
J.Y. Interpretation No. 175 (May 25, 1982)*

The Judicial Yuan's Power to Introduce Statutory Bills Case

Issue

Does the Judicial Yuan have the power to introduce statutory bills to the Legislative Yuan on matters within its authority?

Holding

The Judicial Yuan is the supreme judicial institution. Based on the constitutional principle of the Five Powers being separate and equal, the Judicial Yuan shall have the power to introduce statutory bills to the Legislative Yuan on matters within its authority concerning the organization of judicial institutions and exercise of judicial powers.

Reasoning (abridged translation)

[1] On the issue of whether the Judicial Yuan may introduce statutory bills to the Legislative Yuan on matters within its authority, J.Y. Interpretation No. 3 has clearly indicated, in Paragraph 3 of its Holding:

The Preamble of the Constitution states that this Constitution is created based upon the teachings bequeathed by Dr. Sun Yat-sen, who founded the Republic of China. The Five Yuans were instituted according to Article 53 (Executive), Article 62 (Legislative), Article 77 (Judicial), Article 83 (Examination), and Article 98 (Control) of the Constitution. Each Yuan is the highest governmental branch of

* Translation and Note by Jimmy Chia-Hsin HSU

State discharging its duties independently. Each is equal to the other Yuans within the scope of its respective powers, as originally bestowed by the Constitution. On matters within their respective authorities, the Control Yuan and the Judicial Yuan may introduce bills to the Legislative Yuan, out of similar business necessity to that of the Examination Yuan. If the Examination Yuan may introduce statutory bills to the Legislative Yuan on matters within its authority, there is no reason to argue that the Judicial Yuan and Control Yuan's power to introduce statutory bills to the Legislative Yuan on matters within their respective authorities were purposefully omitted or intentionally precluded in the Constitution. It is the Legislative Yuan alone that wields the power to deliberate on and approve the statutory bills. Yet it is neither unreasonable nor violative of any law for other Yuans, being more familiar with matters within their respective authorities, to introduce statutory bills to the Legislative Yuan and to provide their opinions on respective legislation.

It is clear that the Judicial Yuan may introduce statutory bills to the Legislative Yuan with regard to matters within its authority, despite the fact that J.Y. Interpretation No. 3 addressed the different yet related issue of whether the Control Yuan has the power to introduce statutory bills. The Judicial Yuan is the supreme judicial institution. Based on the constitutional structure of the Five Powers being separate and equal, the Judicial Yuan shall have the power and duty to introduce statutory bills to the Legislative Yuan on matters within its authority, for the purpose of enhancing the quality of legislation. Introduction of statutory bills merely initiates the legislative process and does not determine its final outcome. Exercise of both legislative and judicial powers will certainly benefit from such introduction by the Judicial Yuan based upon its practical

experiences and needs.

[2] Further, it is the common goal of modern rule-of-law states to protect the rights of people by respecting the judiciary and strengthening the powers and duties of judicial institutions. In order for the statutes and regulations governing the judiciary to meet actual needs and to function properly, quite a number of the supreme judicial bodies in common law countries are granted the power to make such regulations. Similar institutional arrangements can also be found in many civil law countries. Of more recent examples are Constitutions in many countries of Central and South America. These Constitutions explicitly empower the judiciary to introduce statutory bills to the legislature. The position taken in J.Y. Interpretation No. 3 is not only consistent with the spirit of the Constitution, but also in line with the trend of constitutional politics in the world. Moreover, ever since the judicial and the prosecutorial institutions were separated, the workloads of the Judicial Yuan have increased heavily. In order to reform the judiciary and to materialize its constitutional functions, the Judicial Yuan should have the power to introduce bills to the Legislative Yuan on matters within its authority such as organization of judicial institutions and exercise of judicial powers. Such bill-introduction power is necessary for enhancing constitutionalism in light of Articles 77, 78, and 82 of the Constitution, which establish the Judicial Yuan and the inferior courts to adjudicate civil, criminal, and administrative cases, as well as cases on the discipline of public functionaries, and mandate that the Judicial Yuan exercise the powers to interpret the Constitution and to unify interpretations of statutes and regulations.

Background Note by the Translator

The petitioner, the Control Yuan, claimed that the Judicial Yuan may introduce statutory bills to the Legislative Yuan on matters within its authority, in order to push the Judicial Yuan into proposing bills on judicial reform.

However, the Judicial Yuan cast doubts on the positive answer to that question. In response, the Control Yuan claimed that the two Yuans had disagreement, which resulted in a dispute in the application of the Constitution while exercising their respective constitutional powers. To resolve the disagreement, the Control Yuan filed a petition for constitutional interpretation in March 1982.