



EVIDENCE LAW ADRIFT

Mirjan R. Damaška

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Mirjan Damaska



Evidence Law Adrift:

Evidence Law Adrift Mirjan R. Damaška, 1997 In this important book a distinguished legal scholar examines how the legal culture and institutions in Anglo American countries affect the way in which evidence is gathered sifted and presented to the courts Mirjan Damaska focuses on the significance of the divided tribunal between judge and jury the concentrated character of trials day in court justice and the prominent role of the parties in adjudication the adversary system Throughout he contrasts the Anglo American system with civil law justice where lay fact finders sit with professional judges in unified tribunals proceedings are episodic rather than concentrated and the parties have fewer responsibilities than in the common law tradition

Evidence Law Adrift Mirjan Damaska, 2013-09-01 In this important book a distinguished legal scholar examines how the legal culture and institutions in Anglo American countries affect the way in which evidence is gathered sifted and presented to the courts Mirjan Damaska focuses on the significance of the divided tribunal between judge and jury the concentrated character of trials day in court justice and the prominent role of the parties in adjudication the adversary system Throughout he contrasts the Anglo American system with Continental or civil law justice where lay fact finders sit with professional judges in unified tribunals proceedings are episodic rather than concentrated and the parties have fewer responsibilities than in the common law tradition Damaska describes the impact of the traditional institutional environment on the gathering and handling of evidence in common law jurisdictions and then explores recent transformations of this environment trial by jury has dramatically declined pretrial proceedings have greatly proliferated the adversary system shows signs of weakening in some types of cases As a result many rules and practices supporting the treatment of evidentiary material are in danger of becoming extinct In addition says Damaska the increasing use of scientific methods of inquiry could place further strains on the use of traditional common law evidence In the future we should expect greater variety in decisionmaking activity with factual inquiries tailored to the specific type of proceeding and common law evidence restricted to a narrow sphere

A Philosophy of Evidence Law H. L. Ho, 2008-03-06 This book examines the legal and moral theory behind the law of evidence and proof arguing that only by exploring the nature of responsibility in fact finding can the role and purpose of much of the law be fully understood Ho argues that the court must not only find the truth to do justice it must do justice in finding the truth

Scottish Criminal Evidence Law Peter Duff, 2018-12-31 Why did Enlightenment happen in Edinburgh

Crime, Procedure and Evidence in a Comparative and International Context John D Jackson, Maximo Langer, 2008-09-29 This book aims to honour the work of Professor Mirjan Dama ka Sterling Professor of Law at Yale Law School and a prominent authority for many years in the fields of comparative law procedural law evidence international criminal law and Continental legal history Professor Dama ka s work is renowned for providing new frameworks for understanding different legal traditions To celebrate the depth and richness of his work and discuss its implications for the future the editors have brought together an impressive range of leading scholars from different jurisdictions in the fields of

comparative and international law evidence and criminal law and procedure Using Professor Dama ka s work as a backdrop the essays make a substantial contribution to the development of comparative law procedure and evidence After an introduction by the editors and a tribute by Harold Koh Dean of Yale Law School the book is divided into four parts The first part considers contemporary trends in national criminal procedure examining cross fertilisation and the extent to which these trends are resulting in converging practices across national jurisdictions The second part explores the epistemological environment of rules of evidence and procedure The third part analyses human rights standards and the phenomenon of hybridisation in transnational and international criminal law The final part of the book assesses Professor Dama ka s contribution to comparative law and the challenges faced by comparative law in the twenty first century **Review Essay:**

More Than 'just' Evidence Nora V. Demleitner,1999 *Principles of Evidence in International Criminal Justice* Karim A. A. Khan,Caroline Buisman,Christopher Gosnell,2010 *Principles of Evidence in International Criminal Justice* provides an overview of the procedure and practice concerning the admission and evaluation of evidence before the international criminal tribunals The book is both descriptive and critical and its emphasis is on day to day practice drawing on the experience of the Yugoslavia Rwanda and Sierra Leone Tribunals This book is an attempt to define and explain the core principles and rules that have developed at those ad hoc Tribunals the rationale and origin of those rules and to assess the suitability of those rules in the particular context of the International Criminal Court which is still at its early stages The ICC differs in structure from the ad hoc Tribunals and approaches the legal issues it has to resolve differently from its predecessors The ICC is however confronted with many of the same questions The book examines the differences between the ad hoc Tribunals and the ICC and seeks to offer insights as to how and in which circumstances the principles established over years of practice at the ICTY ICTR and SCSL may serve as guidance to the ICC practitioners of today and the future The contributors represent a cross section of the practising international criminal bar drawn from the ranks of the Bench the Prosecution and the Defence and bringing with them different legal domestic cultures Their mixed background underlines the recurring theme in this book which is the manner in which a legal culture has gradually taken shape in the international Tribunals drawing on the various traditions and experiences of its participants **The Exclusionary Rule of Evidence**

