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Adopting Deferred Prosecution Agreement As A Non-Criminal Alternative in Corporate Criminal Liability for Corruption Offences in Malaysia

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Abstract
Civil and criminal mechanisms exist to combat corruption. Literature acknowledges the difficulty of successful corruption prosecutions due to the proof of beyond a reasonable doubt. Deferred prosecution agreements (DPAs) are an alternative that encourage self-reporting of corruption by businesses, said to serve the interest of the public and the businesses**.** In Malaysia, failure to prevent corruption will expose the business organisations and the persons associated with them to an offence under Section 17A of the Malaysian Anti-Corruption Commission Act 2009 (MACC Act). The MACC Act imposes a maximum fine of ten times the value of the bribe or RM1 million, whichever is higher or a 20 years' maximum imprisonment, or both, subject to the adequate procedures' defence. There is no DPAs mechanism in place. Hence, one of the pertinent issues is the viability of DPAs in Malaysia. This paper suggests the DPAs analysis as a non-criminal alternative vis-à-vis its adequacy and compatibility with the corporate liability offences in Malaysia. The investigation is significant in meeting the objectives of implementing corporate liability offences. The current legal system loopholes may be uncovered. The research outcome may assist the government, policymakers and stakeholders in understanding the applications of DPAs for corruption offences in Malaysia.
Keywords: Corruption, Criminal Liability, Deferred Prosecution Agreement, Non-Criminal Alternative and Business Organisations

Introduction

Corruption is defined as 'the abuse of entrusted power for private gain' (Chandrashekhar & Barrington, 2011). It is present within and between private businesses and can exist in the form of bribery, fraud, and mafia methods (Kotieno, n.d.). This definition covers or extensively overlaps with activities of bribery, fraud, or money laundering (Keremis, 2020). Corruption can be subject to various civil and criminal procedures and sanctions. It is indisputable that corruption is a deep-rooted phenomenon that exists in countless forms, knows no cultural borders, and operates in the private and public sectors (Arafa, 2012).

Corruption is a risk that has created an unfavourable business environment in one country and lessens the confidence to do business and invest (Azmi, 2016). It also causes potential investors, be it local or foreign investors, to avoid investing in the country, which will then adversely affect the economic prospects and viability of the country (Che Azmi, 2016). Based on Transparency International United Kingdom, the World Bank and the World Economic Forum estimate that corruption costs more than 5% of global GDP (2.6tn) annually and estimate that more than $1tn is paid in bribes annually. These organisations suggest that corruption adds 10% to the total cost of doing business globally and a staggering 25% to the cost of procurement contracts in developing countries (Bannerman & Roberts, 2012).

Corporations are artificial entities that have no minds of their own. They act through their agents, and, where these agents have actual or apparent authority, those actions within the scope of their authority bind the company (Freeman & Lockyer v Buckhurst Park Properties (Mangal) Ltd [1964] 2 Q.B. 480). A corporation is held liable when the offence is committed due to its specific relationship with its agent or individuals who manage and control the corporation (Pinto & Evans, 2003). One problem in curbing corruption by a corporation is holding the corporation as an entity liable for bribery (Mukwiri, 2015). Criminal conduct is characterised by two elements: *actus reus* and *mens rea*. In order to attribute criminal liability to a corporate entity, both elements of *actus reus* and *mens rea* must be present. The concept of *mens rea* causes problems in attributing criminal liability to corporations, as corporations do not have minds, and thus, the elements of *mens rea* could not be fulfilled. To overcome the difficulties, Section 7 of the United Kingdom Bribery Act 2010 makes corporations liable for the criminal acts of any associated person resulting from criminal risks the corporations could have prevented. The liability arises if the associated person intends to obtain a business advantage for the corporations. The Section makes it a strict liability offence for corporations for failures to deter or prevent bribes incurred on their behalf. However, the United Kingdom Bribery Act 2010 provides a mechanism for defence, where corporations must have "adequate procedures" in place.

