

CURRENT ESSENTIAL ISSUES IN THE MALAYSIAN LAW OF EVIDENCE

Editor
Akram Shair Mohamed

IIUM PRESS
INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA



CURRENT ESSENTIAL ISSUES IN THE MALAYSIAN LAW OF EVIDENCE

Editor

Mohd Akram Shair Mohamed



IIUM Press

Published by:
IIUM Press
International Islamic University Malaysia

First Edition, 2011
© IIUM Press, IIUM

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without prior written permission of the publisher.

Perpustakaan Negara Malaysia Cataloguing-in-Publication Data

Professor Dr. Mohd Akram Shair Mohamed
Current Essential Issues In The Malaysian Law Of Evidence
Professor Dr. Mohd Akram Shair Mohamed
Include Index
ISBN 978-967-418-224-3

ISBN 978-967-418-224-3

Member of Majlis Penerbitan Ilmiah Malaysia - MAPIM
(Malaysian Scholarly Publishing Council)

Printed by:
IIUM PRINTING SDN. BHD.
No. 1, Jalan Industri Batu Caves 1/3,
Taman Perindustrian Batu Caves,
Batu Caves Centre Point,
68100 Batu Caves,
Selangor Darul Ehsan

Contents

Foreword	vii
Author's Profile	ix
Chapter 1 : <i>A Brief Critical Appraisal of the Hearsay Rule</i> <i>Mohd Akram Shair Mohamed & Zulfakar Ramlee</i>	 1
Chapter 2 : <i>Entrapment as a Defence: A Brief Overview of the Law in England, Australia, Canada, New Zealand, Malaysia, Singapore and USA</i> <i>Mohd Akram Shair Mohamed & Mohammad Ismail Mohd Yunus</i>	 13
Chapter 3 : <i>Evidence of an Accomplice : Does it Require Corroboration?</i> <i>Mohd Akram Shair Mohamed</i>	 19
Chapter 4 : <i>Standard of Proof Required to Prove Fraud in Civil Cases</i> <i>Mohd Akram Shair Mohamed</i>	 29
Chapter 5 : <i>Judicial Exegesis of the Term Prima Facie Case in Section 180 of the Amended Criminal Procedure Code</i> <i>Mohd Akram Shair Mohamed</i>	 37
Chapter 6 : <i>Presumption of Legitimacy Under Section 112 of the Evidence Act 1950</i> <i>Leptospirosis</i> <i>Mohd Akram Shair Mohamed & Zulfakar Ramlee</i>	 45
Chapter 7 : <i>Shedding the res gestae Doctrine of its Legally Formalistic Fetters</i> <i>Mohd Akram Shair Mohamed & Shahnaz Zuriati Sabri</i>	 53

Chapter 8 :*The Admissibility of Unfair or Illegally Obtained Evidence:**A Brief Overview*

65

*Mohd Akram Shair Mohamed & Shahnaz Zuriati Sabri***Chapter 9 :***The Nature and Scope of Marital Privilege Under**the Evidence Act 1950*

73

*Mohd Akram Shair Mohamed***Chapter 10 :***The Role of Corroboration under the Evidence Act 1950*

81

*Mohd Akram Shair Mohamed & Zulfakar Ramlee***Chapter 11 :***The Evidential Weight of Document Generated by Computer:**A Comparative Legal Appraisal*

87

Mohd Ismail Mohd Yunus

Chapter 11

THE EVIDENTIAL WEIGHT OF DOCUMENT GENERATED BY COMPUTER: A COMPARATIVE LEGAL APPRAISAL

Mohd Ismail Mohd Yunus

Introduction

“In this age of science, science should expect to find a warm welcome, perhaps a permanent home, in our courtrooms... Our decisions should reflect a proper scientific and technical understanding so that the law can respond to the needs of the public”.¹

¹ Justice Stephen Breyer of the US Supreme Court on “Science in the Courtroom”, delivered in Feb. 1998 at the Annual Meeting of the American Association for the Advancement of Science (AAAS).