

Thesis Title	Granting a Privilege to the Witness Being a Family Member of the Alleged Offender or of the Accused Person: Comparative Study between Common Law Countries and Civil Law Countries
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ABSTRACT

when a criminal offence is committed, the evidence plays an important role in proving that the alleged offender or the accused person is guilty of the offence; in particular, the oral evidence is deemed essential to the criminal proceeding. It is so because the witness helps explain the link between each of the occurrences. The court has admitted a testimony or a statement of the witness that is a family member of the alleged offender or of the accused person as an evidence and relied on it for imposing a punishment to the accused person. This results in problems such as problem of refusing to comply with the lawful writ and to come to the court, or of giving false testimony. Also, it leads to problem of a broken family as the family member loses trust in each other. In addition, it is a cause of crime which is a severe problem negatively affecting the society.

In order to solve those problems, the law of Civil Law Countries, such as the French Republic and the Federal Republic of Germany, and of Common Law Countries, such as the United State of America and England, have a provision granting a privilege to the witness. There is such provision even if it hinders inquiring into facts. The objective of prescribing so is to protect Social Value which is more important than inquiring of the witness.

Having studied the aforementioned privilege, the author finds that Division V of Thai Criminal Procedure Code (law on evidence) should be amended. The privilege should be granted to the witness that is a family member of the alleged offender or the accused person. In doing so, factors like political, economic, and social situations, culture, legal system, along with criminal policy of Thailand should be taken into consideration so that the witness privilege is effectively applied and is in conformity with the nature of Thailand.