

# Constitutional Violation Review of Test Cases and Litigation Rights Guarantees in Civil Litigation

*Shu-Huan Shyuu*

## Abstract

The test case system is unique to the judicial system of Taiwan, R.O.C. that differs from the British, United States, German and Japanese systems in that each judgment serves as a case for judgment precedent. As a result, the national constitutional system frequently inspires disputes over the permissibility of grand justice test cases as constitutional violation review. Furthermore, in the case of civil litigation, people also frequently claim, with the violation of their constitutionally protected litigation rights as the reason, that the test cases grand justices apply to interpret decision outcome verdicts violate the constitution. Accordingly, this paper aims to investigate how to define and position test cases in the nation's legal procedures, what type of judiciary-made law functionality it possesses and whether or not it should be subject to constitutional review. Additionally, this paper investigates how the fundamental procedural rights of the interested parties are to be guaranteed with the courts application and modification of test cases in implementing litigation right guarantees in specific civil litigation.

**Keywords:** Doctrine of the binding precedent, Review of constitutional violation, Judge-made law, Fundamental procedural rights, Right to request a timely trial