Similarly, in the United Kingdom, the Criminal Finances Act 2017 makes it a criminal offence if a business fails to prevent its employees or any persons associated with it from facilitating tax evasion, which is modelled after Section 7 of the United Kingdom Bribery Act 2010. In the United Kingdom, despite the existence of Section 7 of the United Kingdom Bribery Act 2010, there are difficulties in obtaining evidence. As a result, prosecutions of corporates for serious criminal offences, including corruption, are rare, especially concerning large corporations (King & Lord, 2018). After five years of implementation, there was just one conviction in February 2016, namely the case of R v Sweett Group PLC (Levi & Lord, 2017) for 'failure to prevent bribery' by its employees in a foreign jurisdiction (Copp & Cronin, 2018). In Canada and Finland, corporations are primarily punished in "severe cases," where the non-criminal status of the corporation is reinforced, which ensures business as "usual" for most corporations and powerful corporate actors (Alvesalo-Kuusi et al., 2017). In the United States, corporate convictions have decreased by about 25% (Thomas, 2015). Most corporations prosecuted are small firms that may be alter egos of individuals participating in the criminal enterprise (Garrett, 2011). Instead of pursuing criminal convictions for corporate corruption, many jurisdictions resort to non-criminal alternatives.

In the United Kingdom, civil recovery orders, which do not require a criminal conviction, are provided for in the Proceeds of Crime Act 2002, which allows the authority to bring a proprietary action to target the proceeds of criminal activity (King & Lord, 2018). Deferred prosecution agreements (DPAs) were implemented in the United Kingdom in 2014 under Schedule 17 of the Crime and Courts Act of 2013. The purpose is to promote corporate self-reporting of criminal wrongdoing as an alternative to criminal prosecution due to the difficulty of meeting the high threshold of initiating a charge and securing the successful prosecution of corporate offenders (Ferguson, 2018). In the United States, prosecution agreements are rising as an alternative to corporate criminal liability (Uhlmann, 2012). In the United States, prosecutors will also consider "the corporation's timely and voluntary disclosure of wrongdoing and its willingness to cooperate in the investigation of its agents" under the United States Attorney's Manual s. 9-28.300. Other resolution agreements may be pursued as alternatives to a criminal conviction, including the Non-Prosecution Agreements, the DPAs and the "neither admit nor deny" settlements (Ferguson, 2018). The increased use of non-conviction-based forfeiture, DPAs and civil settlements represents non-criminal alternatives from using criminal prosecution to punish corruption (Ferguson, 2018). The non-trial settlement of corporate bribery cases is becoming the norm (Rui & Soreide, 2018). The United States, the United Kingdom, and Germany stand out as far more aggressive enforcers than other jurisdictions (Rui & Soreide, 2018). Since 1999, these enforcers account for 80 per cent of enforcement actions and over 90 per cent of all non-trial resolutions (Rui & Soreide, 2018).

The advancement of the non-criminal process in countering corporate corruption in many jurisdictions is not free from any criticisms. There is concern that deferred prosecution and non-prosecution agreements limit the deterrent value of the law enforcement efforts and extinguish the societal condemnation that should accompany criminal prosecution (Alexander & Cohen, 2015). Further, DPAs are "agreements that typically do not provide judicial review of implementation or any alleged breach, and they often require the organisation's permanent future cooperation" (Alexander & Cohen, 2015).

In Malaysia, examples of cases where *mens rea* is essential for proof of guilt of a company include Yu Sang Cheong Sdn Bhd v PP [1973]2 MLJ 77, PP V Kedah & Perlis Ferry Services Sdn Bhd [1978] 2 MLJ 221 and Dunlop Malaysian Industries v PP [1985] 1 MLJ 313. On 1 June 2020, the Malaysian Anti-Corruption Commission (MACC) Act 2009 introduced a new Section 17A on corporate liability offence, inspired by Section 7 of the United Kingdom Bribery Act 2010. The objective is to encourage business activities to be conducted with integrity, promote good governance practices in organisations, and not to punish business organisations. The enactment of Section 17A of the MACC Act 2009 does not come together with the deferred prosecution agreement (DPA) as a non-criminal alternative, but some have called for their introduction (Mlex a Lexis Nexis Company, 2019). The critic claims that while the legislative objectives of preventing bribery are well stated, these goals may be better and more effectively achieved by introducing a complementary system of DPAs (Ferguson, 2018). However, the MACC Act 2009 does provide power to seize movable and immovable property for which there are reasonable grounds to suspect to be the subject matter of an offence or evidence relating to the offence is liable to seizure (Soon, n.d.).

Thus, the objective is to analyse the DPA in light of the current jurisdiction initiatives of recognising non-criminal alternatives to meet the aim of corporate corruption liability law.

