

claim that his whispering female assistant was a journalistic source and could remain unnamed. He declined to treat the intoxication and the £3.5m inducement as undermining the safety of the admissions, and he refused to make the Crown disclose other known cases where Mahmood had destroyed evidence and hidden the identity of assistants. He refused to let the defence tell the jury of Mahmood's history of lies and failed cases.

There could be no better recipe for injustice. The defence were fighting this case with both hands tied behind their backs. It was only by great persistence that the full story in relation to the driver was dug out of the mist of obfuscation.

This must never happen again. No-one wants to undermine journalistic privilege or interfere with the proper freedom of journalists in our liberal democracy. But we need much more robust guidance from the Director of Public Prosecutions on the public interest in prosecuting vigilante cases. The Crown should never adopt a case based on large inducements that are entirely disproportionate to the crime at hand, nor should the Court permit it. And newspapers should not employ journalists who tell lies.

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Hong Kong news

Money laundering

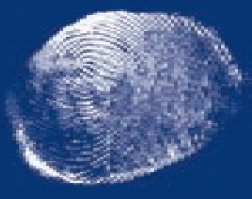
The Court of Final Appeal has granted leave to appeal a conviction on the issue of whether a defendant's honest and reasonable belief that property was not the proceeds of an indictable offence is a defence to a charge under section 25(1) of the Organized and Serious Crimes Ordinance, Cap 455 (OSCO). The issue has sparked interest after the Honourable Stock VP in the Court of Appeal said that it was 'unattractive to conclude that the legislature intended to preclude the suspect from exculpating himself by showing that he was free of fault'. Stock VP posited whether there should be read into the legislation a halfway house defence. The defence would operate in a money laundering charge where there exist (objectively) reasonable grounds to believe that property represents the proceeds of crime, but a defendant honestly and reasonably did not suspect that property to be such.

In another case, the Court of Final Appeal was asked whether the offence of money laundering could be committed where a person dealt with funds that were known not to derive from any offence but which were used in the furtherance of such an offence. The Department of Justice had argued that the concept of 'proceeds of an indictable offence' was wide enough to extend to money or property received

in circumstances in which such receipt may be said to be 'in connection with' the commission of an indictable offence even if that money or property is known not to be tainted as a benefit received on account of the commission of such offence. The Court of Final Appeal rejected that interpretation of OSCO. It held that the ordinary meaning of 'proceeds' was money or property derived from the commission of an offence. Further, the Court of Final Appeal accepted that the word 'proceeds' had to be understood to refer only to money or property that represented an economic benefit gained by the relevant defendant in connection with the commission of the underlying indictable offence.

Random drug tests

The Hong Kong Committee on Narcotics has proposed a new scheme whereby law enforcement officers who reasonably suspect that a person has consumed drugs are authorised to compel that person to undergo a drug test. The RESCUE Drug Testing Scheme (RDT) Consultation Paper has been opposed by the Hong Kong Bar Association (HKBA). Under the RDT Scheme, if the test result is positive, under a three-tier system, the person would be subject to counselling and treatment programmes – voluntary for the first time, mandatory for the second



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time in lieu of prosecution and prosecution for the third time. The HKBA believes that the extraordinary and draconian police powers sought to be provided under the RDT Scheme will seriously interfere with fundamental constitutional rights and that it has not been shown to be necessary to address the problem of drug abuse.

Sentencing

The Law Reform Commission of Hong Kong has recommended that the courts be given full discretion to impose any sentences appropriate to an offender, removing the current restriction on 'excepted' offences where the legislature has removed a

suspended sentence of imprisonment as an option. Currently some 40 offences in Hong Kong are 'excepted', including possession of arms or ammunition, assaulting a police officer, indecent assault and robbery. The Law Reform Commission has recommended the reform in the light of the wide range of circumstances in which these offences can be committed; the significant fall in the prevalence of violent crimes in Hong Kong; and the desire to give judges a wider degree of discretion in achieving a just and appropriate sentence. The recommendation, supported by the HKBA and the Hong Kong Law Society, followed an examination of the laws in Australia, Canada, New Zealand, Singapore and the United Kingdom.

Mexico's transition: towards a new criminal justice system

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The law, a group of concepts and cultural rules in a society, has its own time and space. This means it is a science in evolution, capable of being perfected at any time. Historically, philosophers and ordinary citizens have been interested in achieving a normative system that supports itself in justice as its fundamental principle. Accordingly, its evolution looks toward the rule of law, in which the values and human rights of individuals and society are protected. In Mexico, criminal justice has not escaped that need for transformation.

Throughout the 20th century, Mexican criminal justice has been, in essence, an inquisitorial court system. It has been managed by prosecutors and police investigators with broad powers and little in the way of support for constitutional rights, usually filing action before the criminal courts, which – more often than not and with notable exceptions – trust assertions made by the prosecutor in the indictment without respect for due process. However, globalisation has made us rethink the need to reform criminal justice in Mexico and, with the proposals of specialists in the field, the system has been redesigned, considering what has been useful in other countries and learning lessons from comparative law, even

where cultures or values differ. The objective was one: to create a criminal justice system on new bases – adversarial, accusatorial and oral.

The late onset of reforms

For almost the entirety of the 20th century, Mexico had a penal system that accepted statements rendered before police officers as valid evidence, while a confession was considered 'the utmost proof', no matter how it was obtained. Moreover, the danger posed by the alleged offender was considered by the judge when determining the verdict: it took us decades to understand the role of probatory elements in determining the guilt of an individual and thus establish that a person is guilty only of the act committed, not because of any future probability. As a result, small but significant changes introduced at the end of the last century allowed the implementation of a more guarantee system, supporting the rights of the offender and, later, those of the victim, by opening up certain hearings that would be held before the trial judge to the public. However, because this had to do with criminal cases, it was decided that the information be kept classified during the investigative stage – the prosecution's criminal investigation – whereas