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MR MICHAEL BLANCHFLOWER SC

Call: 2002 (Hong Kong)
1978 (British Columbia)
1978 (Youkon Territory)
Silk: 2001 (Hong Kong)

Michael specializes in criminal and human rights law. He has considerable experience in the courts of Hong Kong, in particular: white-collar crime, complex fraud cases, proceeds of crime (money laundering, restraint and confiscation orders), bribery, regulatory and securities offences, extradition, mutual legal assistance, as well as general criminal litigation.

Michael has been counsel in appeals in the Court of Appeal, Privy Council and Supreme Court of Canada, and has lectured professionals and presented papers in Hong Kong and overseas on proceeds of crime, organized crime, extradition and mutual legal assistance.

From September 1978 to March 1986 he was a counsel in the Criminal Law Section of the Federal Department of Justice (Canada), conducting prosecutions and appeals, extradition and mutual legal assistance, and advising on criminal law policy.

From April 1986 to August 2002 he was a counsel in the Department of Justice, Hong Kong Government, doing prosecution and appeals, extradition and mutual legal assistance, and administrative and constitutional law matters. From 1991 to 1993 he was Assistant Solicitor General of Hong Kong and assisted in the drafting of the Organized and Serious Crimes Ordinance (Cap.455).

In September 2002 he commenced private practice and now conducts predominantly criminal defence work.

Professional Qualifications

- 2002: Admitted as a Barrister of the High Court of the Hong Kong SAR (member in good standing).
- 2001: Appointed Senior Counsel.
- 1978: Admitted as a Barrister and Solicitor of the Supreme Court of British Columbia and Member of the Law Society of British Columbia (presently, retired member).
- 1977: Bachelor of Laws, University of British Columbia.
- 1976: Bachelor of Commerce, University of British Columbia.
- Fellow of the Chartered Institute of Arbitrators

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Practice

- September 2002 to present - private practice as a barrister in Hong Kong.

- April 1986 to August 2002: Department of Justice, Hong Kong Government - prosecution and appeals, extradition and mutual legal assistance, and administrative and constitutional law.

- 1991 to 1993: Assistant Solicitor General of Hong Kong.

- September 1978 to March 1986: Criminal Law Section of Canadian Federal Department of Justice - criminal law prosecutions and appeals, extradition and mutual legal assistance, and criminal law policy.

- Prosecution of corruption cases in Fiji.

- Counsel in appeals in Hong Kong's Court of Final Appeal, Privy Council, Supreme Court of Canada, and Supreme Court of Fiji

- 2013-2015: General Editor of "Archbold Hong Kong: Criminal Law, Pleadings, Evidence and Practice".

- Lectured and presented papers in Hong Kong and overseas on money laundering and proceeds of crime, extradition, mutual legal assistance, organized crime and Hong Kong's Bill of Rights.

- 28 experience of prosecuting and defending local and international money laundering, drafting money laundering and proceeds of crime legislation; restraint and confiscation of proceeds of crime; and advising and lecturing to regulator authorities, businesses, professionals, and law enforcement on money laundering and reporting suspicious transactions.

<u>HONG KONG</u>

Private practice

September 2002 to present - barrister in private practice. Areas of practice: criminal law, human rights and constitutional law.

Hong Kong Government

July 2001 to August 2002: Senior Assistant Director of Public Prosecutions, in charge of the Basic Law, Bill of Rights and Gambling Section, Prosecutions Division, Department of Justice.

June 2000 to June 2001: Senior Assistant Director of Public Prosecutions, in charge of the Proceeds of Crime & Inland Revenue Department Section, Commercial Crimes Unit, Prosecutions Division, Department of Justice.

March 1998 to May 2000: Deputy Principal Government Counsel, Mutual Legal Assistance Unit, International Law Division, Department of Justice.

October 1993 to February 1998: Senior Assistant Director of Public Prosecutions, in charge of the Proceeds of Crime Unit, Prosecutions Division, Department of Justice.

February 1991 to September 1993: Assistant Solicitor General, Legal Policy Division, Attorney General's Chambers.

