



3030 LAW AND SOCIAL ADMINISTRATION

2019/2020 Semester 2



COURSE DESCRIPTION

- This course equips students with the legal knowledge and skills that are relevant to social work practice.
- It introduces the legal principles, institutions and processes that underpin the Hong Kong legal system.
- It covers the law and practice relating to crime, juvenile and children, family and the disadvantaged groups
- This lecture also examines the relationship of law and social work practice.

SCHEDULE

No.	Date	Topic
1.	07.02.2020	Law and the Social Work Profession
2	14.02.2020	The Justice System in Hong Kong
3	21.02.2020	Human Rights
4	28.02.2020	Legal Issues Encountered by Different Client Groups I - Crime
5	06.03.2020	Legal Issues Encountered by Different Client Groups II – Children and Youth
	13.03.2020	[Reading week – optional visit to Juvenile court – to be confirmed]
6	20.03.2020	Legal Issues Encountered by Different Client Groups III - Family
7	27.03.2020	Quiz 1 Legal Issues Encountered by Different Client Groups IV - The Disadvantaged
8	03.04.2020	Discrimination and Professional Conduct
	10.04.2020	No class – Easter Friday
9	17.04.2020	Presentation of Group Projects and Discussion
10	24.04.2020	Presentation of Group Projects and Discussion
11	08.05.2020	Quiz 2



TEACHING TEAM

- Course Co-Ordinators:
 - Dr Richard Wu, Associate Professor, Faculty of Law, University of Hong Kong
 - Ms Julienne Jen, Principal Lecturer, Faculty of Law, University of Hong Kong
- Course Manager:
 - Ms Jenn To, Faculty of Law, University of Hong Kong



LAW AND THE SOCIAL WORK PROFESSION

Lecture one

VIDEOS OF LECTURE 1

- **Lecture 1 - 7 February 2020**
- For Lecture 1, there are 2 video recordings.
- The first one is by The Hon. Madam Justice Mimmie Chan J of the Court of First Instance, High Court of Hong Kong.
- She will talk to you about why the law is important for social workers. This video is already available on Panopto.
- The second recording is by Dr. Richard Wu.

NEWS- CHILD

[門柄綁次子手公園擱長子 母認虐兒襲擊判感化 \(2019-03-19\)](#)

[同居男女涉虐兒提堂 控方指女嬰疑被鐵鍊綁兼籐條打 \(2019-06-22\)](#)

[防止虐待兒童會：接獲211宗懷疑虐兒個案 近8成施虐者為兒童親人
施虐多涉父母 受害童易陷惡性循環 \(2019-01-23\)](#)

NEWS – MENTAL HEALTH

- [陳肇始指社會事件影響精神健康 醫管局精神專線每月增逾千個案](#) (2019-12-15)
- [調查：過半港人精神健康不合格 逾四成人受社會爭議影響](#) (2019-10-09)
- [精神病強制入院 病人、家屬有無Say?](#) (2019-12-23)

NEWS - FAMILY

[控制狂母親日鬧夜鬧 29歲兒子：她說要斬死我 \(2018-02-27\)](#)

[伴侶以言語及肉體攻擊 男士遇家暴常被忽略 \(2019-09-06\)](#)

[【夫婦墮樓】5月警方曾轉介個案予社署 死者夫婦拒接受社工協助 \(2019-06-19\)](#)

[【情侶墮樓】善心鄰居兩勸勿做傻事 內疚難阻悲劇：最蠢冇搵社工 \(2019-05-01\)](#)

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NEWS - CRIME

[有案底社工與邊青同行：反思以一紙表格「幫人」的社工文化](#)

[咩係保釋？咩係踢保？懶人包\(法政匯思\)](#)

[被拘捕懶人包\(法政匯思\)](#)

[搜屋懶人包\(法政匯思\)](#)

[「保留證據須知」懶人包\(法政匯思\)](#)

[杏林覺醒 x 法政匯思：醫護人員聯絡病人家屬懶人包](#)

[親友被捕，我要點做？被捕**48**小時營救手冊](#)

NEW- PROFESSIONAL CONDUCT

在違操守同事間憤慨前行：冇對唔住中心招牌就夠

【同囚黑幕】釋囚爆懲教員陰招打壓 90%投訴涉獄卒操守 社協揭11宗罪 (2019-12-30)

被斥「操守引起關注」 何君堯遭母校褫奪名譽法學博士學位 (2019-10-29)

【一名經人】操守不在 錢豈會來？（羅家聰）(2019-12-15)

SOCIAL WORKER TURNED LEGCO MEMBERS



SHIU Ka-chun



KWONG Chun-yu



**Fernando
CHEUNG Chiu-
hung**



WHY LAW ?