Kuo-hsing Hsieh,2016-03-16 This groundbreaking monograph asserts the need for the establishment of an exclusionary rule of evidence in China as a means of protecting the people from police wrongdoing The author skilfully explores the foundations and developments of the exclusionary rule in the UK and USA assessing the rule from a comparative perspective and illuminating some issues that may arise in transferring the rule from one legal system to another Divided into two parts the first part discusses lessons from the past and provides an in depth examination of the development of the exclusionary rule in the UK and USA covering rationales debates and the theoretical foundation of the exclusionary rule in the constitutional context The second part looks to the future and the establishment of a Chinese exclusionary rule Specifically it

analyses the effects of police torture the passive attitude of judges and the need to establish such a rule in practice for future protection of human rights The author s experience in criminal law and procedure allow him to adroitly analyse crucial issues on both theoretical and practical level that is understandable to those working in the areas of human rights comparative criminal procedure and the Chinese legal system Proof, Evidence and Hate Crime Tshepo Bogosi Mosaka,2025-07-18

Proof is the property of a disputed fact being established inferentially from an extant fact This book explicates the structural components of this phenomenon in the context of hate crimes across various jurisdictions around the world It departs from the orthodox conception of evidence and proof as being a general value neutral or non normative and epistemic subject and offers a relativistic conception of this area of law The core argument is that proof is both semantically and methodologically determined by three conditions of materiality process and probativity This argument is then justified by the context specific application of this relativistic theory of proof to hate crimes This theoretical application of proof is sustained throughout the book using multiple examples and illustrations of hate crimes around the world The discussion both at the level of proof and hate crimes while focusing on the grounds of race religion and ethnicity specifically is framed in jurisprudential cross jurisdictional and interdisciplinary terms The book will be of interest to academics and researchers working in the areas of criminal law legal philosophy and procedural law **Evidence** Roderick Munday,2022 Munday s Evidence provides students with a concise yet analytical introduction to the law of evidence Vibrant and engaging this invaluable text is the ideal guide to this challenging subject *Evidence* Andrew Choo,2012-04-12 Choo s Evidence provides a lucid and concise account of the principles of the law of civil and criminal evidence in England and Wales Critical and thought provoking it is the ideal text for undergraduate law students Evidence Roderick J. C. Munday,Roderick Munday,2007 Evidence is a complex and ever changing subject This manual deals with all the main principles and cases It is completely up to date and covers all recent developments in law and practice **Evidence in the Psychological Therapies** Chris Mace,Stirling Moorey,Bernard Roberts,2005-08-19 Evidence based practice is likely to determine standards for publicly and insurance funded psychotherapies in the near future How should practitioners prepare themselves for this Evidence in the Psychological Therapies takes a critical look at the meaning of evidence It examines which kinds of evidence are most relevant to psychological therapies and Mow the quality of evidence can be assessed The potential impact of evidence on practice is illustrated across a range of clinical settings and therapeutic models The contributors include distinguished academics in law and philosophy clinical researchers who have contributed to the evidence base for psychological therapies and prominent therapists who have put research into practice and pioneered effective methods of audit This accessible discussion of a topic no practitioner can ignore is recommended to all psychotherapists including psychoanalysts CBT therapists psychiatrists clinical psychologists counsellors and those in training *Evaluation of Evidence* Mirjan Damaška,2019 Well chosen negative legal proof rules can be useful procedural safeguards They existed in both pre modern and modern criminal

present for fact finding in international criminal trials It draws conclusions about the extent to which particularized evidentiary rules for expert evidence in international criminal trials is wanting Based on comparative analyses of relevant national practices the book proposes procedural improvements to address some of the challenges associated with the use of expertise in international criminal trials *Feminist Perspectives on Evidence* Mary Childs,Louise Ellison,2000-12-19 This text offers a collection of essays examining various aspects of the law of evidence Each chapter provides a feminist critique of some aspect of evidence scholarship and evidence law Much has been written about evidence and about feminist legal theory this text explores their intersection Criminal Procedural Trial in China Gao Yong,2024-08-06 This book examines procedural trials using the procedure of excluding illegal evidence as an example Criminal trials include both substantive and procedural trials The former focuses on the criminal responsibility of the defendant while the latter aims to resolve procedural disputes between the prosecution and the defense The illegal evidence exclusion process is a typical procedural trial that examines the lawfulness of evidence taking and excludes illegally obtained evidence The object of the study is the procedural rules of excluding illegal evidence in China This book is innovative in that it examines the nature function subject matter and litigation structure of procedural trials and the relationship between procedural and substantive procedures Moreover the book compares various countries procedure of excluding illegal evidence and examines the initiation trial rules of evidence and appeals of the procedure of excluding illegal evidence in China

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