Present



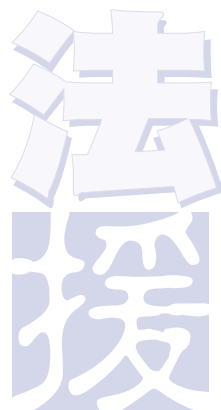
鄺寶昌 Thomas Edward Kwong

共創佳績 成就驕人

Our Achievements Taking Pride in Our Legacy

法律援助是香港法律制度不可或缺的一環，在維護法治和協助市民尋求公義方面擔當重要角色。正如終審法院首席法官馬道立曾指出：「公眾向法院提出訴訟的權利的實踐，亦可按香港提供法律援助的狀況來衡量。」

Legal aid forms an integral part of Hong Kong's legal system and plays an important role in contributing towards upholding the rule of law and enhancing access to justice. The Chief Justice of the Court of Final Appeal, Mr Geoffrey Ma, once remarked that “access to justice can be measured by reference to the existence of legal aid in Hong Kong.”



香港的法援制度資源充足，可確保所有具備合理理據在香港法院提出訴訟或抗辯的人，不會因缺乏經濟能力而無法尋求公義。法援服務以需求為主導，故法援開支不設上限。

Hong Kong boasts a well resourced legal aid system to ensure that those with reasonable grounds for pursuing or defending legal action in the city's courts will not be denied access to justice due to lack of means. There is no ceiling for legal aid expenditure, as legal aid services in Hong Kong are demand-driven.

香港擁有世界上最好的法援制度之一，援助範圍涵蓋一系列廣泛的民事和刑事案件。法援適用於民事和刑事訴訟，申請人不論居住地或國籍，只要通過經濟審查及案情審查便可獲批法援。香港終審法院在最近一份判詞中表示：「與許多其他司法管轄區相比，香港的法援制度相對慷慨，多年來確保了大多數涉及重大公眾利益的案件都由法庭作出裁決。」

Hong Kong has one of the best legal aid systems in the world, covering a wide range of both civil and criminal cases. Legal aid is available for civil and criminal proceedings and open to anyone — irrespective of residency or nationality — subject to means and merits tests. The Court of Final Appeal of Hong Kong expressed in a recent judgment that “Hong Kong's relatively generous system of legal aid (compared with many other jurisdictions) has ensured that most cases of public importance have over the years been determined by the courts”.

為 確保涉及人權問題案件的申請人不會因經濟能力而被拒批法援，個案如涉及違反《香港人權法案條例》或抵觸《公民權利和政治權利國際公約》中適用於香港的規定是其中爭論點並具備合理理據，法援署署長可行使酌情權，免除申請人的財務資源限制。署長為維護司法公義亦可就刑事法援申請行使類似的酌情權。

To ensure legal aid applications for proceedings involving human rights issues will not be refused on means, the Director of Legal Aid has discretion to waive the financial eligibility limit in meritorious cases in which a breach of the Hong Kong Bill of Rights Ordinance or an inconsistency with the International Covenant on Civil and Political Rights as applied to Hong Kong is in issue. In criminal legal aid applications, the Director may also exercise similar discretion if he is satisfied that it is desirable in the interest of justice to do so.

為 法援案件委派律師時，受助人的利益是最大考慮因素，法援署堅守這基本原則。法援署會委派個案予具有不同資歷的律師，在有需要時，更會聘任資深大律師或御用大律師代表受助人，以維持控辯雙方的實力均等。

The Department adheres to the fundamental principle that an aided person's interest is of paramount importance in assigning legal aid cases to lawyers. Lawyers of varying seniority, and where necessary, Senior Counsel or Queen's Counsel are engaged to maintain the necessary equality of arms between both parties.

就 香港的刑事案件而言，超過80%的區域法院審訊和遠高於90%以上的高等法院原訟法庭審訊都獲得法律援助。

For criminal cases in Hong Kong, over 80% of all District Court trials and well over 90% of all trials in the Court of First Instance of the High Court are legally aided.

法 援署在法例和執行上都有充分保障，確保部門運作獨立。被拒法援的民事案件法援申請人，可就法援署署長的決定向高等法院司法常務官提出上訴，司法常務官的決定為最終的決定。在刑事法援方面，如因缺乏理據被拒的申請人，只要能通過經濟審查，負責審理案件 / 上訴的法官仍可批出法援。

There are sufficient safeguards in legislation and in practice to ensure the operational independence of the Legal Aid Department. In respect of decisions made by the Department, civil legal aid applicants whose applications are refused may appeal to the Registrar of the High Court, whose decision is final. In criminal cases, if an applicant is refused legal aid for lack of merits, the judge hearing the case or appeal may grant legal aid, provided the applicant is eligible on means.

過 去5年，民事法援案件的整體勝訴率高達88%至91%，足證法援服務優質超卓。

The Department maintains high quality services in Hong Kong, as evidenced by the overall success rate of 88% to 91% in civil cases over the past five years.

法
援

法
援

加強法援服務 配合香港發展

Legal Aid Services Enhancements Making Strides Alongside Hong Kong's Development

法律援助條例和規例及刑事案件法律援助規則的修訂

《1969年刑事案件法律援助規則》於1970年1月1日實施。刑事案件的法律援助事宜自始由法律援助署署長負責，刑事法律援助適用於最高法院的審訊、最高法院和地方法院的刑事上訴，以及裁判司署的上訴（被告認罪除外）。1973年，刑事法律援助擴大至地方法院可被判處14年徒刑的審訊（例如搶劫案，但不包括盜竊等較輕的罪行），這類案件約佔當時地方法院審訊案件總數的75%。法律援助輔助計劃（輔助計劃）於1984年10月1日開始實施。隨着於1989年及1991年的《法律援助（修訂）條例》實施，輔助計劃擴大至涵蓋於地方法院提出，賠償額有可能超過港幣六萬元的人身傷亡申索，以及不論索償額的僱員補償申索。自1995年，輔助計劃更擴大至涵蓋地方法院或以上各級法院提出因醫療、牙科或法律專業疏忽而賠償額可能超過港幣六萬元的申索。

踏入二十一世紀，法援署繼續修訂不同的法律援助規例。《2005年法律援助（評定資源及分擔費用）（修訂）規例》於2006年實施，容許法援申請人在計算其經濟能力時，可扣減須支付的贍養費，以及其在工作期間須僱用他人照顧未能自理的受養人的開支。同年，法援署亦按《法律援助（財產的押記）（利率）規例》，容許第一押記的利率隨每年的市場走勢作出調整，新的計算程式有利於透過法援討回財產的受助人，因為他們所需負擔的年息率會比之前的固定年息率10%及商業銀行所收取的年息率為低。

法援署一直不斷擴大援助範圍。《2012年法律援助（修訂）條例》的實施，把輔助計劃的範圍大幅擴大：為不服勞資審裁處所作的裁決（不論爭議金額多少）的僱員提供法律代表；在區域法院或以上各級法院提出，索償額可能超過港幣六萬元的下列訟案，包括就八類專業疏忽的申索；保險人或其中介人在銷售個人保險產品時涉及疏忽的申索；以及就售賣一手住宅物業向賣方提出的金錢申索。法援署亦於2018年推出新訂的法律援助財務資源組別及分擔費比率，以減輕受助人的財務負擔，讓更多市民能夠獲得法援服務。

Amendments of Legal Aid Ordinance and Regulations as well as Legal Aid in Criminal Cases Rules

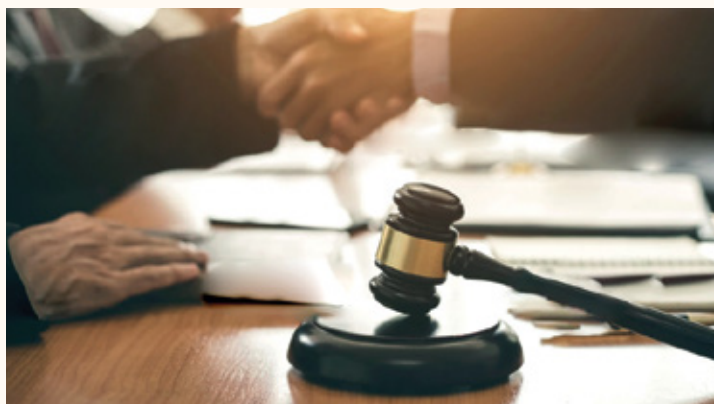
Upon the implementation of the Legal Aid in Criminal Cases Rules 1969 on 1st January 1970, the Director of Legal Aid took over the administration of legal aid in criminal cases. Criminal legal aid became available for trials before the Supreme Court, criminal appeals from the Supreme Court and District Court, and magistracy appeals (except where the accused pleaded guilty). In 1973, criminal legal aid was extended to District Court trials where charge carried a possible sentence of 14 years' imprisonment (such as robbery cases but not covering less serious cases including theft), which at that time meant about 75% of the cases tried in the District Court. The Supplementary Legal Aid Scheme (SLAS) came into operation on 1st October 1984. With the enactment of the Legal Aid (Amendment) Ordinance in

1989 and 1991, the SLAS was extended to personal injury and fatal accident cases in the District Court where damages recoverable in proceedings may exceed HK\$60,000, as well as employees' compensation claims irrespective of the amount claimed.

Entering the 21st century, the Legal Aid Department continued to revise various legal aid rules. In 2006, the Legal Aid (Assessment of Resources and Contributions)(Amendment) Regulation 2005 was implemented, which allows

legal aid applicants when calculating means to deduct maintenance payment and to claim care allowances for employing a carer to look after dependants unable to care for themselves while the applicants are at work. In the same year, the Legal Aid (Charge on Property) (Rate of Interest) Regulation came into operation to allow first charge interest rate to vary annually according to market movement. This works in favour of the aided persons with property recovered through the assistance of legal aid as they will be charged an annual interest rate lower than the previously fixed interest rate of 10% per annum and that charged by commercial banking institutions.

The Department has been expanding its scope of service. The implementation of the Legal Aid (Amendment) Ordinance 2012 allows the scope of the SLAS to cover representation for employees in appeals against awards made by Labour Tribunal, irrespective of the amount in dispute, as well as negligence claims exceeding HK\$60,000 against eight types of professionals, insurers or their intermediaries in respect of the taking out of personal insurance products, and the vendors in the sale of first-hand residential properties. In 2018, new financial resources bandwidths and contribution rates for legal aid were introduced. These measures help to reduce financial burden of aided persons, so that more people are able to enjoy legal aid services.



加強為申請人提供的服務

法援署於1995年推行了一系列的加強服務措施，包括設立24小時查詢熱線；為聽障人士而設的傳真服務；向申請人派發資訊卡；以及安裝電子顯示屏系統，以改善總部及九龍分署的輪候安排。自2006年起，市民如致電交互式話音回應系統，並選擇向署方職員查詢，會獲告知正在電話輪候的位置及大約所需的輪候時間。輪候人數如超出限額，系統會即時通知來電者稍後再致電查詢，這有助於管理申請的人流。

2010年，法援署推出「繳費靈」付款服務，受助人及判定債務人可選擇通過電話付款，無須親身繳款。翌年，法援署進一步放寬60歲或以上申請人的財務資源的資產豁免額。法援署亦於同年推出為不同族裔提供免費傳譯的服務，把服務對象擴大至涵蓋不同種族及操不同語言的人。

法援署亦不斷改善外判制度，向《法律援助律師名冊》內的律師發出辦理案件的指引，並更新有關指引，以提醒他們處理法援案件的要點。此外，法援署亦更新律師及大律師的工作表現評核制度。由1996年起，每兩年更新一次法律援助律師名冊內的律師和大律師記錄，作為監察機制之一，以確保服務質素。

Enhanced Service for Applicants

In 1995, the Department implemented a series of service enhancement measures, including 24 hour hotline enquiry service, fax service for hearing-impaired persons, information card to all applicants, and electronic display panel system to improve queuing arrangement in Headquarters and Kowloon Branch Office. From 2006, callers to Interactive Voice Response system are advised of their queue position if they choose to speak to department staff so they know approximately how long they have to wait for calls to be answered. If the number of calls exceeds limit of queue position, the system would advise callers to call again later. This can help monitor the flow of applicants.



In 2010, the Department launched Phone Payment Service for aided persons and judgment debtors to pay by phone rather than in person. In the following year, financial eligibility limits were relaxed with capital disregard for applicants aged 60 or above. The Department also started to provide free interpretation services for people of different races in the same year, targeting more people regardless of their races and languages.

The assignment system of the Department was also enhanced. Guidance Notes to lawyers on the Legal Aid Panel were issued and updated, drawing their attention to important points in handling legal aid cases. The system for evaluating performance of solicitors and barristers was also revised. From 1996 onwards, the records of counsel and solicitors on the Legal Aid Panel have been updated every two years as part of the monitoring system to ensure service quality.

推動數碼化服務

為了提升工作效率，法援署於上世紀九十年代末期開始採用綜合電腦資訊系統。自2008年起，律師可以透過法援署提供的電子渠道匯報法援案件的進度。法援署亦不斷提升個案管理及個案會計系統，由2015年開始定期發信提示名冊律師於3年期限屆滿前更新個人簡歷。系統亦會從香港銀行公會直接擷取外幣匯率，以進行經濟審查。

除了透過數碼化提升內部管理系統外，法援署亦積極推動其他數碼化服務，為市民提供更方便快捷的服務。法援署自1997年開始推出網頁，提供法援署的一般資訊，並宣傳法律援助計劃。其後，網頁經過不斷的優化和提升。2008年更設立法律援助電子服務入門網站，使市民和執業律師

Service Digitalisation

To improve operational efficiency, the Department has adopted the integrated computer information system since the late 1990s. From 2008, legal practitioners have been able to submit legal aid case reports online via electronic options provided by the Department. The Department has also been enhancing the Department's Case Management and Case Accounting System. Starting from 2015, regular reminder letters are sent to panel lawyers to invite update of profiles before the expiry of every three years. The System also captures foreign currency exchange rates directly from Hong Kong Association of Banks to facilitate the conduct of means test.

