

A Study on the Principle of "Nemo Tenetur se Ipsum Accusare"

*Yu-Hsiung Lin**

Abstract

The Principle of "nemo tenetur se ipsum accusare" is a generally recognized criteria of human rights and it is a patrimony of Rule of Law which is commonly succeeded to all the countries, including Taiwan. However, there are full of controversies in the conception except for the vital content that no person shall be compelled in any criminal case to be a witness against himself. These controversies become issues to which all the domestic courts and international courts of human rights commonly face up. We start from the principle of "nemo tenetur se ipsum accusare", analyze how the European Court of Human Rights actually put the transnational criteria of human rights into practice on the basis of European Convention on Human Rights and important judgement of European Court of Human Rights, and how they affect the integration for criminal law and criminal procedural law of European Union. Finally, we should return to ponder that we can get any inspiration from the results of the integration in this stage in our law, which succeeded occidental legal system in the history.

Keywords: nemo tenetur, nemo tenetur se ipsum accusare, right to remain silent, privilege against self-incrimination, Corpus Juris, European Court of Human Rights, European Convention on Human Rights