April 1986 to January 1991: Crown Counsel and Senior Crown Counsel, Prosecutions Division, Attorney General's Chambers.

Crime

Criminal prosecutions, defence and appeals: money laundering, complex commercial crimes; corruption; insider dealing; tax evasion; drugs and serious offences.

HKSAR v Shing Siu-ming and Others [1999] 2 HKC 818 (CA) – prosecuted drug conspiracy and money laundering involving Hong Kong and Australia.

HKSAR v Fu Chu-kan and Others (HCCC 134/2004) – defended an accountant charged with conspiracy to defraud investors and the Hong Kong Stock Exchange.

HKSAR v Tse Sui-luen and Others (DCCC 350/2006) – defended a CEO charged with others with conspiracy to offer bribes, conspiracy to commit false accounting, and conspiracy to defraud the Inland Revenue Department.

HKSAR v Gong Beiyung and Others (DCCC 980/2006) – defended a solicitor who was charged with 5 other professionals, with conspiracy to defraud investors and the Hong Kong Stock Exchange. All defendants were eventually acquitted by the Court Final of Appeal ((2011) 14 HKCFAR 641)

HKSAR v Wu Wing Kit and Ye Fang (DCCC 1022/2012) - defended a solicitor charged with money laundering. Client was acquitted on retrial.

Conviction and sentence appeals in the Court of Appeal. Cases include:

HKSAR v Rafael Hui and Others, CACC 444/2014 – misconduct in public office.

HKSAR v Wu Wing Kit and Another, CACC 299/2014 – appeal of solicitor convicted of money laundering.

HKSAR v Tsang Man Wai Raymond, CACC 146/2016 – discretionary life sentence for manslaughter.

Court of Final Appeal cases include:

HKSAR v Li Kwok Cheung George and Others, FACC Nos 4, 5, 6 of 2013 – interpretation of money laundering office in s.25(1) of the Organized and Serious Crimes Ordinance (Cap 455).

HKSAR v Lau Cheong and Lau Wong [2002] 2 HKLRD 612 (CFA) – constitutionality of grievous bodily harm rule in definition of murder and mandatory life imprisonment.

HKSAR v Shum Kwok Sher [2002] 3 HKC 117 (CFA) – constitutionality of common law offence of misconduct in public office.

Solicitor and Law Society of Hong Kong and Secretary for Justice [2004] 1 HKLRD 214 (CFA) – constitutionality of 'finality' provision in s.13(1) Legal Practitioners Ordinance (Cap.159).

Privy Council cases

Government of the U.S.A. v Liangsiriprasert [1991] 1 AC 225 (PC) – jurisdiction over criminal conspiracies entered into abroad

Cheung Yin-lun v Government of Australia (1991) 92 Cr.App.R. 199 – standard of proof in extradition proceedings.

Human rights

Secretary for Justice v Shum Chiu and Others, CACV 50, 51 & 52/2006 – covert recording by law enforcement authorities of suspect's meeting with his solicitor.

HKSAR v Chan Kau Tai [2006] 1 HKLRD 400 – exclusion of evidence obtained as a result of a breach of a defendant's right of privacy.

Applications for and variations of restraint and confiscation orders

Judicial review

Pang v Commissioner of Police [2002] 4 HKC 579 - legal professional privilege and the duty to report suspicious property under s.25A of the Organized and Serious Crimes Ordinance (Cap.455)

Yu Chee Yin v Commissioner of ICAC [2001] 2 HKC 91, [2001] 4 HKC 532 - ICAC disciplinary proceedings.

Yau Kwong Man v Secretary of Security [2002] 3 HKC 457 – constitutionality of s.67C of Criminal Procedure Ordinance (determination of minimum terms) of prisoners held at Chief Executive's Discretion.

Extradition

Advised on and prepared applications for requests for the surrender of fugitive offenders to/from Hong Kong; represented requesting states in extradition proceedings in all courts of Hong Kong.

Mutual Legal Assistance in Criminal Matters

Advised on requests to/from Hong Kong for mutual legal assistance.