Apart from digitalisation of internal management systems, the Department has also been proactively introducing all forms of digitalised service to the public, providing better accessible and more efficient service. The Department launched its first webpage in 1997 to provide general information on the Department and promote legal aid schemes. The webpage has been continuously optimised and upgraded since then. In

可選用電子方式與本署溝通。入門網站加入經濟審查計算程式，讓市民初步評估其財務狀況是否符合申請法援的資格，及經入門網站下載及提交預辦申請所需資料。法援署於2010年推出全新的網站，以精巧的設計配合動畫，讓市民可更便捷地瀏覽和使用網站。2020年，法援署推出新設計的網站，方便流動裝置使用，讓市民可更輕易地以不同的裝置（包括桌上及筆記簿型電腦、平板電腦及智能電話）瀏覽網站的內容。

現時，法援申請人到任何一間辦事處索取預辦申請所需資料表格前，可先以流動裝置或桌上電腦登入法律援助電子服務入門網站預約。法援署於2019年引入即時傳譯系統，在沒有傳譯員時為不同族裔申請人提供協助。

2008, the Legal Aid Electronic Services Portal was launched to provide an additional electronic option for the public and the legal practitioners to communicate with the Department. The public may access a means test calculator on the Portal via the Department's website to determine preliminarily whether they may be eligible for legal aid, download and submit pre-application information electronically. The website was revamped in 2010 with more attractive design and flash animation for easier and more user-friendly navigation. In 2020, a new mobile friendly design of Department's website was launched to enhance the readability and navigation of website contents by the public with different devices (including desktop and notebook computers, tablets and smartphones).

Now, legal aid applicants may make appointment to obtain Pre-application Information Forms via mobile devices or desktop computers through the Portal. Instant Translation System was also adopted in 2019 to assist applicants of different races in the absence of interpreters.

廣泛的宣傳活動

法援署舉辦多項宣傳活動，以提高公眾對法援服務的認識。法援署由1999年開始出版法律援助小冊子，包括《怎樣申請》系列、《怎樣計算你的財務資源及分擔費》、以及《法律援助訴訟的分擔訟費及法律援助署署長的第一押記》。其後，法援署不斷更新小冊子的內容，更推出多種語言版本的香港法律援助服務小冊子，包括菲律賓語、巴基斯坦語及尼泊爾語等。

法援署亦製作多套影片並推出海報，加深公眾對法援服務的認識，其中包括在2011年推出的有關訟費支付的責任和索償款項收取程序的影片，在2020年推出的政府電視宣傳短片「法律面前 人人平等」，以及近年印製多款載有二維碼的海報，方便市民通過掃描二維碼取得「怎樣申請」系列小冊子、《香港法律援助服務指南》、《怎樣計算你的財務資源及分擔費》及「財務資料一覽表」的資料。

Extensive Promotional Campaigns

A series of promotional campaigns has been conducted by the Department to raise public awareness on legal aid services. From 1999, legal aid leaflets were published, including the 'How to Apply' series, 'How Your Financial Resources and Contribution are Calculated' and 'Contribution towards Costs of Legal Aid Case and Director of Legal Aid's First Charge'. The Department has been constantly updating the leaflets as well as publishing information leaflets on legal aid services in Hong Kong in various languages, such as Tagalog, Urdu and Nepali, etc.

The Department also produced a number of videos and posters to help the public understand more about legal aid services. A video documentary was produced and released in 2011 to enhance public understanding of the liability on costs of aided persons and steps involved in release of monies recovered in aided proceedings. A Government TV Announcement in the Public Interest titled 'All are equal before the law' was newly launched in 2020. Posters providing QR codes were also published in recent years. By scanning the QR codes, members of the public can easily access information in leaflets of 'How to Apply Legal Aid' series, 'Guide to Legal Aid Services in Hong Kong' and 'How Your Financial Resources and Contribution are Calculated' as well as Financial Information Sheet.

法援署多年來除了提升法援服務外，亦一直致力加強內部管理，近年更獲頒2019年公務員優質服務獎勵計劃「特別嘉許獎—安健工作間」及「部門精進服務獎（小部門組別）銅獎」，成就獲得肯定。

All these years, the Department has been striving to enhance its services, as well as to strengthen its internal management. Recently, the Department was awarded a Special Citation (Workplace Safety and Wellness) and Bronze Prize in Departmental Service Enhancement Award (Small Department Category) at Civil Service Outstanding Service Award Scheme 2019 in recognition of the staff's efforts.



個案分享
Notable Cases



守護海員權益 Maritime Master

「香港的法律援助服務在世界上是首屈一指的，這方面的成就令人感到自豪。」

“Legal aid services in Hong Kong is one of the best in the world. We should all be proud of it.”

丁錦源 **Ting Kam Yuen**

國際運輸工人聯盟香港（方便旗船事務）辦事處主任
Office Head, Hong Kong International Transport Workers' Federation (Flag of Convenience) Campaign Office

香港海員工會前主席
Former Chairman, Hong Kong Seamen's Union

香港的海事歷史可追溯至殖民地初期，而且一直以來都是本港發展的重要部分。香港在1841年6月7日宣布成為自由港，自此航運業持續增長，於是引起大眾關注當時被稱為「咕喱」（苦力）的船上工人的待遇。除了規管海員的工作條件、福利和保障的法例與時並進外，海員工會在維護海員的權益，特別是處理訴訟個案方面，也扮演着非常重要的角色。

Hong Kong's maritime history dates back its colonial beginnings, and continues to be an important aspect of the city's development. The growth in shipping since Hong Kong was declared a free port on 7 June 1841 attracted attention to treatment of labourers working on board, who were known as coolies back in those days. Whilst the laws regulating the conditions, benefits and protection of seafarers improved with times, trade union of seafarers plays a very important part in representing seafarers' interest, in particular when they are involved in litigations.

安全海港

丁錦源於上世紀七十年代加入香港海員工會，最初主要協助海員辦理工傷索償和追討欠薪。由於當時的香港經濟正處於發展階段，海員普遍都符合資格獲得法律援助。丁錦源憶述：「以工傷索償為例，受傷的海員一般會先尋求與資方或保險公司達成和解。如未能和解，就要循法律途徑解決。這時，工會一般都會建議合資格的工友申請法律援助。」

及後，丁錦源接觸的欠薪、解僱個案愈來愈多，而且很多時都須要與法援署合作處理。工會通常會先了解欠薪的具體情況，備齊資料後安排工友申請法律援助。在申請獲批後，法律程序隨即展開。在某些情況下需要向法院申請禁止有關船隻離開香港水域，俗稱「扣船」。丁錦源指：「在等待法庭判決期間，如船上伙食短缺，高等法院的總執達主任會協助安排食物，有時亦會提供接駁艇讓船員上岸。」

Safe Harbour

Ting Kam Yuen began his career at Hong Kong Seamen's Union in the 1970s. Back then, he assisted seafarers with work injury claims and wage recovery when Hong Kong's developing economy meant that many seamen were eligible for legal aid. "Injured seamen, for example, typically sought settlement from their employer or insurer," recalls Ting. "But if no agreement was reached, they then had to resort to legal proceedings. We advised qualified members to apply for legal aid."

Ting's latter career involved increasingly unpaid wages and employment termination cases; many meant working closely with the Legal Aid Department (LAD). To facilitate claims, his union gathered information about the unpaid wages, and then assisted the claimants with their legal aid applications. Once approved, legal proceedings began. Some cases required an application be made to court prohibiting the vessel from leaving Hong Kong waters—commonly referred to as an "arrest". "While waiting for the court decision," Ting notes, "if there was food shortage on board, the chief bailiff of the High Court would help arrange sustenance and sometimes transportation for the seamen to come onshore."



香港的海事歷史可以追溯至殖民地初期，而且一直以來都是其發展的重要部分。

Hong Kong's maritime history predates its colonial beginnings, and continues to be an important aspect of the city's development.

支援四海

除本地工友外，各地海員亦可受惠於工會和法援署的服務。丁錦源解釋：「在上世紀八十年代，我開始在工聯會擔任職務，有機會接觸各行各業的工友。在不少工傷或死亡個案中，工友的家屬都來自內地或海外，如印尼、菲律賓等地。作為工會代表，我們當時以受託人身分，代表工友或家屬申請法律援助。」

提到最具代表性的個案，要數當年工會替菲律賓海員爭取合理賠償，並上訴至終審法院的經歷。2003年，一名菲律賓船員在一艘香港註冊的船上工作期間受傷，完全失去右眼視力。他其後根據香港的《僱員補償條例》，在香港的區域法院申請索償，而非根據在菲律賓簽訂的僱傭合約內的仲裁條款，以及當地的補償方案，申索較香港水平為低的賠償。船隻擁有人的保險代表當時根據仲裁條款，擱置根據香港的《僱員補償條例》提出的索償程序。由於案件涉及具有重大而廣泛重要性的法律論點（即區域法院是否擁有專屬司法管轄權處理所有僱員的索償申請，從而杜絕依據仲裁條款擱置索償訴訟的申請），因此該案獲准上訴至終審法院。

丁錦源憶述：「法援署認同在香港註冊的船上工作的船員如申索賠償，香港法院應對案件有司法管轄權。」。終審法院最後裁定海員勝訴，並裁定除明確指出的情況外，《僱員補償條例》第18A(1)條賦予區域法院專屬司法管轄權，處理根據該條例提出的索償；仲裁並非例外情況，亦無權通過仲裁擱置根據該條例提出的索償。「我們齊心協力，一起爭取，最終獲勝。」現時本港有超過二千艘註冊船舶，粗略估計至少有四萬名本地和外地船員，他們不論國籍都受到香港的司法制度及法援計劃的保障。

除本地工友外，外地海員亦可受惠於工會和法援署的服務。

Alongside local seamen, international seafarers also benefited from the help of the Union and LAD.

Assistance on Land for All at Sea

Alongside local seamen, international seafarers also benefited from the help of the Union and LAD. “I took up a position at the Hong Kong Federation of Trade Unions in the 1980s, and got to know union workers from different industries,” Ting elaborates. “In many work related injury and death cases, the workers’ families were from Mainland China or Southeast Asian countries. As union representatives, we acted on behalf of the workers or their family members to seek legal aid.”

Ting recalls one groundbreaking case when the Union helped a Filipino seaman fight for his rightful compensation at the Court of Final Appeal (CFA). After the seaman sustained work injuries in 2003 on a ship registered in Hong Kong causing him total loss of vision in his right eye, he filed a claim in the District Court (DC) of Hong Kong for compensation under the Employees’ Compensation Ordinance (ECO) rather than under an arbitration clause in one of the employment contracts (made in the Philippines) and a scheme of compensation in the Philippines, which provided less favourable compensation than that under the ECO. The insurer of the vessel owner relied on the arbitration agreement to stay the proceedings under ECO in Hong Kong. The case progressed up to the CFA as a point of law of great general or public importance arose, namely whether the DC has exclusive jurisdiction to deal with all employees’ compensation claims to preclude a stay of the proceedings under ECO in favour of arbitration.

“LAD agreed that jurisdiction laid with Hong Kong for compensation of seamen working on Hong Kong registered ships,” Ting recalls. The CFA ruled in favour of the seaman, inter alia, that section 18A(1) of ECO conferred exclusive jurisdiction on the DC to deal with all claims under ECO save in the cases expressly excepted. Arbitration is not such an exception and there is no power to stay proceedings under ECO in favour of arbitration. “We worked together and fought hard, and eventually won the case.” Currently, there are more than 2,000 registered ships with a minimum of 40,000 local and foreign seamen in Hong Kong: all of them irrespective of their nationalities are protected by the city’s legal system and legal aid scheme.



服務五十載

合作近半個世紀，丁錦源見證了法援署的轉變：「法援署現時的規模比以前大得多，服務範圍亦擴闊了不少。」他亦指出，法援署一直積極為沒有經濟能力的人提供法律協助，在維護社會公平和公義方面大步邁進，一直貫徹實踐法援署的使命。

丁錦源現時服務於國際運輸工人聯盟香港辦事處，有不少機會接觸來自世界各地的海員和運輸工人。他說：「香港的法律援助服務，在世界上是首屈一指的，這方面的成就令人感到自豪。」

Five Decades Strong

Ting has witnessed LAD's remarkable evolution over the past half century. "LAD has grown tremendously in size and scope of services," he states, adding that it made great strides towards protecting equality and social justice with legal assistance to those in financial need. Ting feels that LAD today remains true to its mission.

Now employed at the International Transport Workers' Federation, Ting meets seamen and transportation workers from all over the globe. "Legal aid services in Hong Kong is one of the best in the world," he believes. "We should all be proud of it."



丁錦源認為，香港的法律援助服務在世界上是首屈一指的。

Ting believes legal aid services in Hong Kong is one of the best in the world.



觀看訪問精華片段，請掃描此二維碼。

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個案重溫 Case Study

業主立案法團疏忽釀致命意外 Fatal accident due to negligence of incorporated owners



上訴人：梁振雄及另一人
Appellant: Leung Tsang Hung and another

答辯人：國榮大廈業主立案法團
Respondent: The Incorporated Owners of Kwok Wing House

終審法院判決日期：2007年10月26日
Date of Court of Final Appeal Judgment: 26 October 2007

類別：人身傷害
Category: Personal injuries

相關爭議

- 1999年8月10日，一名於通菜街擺賣的女小販遭從毗鄰建築物國榮大廈墮下的混凝土塊擊中斃命。
- 有關混凝土塊來自該大廈一個單位的頂篷的加建部分，而該加建部分並不符合《建築物（建造）規例》的要求。

Dispute

- On 10 August 1999, a female hawker was struck dead by a piece of concrete which had fallen from the Kwok Wing House, while she was plying her trade at Tung Choi Street.
- The concrete came from the extended part of the canopy of a flat of the building, which was not in conformity with the requirements of the Building (Construction) Regulations.

雙方的理據

- 上訴人認為該單位的業主及租客，及業主立案法團均需負上責任。
- 答辯人則認為該單位的加建部分的保養或修葺由業主及租客負責，業主立案法團並無責任進行有關保養或修葺。
- 該混凝土塊塌下是由潛在的建築缺陷所致，這是目視勘察無法發現的。

Arguments of Both Parties



- The Appellant considered that the owner and occupier of the flat as well as the incorporated owners should be liable.
- The Respondent argued that it was the duty of the owner and the tenant to maintain or repair the flat or the extended part and the incorporated owners had no duty to maintain it.
- The fall of the concrete was caused by a latent defect which could not have been discovered by visual inspection.

原訟法庭及上訴法庭的判決

- 業主立案法團既非該加建部分的擁有人或佔用人，亦沒有權就該加建部分作出管制，故此並無責任修葺或檢查該加建部分。
- 法庭裁定該單位的租戶及業主均須承擔法律責任，但撤銷針對業主立案法團提出的申索。
- 上訴法庭駁回上訴人的上訴。
- 上訴人上訴至終審法院。

Court of First Instance and Court of Appeal Judgments



- The incorporated owners had no duty to repair or to inspect the extended canopy, as they were neither owners nor occupiers of the extended canopy and had no control over it.
- The tenant and owner of the flat were held liable but the claim against the incorporated owners was dismissed.
- The Court of Appeal dismissed the appellant's appeal.
- The appellant appealed to the Court of Final Appeal.

