



**Seminar on “Trying Corporate Actors – a
 Critique of Deferred Prosecution
 Agreements” and
 “The Misuse of Corporate Vehicles:
 Concealing (and Revealing) Beneficial
 Ownership”**

CPD point(s):	
The Law Society of Hong Kong	: 4 CPD points; (2 points per Session)
The HKICPA	: 4 CPD hours; (2 points per Session)
The HKICS	: 4 ECPD points; (2 points per Session)

Tuesday, 12 March 2019

- Topic** : **Session 1** – Trying Corporate Actors – a Critique of Deferred Prosecution Agreements
Session 2 – The Misuse of Corporate Vehicles: Concealing (and Revealing) Beneficial Ownership
- Time** : **Session 1** – 10:00 a.m. – 12:00 noon
Session 2 – 2:00 p.m. – 4:00 p.m.
- Presenter** : Professor Liz Campbell, Francine McNiff Chair of Criminal Jurisprudence, Faculty of Law, Monash University, Australia
- Moderator** : Professor C.K. Low, Associate Professor in Corporate Law, CUHK Business School, Hong Kong
- Venue** : Hong Kong International Arbitration Centre, 38/F, Two Exchange Square, 8 Connaught Place, Central, Hong Kong
- Level** : Intermediate
- Language** : English
- Fee** : For members of the Law Society, HKICPA or HKICS
 HK\$450 for the full-day seminar or HK\$250 per Session

For non-members
 HK\$810 for the full-day seminar or HK\$450 per Session

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About the Course

Session 1 - Trying Corporate Actors – a Critique of Deferred Prosecution Agreements

Since their introduction and development in the United States, deferred prosecution agreements (DPAs) have gained traction in various other jurisdictions, enabling prosecutors to enter into agreements with corporate actors to defer or suspend criminal proceedings, subject to adherence to certain conditions. In place on a statutory basis in the UK since 2013, and likely to be introduced in Australia this year, DPAs are seen as empowering the State to intervene and impose conditions on a suspected corporate actor for criminal behaviour, while permitting the entity to make reparation without the collateral damage of a conviction. DPAs are proposed as a quicker, cheaper, and more predictable option than the conventional criminal trial with its attendant costs, risks, and delays.

The presenter submits that DPAs are both necessitated by but also misconstrued as a way of offsetting problems with corporate criminal liability. Moreover, and paradoxically, while DPAs are introduced in an effort to remedy such issues, they are deployed also so as to mitigate the inevitable consequences of conviction, that is, the “successful” use of corporate criminal liability. DPAs therefore both serve to supplement as well as dilute corporate criminal liability. Beyond this, the use of DPAs has implications for individual criminal liability, in addition to raising matters of coherence with civil liability mechanisms.

Session 2 - The Misuse of Corporate Vehicles: Concealing (and Revealing) Beneficial Ownership

Serious criminality often is enabled and enhanced by the use of legal structures like companies, trusts and partnerships to conceal the “beneficial ownership” of assets. Features of corporate opacity help to generate, conceal and maintain the resources necessary for many criminal relations and actions. Recognition of this phenomenon is stimulating various legal amendments at the domestic and transnational level, relating to the registration of ownership and the directorship of companies, in an effort to improve transparency and oversight and thus prevent and deter crime. Critical issues remain under-explored regarding these laws’ likely effectiveness, as well as their implications for human rights. This paper brings together insights from criminal law, company law and regulatory studies to provide a novel doctrinal and theoretical analysis of the key legal measures that seek to improve transparency and thereby reveal the beneficial ownership of assets implicated in serious crime.

About the Presenter & Moderator

Presenter

Professor Liz Campbell is the inaugural Francine McNiff Chair in Criminal Jurisprudence at Monash Law, having previously been Professor of Criminal Law at Durham University, UK. She is also adjunct professor at Queensland University of Technology School of Justice.

Professor Campbell is a global expert in corporate crime, organised crime, corruption, and biometric evidence. Her research is socio-legal in considering the law in context, and often involves a comparative dimension. There is an empirical element to some of her work, such as in the project on “Corporate Vehicles – Understanding the use of ‘Licit’ Corporate Entities by Transnational Organised Crime Groups in the Concealment, Conversion and Control of Illicit Finance”.

Professor Campbell publishes widely in leading international journals. Her publications include a research monograph on *Organised Crime and the Law* (Hart, 2013), an edited collection on Corruption in Commercial Enterprise (Routledge, 2018), a jointly written book on *The Collection and Retention of DNA from Suspects in New Zealand* with Nessa Lynch (Victoria University Press, 2015) and a textbook on *Criminal Law in Ireland* (Clarus, 2010). She is working on the fifth edition of *The Criminal Process* (formerly by Professor Andrew Ashworth and Professor Mike Redmayne) (OUP, forthcoming 2019). She sits on a number of editorial boards and is a member of the UK's Arts and Humanities Research Council Peer Review College.

Professor Campbell's research has significant impact outside academia. Her research has been cited by the Irish Supreme Court and relied upon in argument before the UK Supreme Court. Her work has also been cited in reports of law reform commissions.

Professor Campbell is an appointed member of the UK Home Office Biometrics and Forensics Ethics Group, and previously she chaired Durham Constabulary's Ethics Committee and served on the NHS Research Ethics Committee (Scotland).

Moderator

Chee Keong Low ('CK') is an Associate Professor in Corporate Law at CUHK Business School with research interests in issues pertaining to corporate governance and the regulatory framework of capital markets. His research, which has published in journals in Australasia, Europe and the United States of America, is supported by private sector grants from Sino Group and Tricor Services. An Advocate and Solicitor of the High Court of Malaya, CK is a member of the Process Review Panel of the Financial Reporting Council (“FRC”) in Hong Kong. He was previously a member of the Listing Committee of the SEHK from May 2006 to July 2010 and the Financial Reporting Review Panel of the FRC from July 2007 to July 2013. He also served as a Director of the Asian Institute of Finance in Malaysia for three years through April 2012 and completed a 6-year term as a member of the Securities and Futures Appeals Tribunal in Hong Kong in March 2017.

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12 March 2019

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