Contempt of court

Secretary for Justice v Sun News Publisher Ltd. and Another, HCMP 6152/2001; *Secretary for Justice v The Sun News Publisher Ltd*, HCMP 452/2006.

Advisory

Advising regulatory authorities, companies, legal, accounting and business professionals on corruption, money laundering, reporting suspicious transactions, and related matters in Hong Kong, Macau and PRC.

Assisted in drafting the Organized and Serious Crimes Ordinance (Cap.455) which contains money laundering offence and provisions for the restraint and confiscation of proceeds of crime.

Advised Commissioner for Narcotics on matters relating to amendments to the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap.405) and Organized and Serious Crimes Ordinance (Cap.455), the Financial Action Task Force (FATF), and the Asia/Pacific Group on Money Laundering.

Advised law enforcement authorities on criminal investigations and legal matters.

CANADA

September 1982 to March 1986: Counsel, Criminal Law Section, Federal Department of Justice, Ottawa.

September 1978 to February 1982: Counsel, Federal Department of Justice, Yukon Territory.

Prosecutions and appeals

Criminal prosecutions in the Yukon Territory and Northwest Territories; appeals in the Court of Appeal of the Yukon Territory; appeals in the Supreme Court of Canada.

Extradition

Advised on and prepared extradition requests to/from Canada; drafted Canada's model extradition treaties and recommendations for new extradition legislation; represented requesting states in appeals in the Supreme Court of Canada.

Mutual legal assistance in criminal matters

Assisted in drafting Department of Justice policy, legislation and treaties on mutual legal assistance.

Criminal law policy and planning

Member of inter-departmental committees on criminal law, e.g. police powers, search and seizure, wiretapping.

Advisory

Advised the Attorney General and Canadian Government departments on criminal law matters, and advised on cases for prosecution involving criminal offences committed by government servants.

FIJI

Prosecution counsel in Fiji Independent Commission Against Corruption v Qarase, HAC 27/2009 – abuse of office. Appeal dismissed: *Qarase v FICAC*, Criminal Appeal No AAU 66/2012.

Prosecution counsel in *FICAC v Keni Dakuidreketi*, HAC 26/2009 – abuse of office. Court of Appeal dismissed appeal: Criminal Appeal No AAU 0099/2014. Supreme Court of Fiji dismissed appeal: Criminal Petition No CAV 14/2017.

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Speeches, Lectures and Publications

Publications

- 2013-2015: General Editor of “Archbold Hong Kong: Criminal Law, Pleadings, Evidence and Practice”

- “Who is Going to Do the Dirty Work against the Laundering of Proceeds of Corruption?”, Journal of Financial Crime, Vol. 9, No. 4, April 2002.

- Author of sections on “Organized Crime” and “Drug Trafficking”, in Halsbury's Laws of Hong Kong

- Author of four articles on extradition published in the Criminal Law Quarterly (Canada)

Speeches

- Hong Kong’s “Money Laundering Office: An Inconvenient Truth”, Financial Crime, Risk and the Rule of Law, Faculty of Law, University of Hong Kong, 23 November 2015.

- “Trustees and Corporate Service Providers: Is Everyone a Money Launderer?”, STEP Hong Kong Limited, 30 November 2011, Hong Kong.

- “Insider Dealing and Criminal Liability”, SFC Investigations and Enforcement Conference 2009, 24 November 2009, Hong Kong.

- “Hong Kong Monetary Authority’s June 2004 Supplement to the Guideline on Prevention of Money Laundering – The Future For All?”, Mindtheme, 2nd Annual Conference on Anti-Money Laundering & Fraud Prevention in Asia, Hong Kong, 6 December 2004.

- “Restraint and Confiscation of Proceeds of Crime”, Archbold Criminal Law Conference, 13 November 2004, Hong Kong.

- “Investigation of Money Laundering in South East Asia”, Money Laundering 2003 – The New Global Regime, organized by Foulds Ingham – Event Management, 26th – 28th February 2003, Bangkok.

- “How can ‘Gate-keepers’ respond to Money Laundering”, Regional Symposium on the Prevention and Control of Money Laundering, organized by IQPC Worldwide Ltd., 27 March 2002, Singapore.

