

J. Y. Interpretation No.38 (August 27, 1954) *

ISSUE: What is the intent of the phrase “hold trials in accordance with law” as used in Article 80 of the Constitution? Furthermore, may a county council abridge the freedom of the people while exercising its legislative powers?

RELEVANT LAWS:

Articles 23, 80, 124 and 125 of the Constitution (憲法第二十三條、第八十條、第一百二十四條、第一百二十五條) .

KEYWORDS:

independent adjudication (獨立審判) , ordinances and regulations (規章) , county council (縣議會) , constitutional or statutory authorization (憲法或法律之根據) .**

HOLDING: The aim of Article 80 of the Constitution is to ensure independent adjudication of judges, free from any interference. The term “in accordance with law” denotes that statutes are the primary basis of adjudication. It does not exclude ordinances and regulations that do not contradict the Constitution and statutes as a source of law. When a county

解釋文：憲法第八十條之規定旨在保障法官獨立審判不受任何干涉。所謂依據法律者，係以法律為審判之主要依據，並非除法律以外與憲法或法律不相牴觸之有效規章均行排斥而不用。至縣議會行使縣立法之職權時，若無憲法或其他法律之根據，不得限制人民之自由權利。

* Translated by Eric Yao-kuo Chiang.

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council performs its legislative function, it shall not abridge the freedoms and rights of the people unless there is a constitutional or statutory authorization.