- Professional accountability
- Requirement of professional bodies and legal regulation of practice through registration and licensing
- Social work practice is shaped, regulated or influenced by legal rules
- Effectiveness of communication and collaboration between legal and social work practitioners
- Promoting system change and beneficial outcomes for individuals and groups



PROFESSIONAL ACCOUNTABILITY

- Serious consequences for service clients if the latter do not receive informed advice from social workers on what the law offers and what it imposes
- Social workers must know
 - when to refer situations on,
 - how to identify problems that have a legal component,
 - and what information to give



SOCIAL WORK PRACTICE IS REGULATED BY LAW

- Social work practice is shaped, regulated or influenced by law
- Social workers should know the legal powers and duties owed to child and youth as well as mental health clients
- Enable them to advise and advocate effectively for clients and to promote a coordinated organizational responses to individual and community issues

DILEMMA FACED BY SOCIAL WORKER

- 協助調停警民衝突社工被捕 社會工作人員協會強烈譴責
- 香港社會工作人員協會就過去接近3個月協助調停警民衝突的社工被無理拘捕，以及上周六因履行社工職責的社工陳虹秀被控以暴動罪，予以強烈譴責。

協會指，根據社會工作者註冊條例而制訂的《社會工作者工作守則》，註冊社工的首要價值觀及信念是協助有需要的人士及致力處理社會問題，並有責任維護人權及促進社會公義。但近期接連有社工在示威現場履行社工專業職責期間被捕，甚至被控暴動罪，協會深表憤怒，並促請警方及司法部門確保所有市民的基本人權及被捕人士得到公平審訊。



ENHANCE FUTURE DEALINGS WITH LEGAL PRACTITIONERS

- Effectiveness of communication and collaboration between legal and social work practitioners



SOCIAL WORK VALUES

- Primary responsibility to clients
- Cultural Awareness
- Informed Decision and Self-determination
- Use of Information and Principles of Confidentiality
- Conflict of Interest
- Competence
- Respect

SOCIAL WORK VALUES

- bring to the **attention** of policymakers or public any policies, procedures or activities of governments, societies or agencies which create, contribute to, or militate against the relief of hardship and suffering.
- advocate **changes in policies** and legislation to **promote social justice and general welfare** of the society,
- **prevent and eliminate discrimination**, and strive for a more reasonable distribution of resources and to ensure that all persons should have **equal opportunity to access to the necessary resources and services**.
- promote conditions that **encourage respect for diversity of cultures** in the society.
- encourage **informed participation by the public in formulating and developing social policies** and institutions.



SOCIAL WORK VALUES

- Responsibilities other than to service users
- Nature of the responsibility to the service users
- A duty to act in the best interests of the service user?
- Duty of ethical practice in relation to the service user
- Duty to respect autonomy of the service user



SOCIAL WORKER'S ROLES

- An ethical professional
- A champion of equality and diversity
- A competent professional
- A qualified professional
- Professional accountability through the court
- Social worker as an employee with rights and duties
- Legal representation of children
- Representation of disadvantaged adults

SOCIAL WORKER WITH THE ROLE AS DEFENDER OF SOCIAL JUSTICE

- [佔中九子案-邵家臻談獄中苦況-炎熱如-蒸籠中的小籠包](#)
- 因「佔中九子案」被囚八個月的專業議政、社福界立法會議員邵家臻和社民連副主席黃浩銘今天（3日）刑滿出獄。邵家臻見記者時大談獄中苦況，直指囚犯在獄中猶如「no stake」，只是一個啡色物體。
- 邵家臻提到，獄中炎熱程度猶如「蒸籠中的小籠包」，風扇壞了亦不維修，食物完全「食唔落口」，蔬菜「淋到夾唔起」，魚亦「腥到貓都唔食」。他表示將會推出新書，以囚權角度講述獄中生活，爭取改善囚犯在獄中的權益。

LIABILITY OF SOCIAL WORKER

<https://www.youtube.com/watch?v=6FmWTLDnP6I>

議事論事：區選過後；社工的工作不是調停衝突

12:05 – 15: 40

The Disciplinary Proceedings of Social Worker



CONSENT

- Forms of consent
- Nature of consent
- Things to understand
 - To understand the information relevant to the decision
 - To retain that information
 - To use or weigh that information as part of the decision making process
 - To communicate his or her decision
- Actual understanding or ability to understand?
- Establishing competence to provide consent
- Competence to refuse treatment
- Balancing individual autonomy with welfare