- “Relationship Between Financial Institutions and Law Enforcement in Money Laundering

Investigations and Prosecutions", Regional Symposium on the Prevention and Control, organized by IQPC Worldwide Ltd., 29 November 2001, Kuala Lumpur, Malaysia.

- "Laundering the Proceeds of Bribery and Corruption", 19th International Symposium on Economic Crime, 9-15 September 2001, Cambridge, England.

- "Effective Confiscation of Proceeds of Crime", United Nations Drug Control Program, 3-7 September 2001, Vienna, Austria.

- "Proceeds of Crime, Investigation and Prosecution in Asia", Pacific Rim Money Laundering & Financial Crimes Conference, 23 October 2000, Vancouver, British Columbia, Canada.

- "Hong Kong's Organized Crime Groups After 1997", 9th International Conference of the Society for the Reform of the Criminal Law, 20 August 1996, Whistler, British Columbia, Canada.

- "Money Laundering", UNDCP and OECD Conference on "Drugs and Crimes: New Challenges", 8-10 June 1996, Bishkek, Kyrgyzstan.

- "The Role of a Central Authority in Mutual Legal Assistance", Commonwealth Secretariat, 21-25 September 1994, Oxford, England.

- "Legal Obligation to Assist Police Investigating Criminal Associations", 8th International Conference of the Society for the Reform of the Criminal Law, 4 December 1994, Hong Kong.

- "The New Organized and Serious Crimes Bill and Obligations for Business in Hong Kong", Legal Business in Asia Conference, 6 October 1994, Hong Kong.

- "Hong Kong Organized and Serious Crimes Bill", 14th International Asia Organized Crime Conference, 16-20 July 1992, Calgary, Canada.

- "Extradition in Hong Kong", 11th International Asian Organized Crime Conference, 18-20 March 1989, Vancouver, Canada.

Lectures

- "Prosecuting and Defending Money Laundering", University of Victoria, Faculty of Law, Criminal Law Club, 22 November 2017.

- "Building the money-laundering and terrorism financing case" and "Expert Witnesses: Using Expert

Witnesses for Financial Crimes", Office of the Attorney General, Financial Crime Prosecutor Training/Mutual Legal Assistance, 19-22 September 2011, Bangkok, Thailand.

- "Hong Kong's Experience in Anti-money laundering", Thailand AML/CFT Joint Cooperation Program, Master Implementation Program – Office of Attorney General Workshop, "National Cooperation on Money Laundering Initiatives", 25-26 February 2010, Bangkok, Thailand.

- "Corruption Fraud in the Finance Industry – Cases and Investigations", Financial Crimes / Misconduct Conference, Courses Seminars, 20 November 2008, Hong Kong.

- "Money Laundering Offences and Reporting Suspicious Property", City University's School of Law Post Graduate Certificate in Laws, 18 November 2008, 31 October 2006.

- "The Accountant as an Expert Witness", Hong Kong Institute of Certified Public Accountants, 5 May 2005, Hong Kong.

- In-house lectures to Hong Kong solicitors firms on "Lawyers and Hong Kong's Anti-Money Laundering Laws".

- Seminars for Philippines Court of Appeal justices and Regional Trial Court judges on the Philippines Anti-Money Laundering Act 2001, 26-29 October 2004, Manila, Philippines.

- "Reporting Suspicious Transactions in Hong Kong", Hong Kong Institute of Certified Public Accountants, 18 October 2004, Hong Kong.

- "Practical Implications of Anti-Money Laundering Laws for Banks" Courses Seminars Hong Kong, 16 December 2004. Seminar for Criminal Justice Officials on "Anti-Money Laundering and Combatting the Financing of Terrorism", IMF-Singapore Regional Training Institute, 28-29 January 2004 and 9-12 March 2004, Singapore.

- "The Challenges of Multiple Jurisdictions and National Privacy Laws" and "Hong Kong Monetary Authority's New Supplement on the Guideline on Prevention of Money Laundering", Asia-Pacific Financial Crime Conference 2004, 30 September – 1 October 2004, Singapore.