上訴理據

- 根據《建築物管理條例》對業主立案法團的職責和權力所作的規定，業主立案法團實際上是一個由眾多業主組成的團體，共同管有及控制有關建築物的公用部分。



According to the Building Management Ordinance which stipulates the duties and powers of an owners' incorporation, the owners' incorporation is in effect the corporate embodiment of the owners collectively, possessing and exercising such control over the common parts of the building.

答辯理據

- 法團方面必須對有關加建部分有「佔用性的控制權」，才能構成一項可就其不作為而提出訴訟的責任，但法團顯然沒有此控制權。



Only when there is "occupational control" will there be a duty giving rise to an actionable omission, and the owners' incorporation plainly do not have such control.

終審法院的判決

- 應按照「對公眾造成妨擾」的法律來裁定業主立案法團的法律責任(如有的話)。
- 土地的佔用人一般都有責任消除在該土地內或從該土地引起的任何妨擾及危險，又或至少要避免這類危險傷害公眾人士。
- 一名被告人可基於其「作為」或「不作為」而被裁定須就對公眾造成妨擾負上法律責任，本案基於有關業主立案法團的「不作為」而作出裁決。
- 終審法院一致裁定上訴得直。

Judgment of Court of Final Appeal

- The legal liability of the incorporated owners, if any, should be determined by applying the law of public nuisance.



Occupiers of land generally come under a duty to remove any nuisance hazard on or emanating from the land, or at least to prevent such hazard from injuring members of the public.

- A defendant may be held liable for public nuisance on the basis of his positive act or his omission. The present case has been approached on the basis of an omission on the part of the incorporated owners.
- The Court unanimously allows the appeal.

發展路向

- 終審法院對這案件作出了權威性的判決：如業主立案法團知道或應當知道有妨擾危險存在並對公眾構成危險的話，便須承擔法律責任。
- 大廈公用部分的任何部分或任何附屬部分因其危險狀況而致墮下令街上有人傷亡或引致損害，倘若法團已知道或應該知道有該危險存在並可及時將之移除，卻沒有合理解釋為何沒有採取行動，則須為有關妨擾的後果承擔法律責任。
- 《建築物管理（第三者風險保險）規例》於2011年1月1日生效，強制要求業主立案法團購買第三者風險保險，以涵蓋業主立案法團與建築物的公共部分和其財產有關的法律責任。

Going Forward

- The Court of Final Appeal made an authoritative decision in this case: incorporated owners (IO) are responsible where they know or ought to know the existence of a nuisance hazard endangering members of the public.
- Where any part of, or anything annexed to, the common parts of a building falls off as a result of its hazardous state and causes death, injury or damage in the street below, the IO are liable in nuisance for the consequences if they knew or ought to have known of the hazard but had unreasonably failed to remove it.
- Building Management (Third Party Risks Insurance) Regulation, which stipulates the mandatory requirement for owners' corporations to procure third party risks insurance to cover liabilities in relation to the common parts of a building and the properties of owners' corporations, took effect on 1 January 2011.

個案重溫 Case Study

非法勞工受傷可酌情獲得賠償 Injured illegal workers could be eligible for compensation at discretion



申請人：于濃仙
Appellant: Yu Nongxian

答辯人：吳家穎（第一答辯人） | 僱員補償援助基金管理局（管理局）（第二答辯人）
Respondents: Ng Ka Wing (1st Respondent) | Employees Compensation Assistance Fund Board (Board) (2nd Respondent)

上訴法院判決日期：2007年9月6日
Date of Court of Appeal Judgment: 6 September 2007

類別：人身傷害
Category: Personal injuries

相關爭議

- 2002年6月2日，一名內地人（死者）於土瓜灣一單位進行外牆的安裝和拆卸工作時，從高處墮下死亡。死者是一名持雙程證入境的旅客，逗留條件是不得在香港受僱從事任何工作。
- 由於第一答辯人沒有購買保險，管理局加入成為第二答辯人。
- 然而，由於由申請人代表的死者家屬未能證明死者受僱於第一答辯人，區域法院法官駁回申請人的申索。
- 申請人向上訴法庭提出上訴。

Dispute

- On 2 June 2002, a mainlander (the deceased) plunged to his death from the external wall outside a flat in To Kwa Wan while he was engaged in installation and demolition work at the time. The deceased was a visitor having gained entry to Hong Kong on a two-way permit and it was a condition of his stay that he should not be employed for any kind of work in Hong Kong.
- Since the 1st Respondent was not insured, the Board was joined as 2nd Respondent.
- However, since the family members of the deceased, who were represented by the Applicant, had failed to prove that the deceased had been employed by the 1st Respondent, District Judge dismissed the Applicant's claim.
- The Applicant appealed to the Court of Appeal.

上訴法庭的判決

- 第一答辯人作為死者僱主的身分已獲證實。
- 雖然死者的僱傭合約不合法，但法庭應作出對申索人有利的酌情決定。
- 如果不准許非法僱員提出申索，將有違公共政策。如果某非法勞工在受僱工作期間受傷，而他可根據《僱員補償援助條例》（第365章）（《條例》）獲得補償，他很可能會主動提出申索。
- 在這情況下，他可能會成為檢控僱主的控方證人。如不能獲得賠償，該僱員便不會採取任何行動，這很可能讓僱主逍遙法外。
- 僱員非法受僱大多是生活所迫，但僱主聘用非法勞工，通常是出於貪婪。因此嚴懲他們會有效阻嚇這類貪婪的僱主。
- 如法庭頒布的判決未獲執行，有關人士可提出破產呈請，第一答辯人的銀行帳戶會被凍結，此舉往往會令幕後人士現身。
- 根據《條例》，如第一答辯人無法支付賠償，管理局有責任代為支付。管理局可利用法例賦予的權力，向被告討回管理局支付予有關工人的賠償，此舉亦有助打擊僱用非法勞工。
- 為了維護公共政策，有充分理由批准死者家屬追討賠償。

管理局的責任

- 上訴法庭認為，雖然管理局的職責不是打擊僱用非法勞工，但管理局可利用法例賦予的權力，向第一答辯人討回管理局支付予有關工人的賠償。
- 如當局銳意向違例僱主悉數追討所拖欠的賠償，將有助打擊僱用非法勞工。
- 制定《條例》是為了保障未受保的僱員。根據該條例，只要工人是因工受傷或身亡，不論過失程度為何，即有權提出申索，追討僱員補償。
- 管理局向終審法院提出上訴許可申請。

Court of Appeal Judgment

- 1st Respondent's identity as the deceased's employer had been established.
- Discretion ought to be exercised in favour of the claimants, despite the illegality of the deceased's contract of employment.
- Public policy would not be served by disallowing claims by illegal employees. If an illegal employee suffered injuries in the course of his employment, and he had a remedy under the Employees Compensation Assistance Ordinance (Cap. 365) (Ordinance), he was likely to come forward and make a claim.
- In that case he would probably be available as a witness for the prosecution of the employer. If no compensation was payable, the employee would not come forward at all and the employer was very likely to get off scot-free.
- Unlike illegal employees who were likely to be driven by necessity, employers were usually driven by greed. Therefore hitting their pocket would be a good deterrent for those greedy employers.
- If judgment was obtained and not satisfied, there would probably be a petition for bankruptcy, the 1st Respondent's bank accounts would be frozen and very often that would bring a person who had gone underground to appear.
- Under the Ordinance, in the event that the 1st Respondent was unable to pay, the Board would be liable to pay. The Board could help in the fight against illegal employment if it took over the right given to it by the law to recover the compensation paid to the worker.
- There was very strong public policy reason to permit the deceased's family members to recover the compensation.



Responsibility of the Board


- The Court of Appeal considered that although it was not the job of the Board to fight illegal employment, the Board could help in the fight if it took over the right given by the law to recover from the 1st Respondent the compensation already paid to the worker by the Board.
- Determination by the Board to pursue the illegal employer for his last cent would help fight illegal employment.
- The Ordinance was enacted to protect those uninsured employees. Under the Ordinance, a worker would be entitled to make a claim for employees' compensation and to recover on a "no fault" basis so long as he sustained injuries or death while at work.
- The Board sought leave to appeal to the Court of Final Appeal.



上訴理據及終審法院的裁定

- 第一，上訴法庭同意證人在死因研訊中的供詞可在審訊中獲接納為證據，此決定是否正確。
- 第二，法院應否訂立原則，說明如何行使《條例》第2(2)條賦予的酌情權。
- 關於第一點，終審法院認為如傳聞證據通知書已妥為送達，原則上沒有理由豁除死因研訊的供詞；第二點，終審法院認為應否行使酌情權，須視乎個別案件的案情而定。
- 終審法院因此拒絕批准管理局的上訴許可申請。


Grounds of Appeal and Court of Final Appeal's Determination

- Firstly, whether the Court of Appeal was correct in accepting that evidence given by witnesses in the coroner's inquest was admissible as evidence at the trial.
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- Secondly, whether the court should lay down principles as to how the discretion in section 2(2) of the Ordinance should be exercised.
 - On the first point, the Court of Final Appeal found no reason in principle why evidence given at the inquest should be excluded if hearsay notices had been properly served; on the second point, the Court of Final Appeal considered that whether the discretion should be exercised would depend upon the particular facts of each case.
 - The Court of Final Appeal therefore refused to grant leave to the Board to appeal.

發展路向

- 上訴法庭認為法院若拒絕執行非法合約，往往造成不公，令答辯人獲得不義利潤。假如條例的作用是「剝奪」一些未受保僱員向僱主索償的權利，這是十分諷刺的。
- 案件說明法院如何根據《條例》第2(2)條行使其酌情權。
- 案件的判決提醒僱主，即使僱員是非法勞工，但該僱員若在受僱工作期間受傷，僱主不一定可獲免除對該僱員的補償責任。

Going Forward

- The Court of Appeal considered that refusal of the court to enforce illegal contracts often led to injustice and unjust enrichment of the respondent. If the Ordinance had the effect of "depriving" some uninsured employee of his claim against his employer, it would be ironic.
- 
- The case demonstrated the court's approach in exercising its discretion under Section 2(2) of the Ordinance.
 - The judgment reminded employers that even though the employment is illegal, it does not necessarily mean that they would not be held liable for the employees' compensation in the event such employee sustains injury in the course of his employment.

法治基石、彰顯公義

*Legal Aid for the
Rule of Law and Justice*



個案重溫 Case Study

協助南丫島撞船事故 死傷者家屬追討賠償

Assisting family members of the casualties in Lamma Island ferry collision to recover damages



申請人：南丫島撞船事故死傷者家屬
Applicant: Family members of the casualties in Lamma Island ferry collision

日期：2012年10月1日
Date of accident: 1 October 2012

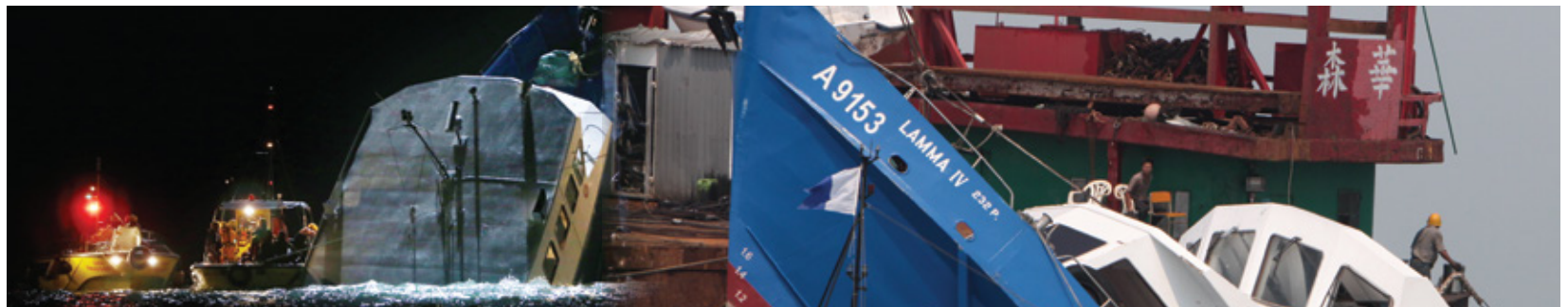
類別：人身傷害
Category: Personal injuries

事件背景

- 2012年10月1日，南丫4號及海泰號兩艘客運渡輪於南丫島西北面的西博寮海峽相撞。
- 海泰號由港九小輪控股有限公司營運。
- 南丫4號由香港電燈有限公司擁有，當日載有121名乘客及3名船員，由南丫島前往中環。
- 船上的乘客當日正參與公司舉辦的一日遊，前往中環觀賞國慶日煙花匯演。
- 意外共造成39人死亡，92人受傷。

Background

- On 1 October 2012, two passenger ferries, Sea Smooth and Lamma IV, collided at West Lamma Channel.
- Sea Smooth was operated by Hong Kong & Kowloon Ferry Holdings Limited.
- Lamma IV, owned by Hongkong Electric Company, with 121 passengers and three crew members on board, was travelling from Lamma Island to Central.
- Passengers were on a one-day tour organised by the company, and were heading to Central for the fireworks display commemorating the National Day.
- A total of 39 people were killed in the accident, while 92 people were injured.



照片由星島日報提供 Photo provided by Sing Tao Daily

各界反應

- 政府各部門迅速為死者家屬、傷者及受影響人士提供支援和協助。
- 醫護人員全力照顧所有被送到醫院的傷者。
- 民政事務總署負責協調為死傷者家屬提供的支援服務。
- 社會福利署則為有需要幫助的家庭和個人提供輔導及支援服務，並跟進他們在各方面的福利需要，同時亦為個別有緊急經濟需要的家庭向慈善團體申請緊急經濟援助。
- 時任行政長官梁振英宣布為期3日的全港哀悼日。
- 多個慈善機構及基金第一時間向死傷者家屬提供緊急援助金以解燃眉之急。

Responses of Different Parties

- Various government departments provided immediate support and assistance to the families of the deceased as well as the injured and affected persons.
- Medical staff exerted their utmost effort in taking care of all the injured persons at hospitals.
- The Home Affairs Department coordinated support services for the families of the deceased and the injured.
- The Social Welfare Department provided counselling and support services for individual and families in need and followed up on their welfare needs and assisted individual families with pressing financial needs in applying to charitable bodies for emergency financial assistance.
- Three days of mourning were declared by the then Chief Executive Leung Chun-ying.
- Many charitable organisations and trust funds promptly provided emergency financial assistance to address the victims' urgent needs.