IMPORTANCE OF CONSENT

- **【情緒疫症·上】愁緒籠罩港人 政府懶理 民間獨力難醫**
- 社工最常處理的另一個問題是家庭衝突，但同樣困難重重。以政見對立的家庭為例，不少年輕示威者因而被父母趕離家，社工需為他們尋找臨時居所，並與父母進行調節，「深藍的人會覺得社工一定是『黃』，『傾咩？無嘢好傾。』」麥潤培又提到，去年暑假過後，團隊收到的求助個案逐漸減少，可能因為市民情緒到達臨界點，不再理會社工勸解，即社工的情緒疏導起不了太大作用，「市民的氣場是灰的，其實人人都有情緒病。」他擔心，政府若不能盡快挽回民心，「去到一個地步是，政府救不了我們，要我們（社會各界）救回政府。」
- Importance of consent to provide protection and sense of security to clients and social workers themselves
 - Able to deliver service
 - Provide better communication

COMPETENT SOCIAL WORK PRACTITIONERS

- **Confident:** to challenge inappropriate interpretations or use of the legal rules
- **Credible:** when presenting the rationale for their decision making
- **Critical:** to make their professional practice and the legal rules accessible to those with whom they work, to assess the impact of policies on people's lives and to navigate through questions of ethics, right and needs
- **Creative:** to exploit the opportunities that the legal rules present and to manage the practice dilemmas and conflicting imperatives the interface between law and social work practice generates

LEGAL KNOWLEDGE FOR SOCIAL WORK PRACTICE

- Includes legal content of social policy, the function of law in society and sources of law
- Embraces legal rights of various groups, and how legal rules are used in respect of social issues
- Understand how law develops and ask critical questions of this developmental process
 - Whether the law could be better adapted to the situations in which it is used, whether legal rules constructions of such issues suggest different legal and other solutions
- Include substantive law about particular client groups, about abuse and neglect, and particular practice issues such as confidentiality, self determination, consent, access to records, due process and liability and accountability

IMPLEMENTATION OF LEGAL KNOWLEDGE ON SOCIAL POLICY

- **【虐兒·下】幼弱難自救 第三方角色顯重要 可借鑑澳洲模式**
- 兩年前的今天（2018年1月6日），5歲女童陳瑞臨（臨臨）疑遭生父及繼母虐待致死，事件震驚全港，促使特區政府成立此前民間爭取了二十年的兒童事務委員會，並在公營小學推行「一校一社工」。事隔兩年，虐兒個案仍然頻生，但大眾關注度已有所減退，後續的保護兒童政策亦未見蹤影。這不禁令人疑惑，問題究竟出在哪裏？人們為什麼會虐兒？防護兒童失效背後牽涉什麼結構問題？我們又應該怎樣修補這千蒼百孔的防虐安全網？
- What is the role of social worker in social policy-making?
- How much legal knowledge should social worker understand?

DILEMMAS FACED BY SOCIAL WORKER

- 防止虐兒問題糾結 前線社工掙扎「上報」與「不報」
- 社署2015年修訂的《處理虐待兒童個案程序指引》（下表），當學校發現學生有異，可通知社工跟進，如社工認為可疑，會與校方成立輔導小組，若有需要，會將個案呈交社署保護家庭及兒童服務課，負責人員將召開由學校社工、老師、執法部門代表或醫生等人組成的跨部門專業會議，以決定是否涉及虐兒案。整個過程需時約兩周，若屬虐兒案，將有連串跟進行動。
- 不過，什麼情況才算「有需要」向社署上呈，界線並不明確；而更關鍵是，社工何時需要「上報」，也存含糊地帶。
- 有18年社工經驗、曾任職小學學生輔導員的龔偉森也體會到，前線社工不時陷入「上報」與「不上報」這兩難局面：「小朋友自主能力相對較弱，即使施虐者是父母，小朋友仍然想和他們同住。另外，父母有機會被警察拘捕，小朋友會覺得自己做了『衰人』，前線社工考慮到這一點，或不會上報個案。」《指引》列明，為受虐兒童制定福利計劃時，必須了解和顧及兒童的意願和感受，但要審慎行事，以確保能在他們的安全和意願之間取得平衡。