- "Reporting Suspicious Transactions", Anti-Money Laundering in Hong Kong and China, organized by Mindtheme, 7 October 2003, Hong Kong.

- "Practical Implications of Anti-Money Laundering Laws for Professionals", CPD Course, organized by Course Seminars, 19 August and 17 November 2004, Hong Kong.

- "Money Laundering Prosecutors' Course", Anti-Money Laundering Council, 3-7 November 2003, Manila, Philippines.

- "Money Laundering: Restraining The Global Threat – Mutual Legal Assistance", Transnational Organized Crime Conference, Hong Kong Police, 20 March 2002.

- "*HKSAR v. Suen Yung Yung and Kishnadi Ridwan*": Case study of an investigation and prosecution of trafficking in ecstasy in Hong Kong", Third Asian Amphetamine Type Substances Workshop, Australian Federal Police, 15 January 2002, Hong Kong.

- "Proceeds of Crime" and "An Overview of the Basic Law and Bill of Rights" – CPD course for Hong Kong solicitors firms.

- "Forfeiting the Proceeds of Crime Seminar", U.S. Department of Justice and Anti-Money Laundering Office, Office of the Prime Minister, Kingdom of Thailand, 15-18 May 2001, Bangkok, Thailand.

- Training Workshop for Evaluators of Anti-Money Laundering Measures, Asia Pacific Group on Money Laundering, 20-22 March 2001, Bangkok, Thailand.

- "International Money Laundering and Related Crimes", Senior Criminal Justice Program III, International Law Enforcement Academy, 9-12 May 2000, Kanchanburi, Thailand.

- "Legislation and Initiatives to Address Organized and Transnational Crime", Senior Criminal Justice Executive Program II, International Law Enforcement Academy, 29-30 November, 1 December 1999, Chiang Rai, Thailand.

- "Mutual Legal Assistance in International Money Laundering Investigations", 9th Interpol Conference on Financial Assets from Crime, 26-27 October 1999, Lyon, France.

- "Actions to Fight Money Laundering of Proceeds of Crime", Combating Corruption in Asian and Pacific Economies Workshop, organized by the OECD and Asian Development Bank, 29 September – 1 October 1999, Manila, Philippines.

- "Legislation for the Prevention of Money Laundering", Seminar on the Prevention of Money Laundering, organized by the Commissioner of Insurance, 15 September 1998, Hong Kong.

- "The Mutual Legal Assistance in Criminal Matters Ordinance", Independent Commission Against Corruption (ICAC) Investigators Course, 14 May 1998, Hong Kong.

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- "Mutual Legal Assistance in Hong Kong", Advanced International Asset Forfeiture Workshop organized by the US Department of Justice, Drug Enforcement Administration, May 1998, Hong Kong.

- "Proceeds of Crime Workshop", Royal Canadian Mounted Police, November 1997, Montreal, Canada.

- "Banks and Money Laundering Investigations", Asian FATF Secretariat Money Laundering Workshop, November 1996, Hong Kong.

- "International Co-operation in Money Laundering", 24 October 1995, Royal Hong Kong Police Training School.

- "Hong Kong's Experience with Money Laundering", Asian Secretariat Financial Action Task Force, Money Laundering Workshop, 18 October 1995, Hong Kong.

- "Drug Trafficking (Recovery of Proceeds) Ordinance and the Organized and Serious Crimes Ordinance", Judicial Studies Board, Supreme Court, April 1995, Hong Kong.

- "Hong Kong's Asset Forfeiture Laws", United States/Pacific Rim Asset Forfeiture Seminar, March 1995, Hong Kong.

- "Investigating Money Laundering and Asset Tracing", Asian Secretariat FATF Money Laundering Workshop, November 1994, Kuala Lumpur, Malaysia.

Teaching

- Seminar Leader for the University of London LLB course "Criminal Law", University of Hong Kong, 1993–2000, 2002-2008.

- Lecturer at "Advanced Advocacy Summer School 2000", University of Hong Kong, 8 June 2000.

- Lectures on "Professional Ethics and Liabilities", City University, January – March 1992; July – September 1992.