法律援助署的角色

- 事故發生後，部分死傷者家屬透過法律援助署的協助，提出民事索償。
- 2012至2014年，法律援助署共向22宗申請批出法律援助，當中18宗屬普通法律援助計劃，4宗屬法律援助輔助計劃。
- 在22個個案當中，有21宗獲得賠償。
- 21位受助人透過法律援助署協助，共獲得超過800萬港元賠償。

The Role of Legal Aid Department

- After the accident, some family members of the casualties lodged civil claims with the aid of the Legal Aid Department.
- Between 2012 and 2014, the Legal Aid Department granted legal aid to 22 applicants, 18 under the Ordinary Legal Aid Scheme and 4 under the Supplementary Legal Aid Scheme.
- Out of the 22 cases, 21 cases were settled with damages recovered.
- The total amount of damages recovered by the 21 legally aided persons through the assistance of the Legal Aid Department was over HK\$8 million.



延伸事項

- 行政長官會同行政會議根據《調查委員會條例》（第86章）第2條，委任2012年10月1日南丫島附近撞船事故調查委員會，就導致意外的事實和情況進行調查。
- 委員會的職權範圍包括：確定事故的起因並作出適當的裁斷；考慮及評核香港有關載客船隻的一般海事安全情況及現時監管制度是否充足；以及就所需措施提出建議，以防日後再發生相類事故。
- 調查委員會於2013年4月向行政長官提交報告，並於2015年9月全面公開報告。
- 2013年5月，運輸及房屋局成立海事處制度改革督導委員會，以指示和督導海事處處長進行全面的制度檢討和改革。
- 海事處亦成立由副處長領導的改革執行小組，以支援督導委員會的工作，並協調各項改善措施的執行。

Going Forward

- The Chief Executive in Council, under section 2 of the Commissions of Inquiry Ordinance (Cap. 86), appointed the Commission of Inquiry into the Collision of Vessels near Lamma Island on 1 October 2012.
- Terms of reference of the Commission include: ascertain the causes of the incident and make appropriate findings thereof; consider and evaluate the general conditions of maritime safety concerning passenger vessels in Hong Kong and the adequacy or otherwise of the present system of control; and make recommendations on measures required for the prevention of the recurrence of similar incidents in future.
- The Commission submitted its report to the Chief Executive in April 2013; the full report was released in September 2015.
- The Transport and Housing Bureau set up the Steering Committee on Systemic Reform of the Marine Department in May 2013 to steer and supervise the Marine Department in undertaking a comprehensive systemic review and reform.
- A Task Force on Reform, led by the Deputy Director, was also formed in the Marine Department to support the work of the Steering Committee and to co-ordinate implementation of the various improvement measures.



個案重溫 Case Study

雙非兒童居港權爭議 Dispute on doubly non-permanent resident children's right of abode



上訴人：入境事務處處長（處長）
Appellant: The Director of Immigration (The Director)

答辯人：莊豐源
Respondent: Chong Fung Yuen

終審法院最終判決日期：2001年7月20日
Date of Court of Final Appeal Judgment: 20 July 2001

類別：民事 一人權
Category: Civil – Human Rights

相關爭議

- 莊豐源的父母並非香港永久性居民或其他類別的香港居民。
- 在他出生時，他的父母持內地取得的雙程證以訪客身分在香港合法逗留。

Dispute

- Chong Fung Yuen's parents were not permanent or otherwise residents of Hong Kong.
- At the time of his birth, his parents were in Hong Kong lawfully as visitors on the strength of two-way permits from the Mainland.

莊豐源一方的理據

- 莊聲稱，根據《基本法》第二十四條第（二）款第（一）項，他是香港特區永久性居民，享有居留權。

Chong's Argument



- Chong claimed to be a permanent resident of the HKSAR, and to have the right of abode pursuant to Article 24(2)(1) of the Basic Law.

入境事務處處長的理據

- 《入境條例》附表1第2(a)段規定在香港出生的中國公民若要成為永久性居民，在其出生時或其後任何時間，其父母任何一方必須已在香港定居或已享有香港居留權。
- 按《基本法》第二十四條第（二）款第（一）項的正確解釋，其含義必然是該條款並不賦予非法入境、逾期居留或在香港臨時居留的人在香港所生的中國公民居留權。

The Director of Immigration's Arguments



- Para. 2(a) of Schedule 1 to the Immigration Ordinance provides that for a Chinese citizen born in Hong Kong to be a permanent resident, one of his parents must have settled or had the right of abode in Hong Kong at the time of his birth or at any later time.
- According to Article 24(2)(1) of the Basic Law, on its true interpretation and by necessary implication no right of abode is conferred on Chinese citizens who are born in Hong Kong to illegal immigrants, overstayers or people temporarily residing in Hong Kong.

原訟法庭及上訴法庭的判決

- 原審法官裁定第2(a)段有關父母的規定與《基本法》第二十四條第（二）款第（一）項相抵觸。
- 宣告莊豐源為香港特區的永久性居民，享有香港特區居留權。
- 上訴法庭維持原審法官的命令，駁回處長的上訴。
- 處長向終審法院提出上訴。

Court of First Instance and Court of Appeal Judgments



- The Judge held that the requirement relating to the parent in para. 2(a) is inconsistent with Article 24(2)(1) of the Basic Law.
- He made a declaration that Chong Fung Yuen is a permanent resident of and has the right of abode in the HKSAR.
- The Court of Appeal upheld the orders made by the Judge and dismissed the Director's appeal.
- The Director appealed to the Court of Final Appeal.

上訴理據

- 《基本法》第二十四條第(二)款第(一)項屬香港特區自治「範圍之外的條款」。
- 終審法院應解釋第二十四條第(二)款第(一)項的含義，必然是享有居留權的永久性居民不包括在香港的非法入境、逾期居留或在香港臨時居留的人所生的中國公民。

答辯理據

- 《基本法》第二十四條第(二)款第(一)項訂明了享有居留權的永久性居民的其中一個類別。因此，這項條款屬關於香港特區自治範圍內的條款。
- 第二十四條第(二)款第(一)項的含義一如該條款所述，就是指在1997年7月1日之前或之後在香港出生的中國公民享有永久性居民的身分。

終審法院的判決

- 終審法院參照了第二十四條第(二)款第(一)項的背景及目的來詮釋文本字句後，認為其含義清晰，就是在1997年7月1日之前或之後在香港出生的中國公民享有永久性居民的身分。
- 終審法院駁回入境事務處處長的上訴。

延伸事項

- 判決後，父母皆非香港永久性居民而在香港出生的嬰兒（「雙非」嬰兒），可擁有香港的居留權，並可享有香港的社會福利。
- 此後，內地孕婦來港產子的數目上升，對本地產科服務造成沉重壓力。
- 2001年至2011年間，在港出生的「雙非」嬰兒人數超過17萬人。
- 2012年，政府公布「零配額」政策，所有公立醫院均不會接受非本地孕婦在2013年1月1日或以後的分娩預約，而私家醫院亦一致同意不會接受內地「雙非」孕婦在2013年的分娩預約。

Grounds of Appeal



- Article 24(2)(1) of the Basic Law is an "excluded provision" of HKSAR's autonomy.
- The Court of Final Appeal should interpret Article 24(2)(1) to mean by necessary implication that permanent residents with right of abode do not include those Chinese citizens who are born to illegal immigrants, overstayers or people residing temporarily in Hong Kong.

Grounds to Oppose the Appeal



- Article 24(2)(1) of the Basic Law prescribes one category of permanent residents who are entitled to the right of abode. Therefore it is a provision within the HKSAR's autonomy.
- Article 24(2)(1) means what it says, that is, Chinese citizens born in Hong Kong before or after 1 July 1997 have the status of permanent residents.

Judgment of Court of Final Appeal



- When the language of Article 24(2)(1) is considered in the light of its context and purpose, its clear meaning is that Chinese citizens born in Hong Kong before or after 1 July 1997 have the status of permanent residents.
- The Director's appeal was dismissed.

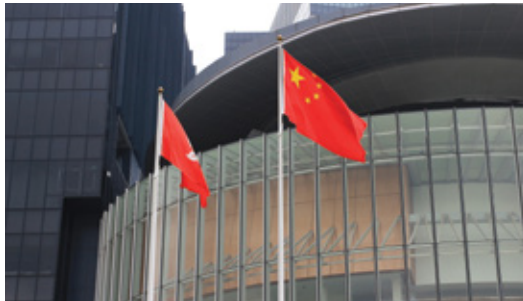
Going Forward



- After the judgment, children born locally but whose parents are non-permanent residents of Hong Kong ("doubly non-permanent resident children") were entitled to the right of abode in Hong Kong and benefits of Hong Kong social welfare.
- Large influx of Mainland pregnant women gave birth in Hong Kong, creating enormous pressure on the local obstetric services.
- Between 2001 and 2011, over 170,000 new births in Hong Kong were "doubly non-permanent resident children".
- Government promulgated a "zero quota" policy in 2012 that all public hospitals would not accept any bookings by non-local pregnant women for delivery of children in Hong Kong from 1 January 2013 onwards. Private hospitals have also unanimously agreed to stop accepting delivery bookings in 2013 from Mainland pregnant women whose husbands are not Hong Kong permanent residents.

個案重溫 Case Study

使用國旗及區旗作為發表自由的方法 Utilising national and regional flags for freedom of expression



上訴人：香港特別行政區

Appellant: Hong Kong Special Administrative Region

答辯人：吳恭劭 | 李建潤
Respondents: Ng Kung Siu | Lee Kin Yun

終審法院判決日期：1999年12月15日
Date of Court of Final Appeal Judgment: 15 December 1999

類別：刑事－人權
Category: Criminal – Human Rights

相關爭議

- 在1998年一次示威活動中，兩名答辯人嚴重塗污中華人民共和國國旗及香港特別行政區區旗。兩面旗幟上均寫上「恥」字，答辯人並高聲喊叫「建立民主中國」。
- 據報，答辯人李建潤指「撕毀及塗污國旗、區旗是表達對非民選執政者的不滿和抗爭行動」。
- 兩名答辯人分別被控觸犯《國旗及國徽條例》第7條及《區旗及區徽條例》第7條的規定，即任何人公開及故意侮辱國旗或區旗，即屬違法。
- 兩名答辯人被判罪名成立後向上訴法庭就定罪提出上訴。

Dispute

- The Respondents extensively defaced national (the People's Republic of China) and regional (the Hong Kong Special Administrative Region) flags during a demonstration in 1998. The Chinese character 'shame' was written on the flags and the respondents chanted "build up a democratic China."
- The Respondent Lee Kin Yun was reported saying that "damaging and defiling the national and regional flags was a way to express the dissatisfaction and resistance to the ruler who was not elected by the people."
- The Respondents were charged under sections 7 of National Flag Ordinance (NFO) and Regional Flag Ordinance (RFO) respectively, which provide that a person who publicly and wilfully desecrates national or regional flags commits an offence.
- The Respondents were convicted after trial. They appealed to the Court of Appeal on conviction.

上訴理據

- 答辯人提出上訴，理由是將侮辱國旗及區旗的行為列為刑事罪行與發表自由的權利相抵觸。
- 上訴法庭裁定答辯人上訴得直。
- 上訴人向終審法院提出上訴。

Grounds of Appeal



- The Respondents filed appeal on the ground that criminalising desecration of the national and regional flags was inconsistent with the guarantee of freedom of expression.
- The Court of Appeal ruled in favour of Respondents.
- The Appellant filed an appeal to the Court of Final Appeal.

終審法院的判決

- 終審法院根據《公民權利和政治權利國際公約》(國際公約)所管限的發表自由,解釋人權的基準。
- 國際公約根據對公共秩序的規定保護國旗及區旗。
- 終審法院認為,國旗和區旗分別為中華人民共和國和香港特別行政區的重要象徵,因此涉及社會及社區利益,必須納入考慮範圍。
- 雖然終審法院認為侮辱國旗及區旗的行為限制了憲法所保障的言論自由,但憲法本身已明確禁止侮辱國旗及區旗的行為。
- 終審法院認為,答辯人的訴求本可通過其他途徑表達。
- 通過國際人權基準的「是否必要」和「是否合乎比例」驗證。
- 答辯人被控觸犯的兩條條例均符合憲法。
- 終審法院裁定上訴人上訴得直。

Judgment of Court of Final Appeal

- The Court of Final Appeal applied and interpreted human rights norm as outlined in The International Covenant on Civil and Political Rights (ICCPR) governing freedom of expression.
- Protection of national and regional flags was provided for by ICCPR under its public order provisions.
- The Court of Final Appeal held that national and regional flags were important symbols of the PRC and the HKSAR respectively, and as such societal and community interests were involved and needed to be taken into consideration.
- While the Court of Final Appeal considered flag desecration as limiting the constitutionally-protected right of free speech, the constitution itself specifically bans the desecration of flags.
- The Court of Final Appeal considered that the Respondents could have expressed themselves in other ways.
- ‘Necessity’ and ‘proportionality’ tests of international human rights norms were satisfied.
- The two ordinances under which the Respondents were convicted were constitutional.
- The Court of Final Appeal ruled in favour of the Appellant.



發展路向

- 法庭可根據相關人權準則審視那些法例或行政措施是否抵觸國際公約或人權法案,因而判斷其是否符合憲法。
- 本案展示了發表自由並非絕對的論據。國際公約的序言亦指出每個人對其他人及其所屬社區負有責任。推而廣之,把侮辱國旗刑事化是合理的限制,發表自由的權利仍受保障。
- 本案肯定了國家統一及領土完整,有助展示「一國兩制」原則,同時保障作為獨特象徵的國旗及區旗,在達致上述目標方面所擔當的重要角色。
- 本案為日後涉及侮辱國旗與人權之間的案件帶來影響,並為案件訂下量刑準則。

Going Forward

- The Courts have power to determine, based on relevant human rights standard, if legislation and executive decisions have violated the ICCPR or the Bill of Rights, thus contravening the Basic Law.
- The case demonstrates how freedom of expression is not an absolute argument. ICCPR’s preamble recognises that each individual has duties towards other individuals and the community to which he belongs. By extension, criminalising flag desecration is justifiable restriction, and the right to freedom of expression is still guaranteed.
- The case assists in laying down the principle of “One Country, Two Systems” and reinforcing national unity and territorial integrity. The protection of national and regional flags as unique symbols plays an important role in attaining these goals.
- The case impacts on future cases involving flag desecration and human rights and lays down sentencing guidelines.