The research is significant to determine the adequacy and compatibility of non-criminal alternative in the form of DPA in regulating corporate criminal liability law for corruption offences in Malaysia. The research is pertinent to propose improvements for implementing corporate criminal liability law for corruption offences in Malaysia. The improvements can further serve the interest of corporations and meet the objective of corporate criminal liability law for corruption offences in Malaysia.

Concept

Within the global context, the existing literature on applying non-criminal alternatives in the form of DPAs indicates that non-criminal alternatives are being applied in many jurisdictions with promising results for ensuring corporate compliance. For example, in the United States, Gipson Dunn's legal firm had identified approximately 532 corporate non-prosecution agreements and DPAs initiated by the Department of Justice and ten initiated by the U.S. Securities and Exchange Commission ("SEC") (Dunn, 2020). Similar trends of non-criminal alternatives can be traced worldwide as a non-prosecution agreement shines as one of the alternatives for a full criminal trial. In the United Kingdom, since 2015, nine corporations have reached a DPA with the Serious Fraud Office for matters involving overseas bribery (Lord, 2022). However, the literature also suggests that applying non-criminal alternatives is not free from any challenges and impediments. For instance, DPAs have exacerbated the disparity between the poor and the rich in the American legal system (Parker & Dodge, 2022). Questions have also arisen about the magnitude and potential collateral consequences of monetary and non-monetary sanctions under non-criminal alternatives and the efficiency and ultimate deterrent effect of these alternative settlement vehicles (Alexander & Cohen, 2015).

Within the Malaysian context, scarce literature on non-criminal alternative in the form of DPA suggests a need for the proper analysis of the applicability of the implementation of the said process in Malaysia. Early literature in Malaysia suggests that the lacuna in Malaysian law exist on DPA. With a DPA in place, it may avoid criminal prosecution of large corporations, which causes significant harm to innocent third parties and shareholders (Parker & Dodge, 2022). DPAs should be explored, as many of the negative implications of prosecution and conviction may be avoided by companies (Luth, 2021). Examples are potentially long periods of uncertainty, reputational damage, debarment from public contracts and funding, and delicensing or banning certain business activities (Luth, 2021). In the United Kingdom, the Crime and Courts Act 2013 created provisions for the use of DPAs in cases of corporate financial crime, including bribery, as a means of enabling the avoidance of prosecution and conviction for those companies deemed low risk in recognition of the difficulties in prosecuting large corporations and insufficient resources to do so (Lord, 2022). In proper circumstances, a DPA might serve the public interest, the business organisation's interests, and the shareholders' interests. The complexity of corporate operations and structures and the historically privileged position of businesses contribute to the issue (Luth, 2021). According to the then head of MACC, Latheefa Koya, Malaysia should adopt DPAs before enforcing its failure-to-prevent-bribery offence, as otherwise, it will be a complicated process to prosecute (Mlex a Lexis Nexis Company, 2019). However, there is little local literature on gthe application of the non-criminal alternative in the form of a DPA after the statement. Across both private and public law venues, enforcing corporate responsibility through judicial processes is challenging (Luth, 2021). As stated earlier, the existing law governing corporate criminal liability for corruption offences in Malaysia is under Section 17A of the MACC Act

2009. Section 17A of the MACC Act 2009 should be complemented with a non-criminal alternative in the form of a DPA to meet the objectives of corporate corruption law. In light of the deficiency of the current legal framework, research must be conducted to investigate the application of the new non-criminal alternative in the form of a DPA in regulating corporate criminal liability for corruption offences in Malaysia. Such research aims to enhance the application of the corporate criminal liability for corruption offences in Malaysia by proposing a new law on non-criminal alternative in the form of a DPA to complement the corporate criminal liability for corruption offences under Section 17A of the MACC Act 2009. Hence, it is imperative that the applicability of the non-criminal alternative, with particular emphasis on DPA in regulating corporate criminal liability for corruption offences in Malaysia, be investigated.

