

The Application of Article 7 Under the International Covenant on Civil And Political Rights in Taiwan : Focusing on the Preventive Confession By Torture

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Abstract

Based on the privilege against self-incrimination, the Criminal Procedural Code forbids the use of illegitimate interrogation tactics to secure confession. However, the crucial question is: can the government torture a suspect, under exigent circumstances, for the need of public safety? Within the global trend of counter terrorism, torture may appear to be a permissible option, or at the very least, not fully forbidden. In order to answer this major research question, this article examines international human rights covenant (the International Covenant on Civil And Political Rights; Convention for the Protection of Human Rights and Fundamental Freedoms) and domestic law, such as Constitution, criminal law, criminal procedural law, police regulations, to name only a few. Then it analyzes the legality of preventive torture, as well as the accountability following the use of such measures.

Keywords: torture, coercive interrogation, human dignity, necessity, self-defense, deadly forces, the duty of protection.

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