

**The Implementation of the Right to Adequate Housing under
the International Covenant on Economic, Social and Cultural
Rights: in the Context of Judicial Yuan Interpretation No. 709
and Its Impacts to the Subsequent Cases**

William Hui-Yen Hsu *

Abstract

The right to adequate housing provided in Article 11 of the International Covenant on Economic, Social and Cultural Rights (hereinafter 'ICESCR') is totally strange to the system of constitutional rights. It was referenced in Judicial Yuan Interpretation No. 709. After the incorporation of ICESCR in Taiwan's domestic legal system, it was the first time the Constitutional Court referring to such ICESCR rights not provided in the Constitution. However, the norm of the right to adequate housing was treated as the legal basis for imposing restrictions on the people's rights to property and freedom of residence in Interpretation No. 709. This method of interpretation by the Constitutional Court deviated from the General Comments on the right to adequate housing made by the UN Committee on the Economic, Social and Cultural Rights and the practice of other Contracting Parties of the ICESCR. This misunderstanding of the right to adequate housing in the Interpretation might lead to the failure to meet the obligations of this right.

The purposes of this article are to analyze the normative content of the right to adequate housing and the obligations of the Contracting Parties, the legal status of this right in the constitutional framework, and the normative impacts of Interpretation No. 709 on the realization of adequate housing in subsequent court cases. In the concluding chapter, observations and assessment will be given

* Associate Professor of Law, Graduate Institute of Financial and Economic Law,
National Dong Hwa University.
E-mail: williamhsu@ndhu.edu.tw

regarding the implementation of the right to adequate housing in the judicial system of Taiwan.

Keywords: ‘International Covenant on Economic, Social and Cultural Rights’, right to adequate housing, freedom of residence, right to survival, forced eviction, Judicial Yuan Interpretation No. 709