

Abstract

Oral evidence plays a very important role in finding facts in cases as a witness is a person who provides facts they have known to a judge. The judge will receive reliable, correct and complete information; therefore, can fairly judge a case. A witness who is a father, a mother and a child of the accused is deemed as evidence in finding facts. However, investigation of this type of witness makes them feel uncomfortable as they have to do things that can ruin relationships in the family. It may directly affect the fairness in judging because a witness may provide false information or they will avoid being a witness.

This project intends to study about the right of not being a witness of a father, a mother and a child of the accused in foreign countries. The project will study approach and development of the right for not being a witness of a father, a mother and a child of the accused, scope, exemption and right renouncement by comparing with the law of Thailand. The data received from academic documents have been analyzed, the issue has been concluded and the solutions have been proposed.

The result of the study shows that the Thai law does not say anything directly about the right of not being a witness for a father, a mother and a child of the accused. Moreover, statement and testimony of a witness who is a father, a mother and a child of the accused who brings negative effect to the accused can also be used as evidence for the punishment of the accused in court. It shows that the government does not care how more or less the effect will follow or how much it will affect the status of a father, a mother and a child of the accused. When comparing with the foreign law, especially, the law of the United States which gives the right to a witness who is a father, a mother and a child of the accused for not giving information or not accusing or not disclosing confidential information of the accused for the sustenance of peace and trust in the family. Although the family and clan relationships system in Thailand seems to be deeper, tighter and more harmonious than that of the American society, nothing prescribed about the right of not being a witness for a father, a mother and a child of the accused. I; therefore, think that the right of a father, a mother and a child of not being a witness and the right of not

disclosing confidential information of the accused should be brought and used in Thailand. The additional part can be added to part of evidence of the criminal procedure code. The right is given to a father and a mother who give birth, an adopted father and an adopted mother and a step mother as they are in the same family; therefore, they love and understand each other. Investigators or judges must notify the right to a father, a mother and a child of the accused in everytime that they have the right of not giving negative information and not disclosing confidential information of the accused. In case of violation, such a statement or testimony can not be used for judging. This right should not be renounced both in investigation and in court as doing so can destroy value of the family institution and in order to protect the unity and to prevent the conflict of family members.