LEGAL ISSUES ENCOUNTERED BY SOCIAL WORKERS

- Criminology
 - Crime offenders, juvenile criminals
- Children/Youth
 - Child protection, child welfare
- Court
- Family
 - domestic violence, child custody
- Disadvantaged
 - Discrimination law, mental health ordinance
- Human Rights
 - Refugees, immigration law

LEGAL KNOWLEDGE FOR SOCIAL WORKERS' INTERESTS

- [工傷社工未獲續約 大埔浸信會被批走法律罅](#)



香港抗議中的「陣地社工」：走在最前線的
「情緒消防員」 — BBC NEWS 中文
(2019-07-29)





LEGAL SKILLS FOR SOCIAL WORK PRACTICE

- Includes competence to argue cases and fight decisions, developing research-informed flexible use of legal rules and challenging how other agencies might seek to apply them
- Includes policy analysis and influencing, and research legal issues to inform individual case decision making and wider campaigning
- Includes recording, advocacy, accessing rights and problem solving, and report preparation and writing
- Involves asking questions, research analysis and synthesis of information, mediation and negotiation, providing evidence, and decision making in complex and pressured situations

IMPLEMENTATION OF LEGAL SKILLS AND KNOWLEDGE

- **【情緒疫症·上】愁緒籠罩港人 政府懶理 民間獨力難醫**
- 去年十一國慶後，衝突愈演愈烈，不少「陣地社工」成員被警方毆打或拘捕，社總繼而再成立「48社工」，為被捕人士轉介法律支援，並到警署疏導他們或家長的情緒。不過，麥潤培指出，在社會壁壘分明的氣氛下，社工的疏導工作愈來愈難做，「兩邊（警民）都到情緒爆炸點，互不信任，認為彼此無法溝通，一旦溝通就是做『大台』。」一方面，示威者堅信自己理想宏大，目空一切；另一方面，受壓警方不時情緒失控，主動挑釁在場人士，雙方矛盾愈來愈深，仇恨情緒持續深化，「雙方都有支矛攻擊對方，要置對方於死地。」
- How can social workers improve the situation with their role with adequate legal knowledge?
 - Provide basic legal aid and mental support at the same time
 - Improve the mediating role in the situation