International Position

Since the 90s, regional and international attempts have been made to curb bribery and corruption (Adeyeye, 2017). In 1977, the United States enacted the Foreign Corrupt Practices Act, which makes payments to foreign government officials to assist in obtaining or retaining business unlawful. The enactment ignited a global anti-corruption movement to combat public bribery worldwide (Boles, 2014). The enactment of the Foreign Corrupt Practices Act 1977 was in response to the United States Securities and Exchange Commission ("SEC") exposing more than $300 million of "questionable payments" American companies made to government officials abroad (Saglibene, 2014). Private bribery was not addressed (Saglibene, 2014). The Organisation for Economic Co-operation and Development (OECD) Convention on Combating Bribery of Foreign Public Officials in International Business Transactions ("OECD Anti-Bribery Convention") was established in 1999 (Transparency International, n.d.). The purpose of the OECD Anti-Bribery Convention is to promote transparency domestically and international cooperation in the fight against bribery (Lordi, 2012). In 2003, the United Nations Convention against Corruption (UNCAC), which is a landmark international anti-corruption treaty, was adopted by the United Nations in 2003 (Kurniawan, 2020) and entered into force in 2005 (Anti-Slavery International (Klara Skrivankova) Transparency International (Gillian Dell) & United Nations Office on Drugs and Crime (Larson, 2011). There are five main chapters of UNCAC: preventive measures, criminalisation and law enforcement, international cooperation, asset recovery and technical assistance and information exchange (U4 Anti-Corruption Resource Centre, 2017).

Having signed the UNCAC on 9 December 2003 and ratified the UNCAC on 9 February 2006, the United Kingdom introduced the United Kingdom Bribery Act 2010, highlighting the United Kingdom's effort to take the lead in the international fight against bribery and corruption (Gawronski, 2012). It entered into force on 1 July 2011 and replaced a group of previous anti-bribery laws in the United Kingdom. In many aspects, the law goes beyond the scope of the United States Foreign Corrupt Practices Act 1977 in many ways. It also criminalises intermediary payments and corruption in the private sector (Kobets, 2020). It imposed a duty to prevent bribery only on corporations by enacting an independent criminal offence for a failure to prevent it (Lederman, 2020). The duty to prevent refers to “a person associated with [the corporation]” which is defined as “(a) an employee… (b) an agent… or (c) any person who performs services for or on behalf of [the corporation]…" if such a person acted in his capacity at the time of committing the offence. This definition is quite broad; in addition to employees of the corporation, the definition encompasses independent contractors who committed the

offences as agents, distributors, service providers, or suppliers of the corporation (Lederman, 2020). No contractual connection or control is necessary between the "associated person" and the reference institutions (Yeoh, 2012). Before the passing of the United Kingdom Bribery Act 2010, the United Kingdom's existing laws associated with bribery required the application of the identification standard to convict businesses for most criminal offences. Bribery generally happens in the lower hierarchy of corporations or institutions, which poses considerable difficulties (Yeoh, 2012). Section 7 provides for a new offence without the identification standard directed at business organisations to make them criminally liable on a vicarious liability basis for offences incurred by persons acting on their behalf. It makes it a strict liability offence for corporations for failures to deter or prevent bribes incurred on behalf of the corporations (Yeoh, 2012). Section 7(2) of the United Kingdom Bribery Act 2010 provides a mechanism for defence, where business organisations must have “adequate procedures” in place. The “adequate procedures” that qualify for the defence consisted of six principles which are intended to recognise risks of bribery and promote the implementation of anti-corruption policies, which include: (1) risk management (knowing and keeping up to date with bribery risks that companies face in their sectors and markets); (2) top level commitment (encourages that company to adopt a culture where bribery is unacceptable; (3) due diligence (know who companies do business with and why funds are being released and seeking reciprocal anti-bribery agreements); (4) clear, practical, and accessible policies and procedures (apply policies to everyone under the company's control which cover all such risks including political and charitable contributions, gifts and hospitality, promotional expenses, etc.); (5) effective implementation (companies go beyond paper compliance, for example, embedding anti-bribery in the organisations internal controls, recruitment and remuneration policies, operations, communications, and training on practical business issues) and; (6) monitoring and review (verification and transparency of auditing and financial controls that are sensitive to bribery) (Belch, 2014). Australia is also following in the same footstep. The Crimes Legislation Amendment (Combatting Corporate Crime) Bill 2019 was introduced into its Senate on 2 December 2019. The DPAs are likely to be implemented, wherein the goal is that the DPAs will lessen the risks and expenses of criminal investigation and adjudication and prove to be a more efficient means of addressing corporate misbehaviour (Campbell, 2021).