個案重溫 Case Study

遞解離境令的有效性 Validity of the deportation order



上訴人：Ubamaka Edward Wilson
Appellant: Ubamaka Edward Wilson

終審法院最終判決日期：2012年12月21日
Date of Court of Final Appeal Judgment: 21 December 2012

答辯人：保安局局長 | 入境事務處處長
Respondents: Secretary for Security | Director of Immigration

類別：民事 - 人權
Category: Civil - Human Rights

相關爭議

- 1991年，尼日利亞國民Ubamaka因販毒在香港被判處監禁24年。
- 1999年，保安局局長（局長）向他發出遞解離境令。
- 2006年，他因擔心根據尼日利亞法例會再被檢控而須面對一罪兩審，於是向香港的聯合國難民事務高級專員辦事處申請難民身分。
- 2007年，他又根據《禁止酷刑公約》提出聲請，但有關聲請於同年被拒。
- 2007年，Ubamaka因行為良好，在服刑16年後提早獲釋。
- 在他獲釋後，入境事務處處長（處長）隨即命令把他遞解返尼日利亞。
- Ubamaka申請司法覆核，質疑有關遞解離境令的有效性。

Dispute

- In 1991, Ubamaka, a Nigerian national, was sentenced to 24 years' imprisonment for drug trafficking
- In 1999, the Secretary for Security ("the Secretary") issued a deportation order against him.
- He applied to the United Nation High Commissioner for Refugees in Hong Kong claiming refugee status in 2006 on the ground that he would be subject to re-prosecution in Nigeria.
- In 2007, he also lodged a separate claim under the Convention Against Torture but his application was rejected in the same year.
- After having served 16 years of imprisonment, Ubamaka was released from prison for good behaviour in 2007.
- The Director of Immigration ("the Director") ordered his deportation to Nigeria immediately after his release.
- Ubamaka instituted judicial review proceedings to challenge the validity of the deportation order.

答辯人的理據

- 《香港人權法案條例》（《人權條例》）第11條使無權進入及逗留於香港的人，如Ubamaka，不能援引《人權法案》所保障的憲法權利以反對遞解離境令。
- 《人權條例》第11條凌駕《人權法案》所保障的權利，包括反對被遞解離境的權利。
- 本案沒有證據證明Ubamaka會遭受任何相當於不人道的處遇。

Respondents' Argument



- Section 11 of the Hong Kong Bill of Rights Ordinance ("BOR Ordinance") precludes persons, like Ubamaka, who do not have the right to enter and remain in Hong Kong, from relying on the constitutional rights protected by the Bill of Rights to challenge a deportation order.
- Section 11 of the BOR Ordinance prevails over the rights contained in the Bill of Rights including the rights against deportation.
- The evidence in this case did not establish Ubamaka would face anything amounting to inhuman treatment.

上訴人的理據

- 如被遞解至尼日利亞，他很可能會因同樣罪名而再次被檢控及懲罰。
- 執行遞解離境令將使他遭受《人權法案》所禁止的一罪兩審，以及相當於不人道的處遇。

Appellant's Arguments



- If he were to be deported to Nigeria, he was likely to be prosecuted and punished again for the same charge.
- Deportation would expose him to double jeopardy and would amount to causing him to face inhuman treatment, both prohibited by the Bill of Rights.

原訟法庭及上訴法庭的判決

- 原訟法庭批准司法覆核申請、撤銷遞解離境令，並裁定有關的行政拘留不合法。
- 在局長及處長提出上訴後，上訴法庭推翻原訟法庭的決定。
- Ubamaka於是向終審法院提出上訴。

上訴理據

- 如被遞解至尼日利亞，他會就同一行為，即販毒而面對再被檢控及懲罰的重大風險。
- 有關的遞解離境令會使他面對《人權條例》(第383章)第8條所載《人權法案》第3及第11(6)條所分別禁止的殘忍、不人道或侮辱的處遇或懲罰，以及一罪兩審的風險。
- 禁止遣返難民使面對殘忍、不人道或侮辱的處遇或懲罰這規則，已成為一項國際習慣法的規範，這項規範也已納入香港的普通法內。

終審法院的判決

- 本案的問題須根據香港本地法律解決，而非任何據稱是直接援用《公民權利和政治權利國際公約》的條文，或任何據稱是在國際法的層面對某個問題作出的判決。
- 關於一罪兩審的理據，終審法院同意，上訴人不可援引《人權法案》第11(6)條所給予的保障，反對執行遞解離境令，因為該保障已被《人權條例》第11條的條文豁除。由於上訴人無權進入及逗留於香港，有關的遞解離境令不會受《人權條例》的條文(包括《人權法案》第11(6)條)所影響。
- 至於不人道處遇的問題，終審法院裁定，政府有責任考慮Ubamaka就這方面提出的聲請。不過，本案的證據未能證明Ubamaka會遭受相當於《人權法案》所訂明的處遇或懲罰。
- 終審法院駁回Ubamaka的上訴。

發展路向

- 終審法院的裁決釐清了《人權條例》第11條所載有關出入境法例的保留條文在憲法上的有效性、適用範圍及影響，以及該保留條文如何影響《人權法案》所保障的免受一罪兩審及酷刑或殘忍、不人道或侮辱的處遇或懲罰的權利。
- 政府於2013年7月2日宣布制定「統一審核機制」，審核包括會受到酷刑或殘忍、不人道或侮辱的處遇或懲罰及/或迫害的「免遣返」保護聲請。「統一審核機制」於2014年3月3日開始實施，就反對驅逐、遣返或引渡離開香港的「免遣返」保護聲請作出裁定。自此，大量聲請人經由該審核機制確定是否合資格免受遣返。

Court of First Instance and Court of Appeal Judgments

- The Court of First Instance (CFI) allowed the application for judicial review, quashed the deportation order and ruled that the administrative detention in question was unlawful.
- On appeal by the Secretary and the Director, the decision of the CFI was reversed by the Court of Appeal.
- Ubamaka appealed to the Court of Final Appeal (CFA).

Grounds of Appeal

- If deported to Nigeria, he would face a serious risk of prosecution and punishment again for the same conduct – drug trafficking.
- The deportation order exposed him to the risks of cruel, inhuman or degrading treatment or punishment and double jeopardy prohibited by Articles 3 and 11(6) of the Bill of Rights respectively under section 8 of the BOR Ordinance (Cap. 383).
- The rule prohibiting refoulement to face cruel, inhuman or degrading treatment or punishment constitutes a norm of customary international law which had been incorporated into the common law of Hong Kong.

Judgment of Court of Final Appeal

- The questions were to be resolved under the domestic law of Hong Kong and not by any purported direct application of the provisions of the International Covenant on Civil and Political Rights or by any purported adjudication of an issue on the plane of international law.
- On the double jeopardy ground, the CFA agreed that the Appellant could not invoke the protection of Article 11(6) of BOR against the execution of the deportation order because such protection has been excluded by section 11 of the BOR Ordinance. Since the Appellant was a person not having the right to enter and remain in Hong Kong, the deportation order was unaffected by the provisions of BOR Ordinance including Article 11(6) of BOR.
- On the issue of inhuman treatment, the CFA ruled that the Government was under a duty to consider Ubamaka's claim of inhuman treatment but the evidence in this case did not show anything approaching treatment or punishment specified under the BOR.
- The CFA dismissed the appeal by Ubamaka.

Going Forward

- The decision of the CFA clarifies the constitutional validity, scope and effect of the reservation provision relating to immigration legislation contained in section 11 of the BOR Ordinance; and the impact of that reservation provision on the rights of protection against double jeopardy and torture or cruel, inhuman or degrading treatment or punishment provided by the BOR.
- On 2 July 2013, the Government announced that there would be assessment of claims for non-refoulement protection against torture, cruel, inhuman or degrading treatment or punishment and/or persecution under the Unified Screening Mechanism, which commenced operation on 3 March 2014 to determine claims for non-refoulement protection against expulsion, return or extradition from Hong Kong. Since then, a large number of claimants went through the screening mechanism to determine their eligibility for non-refoulement status.

個案重溫 Case Study

香港應否跟從英國最高法院 就共同計劃的刑法法則所作的判決

Should Hong Kong follow U.K. Supreme Court's decision on the doctrine of criminal joint enterprise



上訴人：陳錦成
Appellant: Chan Kam-shing

答辯人：香港特別行政區
Respondents: Hong Kong Special Administrative Region (HKSAR)

終審法院判決日期：2016年12月16日
Date of Court of Final Appeal Judgment: 16 December 2016

類別：刑事法
Category: Criminal Law

案件背景

- 上訴人是三合會成員，他和幫會其他成員接到幫會頭目的命令，要去找和「斬」敵對幫派的成員。上訴人到達現場時，死者已因之前被人用刀襲擊和遭汽車輾過而躺在地上。
- 案中並無證據證明上訴人在死者受襲期間在場，也沒有證據證明上訴人曾作出任何行為導致死者受傷或死亡。
- 上訴人於原訟法庭被裁定謀殺罪名成立，理據為他曾積極參與一個共同犯罪計劃，即與他人協議襲擊敵對幫派成員，意圖對他們造成嚴重身體傷害。
- 上訴法庭維持上訴人的定罪裁決，並裁定上訴人的行為構成對幫會其他成員及實際兇手的鼓勵。
- 上訴人上訴至終審法院，並獲得上訴許可。

Case Background

- The appellant was a triad member. Along with his fellow gang members, he received an order from their triad boss to locate and “chop” members of a rival faction. When the appellant arrived at the scene, the deceased was already lying on the ground after having been attacked by knives and also run over by a car.
- There was no evidence that the appellant had been present during the attack on the deceased or that he had himself done any act which caused injury to or death of the deceased.
- The appellant was convicted of murder by the Court of First Instance, based on his active participation in a joint criminal enterprise, which was an agreement with others to attack members of the rival faction with intent to cause them grievous bodily harm.
- The appellant's conviction was upheld by the Court of Appeal which also held that his conduct constituted encouragement to the others in the gang, including the actual killers.
- The appellant took his case to the Court of Final Appeal and obtained leave to appeal.

「共同計劃」刑法法則的改變

- 多年來，香港的「共同計劃」刑法法則都以英國樞密院在1985年Chan Wing Siu v R案的判決為基礎，終審法院也曾在2004年的Sze Kwan Lung v HKSAR案中表示認同該判決。
- 根據該法則，次位參與者的刑責不是基於他有沒有「意圖」干犯更嚴重的罪行，而是基於他是否「預見」意外發生。
- 然而，在2016年初，英國最高法院在R v Jogee及R v Ruddock案中裁定Chan Wing Siu案的判決錯誤，共同計劃法則應予廢除。

上訴人的理據

- 上訴人援引Jogee一案，指出儘管他預見到該意外，但他無意對死者造成嚴重身體傷害。

終審法院的判決

- 案件的爭論點是香港法院是否採納英國Jogee案的裁決。
- 任何人如參與共同犯罪行動，並預見其中一名共同犯罪者可能會在行動過程中干犯更嚴重的罪行（例如謀殺），而仍繼續進行有關行動，便應被視為罪責極重，並須負上從犯的法律責任。
- 廢除共同犯罪計劃法則會令刑事同謀關係的法律出現嚴重缺口。
- Jogee案的裁決帶出的「有條件的意圖」概念，在概念及應用上均構成難題。
- 終審法院裁定不應採納Jogee案的裁決。

發展路向

- Jogee一案的裁決是否適用，是對香港刑事司法發展具重大而廣泛重要性的爭論點。
- 此判決代表香港法律在從犯法律責任這一方面與英國法律持不同觀點。
- Chan Wing Siu案所闡釋的「共同計劃」刑法法則在香港仍然適用。
- 在終審法院宣判的四個月前，澳洲高等法院以相近理由在Miller v R [2016] HCA 30拒絕遵從Jogee案的判決。

The Change of the Doctrine of Joint Enterprise in Criminal Law

- For many years, the doctrine of joint enterprise in criminal law as applied in Hong Kong has been based on the UK Privy Council's decision in Chan Wing Siu v R in 1985, endorsed by the Court of Final Appeal in Sze Kwan Lung v HKSAR in 2004.
- According to the doctrine, the secondary party's liability is based on his "foresight" of the accident rather than his "intention" to commit the more serious crime.
- However, in early 2016, the UK Supreme Court in R v Jogee and R v Ruddock held that Chan Wing Siu's case was wrongly decided and the doctrine of joint enterprise should be abolished.

Appellant's Argument

- The appellant relied on Jogee's case and suggested that even though he had foreseen such accident, he did not intend to cause grievous bodily harm to the deceased.

Court of Final Appeal Judgment

- The issue is whether the decision in Jogee's case should be adopted in Hong Kong.
- Persons who participated in a criminal joint venture foreseeing that in the course of carrying it out, one of the joint venturers might commit a more serious offence (such as murder) and proceeded with the joint venture with such foresight should be treated as gravely culpable and held liable as an accomplice.
- The abolition of the joint criminal enterprise doctrine would leave a serious gap in the law of criminal complicity.
- The concept of "conditional intent" introduced in the Jogee decision caused conceptual and practical difficulties.
- The Court of Final Appeal concluded that Jogee decision should not be adopted.

Going Forward

- Applicability of the decision of Jogee's case is an issue of great and general importance to the development of criminal justice in Hong Kong.
- The judgment showed that Hong Kong holds different view from that of the U.K. in respect of the accomplice liability.
- The joint criminal enterprise doctrine as expounded in Chan Wing Siu's case continues to apply in Hong Kong.
- Four months prior to the judgment of the Court of Final Appeal, for similar reasons, the High Court of Australia declined to follow Jogee's case in Miller v R [2016] HCA 30.

個案重溫 Case Study

英國公民的同性伴侶以受養人身分在香港居住或逗留 British national's same-sex partner to stay in Hong Kong as dependant



上訴人：入境事務處處長
Appellant: Director of Immigration

答辯人：QT
Respondent: QT

終審法院最終判決日期：2018年7月4日
Date of Court of Final Appeal Judgment: 4 July 2018

類別：入境事宜
Category: Immigration matters

相關爭議

- 2011年5月，英國國民QT與擁有南非和英國國籍的SS根據英國《2004年民事伴侶關係法》，在英國締結同性民事伴侶關係。
- SS獲批工作簽證在香港工作，QT則於2014年1月申請受養人簽證在香港居住或逗留。
- 入境事務處處長（處長）認為，根據受養人政策，「配偶」指一男一女根據香港法律締結的一夫一妻制婚姻的其中一方。
- 2014年6月，QT的申請遭到處長拒絕。
- 2014年10月，QT展開司法覆核程序，尋求推翻處長的決定。

Dispute

- In May 2011, British national QT and South African and British national SS entered into a same-sex civil partnership in England under the UK's Civil Partnership Act 2004.
- SS had been granted an employment visa to work in Hong Kong, while QT applied for a dependant visa to stay in Hong Kong in January 2014.
- According to the Director of Immigration (the Director), under the dependant policy, "spouse" meant a party to a monogamous marriage between a man and a woman as recognised under the Hong Kong law.
- In June 2014, the Director refused her application.
- In October 2014, QT commenced judicial review proceedings seeking to quash the Director's decision.