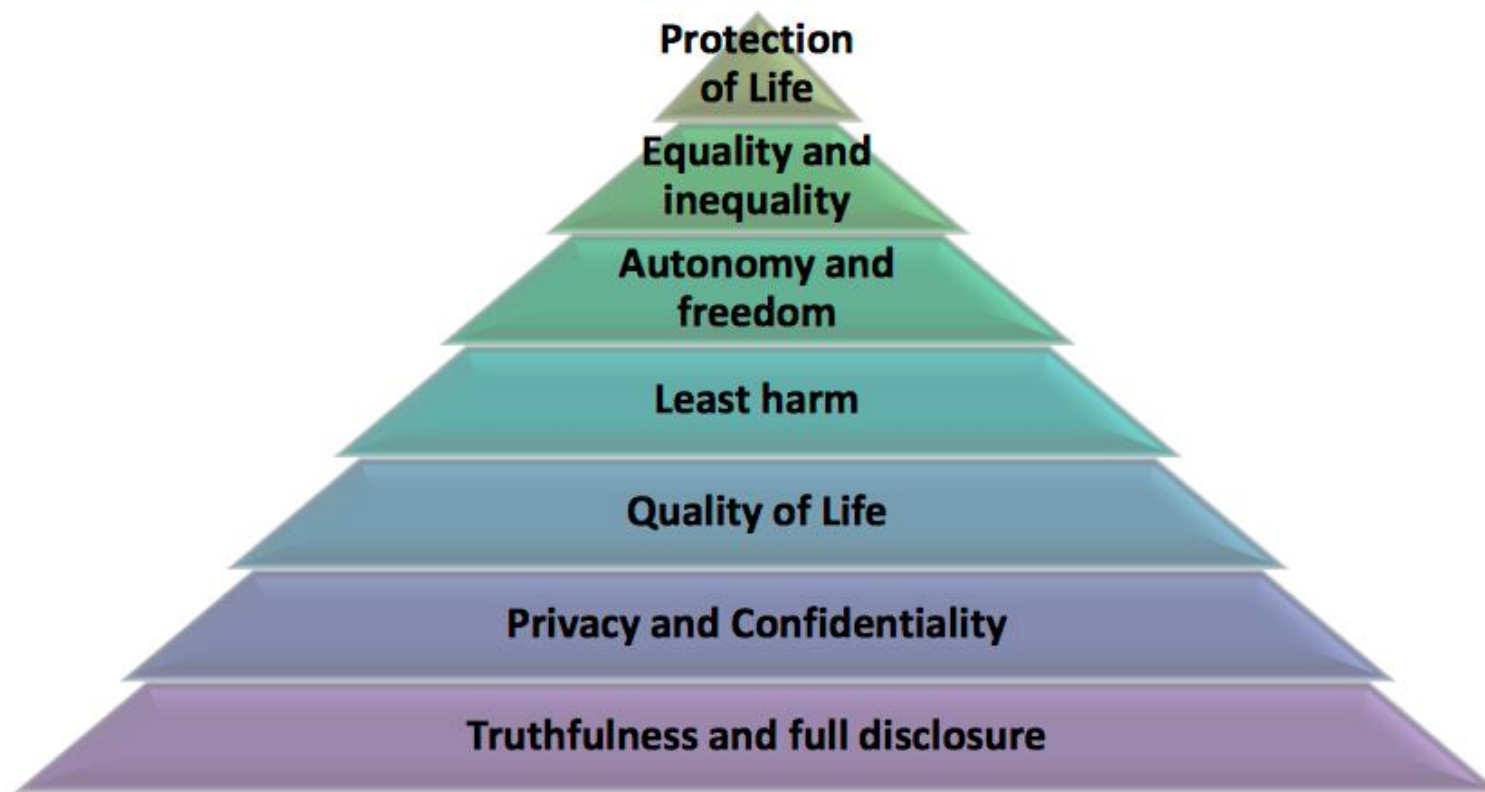
INTERPLAY BETWEEN LAW AND ETHICS

- Understand the significance and complexity of professional power
- Issues of empowerment and principles and practice, focusing on rights
- Ability to recognize the ethical issues, to prioritize ethical considerations, and to convert ethical thought into ethical action
- Determine the balance to be struck between rights and risk, prevention and protection, welfare and justice
- Managing authority and resolving practice dilemmas by references to values, knowledge, risk assessment, and decision making frameworks

COMPONENTS OF ETHNICAL PRACTICE



ETHICAL PRINCIPLES SCREEN



Dolgoff, Loewenberg, & Harrington (2005)

Table 1. Personal and Professional Ethics, Values, and Morals

Professional	Personal
<p>Ethics</p> <p>What relevant standards and expectations are outlined by my profession in its Code of Ethics?</p> <p>How do ethical principles conflict in this case?</p> <ul style="list-style-type: none"> • If ethical principles conflict, use an ethical decision making process to resolve. 	<p>Values</p> <p>What relevant personal values apply in this case and where did they originate?</p> <p>What professional values are outlined in the Code of Ethics and do any of them apply in this case?</p> <ul style="list-style-type: none"> • If there is conflict between personal and professional values, how can I manage my personal values so that I allow my professional ethics to guide me? • Seek supervision, use self-reflection and values clarification process.
<p>Laws and Policy</p> <p>Are there any legal obligations in this case?</p> <p>How do my agency's policies direct me?</p> <p>Are there any conflicts between my profession's ethics and my legal obligations or my agency's policies?</p> <ul style="list-style-type: none"> • Legal obligations usually supersede professional ethics. • Agency policies should not prevent the ethical practice of social work. • Seek supervision in both cases. 	<p>Morals</p> <p>How does my behavior affect my relationship with others?</p> <p>What would I like to do and/or what would I want done to me in a situation like this?</p> <ul style="list-style-type: none"> • Distinguish between personal and professional behavior and obligations.

REFERENCE

- Carr, H., & Goosey, D. (2017). *Law for social workers* (14th ed.)
- Jane Aiken & Stephen Wizner, *Law as Social Work*, 11 WASH. U. J.L. & POL'Y 63 (2003)
- Braye, S., Preston-Shoot, M., Cull, LA, Johns, R. and Roche, J. (2005) Teaching, Learning and assessment of law in social work education, Social Work Education Knowledge Review.
- Dolgoff, R., Loewenberg, F., & Harrington, D. (2005). *Ethical decisions for social work practice* (7th ed.). Belmont, CA: Brooks/Cole – Thomson Learning.
- Antle, B. (2005). Components of Ethical Practice. Presented at Canadian Association of Social Workers' Code of Ethics Internal Training, Ottawa, Ontario.
- Robison, W. & Reeser, L. C. (2002) *Ethical Decision-Making in Social Work*
- Guidelines on Code of Practice: <https://www.swrb.org.hk/en/Content.asp?Uid=15>