Regional Position

The fight against corruption is captured in the 2017 ‘Recommendations of the Regional Conference on Fast-Tracking the Implementation of the United Nations Convention against Corruption in Southeast Asia Bangkok’(The United Nations Office on Drugs and Crime (UNODC), 2017). It highlights the importance of strengthening anti-corruption efforts in the priority areas, namely, strengthening the capacities for detecting, investigating and prosecuting corruption at the national and international level; preventing money laundering; preventing and detecting the transfer of proceeds of crime and recovering stolen assets, and preventing corruption and enhancing transparency and accountability of public services (The United Nations Office on Drugs and Crime (UNODC), 2017). Concerning the effort to combat private sector corruption, the United Nations Office of Drug and Crimes (UNODC) facilitated a 'Memorandum of Understanding between the ASEAN Corporate Social Responsibility Network (ACN) and chambers of commerce in the Southeast Asian region' (Balasingam & Rukumani, 2020). It creates a private partnership agreement with ‘Regional Working Group on Promoting Business Integrity in ASEAN’ to mainstream the private sector collective action

against corruption among its members (Balasingam & Rukumani, 2020). Corruption has become a concern in ASEAN and has hampered the region's economic success (Yuan & Ishak, 2022). Accordingly, in order to stimulate economic growth in the ASEAN region, ASEAN nations must strengthen the investment climate and law enforcement in the battle against corruption (Yuliadi & Rachmawatie, 2022).

Malaysian Position

In Malaysia, the corruption level in the corporate sector in Malaysia is worrying. Based on the statistics revealed by the MACC, between 2014 and 2018, a total of 782 individuals were arrested by MACC out of the 900 investigation papers opened by the MACC for corruption (Bernama, 2020). As of April 2022, the MACC has opened a total of 379 investigation papers and arrested 425 individuals related to corruption, money laundering and Penal Code offences as of April 2022 (Bernama, 2022).

The Government of Malaysia is committed to preventing and controlling corruption. Several national initiatives have been made, beginning with the National Integrity Plan (PIN), which was launched in April 2004 (National Centre for Governance Integrity and Anti Corruption (GIACC) Prime Minister's Department Malaysia, 2019), followed by the Government Transformation Programme (GTP) 1.0 and 2.0 which is on "Fighting Corruption". The National Anti-Corruption Plan 2019-2023 (NACP) is then developed to address issues on corruption and integrity (National Centre for Governance Integrity and Anti Corruption (GIACC) Prime Minister's Department Malaysia, 2019). In the international context, the NACP highlights Malaysia's commitment to achieving the Sustainable Development Goals (SDGs) agreed upon internationally to be undertaken by 2030. One of the goals, Goal 16: Peace, Justice and Strong Institutions, emphasises the importance of addressing corruption to achieve the SDGs. Goal 16 espouses the commitment to fight against corruption, increase transparency, tackle illicit financial flows and improve access to information.

In the Malaysian case of Public Prosecutor v. Datuk Haji Harun bin Haji Idris (No. 2)[1977] 1 MLJ 15, the word 'corrupt' was defined as '*doing an act knowing that the act done is wrong, doing so with evil feelings and evil intentions*' and '*purposely doing an act which the law forbids*'. The MACC Act 2009 uses the phrase 'gratification' where the offence is created when gratification is corruptly given.

A corporate liability provision in Section 17A of the MACC Act 2009 was newly enforced on 1 June 2020, allowing authorities to take action against business organisations whose employees have been found guilty of corruption. Published in the Gazette on 4 May 2018, in similar lines to the relevant provisions of the Bribery Act 2010 of the United Kingdom and the Foreign Corrupt Practices Act 1977 of the United States, the objective of Section 17A of the MACC Act 2009 is to address and curtail the problem of bribery by business organisations and their associated persons. By doing so, Malaysia fulfilled her obligations under Article 26 of the United Nations Convention Against Corruption (UNCAC), ratified in 2008 (Low & Low, 2020). Section 17A of the MACC Act 2009 ensures that corporations take responsibility for corruption in their sector. Previously, no companies could be held liable for graft or corruption, as only employees could be charged for offences under the MACC Act. The implementation of Section 17A of the MACC Act 2009 illustrates the seriousness of Malaysia's effort to regulate and prevent corruption in business organisations, demonstrating the government's determination to regulate corruption affecting business organisations through legislation.