司法覆核申請的理據

- 處長的決定是基於她的性取向及缺乏理據支持，對她構成歧視，而且在公法層面來說並不合理。



Director's decision was discriminatory against her on sexual orientation grounds that were not justified. It was unreasonable in the public law perspective.

反對的理據

- 處長表示，採取現行政策有兩個理由：鼓勵具備才能的人在其受養人陪同下在香港工作；以及維持一個有效和嚴謹的入境管制制度。
- 為求法律明確和行政上方便，他有權在已婚與未婚人士之間劃分一條「明顯界線」。



Arguments in Opposition

- The Director stated two rationales for adopting the existing policy, namely, to encourage persons with talent and accompanied by their dependants to join Hong Kong's workforce, and to maintain a system of effective and stringent immigration control.
- He was entitled to draw a "clear line" between married and unmarried persons, for the sake of legal certainty and administrative convenience.

原訟法庭及上訴法庭的判決

- 原訟法庭駁回QT的司法覆核申請。
- 上訴法庭一致裁定QT的上訴得直。
- 上訴法庭批出上訴許可給處長上訴至終審法院。

上訴理據

- 處長認為，由於民事伴侶關係中的伴侶與已婚配偶存在明顯的差異，所以在有關政策下，QT的待遇與已婚配偶的有所差別，無需有理可據。
- 有關的差別待遇有理由支持，除非法庭認為有關政策顯然沒有合理基礎，否則不應干預。

終審法院的判決

- 處長以受質疑的待遇差別（即婚姻準則）作為本身的理據，這屬於循環論證，法院不能接納。
- 有關政策與所述的吸引外來人才和維持嚴謹的入境管制制度這兩個目的，沒有合理的關聯，具備天分或所需技能的人可以是異性戀者或同性戀者。
- 以行政方便為由而對QT的待遇有所差別也不合理，因為QT和SS可以像異性已婚夫婦交出結婚證書般，隨時交出她們的民事伴侶關係證書。
- 終審法院一致駁回上訴。

發展路向

- 有關判決被性小眾社群視為重大勝利。QT於最終判決後指出：「我希望本案可以為香港進一步承認同性婚姻鋪路。」
- 終審法院清楚指出，本案並不涉及同性伴侶有權根據香港法律締結婚姻的說法，在香港法律下的有效婚姻是一夫一妻制的異性婚姻，而這並非同性伴侶可取得的地位。
- 2018年9月，政府對申請非本地受養人來港的入境政策作出修訂。在香港以外的地方與合資格保證人根據當地有效的法律締結民事伴侶關係 / 民事結合，而該身分是締結當地機關合法和官方承認的，將合資格申請受養人簽證 / 進入香港的入境許可證。

Court of First Instance and Court of Appeal Judgment



- QT's application for judicial review was dismissed in the Court of First Instance.
- The Court of Appeal unanimously allowed QT's appeal.
- The Court of Appeal granted leave for the Director to appeal to the Court of Final Appeal.

Grounds of Appeal



- The Director argues that the differential treatment between QT and a married spouse under the policy requires no justification, since an obvious difference exists between a partner to a civil partnership and a married spouse.
- The differential treatment was justified and that the court should not interfere unless it found that the policy was manifestly without reasonable foundation.

Judgment of Court of Final Appeal



- The Director using the challenged differentiating criterion of marriage as its own justification cannot be permitted in view of the circularity in this argument.
- There was no rational connection between the policy and the stated two aims of attracting foreign talent and maintaining strict immigration control. A person who had the talent or skills needed or desirable could be heterosexual or homosexual.
- The differential treatment of QT on the basis of administrative convenience was irrational, since QT and SS could just as conveniently produce their civil partnership certificate as a heterosexual married couple could produce their marriage certificate.
- The appeal was unanimously dismissed by the Court of Final Appeal.

Going Forward



- The judgment was regarded as a major victory by the LGBT community. QT, stated after the final judgement, "It is my hope that this case will pave the way for greater recognition of same-sex unions in Hong Kong."
- The Court of Final Appeal made it clear that this case does not involve any claim that same-sex couples have a right to marry under Hong Kong law. A valid marriage under Hong Kong law is heterosexual and monogamous and is not a status open to couples of the same sex.
- In September 2018, the government revised the immigration policy on applications for entry of non-local dependants. A person who has entered into a civil partnership / civil union outside Hong Kong with an eligible sponsor in accordance with the local law in force of the place of celebration and with such status being legally and officially recognised by the local authorities of the place of celebration will become eligible to apply for a dependant visa/entry permit for entry into Hong Kong.

個案重溫 Case Study

社運人士爭取集會自由 Activists fight for freedom of assembly



上訴人：梁國雄，馮家強及盧偉明

Appellants: Leung Kwok Hung, Fung Ka Keung, Christopher and Lo Wai Ming

答辯人：香港特別行政區

Respondent: Hong Kong Special Administrative Region

終審法院判決日期：2005年7月8日

Date of Court of Final Appeal Judgment: 8 July 2005

類別：刑事 — 人權

Category: Criminal – Human Rights

相關爭議

- 由梁國雄帶領的上訴人發起了一場和平示威遊行，與30名參加者由中環遮打花園出發，遊行至灣仔警察總部。高峰期參加人數達90人。
- 警方發出警告，表示上訴人須通知警方有關遊行，並要求上訴人這樣做，但遭拒絕。
- 上訴人被控違反《公安條例》的罪名成立。

Dispute

- The Appellants, led by Leung Kwok Hung, organised a peaceful march originating with 30 participants from Chater Garden in Central to Wanchai Police Headquarters. At its peak, the procession totalled 90 people.
- Police gave warnings to the Appellants to notify it of the procession and invited them to do so, which they ignored.
- The Appellants were charged with and convicted of breach of Public Order Ordinance (POO).

上訴的理據

- 上訴人提出上訴，理由是和平集會及/或遊行需要事先通知（違反《公安條例》的一部分）屬限制集會自由，因此違反憲法。
- 上訴法庭駁回上訴人的上訴。
- 上訴人向終審法院提出上訴。

Grounds for Appeal



- The Appellants filed appeal on the ground that a peaceful gathering and/or procession that requires prior notification (as part of a POO breach) was unconstitutional as it limits freedom of assembly.
- The Court of Appeal dismissed the Appellants' appeal.
- The Appellants lodged an appeal to the Court of Final Appeal.

終審法院的判決

- 上訴人所爭議的重點是法例賦予警務處長的酌情權太廣泛和太含糊，並不符合憲法的要求。
- 終審法院認為《公安條例》中所引用的“公共秩序 [public order (ordre public)]”這概念並不明確，而且意思寬泛。警務處長以“公共秩序”為由限制和平集會權利而行使的酌情權，因不合乎“清楚明確”的原則而未能符合“依法規定”這項憲法要求。
- “治安上的公共秩序”在法律與秩序上的涵義是維持公眾秩序與防止擾亂公眾秩序，意思充分明確，因此符合“依法規定”的憲法規定。終審法院裁定適當的解決方法是在法例條文中，將“治安上的公共秩序”從“公共秩序 [public order (ordre public)]”中分拆出來，使警務處長行使的酌情權能符合憲法的要求，並達致相關的憲法上之合理目的。
- 終審法院同時強調，警務處長在行使法例所賦予他的酌情權時，必須引用“相稱性”這個原則作為標準，從而符合“必要性”的憲法規定。
- 終審法院的裁決並不影響涉案的定罪判決，所以上訴被駁回。

Judgment of Court of Final Appeal

- The focus of the Appellants' challenge was on the contention that the Commissioner's statutory discretion for the purpose of "public order (ordre public)" was too wide and uncertain to satisfy the requirements of constitutionality.
- It was held that the concept of "public order (ordre public)" applied in the Public Order Ordinance was imprecise and wide and did not therefore satisfy the constitutional requirement of "prescribed by law" which mandated the principle of legal certainty.
- Public order in the law and order sense, that is, the maintenance of public order and prevention of public disorder is sufficiently certain and therefore satisfies the constitutional requirement of "prescribed by law". The Court of Final Appeal held that the appropriate remedy would be the severance of public order in the law and order sense from "public order (ordre public)" in the relevant statutory provisions. After severance, the Commissioner's discretion in relation to public order in the law and order sense would be constitutional and satisfied the constitutional requirement for the relevant constitutional legitimate purpose.
- The Court of Final Appeal also emphasized that the Commissioner must apply the proportionality test in exercising his statutory discretion to restrict the right of peaceful assembly so as to satisfy the constitutional necessity requirement.
- The ruling of the Court of Final Appeal did not affect the conviction. The appeal was therefore dismissed.



發展路向

- 此案涉及資深社運人士及政治組織領袖梁國雄、時事評論員及學運人士馮家強及盧偉明等高調抗爭者，社會上有意見認為此案為政治檢控。
- 終審法院的判決為警方處理公眾遊行和示威訂立了具體指引。當局於2008年修訂《公安條例》，使有關法例條文更為清晰。
- 案件為保障和促進個人在和平集會和表達自由的權利，以及維護整體社會的更廣泛利益之間，訂立了較清晰的界線。

Going Forward

- This case involved high profile protestors such as veteran activist and political group leader Leung Kwok Hung, and vocal critics of government policy and student activists Fung Ka Keung and Lo Wai Ming. There was a view in society that the prosecution of the protestors was politically motivated.
- The Court of Final Appeal's judgment provided a practical guideline for the Police to handle public processions and protests. The POO was amended in 2008 to provide a clearer meaning of the relevant provisions.
- The case sets out a more defined boundary between protecting and facilitating individuals' rights to freedom of expression and peaceful assembly, and the broader interests of the community at large.



個案重溫 Case Study

公務員爭取同性伴侶福利權 Civil servant fighting for right to same-sex spousal benefits



上訴人：梁鎮罡
Appellant: Leung Chun Kwong

答辯人：公務員事務局局長（福利決定）| 稅務局局長（稅務決定）
Respondents: Secretary for the Civil Service (Benefits Decision) | Commissioner of Inland Revenue (Tax Decision)

終審法院最終判決日期：2019年6月6日
Date of Court of Final Appeal Judgment: 6 June 2019

類別：民事－人權
Category: Civil – Human Rights

相關爭議

- 上訴人為入境事務主任，於2014年與同性伴侶於新西蘭結婚，並獲得當地的結婚證書。
- 上訴人請求更新婚姻狀況，希望其同性配偶也可取得醫療及牙科福利－福利決定。
- 上訴人請求與同性配偶合併評稅－稅務決定。
- 答辯人認為上訴人的婚姻在香港法制下並無效力。

Dispute

- The Appellant, an immigration officer, and his same sex partner married in New Zealand and obtained a New Zealand marriage certificate in 2014.
- The Appellant sought to update marital status to extend his medical and dental benefits to spouse – Benefits Decision.
- The Appellant sought to include spouse for joint tax assessment – Tax Decision.
- The Respondents concluded that the Appellant's marriage was invalid under The Hong Kong law.

答辯人理據

- 根據《稅務條例》，婚姻指一男一女締結的異性婚姻，因此上訴人的婚姻並無效力。

Respondents' Argument



Marriage refers to a heterosexual marriage between a man and a woman in the context of the Inland Revenue Ordinance; therefore the Appellant's marriage was invalid.

上訴人理據

- 公務員事務局局長和稅務局局長基於上訴人的性傾向作出的福利決定及稅務決定，對上訴人構成不合法的歧視。

Appellant's Argument



Benefits and Tax Decisions unlawfully discriminated against him on the ground of his sexual orientation.

原訟法庭及上訴法庭的判決

- 福利決定是基於上訴人的性傾向而作出，這對上訴人構成不合法的歧視。
- 稅務決定是基於《稅務條例》（第112章）的恰當解釋而作出，屬正確無誤。
- 原訟法庭裁定上訴人就福利決定提出的司法覆核申請得直，但就稅務決定提出的司法覆核申請則被駁回。
- 答辯人就福利決定提出上訴，而上訴人則就稅務決定提出交相上訴，上訴庭裁定答辯人上訴得直，同時駁回上訴人的交相上訴。

Court of First Instance and Court of Appeal Judgments



- Benefits Decision unlawfully discriminated against the Appellant based on his sexual orientation.
- Tax Decision was correct on the proper construction of the Inland Revenue Ordinance (Cap. 112).
- The Court of First Instance held in favour of the Appellant on Benefits Decision but against the Appellant on Tax Decision.
- The Respondent appealed against the Benefits Decision and the Appellant cross-appealed against the Tax Decision. The Court of Appeal allowed the Respondent's appeal and dismissed the Appellant's cross appeal.

上訴理據

- 針對上述兩項決定提出的質疑須依據相同原則，一視同仁地予以考慮。
- 上述兩項決定拒絕向上訴人提供福利，這與保障或不削弱香港的婚姻制度沒有合理關聯。

終審法院裁決

- 保障香港法例所界定的婚姻制度是合法目的。就此而言，在考慮是否有理可據時，本地的法律環境和社會情況是相關的考慮因素。不過，以欠缺多數人的共識為由拒絕少數人的申索，在原則上牴觸基本權利。
- 不接納把僱傭及稅務福利延伸至適用於同性已婚伴侶會削弱異性婚姻這論點。
- 終審法院認為，拒絕向上訴人提供僱傭及稅務福利與保障或不削弱香港的婚姻制度，兩者並無合理關聯。上訴法庭的分析指，只限異性已婚伴侶享有有關福利屬有理可據，理由是異性婚姻是香港法律承認的唯一婚姻形式，終審法院對此不予接納，認為此分析否定不同性傾向人士的平等權利。
- 終審法院裁定上訴人就上述兩項決定提出的上訴得直。

發展路向

- 香港大學法律學院比較法及公法研究中心發布的《香港市民過去四年（2013-2017年）對同性伴侶權利的支持度有所提升》研究報告顯示，在2017年接受同性婚姻的香港受訪者達50.4%，對比2013年的38%，升幅顯著。
- 根據歐洲聯盟法院於2018年6月5日就案件C-673/16判決發布的新聞稿，法院裁定同性配偶享有自由遷徙和居住的權利。
- 上述兩個例子顯示國際趨向接納同性婚姻。
- 香港特區政府於2018年11月17日發布的新聞稿重申，政府致力促進不同性傾向和跨性別人士的平等機會。
- 本個案顯示香港司法體系在同性婚姻立場上與國際趨勢一致。
- 本個案為同性婚姻中雙方有權享有的福利創立先例。

Grounds of Appeal



- Same principles should apply in the challenges to both Decisions which should fall or stand together.
- No rational connection between both Decisions that denied the Appellant's benefits and the aim of protecting or not undermining the institution of marriage in Hong Kong.

