

Developments in the Law in 2013: Criminal Procedure Law

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Abstract

After “Act to Implement the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights (hereafter the two Covenants)” promulgated in 2009, human rights protection provisions in the two Covenants have domestic legal status. According to Art. 3 of the Act, applications of the two Covenants should make reference to their legislative purposes and interpretations by the Human Rights Committee, and since the interpretations made by European Court of Human Rights were frequently referred to Human Rights Committee, the article also takes a notice of the judgments and decisions from the Court.

The primary purposes of this article are to emphasize the domestic legal adjusification toward international human rights treaties. In order to clearly demonstrate its developments, a numbers of Supreme Court criminal judgments regarding to fundamental human rights were taken as study sources. Therefore, this article pays attention to the statutes of ICCPR which closely related to criminal procedures (e.g. Art. 6, 7, 14 ICCPR) and the general comments thereof so as to examine the judicial practice on its implementations.

Aiming at examining domesticization of international human rights instruments, the article focuses on three topics: 1. Mental Disorders and prohibition against death Penalty; 2. The right to examination and hearsay rules; 3. International legal assistance and record of interrogation made by public security (China). Each of the three topics will be analyzed in the light of its theoretical and practical aspect and finishes with a separate conclusion.

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