THE LAW OF CHILD WITNESS IN MALAYSIA: A REFORM PROPOSAL OF THE EVIDENCE OF CHILD WITNESS ACT 2007 (ACT 676)

By

Ameera Mastura binti Khamis (2008708139) Amira binti Abd Aziz (2008773183) Sara Aisha binti Mohd Isa (2008749341)

Submitted in Partial Fulfillment of the Requirements for the Bachelor in Legal Studies (Hons)

Universiti Teknologi MARA Faculty of Law

April 2011

The students/authors confirm that the work submitted is their own and that appropriate credit has been given where reference has been made to the work of others.

ACKNOWLEDGEMENT

In the name of God, the most Compassionate, The Merciful, Praise to God, The Lord of the Universe and May the Blessing And Peace of God be upon his Messenger

First and foremost, is our thank to God, our constant guide, who has shown us that even in moments of despair, faith and efforts will prevail over any hardships thrown our way.

So many people helped and inspired us in the completion of this research that it would be impossible to adequately thank them all.

Bunch of thanks to our supervisor, Puan Mazlina Mahali, for her guidance during this research, her perpetual energy and enthusiasm in this research had motivated all her advisees. Moreover, she was always accessible and willing to help her students with their research. As a result, research journey became smooth and rewarding for us. Her wide knowledge and her logical way of thinking have been a great value for us. Her understanding, encouraging and personal guidance have provided us an excellent basis in continuing our research.

We dedicated our sincerest appreciation to Puan Nurasiyah Chua Abdullah, our previous lecturer for her detailed observations and constructive comments, and for her significant support throughout this work.

We owe our most sincere gratitude to the following people for the insightful comments on the drafts made throughout, the conclusion of our research:

 a) Deputy Public Prosecutor (DPP) Yong Leou Shin, DPP Dalira Din, DPP Che Rohana Ismail, DPP Faridah Nurdinie Bahram, DPP R Kalaiyarasi d/o Rajasekaran, DPP Faten Hadni Khairuddin and DPP Mohd Nordin, the Deputy Public Prosecutors of State of Selangor

ABSTRACT

This research analysed the weaknesses of the Evidence of Child Witness Act 2007 (Act 676) and to give recommendations with the intention to reform on the weaknesses of the said Act. The first chapter goes into the essence and structure of the research. All the necessary conceptual features are introduced to ensure the readers to understand about the research. The second chapter focused on the content of Act 676 which was analysed by the researchers entirely. In the third chapter, the researchers pointed out some relevant issues of evidence of a child which consists of general principle of corroboration of child witness, nature of oath and issues and problems associated with child witness. The fourth chapter discussed on the findings based on the interview conducted. Our research concludes with the proposal to amend and reform the Evidence of Child Witness Act 2007 (Act 676) and some other recommendations to improve the evidence by child witness as well as the law in regards to child witness.

TABLE OF CONTENTS

Acknowledgement

Abstract

Table of Contents

Table of Legislation

CHAPTER ONE: INTRODUCTION

- 1.0 Introduction
- 1.1 Problem Statement
- 1.2 Research Objective
- 1.3 Research Methodology
 - 1.3.1 Library Based Research
 - 1.3.2 Internet Based Research
 - 1.3.3 Semi-structured Interview
- 1.4 Research Significance
 - 1.4.1 Academician
 - 1.4.2 Government
 - 1.4.3 Royal Malaysian Police
- 1.5 Research Scope and Limitation
 - 1.5.1 Time
 - 1.5.2 The Weaknesses of Evidence of Child Witness Act 2007 (Act 676) in Malaysia
- 1.6 Conceptual Features
 - 1.6.1 Accomplice
 - 1.6.2 Child Act 2001 (Act 611)
 - 1.6.3 Convention on the Rights of the Child (CRC)
 - 1.6.4 Criminal Procedure Code (Act 593)

1 (-	CI 11
1.6.5	Child

1.6.6 Child Witness

1.6.7 Child Protection Unit

1.6.8 Circumstantial Evidence

1.6.9 Corroboration

1.6.10 Corroboration Warning

1.6.11 Court of Judicature 1964 (Act 91)

1.6.12 Deputy Public Prosecutor

1.6.13 Evidence Act 1950 (Act 56)

1.6.14 Evidence of Child Witness Act 2007 (Act 676)

1.6.15 Intermediary

1.6.16 Interested Witness

1.6.17 Interviewer

1.6.18 Live Link

1.6.19 Oaths and Affirmation Act 1949 (Act 194)

1.6.20 Penal Code (Act 574)

1.6.21 Police Act 1967 (Act 344)

1.6.22 Screening

1.6.23 Subordinate Courts Act 1948 (Act 92)

1.6.24 Sworn Evidence

1.6.25 Unsworn Evidence

1.6.26 Video Recording

1.6.27 Youth Justice and Criminal Evidence Act 1999

1.7 Concluding Remarks