Judgment of Court of Final Appeal



- The protection of the institution of marriage as defined by the laws of Hong Kong was a legitimate aim. To that extent, the local legal landscape and societal circumstances are relevant to the issue of justification. However, reliance on the absence of a majority consensus as a reason for rejecting minority's claim was inimical in principle to fundamental rights.
- It was not accepted that heterosexual marriage would be undermined by the extension of employment and tax benefits to same-sex married couples.
- The Court of Final Appeal held that there was no rational connection between denying the Appellant's employment and tax benefits and the aim of protecting or not undermining the institution of marriage in Hong Kong. The Court of Appeal's analysis that restricting the benefits to heterosexual married couples because it was the only form of marriage recognised in Hong Kong law was rejected as it denied equality to persons of different sexual orientation.
- The Court of Final Appeal ruled in favour of the Appellant for both Decisions.

Going Forward



- Support in Hong Kong For Same-sex Couple' Rights Grow Over Four Years (2013-2017), published by Centre for Comparative and Public Law at The Faculty of Law, The University of Hong Kong, shows that 50.4% of Hong Kong respondents accept same-sex marriage in 2017, a significant jump from 38% in 2013.
- Judgment in Case C-673/16 as per press release issued on 5 June 2018 by the European Union's Court of Justice, rules in favour of same-sex couples' rights to freedom of movement and residence.
- International trend moves towards supporting same-sex marriage as indicated by the above two examples.
- Press release issued on 17 November 2018 by the Government of the HKSAR reiterates its commitment to promoting equal opportunities for people of different sexual orientations and transgenders.
- The case shows Hong Kong's justice system is in line with international trends towards same-sex marriage.
- The case sets a precedent on the benefits of the parties in a same-sex marriage are entitled to.

專業服務 爭取社會公義 Fighting for Justice with Professional Services

「法援署和外委律師幫了我很大忙，他們處理案件亦非常用心，每位職員都很友善和敬業樂業。」

“I received tremendous support and help from the Legal Aid Department and the lawyer assigned to my case. Everyone was so nice and dedicated.”

陳紅春 Angel Chan

法援受助人
Legally Aided Person



很多時候，意外總是毫無先兆地發生。雖然無人能夠扭轉悲劇，但如在意外發生後，死傷者家人能得到及時和適切的幫助，將可以大大減輕他們的壓力。陳紅春女士（Angel）的丈夫數年前在工作期間因意外不幸離世，在工業權益機構的協助之下，Angel聯絡法律援助署（法援署），並獲署方安排外委律師協助，順利爭取應有賠償。

In life, tragic accidents often happen when least expected. While nothing can bring back their terrible losses, being able to receive timely and proper assistance will greatly alleviate the pressure felt by the family members of the victims. A few years ago, Angel Chan lost her husband in a work accident. Fortunately, through an industrial rights organisation, she approached the Legal Aid Department (the Department) and successfully claimed her compensation with help from the assigned lawyer.

各界配合 全力提供協助

Angel的丈夫李先生從事建造業的工作。2015年5月初，李先生在馬路旁工作期間，被失控的車輛撞倒。意外後不久，Angel收到親戚的電話，指丈夫正於醫院接受搶救，她和女兒隨即趕赴醫院。

一位駐守醫院的交通警員向Angel傳來了她丈夫去世的噩耗，她嘗試尋求社工的協助。「之後我致電社工，看看她能否提供協助。」她憶述：「她真的幫了我很多。」社工其後帶她到勞工處和法援署，並向她解釋追討賠償的辦法。

在法援署，負責跟進Angel個案的律政書記呂小姐向她講解申請法援的程序及所需的文件。就民事案件而言，申請人按照其財務狀況，可申請普通法律援助計劃(普通計劃)或法律援助輔助計劃(輔助計劃)，輔助計劃旨在為財務資源超出普通計劃規定的限額，但又不超過某一金額的「夾心階層」人士提供援助。「我申請了輔助計劃，這比聘請私人執業律師好得多。」

Assistance from All Fronts

In May 2015, Angel's husband Mr. Lee, who worked in the construction industry, was hit by an out-of-control vehicle while working on the roadside. Angel was immediately informed by relatives about the accident and rushed to the hospital with her daughter.

In the hospital, Angel was given the devastating news of her husband's death by a traffic police officer. She tried to seek assistance from a social worker. "So I called her up to see if she could help in any way," Angel recalls, "and she did help me with a lot of things." This social worker then connected her with the Labour Department and the Legal Aid Department, and explained to her how to recover compensation.

In the Legal Aid Department, Angel's case was followed up by Ms Lui, a law clerk, who walked her through the document preparation process for her legal aid application. For civil cases, depending on the financial circumstances of the applicant, they may qualify for legal aid either under the Ordinary Legal Aid Scheme, or the Supplementary Legal Aid Scheme. The latter provides legal assistance to the "sandwich class" whose financial resources exceed the limit allowed under the Ordinary Legal Aid Scheme, but below a certain amount. "So I applied for the Supplementary scheme, which was much better than trying to hire a lawyer in private practice," Angel says.



Angel的丈夫從事建造業的工作。
Angel's husband worked in the construction industry.

外委律師積極追討

申請成功後，Angel選擇了一位在法律援助律師名冊內的律師，協助追討意外的賠償。

在其後的一至兩年，Angel的外委律師一方面從法援署收集案件所需資料，同時Angel亦向律師遞交了一些文件。律師集齊了所有資料後，便開始向保險公司交涉，Angel補充指：「起初保險公司未有太積極處理我們的申請，但由於律師之後不停跟進，保險公司才願意商討賠償的細節。」

由意外發生起計，經過約3年的時間，Angel終於在法援署和外委律師竭力幫助下，成功追討合理賠償。

Compensation Recovery

After the approval of her application, Angel selected a lawyer who was on the Legal Aid Panel as her legal representative.

Over the next two years, the assigned lawyer for Angel gathered documents and information that he needed for the case from the Department and his client, and began negotiations with the insurance company. “At first, the insurer was rather reluctant to handle our claim. But my lawyer kept following up with them and pressurizing them, and his persistence eventually got them to sit down with us to discuss details of compensation,” Angel says.

With tireless support from the Department and the assigned lawyer, Angel finally recovered the compensation she was entitled to, three years after her husband’s fatal accident.



Angel選擇了一位在法律援助律師名冊內的律師，協助追討意外的賠償。

Angel selected a lawyer who was on the Legal Aid Panel of the Department as her legal representative.

Angel對外委律師和法援署專業竭誠的服務非常滿意。

Angel is very impressed by the professionalism and commitment of her lawyer and the Department.



觀看訪問精華片段，請掃描此二維碼。

Please scan the QR code for the interview highlight.



無言感激

幸得法援署和外委律師的協助，Angel順利追討賠償，Angel亦很滿意法援署上下和外委律師專業竭誠的服務。「法援署和外委律師幫了我很大忙，他們處理案件亦非常用心，每位我曾接觸的法援署職員都很友善和敬業樂業。」她至今仍心存感激。

「在我先生過身時，我真的覺得很無助。」幸得社工轉介到法援署的Angel坦言：「法援署的每位同事都非常熱心助人，為我安排律師打官司、追討賠償。無盡感激法援署和外委律師的協助。」她希望在未來的日子裏，法援署能繼續為有需要的人提供優質的服務，讓更多像她一樣的人有機會尋求應得的公義。

Tremendous Gratitude

Looking back to her legal journey, Angel is very impressed by the professionalism and commitment of her lawyer and the entire Department. “I received tremendous support and help from the Department and the lawyer assigned to my case. All the Department’s staff I got in contact with were so nice and dedicated,” Angel says, adding that to this day, she is extremely grateful towards the Department.

“When my husband died, I felt really helpless,” Angel admits. “But thankfully I was put in touch with the Department through a social worker. Everyone there was incredibly kind and helpful with my case in claiming compensation. I am grateful to the Department and my lawyer.” She hopes in the future, the Department continues to offer quality service to those in need so that more people like herself will have a chance to seek justice that they deserve.

同心協力 面對難關 All Hands on Deck in the Face of Adversity

「悲傷與徬徨之際幸得社工、法律援助署和律師的盡心幫助，緩解了我們的部分經濟困難。我至今仍不勝感激。」

“With full support from a social worker, the Legal Aid Department and the lawyer, we had alleviated some of the financial stress following a shocking tragedy, and I am still filled with an immense sense of gratitude.”

周小姐 May Chow

法援受助人
Legally Aided Person



一個家庭失去重要經濟支柱的時候，不但須經歷喪親之痛，更要面對突如其來的經濟壓力。周小姐對此感受至深，她的爸爸於二十多年前不幸因工業意外突然離世，她當時只是一名青少年。她憶述：「悲傷與徬徨之際幸得社工、法律援助署和律師的盡心幫助，緩解了我們的部分經濟困難。我至今仍不勝感激。」

When a family loses its bread-winner, surviving members not only suffer the loss of a loved one, but are also faced with the financial pressure that comes with the death. May Chow knows that better than others: More than 20 years ago, when she was still a teenager, she lost her father in an industrial accident — a shocking tragedy that left her family devastated and lost. “With full support from a social worker, the Legal Aid Department and the lawyer, we had alleviated some of the financial stress following a shocking tragedy, and I am still filled with an immense sense of gratitude.” Chow recalls.

經社工接觸法援署

周小姐的父親從事躉船行業。1994年，當時就讀中五的周小姐放學回家後，母親接到電話，指父親在船上遇上意外受了重傷，正在醫院接受搶救。不幸地，當她與母親趕至醫院時，父親已傷重不治。

「當時是上世紀九十年代，通訊仍不似現在般便捷。其實出事的時候，我們都不知道父親身在何方。」周小姐惋惜指：「即使時至今日，我們亦只能靠零碎資料組織意外的經過。」

在意外發生後不久，周小姐經親友的介紹認識了來自工業權益機構的社工馮姑娘。「馮姑娘幫了我們很大的忙。」周小姐憶述：「她告訴我們在意外後應如何處理，並建議我們申請法援。」

Getting in Touch with the Department

Chow's father worked in the barge industry. One day in 1994, Chow—then a Form 5 student— just returned home from school when her mother received a call informing the family that her father had been severely injured in an accident and was receiving emergency treatment at hospital. Unfortunately, he had already passed away by the time Chow and her mother arrived.

“It was the 1990s, when communication was not as easy and instant as it is today. We actually did not know where father was when the accident took place,” Chow recalls. “Even till this day, we can only sort out how did the accident happen with piecemeal information that we gathered over time.”

Soon after the death of her father, Chow was introduced to a Ms Fung, a social worker of an industrial rights organisation. “Ms Fung has helped us a lot,” Chow says. “She walked us through the steps of handling the aftermath of the accident, and advised us to apply for legal aid.”

周小姐的父親從事躉船行業。

Ms Chow's father worked in the barge industry.





當時是中學生的周小姐，事發後感到非常徬徨。

Ms Chow, a Form Five student, felt very helpless and lost after the tragedy.

耐心解釋 積極爭取

起初，法援署安排了一位外籍外委律師處理周家的個案，但由於語言不通，社工建議她們要求更換一位說中文的律師。作為應屆會考生的周小姐，於是鼓氣勇氣特地寫了一封英文信給法援署，希望署方安排另一位律師。不久，署方應要求安排了另一位合適的外委律師，作為她們的法律代表。

一般人對這類個案的法律和申索程序難免感到陌生。幸好，外委律師對此不厭其煩，將複雜的細節一一向她們解釋，確保她們在了解透徹的情況下，作出最明智的決定。由於不希望家屬因顧慮收入和積蓄而影響賠償的金額，律師需要確保所得的資料正確無誤。「在詢問我們的經濟狀況時，他會用不同形式詢問數次，反覆確認。」周小姐指：「我感受到他的耐心，用心了解我們的家庭背景，幫助我們解決困難。」

二十多年前，不少人仍未有購買保險的習慣。因此，在父親發生意外後，周家只能向已購買僱員補償保險的父親僱主提出訴訟。金額雖然不多，但已大大減輕了周家當時的經濟負擔。

「經法援署協助爭取到賠償後，生活雖然比不上爸爸在世時那樣，但在經濟上總算令我們免於徬徨。」

Patience and Determination

Initially, the Department assigned an expatriate lawyer to handle Chow's case. Due to language barrier, the social worker suggested the family request a Chinese-speaking lawyer. Chow, at a time a student preparing for the Hong Kong Certificate of Education Examination, summoned all her courage and wrote a letter in English to the Department, expressing her family's wish to have a Chinese-speaking lawyer. The Department soon acceded to their request and assigned another suitable lawyer as their legal representative.

Like most people, Chow and her mother were unfamiliar with the law and claim procedures involved in a case like this. Fortunately, their lawyer tirelessly explained every complex detail to them to make sure that they understood everything and could make the most informed decisions for themselves. In order to secure the amount of compensation the family was entitled to, he needed to make sure that every piece of information from his client was accurate. "When asking about our financial circumstances, he would phrase his questions in different ways and ask us repeatedly in order to confirm that all our answers were correct," Chow says. "I could feel his patience and determination. He made great efforts to get to know us and help us overcome the difficulties."

Twenty years ago, the idea of taking out insurance policy was not that prevalent amongst ordinary people. After the accident, the Chow's family could only pursue against the father's employer, who had taken out insurance policy for employees' compensation. It was not a huge amount, but enough to greatly lessen the financial burden of the family at the time. "The Department helped us get the compensation. Since then, our quality of life was not as good as that when father was still alive, but at least we did not have to worry about our living," Chow says.

多年來感激無盡

在意外發生的時候，周小姐只是就讀中五的學生，然而事隔多年，她對社工和律師仍然心存感激。除外委律師本人外，律師行的其他律師亦給予了協助，並展現出無比的同情和理解，這令周小姐十分感動。

二十多年過去，周小姐至今仍然與社工和處理該案的律師保持很好的關係：「我們一直都保持聯絡，他們亦看著我和家人的成長。」

當然，除了社工和律師的幫助外，法援署的角色亦同樣重要。作為曾獲法援署協助的人，周小姐希望署方可繼續竭盡所能，用心幫助像周家般有需要的家庭，為每宗個案爭取應有的權益。

Endless Gratitude

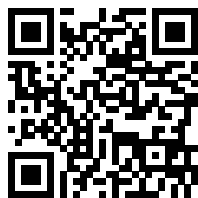
Today, Chow has come a long way since her high school days and the passing of her father, but she is still grateful to those who had helped her family at a time when she was in need. Apart from the assigned lawyer, other lawyers in his law firm also lent a helping hand and showed compassion and understanding to her—something that Chow finds incredibly touching.

