



CCPL

CENTRE FOR COMPARATIVE AND PUBLIC LAW
AT THE FACULTY OF LAW, THE UNIVERSITY OF HONG KONG

HKU CCPL TALK

The Perennial Problem with Disclosure

22 February 2024 (Thursday) 1:00 - 2:00 PM
Academic Conference Room, 11/F Cheng Yu Tung Tower, HKU

This paper explores the critical and evolving issues surrounding the disclosure process in criminal law within the legal systems of England and Wales. The principle of disclosure, which requires the prosecution to share evidence with the defense, is fundamental to the fairness of the criminal justice system. However, recent developments have highlighted significant challenges and shortcomings that demand attention and reform. The first section of this paper examines the historical context of disclosure in England and Wales, tracing its evolution from common law principles to statutory provisions. It provides an overview of the primary legislation governing disclosure, such as the Criminal Procedure and Investigations Act 1996, and its amendments. By understanding the historical framework, it becomes clear that disclosure has long been a cornerstone of the adversarial system in these jurisdictions.

The second section delves into the challenges and deficiencies plaguing the current disclosure regime. High-profile cases, such as the collapse of the trial against Liam Allan in 2017, have exposed systemic issues, including inadequate police training, excessive digital evidence, and failure to disclose material evidence. These problems contribute to wrongful convictions, undermine public trust, and burden the criminal justice system with costly appeals and reviews.

In conclusion, this paper sheds light on the pressing issues and challenges surrounding disclosure in criminal law in England and Wales. It emphasizes the importance of addressing these issues to maintain public trust and ensure the integrity of the criminal justice system. Through comprehensive analysis and thoughtful reforms, it is possible to strike a balance between the prosecution's duty to disclose evidence and the defendant's right to a fair trial, ultimately promoting justice for all parties involved.

SPEAKER:



Dr Ed Johnston, University of Northampton, UK

Ed is an Associate Professor of Criminal Justice and Procedure. His research is focused on criminal justice and procedure and he specialises in the disclosure of evidence in criminal proceedings, the role of the defence lawyer and suspects' rights. In 2018, Ed completed his PhD entitled 'The Defence Lawyer in the Modern Era'. The thesis was based on empirical research that examined if the role of the defence lawyer ought to be re-conceived from that of a zealous advocate. Furthermore, the thesis examined the impact of the changing adversarial landscape for both defendants and the wider criminal justice process.

CHAIR:



Professor Simon Young

Ian Davies Professor in Ethics, Faculty of Law, The University of Hong Kong



Prior registration is required for this in-person event: <https://bit.ly/42or6Wy>
For Inquiries, please contact Flora Leung at ccpl@hku.hk.