

立法院調查權法制化之立法建議*

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關鍵詞：立法院調查權、權力分立、立法權、預算審查權、人事同意權、釋字第 585 號解釋。

Keywords：Legislative Yuan's Investigation Power, Separation of Powers, Legislative Power, Budget Review Power, Personnel Consent Power, J.Y. Interpretation No.585.

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摘 要

國會調查權之目的就在於蒐集相關議案的資料及口頭或書面意見，除了釐清議案或人事案件外，更為了達到瞭解影響社會公益事件真相之目的，應將調查程序合理化，真正讓行政機關受到監督。國會調查權係民主國家立法機關不可或缺的輔助性權力，以確保其在立法時能夠獲得周延的資訊。

而我國國會的調查權強制力相當有限，實在難以說服民眾相信或期待調查的結果可以完全發揮監督效用。其實我國國會的監督權限相關廣泛，但不夠細膩，例如立委有質詢權、調閱權、舉行公聽會的權利、倒閣權、彈劾罷免權及司法、考試、監察等三院的重要人事的任命同意權，但卻因為沒有針對程序、範圍及效果等正當立法。鑒於目前我國立法院的國會調查權遲未發揮如西方國家國會捍衛人民知的權利，以及目前立法院職權行使法修正草案規劃不全的情況下，希望能夠藉由立法院調查權法制化之探討，分別就「立法院職權行使法修正草案」與「立法院調查法草案」擬具修法意見，並分析二項法案在立法上的優缺點，提出我國國會調查權在法制上的立法建議，以符合大法官釋憲主旨。

The Legislative Suggestions of Legalizing Legislative Yuan's Investigation Power **Chen, Ching Yun**

Abstract

The purpose of Legislative Yuan's investigation power is to gather the oral comments or the reading reports of the relevant bills. In addition to clarifying bills and personnel cases, investigation procedures should be rationalized to enable the aim of understanding the truth of social welfare and to have administrative organizations under full supervision. The purpose of Legislative Yuan's investigation power is the indispensable assistant power to ensure the requirement of circumspect information while legislating.

However, Legislative Yuan's investigation power has quite limited force so that it is difficult to convince people to believe or to wait for the results that can exert supervisory effectiveness fully. In fact, the legislative Yuan has extensive supervisory authority, but not exquisite enough. For example, the legislators have the power of "Interpellation", "Subpoena", "Holding a public hearings", "Confidence vote", "Impeach and Recall", "Consent of appointment important personnel on Judicial Yuan, Control Yuan, and Examination Yuan". However, it did not legislate properly for the program, scope and effect. Seeing that legislative Yuan's investigation power is delayed to exert the power of defending "people's right to know" like western countries, and the draft of Law Governing the Legislative Yuan's Power has not been clarified. For this reason, it is hopefully able to depend on the discussion of legalizing the L.Y's investigation power to draft amendments about "A draft of Law Governing the Legislative Yuan's Power" and A draft of the Law to the Legislative Yuan's investigation power", as well as to analyze the advantages and disadvantages between these two Drafts and to bring up the legislative proposal on Legislative Yuan's investigation power in conformation to the subject of Grand Justice' Interpretation.