Chow says that over the past two decades, she has maintained great relationship with the social worker and lawyer who handled their case. “We have always kept in touch, and they have witnessed the growth of myself and my family.”

Of course, the Department also played an equally instrumental part in Chow’s case. As a legally aided person, Chow hopes to see the Department continue to do its best and help families like hers pursue their rights and benefits.

雖然事隔多年，周小姐仍與社工和處理該案的律師保持聯絡，他們亦看著她和家人的成長。

Over the past two decades, Ms Chow has maintained great relationship with the social worker and the lawyer who have also witnessed the growth of Ms Chow and her family.



觀看訪問精華片段，請掃描此二維碼。

Please scan the QR code for the interview highlight.

意外無情 見證人間有情 In Times of Trouble, Love Prevails

「他們真心希望幫助經濟有困難，但極需要法律協助的人。」

“They genuinely want to help those who desperately need legal assistance but struggle to afford it.”

梁潔 Catherine Leung

法援受助人
Legally Aided Person



2004年，梁潔（Catherine）在工作期間遇上嚴重意外，導致頸椎以下身體癱瘓，失去工作能力，而她的家人更要面對沉重的經濟負擔。幸好身邊的親友積極伸出援手，她同時亦聯絡了法律援助署，在署方和律師的幫助下獲得賠償，協助她和家人渡過困境。

In 2004, Catherine Leung suffered a serious accident at work that left her a quadriplegic. As she lost the ability to work, a vast financial strain was put on her family. Thankfully, she received much-needed assistance and support from relatives and friends. She also approached the Legal Aid Department. With the help of the Department and her lawyer, Leung was able to obtain her compensation, which helped her family get through the difficult time.

突如其來的意外

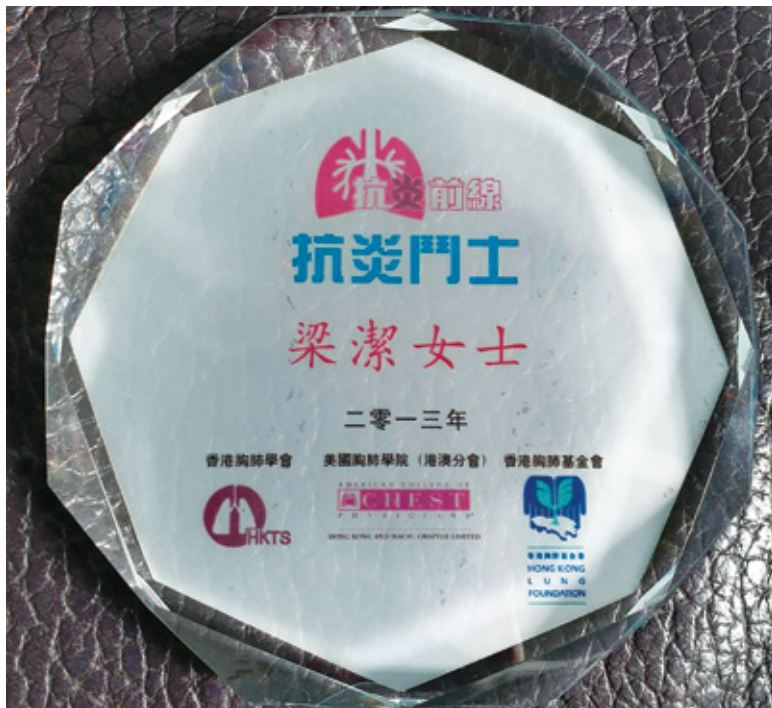
意外發生於2004年9月，Catherine當時身處公司在中國內地的貨倉，貨倉面積十分廣闊，工人通常要使用電動高爾夫球車代步。事發一刻，車子正沿斜坡往下駛，但煞車掣突然失靈，車子失控向下衝，Catherine扭動方向盤嘗試控制車子，卻不幸連人帶車衝落2至3層樓下的地面。

「當地醫院指我的頸椎第3、4節受損，基本上無法醫治。」她憶述：「當時只感到痛楚，整個過程都處於半昏迷狀態。」家人遂決定將她送回香港的醫院，醒來後，她已身處醫院的深切治療部。醫生指她的頸椎神經血管受損，導致頸椎以下身體癱瘓。幸好她後來不再需要呼吸機，並開始可以進食。2006年年底，她終於出院。

A Bolt from the Blue

The tragic accident took place in September 2004. Leung was working at one of her company's warehouses in Mainland China, where employees used golf carts to get around in the vast workplace. She was driving the cart down a slope when the brake suddenly failed. The cart then got out of control and sped downhill. As she turned her steering wheel trying to regain control, the cart fell to the ground two to three floors below, taking her down with it.

“The local hospital told me that my third and fourth cervical vertebrae were damaged and virtually beyond repair,” she recalls. “At the time, all I felt was pain. I was in a semi-coma state throughout.” Her family decided to transfer her back to a hospital in Hong Kong. When she woke up, she was already in the ICU. According to the doctors, Leung's quadriplegia was caused by the neurovascular injuries sustained on her cervical spine. The only silver-lining was that she was able to breathe on her own and eat. At the end of 2006, she was finally discharged from the hospital.



獲推選為「抗肺炎前線2013」的「抗肺炎鬥士」。

Recognised as The Brave Fighter of Pneumonia in 2013.

Catherine與一直悉心照顧她的妹妹感情深厚。
Strong bonding between Catherine and her caring sister.



迅速跟進 全力支持

由於Catherine的父母當時已退休，她和妹妹是家庭的經濟支柱，朋友於是建議她們申請法援追討賠償。2005年年中，她正式向法援署遞交申請，並最終獲署方批准。「申請法援的過程很順利，即使我由妹妹代為申請，也只需提交醫生證明便可。」Catherine指：「妹妹協助我遞交表格後不久，申請便獲批准。」

其後，Catherine的個案獲安排由外委律師處理，並由律師與保險公司展開交涉。在其後的兩年，她們先後獲得兩筆臨時賠償，而在展開法院訴訟前約半年，保險公司提出與她們商討和解。

「2010年年中的首次談判曾提及賠償，但金額太少，我和妹妹都無法接受。兩個月後保險公司再次聯絡我們。」她表示：「由於當時家中的經濟壓力越來越大，家人特別是妹妹，因這事承受着莫大的精神壓力。」最後，雖然賠償金額不盡如人意，但與律師商討並仔細考慮過後，她們決定接受該筆和解賠償。

Immediate Response and Continuous Support

As their parents had already retired, Leung and her sister were the only two bread-winners of the family, so friends suggested that they apply for legal aid to claim compensation. She submitted her application in mid-2005, which was approved by the Department. “My experience with the Department was great. My sister submitted the application on my behalf, and all she needed to do was to provide medical proof,” Leung says. “And soon after she handed in the forms, my application was approved.”

A lawyer was then assigned to Leung’s case who began negotiations with the insurance company. In the next two years, Leung and her sister received two interim payments, and around six months before the court action was commenced, the insurer proposed to settle the case with them.

“An offer of compensation was mentioned in the first round of negotiations in mid-2010, but it was so meagre and neither of us found it acceptable. Two months later, the insurance company approached us again,” she explains. “By that time, the mounting financial pressure was crushing us, especially my sister who had come under immense mental and emotional stress.” In the end, after discussion with their lawyer and careful consideration, they decided to accept the settlement sum even though it was not the best they could get.

患難見真情

在追討的過程中，法援署和外委律師在法律上為Catherine提供了適切的支援，紓緩了她們一家的經濟壓力。「我認為法援署很有效率，由申請到審批，只要文件齊全、資料真確，個案很快就獲安排外委律師處理。」她對法援署的工作深表肯定：「我覺得他們是效率奇高的政府部門，同時他們亦真心希望幫助經濟有困難，但極需要法律協助的人。」

患難見真情，Catherine在危難中真切體會到親友的關心和愛護。父母和妹妹對她的照料固然是無微不至；親人對她們一家雪中送炭，亦同樣難能可貴。「他們知道我們遇上困難，雖不能天天幫忙，但亦會盡全力提供經濟上的支援，例如送上過萬元的利是，朋友們亦常常到訪家中，提供不同形式的幫助。」

今年是法援署成立50周年，曾受惠於法律援助的她盼望，法援署在往後的日子可幫助更多有需要的人，協助他們爭取法律和經濟上應得的權益。「希望無論過了多少年，法援署都繼續盡心竭力幫助有需要的人。」

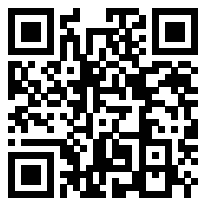
Love Prevails

In the course of the claim, the Department and assigned lawyer had rendered appropriate and timely assistance to Leung which helped alleviate some of the financial burden of her family. "I think as an organisation, the Department is highly efficient. From application to approval, as long as all the documents are there and all the information is correct, you can get a lawyer assigned to your case very quickly," she praises. "It's a government department that works at an amazing level of efficiency. At the same time, they genuinely want to help those who desperately need legal assistance but struggle to afford it."

Love and care from family and friends is all the more precious in times of crisis. Her parents and sister have been tending to her every need, while relatives and friends are always ready to lend a helping hand. "They know that we are in a difficult situation, and although they cannot always be there to help out every day, they will still try their best to support us financially. Some of them gave us red packets exceeding \$10,000, for example. Friends often visited us and offered all kinds of help."

This year marks the 50th anniversary of the Department. As someone who has been assisted, Leung wishes to see the Department help more people fight for what they deserve, legally and financially, in the coming years. "I hope that the Department will continue to help those in need with all their heart, no matter what year it is," she says.

Catherine的姨甥和姨甥女為她帶來不少歡樂。
Catherine's niece and nephew always bring her joy.



觀看訪問精華片段，請掃描此二維碼。

Please scan the QR code for the interview highlight.

攜手向前、展望將來
*Moving Forward
Together for the Future*



不斷發展 與時並進 善用科技 彰顯公義

法律援助署於1970年成立，致力為香港市民提供法律援助，讓即使缺乏經濟能力的人，也能夠尋求公義。在過去半世紀，香港從貿易港口發展為製造業中心，再成為服務型城市，現在更是主要的金融中心和旅遊熱點。多年來，法援署一直秉持宗旨，隨着香港的發展與時並進，努力為市民提供服務。在未來半世紀，法援署會繼續堅守使命，為大眾敞開「公義之門」。

展望將來，法援署計劃利用最新的科技實踐「彰顯公義」的理念。為提升效率，法援署現正就全面更新「案件管理系統」以編組案件進行可行性研究，目的是精簡法援案件的申請和處理工作，使流程更直接和簡易。

法援署亦擬採用多個提升效率的方法，包括與司法機構協作的電子存檔系統，以期增加處理現有案件的透明度，並方便各方查看新的案件資料。此外，使用關鍵字進行數碼搜索的案例參考系統將取代目前使用的手動搜索，查閱案件的過程會因此更為快捷，各方亦能同時進行資料搜索。

作為香港特別行政區政府一個運作獨立而不可或缺的部分，法援署可以說是有關組織的典範之一。為能繼續擔當重要的社會角色，並切合更多香港市民的需要，法援署必須一直保持其運作上的獨立性。法律援助的使命，就是盡可能協助所有不論其種族、宗教、膚色或信仰但有合理理據提出法律訴訟或抗辯的人尋求公義。在未來的五十年，法援署將會繼續確保其運作上的獨立性，作為促進法治的橋樑，為香港市民彰顯公義。

Developments Move with Times Justice for All Utilising Technology Advancements

Legal Aid Department was established in 1970 and is committed to providing legal aid to people in Hong Kong so that even those who lack financial ability can gain access to justice. In the half century that the Department has been in operation, this mandate has never wavered. Instead, as the city evolved from a trading port into a manufacturing hub, then into a service-oriented city, and now its current status as a major financial centre and tourism mecca, the Department has been in step alongside Hong Kong's maturity. All the while, the Department remains committed to enhancing justice for all as the Department embarks upon its second half century.

Going forward, the Department plans to make use of the latest technology to achieve justice for all. It is currently conducting feasibility studies on organising its cases through a revamp of its Case Management System. The Department's goal is to increase efficiency and to streamline the process for applications and management of legal aid cases.

Several methods will be employed to raise efficiency, including the Department's current collaboration with the Judiciary on an e-filing system. The joint effort will increase the transparency of existing cases as well as allow all parties to view the information of new cases. Further, a case reference system that operates through a digital search using key words will replace the manual search currently in place. This will speed up access to cases as well as allow more parties to search for information at the same time.

The Department is one of Hong Kong's shining examples of an operationally independent yet necessary part of the HKSAR Government. In order to remain vital and meet the needs of the people in Hong Kong as much as possible, it needs to maintain its operational independence. Its mission is to act in the best interests of those eligible for legal aid, regardless of race, religion, colour or creed. As the Department moves forward into its next fifty years, it will maintain its operational independence and act as a bridge to justice for all of Hong Kong.



鳴謝

Acknowledgements

我們在編製本特刊時獲得不少人的幫助，他們有的利用自己的寶貴時間，與大家一起回憶在法律援助署的美好時光；有的提供珍貴的資料或照片，展示法律援助署在過去五十年的豐碩成就。

承蒙各方在本特刊的製作過程中提供協助，編輯委員會謹代表法律援助署致以由衷謝意。本特刊得以順利出版，實在有賴他們用心竭力的幫助。

此外，亦感激康樂及文化事務署的全力協助，安排提供添馬公園的優美場地，讓法律援助署取景拍攝全體職員大合照。

最後，當然亦要感謝爾思市務及公關有限公司的鼎力支持，使本特刊的製作得以圓滿成功。

法律援助署
五十周年紀念特刊編輯委員會

Many people have offered their kind assistance in the production of this Publication. Some spent their valuable time to share with us their fond memories with the Legal Aid Department, while others provided us with valuable information or photographs in showcasing the glorious achievements of the Department throughout the past fifty years.

On behalf of the Department, the Editorial Board would like to express our heartfelt gratitude and appreciation to all the people who had helped us in every step of the way in the production process. Without their help, the Publication would not be successfully published.

In addition, we greatly appreciated the effective assistance and arrangement of the Leisure and Cultural Services Department for providing the Tamar Park as a beautiful backdrop for our staff group photo.

Last but not least, we would like to thank Insight Marketing & PR Limited for its staunch support for the production of the Publication.

**50th Anniversary Commemorative Publication Editorial Board
Legal Aid Department**



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