The NACP is an anti-corruption policy in Malaysia which reflects the people's expectations for a greater corrupt-free nation that promotes transparency, accountability and integrity culture in every Malaysian. This integrated anti-corruption plan is in line with Article 5 of the UNCAC, whichMalaysia is a member party. The "National Anti-Corruption Strategies: A Practical Guide for Development and Implementation" by the United Nations Office on Drugs and Crime (UNODC) guided the NACP (National Centre for Governance Integrity and Anti Corruption (GIACC) Prime Minister's Department Malaysia, 2019).

The Way Forward

Criminal enforcement is the most severe sanction available for corporations, and thus, it is reserved for organisations that engage in the most severe conduct, where prosecutors can gather sufficient evidence (Soltes, 2019). Even after considering deferred and non-prosecution agreements, which have been subjected to considerable scrutiny, criminal prosecution of publicly traded firms is uncommon (Soltes, 2019).

Literature contends that criminal law and criminal justice mechanisms (enforcement, investigation, prosecution, trial and sanctions) do not deliver justice (King & Lord, 2018). Hence, negotiated settlements and the accommodation of corporate wrongdoing are increasingly being applied (King & Lord, 2018). In responding to corporate crime, the criminal justice system is challenging to use and not particularly successful, resulting in wrongdoing on the part of corporates being 'differentially enforced' (King & Lord, 2018). For example, in the context of corporate bribery in the United Kingdom, where preference for negotiation and civil settlement is available when at the same time the law criminalises corporate bribery of foreign public officials, prosecutions for such an offence are relatively rare (King & Lord, 2018).

A DPA ensures that the company remains operational and the wrongdoing is corrected (Alexander & Cohen, 2015), as it allows corporations to perform a self-report mechanism when it becomes aware of potential crime within its business (King & Lord, 2018). When a company opts for a DPA, it will agree to compensate the losses suffered by the victim by fine instead of imprisonment of the person responsible for the crime (Alexander & Cohen, 2015).

However, critics argued that it is not justifiable to provide an excuse for ignoring criminal law for corporate liability offences in corruption as any difficulties must instead be addressed (King & Lord, 2018). The prosecutors tend to impose terms on corporations rather than enter into good faith negotiations that result in a voluntary or more tailored agreement (Cunningham, 2013). For a DPA to be able to be applied as an alternative, it must be executed with transparency for the interest of both the public and the corporations (King & Lord, 2018).

Thus, it is now very suitable to analyse DPA as a non-criminal alternative to determine its adequacy and compatibility with the current law on corporate corruption offences in Malaysia. It is significant to ensure the very objective of implementing corporate corruption liability offences which is to encourage business activities to be conducted with integrity and to promote good governance practices in business organisations, and not solely to punish business organisations, is met. To the prosecutors, the DPA provides them with an alternative to declination, plea bargaining, and a criminal trial. In addition, it enables prosecutors to require corporate transformation by instituting structural improvements, ethical rules, and

internal monitors (Parker & Dodge, 2022). Corporations will also benefit from the availability of DPAs. They will be exempted from the collateral repercussions that a company's conviction often entails (Grasso, 2016). Innocent employees, taxpayers, and even customers might pay a hefty price if a company goes out of business following a trial (Grasso, 2016). Indeed, corporate prosecution can have an unfair impact on competition, lead to the loss of employment, and have a detrimental effect on local economies (Grasso, 2016).
The new Section 17A of the MACC Act 2009 came into force without the mechanism of a DPA, whereas the experience and track records of the United Kingdom and the United States highlighted that such a mechanism is indeed crucial to ensure the purpose of the law is met. The interest of business organisations is also taken into consideration.

Thus, based on the gaps in the literature, the research must be carried out to fill in the gaps by examining the adequacy of the legal framework on the corporate corruption liability law vis-à-vis the non-criminal alternative in the form of a DPA.

Conclusion

Identifying impediments in the current legal framework is vital to ensure justice is served and business organisations will be in compliance with ethical business behaviour. Thus, the interest of stakeholders, namely the employees, the customers, the shareholders and the communities, are protected. No business organisations wish to be prosecuted, as the legal consequences are severe if convicted.

Contribution

The authors hope that this paper will contribute to academic discussion on understanding the concept of DPA and its application as an alternative legal mechanism in corruption offences cases in Malaysia. The study is significant to enhance the efficacy of the legal framework on corporate criminal liability for corruption offences in curbing corruption among business organisations towards promoting business activities with integrity as well as good governance practices in Malaysia. Most significantly, this research is congruent with the NACP, a Malaysian anti-corruption policy designed to address concerns of corruption and integrity.

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