

[Translation]

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**(1) A Statement Against the Constitutional Revision Referendum Bill**  
**-From the Perspective of the Protection of the Freedom of Expression-**

Statement of Purpose

The Japanese Civil Liberties Union (JCLU) requests a reinvestigation of the Japanese Constitutional Revision Referendum Bill.

Statement of Reasons

This organization was created in 1947, the year the Japanese constitution came into force, and its sole purpose is the championing of human rights.

As part of the effort to amend the constitution, it has been reported at this time that the Japanese Constitutional Revision National Referendum Bill (hereinafter, “National Referendum Bill”), which will determine the method and procedures for establishing a national referendum and the plan for revising a portion of the Diet’s laws for how it debates the constitutional revision, might even be submitted at the earliest to this ordinary Diet.

In a conference for ruling-party members held on December 3 of last year, an agreement was reached regarding the skeleton of the bill. However, several problems in the bill cannot be overlooked. Among these problems, the present Statement opposes the regulations regarding democratic voting activities, particularly from the viewpoint of freedom of speech and freedom of expression.

The freedom of expression makes free debate between citizens possible. This is an important right that forms the essence of democracy. However, the national referendum adds extensive limitations to the freedom of expression.

It is precisely constitutional reform’s changing of a country’s highest regulations and determining the way the country is that are the biggest concerns for citizens. The limitations of the referendum exercise should be kept to a minimum so that different ideas can be exchanged and free debates can be had. By so doing, for the first time debate among the citizens concerning the constitutional amendments will be truly administered. If the limitations on the national referendum activity are allowed, then after the constitutional amendments are proposed, we will not be able to hear the various opinions we want to know after having kept silent for months, and we will be unable to look forward to the day of the national referendum.

Specifically, there are the following problems regarding the limitations of the national referendum exercise.

First, Articles 69 and 71 of the National Referendum Bill attach severe conditions to the freedom of reporting and criticism. Protecting as broadly as possible the freedom of expression for political elections is the rule for a democratic society. Particularly with regard to amending the constitution, which is the highest regulation in the country, the freedom of expression should be even more broadly protected than that it has been conventionally.

Further, Article 70 of the National Referendum Bill shows an intent to almost completely forbid the practice of examining public opinion. Fresh in our memory is that previously, the forbiddance of reporting election results was incorporated in the proposal to amend the Public Offices Election Law. Amid the resulting large public outcry, the proposal could not become law.

Further, it is also a problem that Article 70 of the National Referendum Bill also fails to recognize the carrying of advertisements of opinion, etc. Accordingly, this completely removes an important means for calling out to society, within the period of the referendum activity, for citizens themselves to broadly consider an issue.

Article 66 of the National Referendum Bill, which completely forbids foreigners from engaging in national referendum activities, is also full of problems. Foreigners will also be influenced by the rights and duties the constitution amendments secure. But Korean Residents in Japan, and foreign residents will have to keep their mouths shut regarding constitutional amendments. For example, if they merely donated money raised by street fundraising to a citizen's election-related activities, that organization will also be penalized, greatly stifling expressive activities for the voting movement. This will definitely stifle the freedom of expression of foreigners. For Japanese citizens as well, it is essential to hear the opinions of foreign residents in Japan for debating how the country of Japan should live together with various ethnicities.

Finally, Article 72 establishes extensive penalties for the violation of these national referendum activities. The presence of a penalty for acts of expression will have a chilling effect on acts of expression and should not be prescribed into law.

Many of the provisions in the National Referendum Bill seem to follow similar regulations in the public servant election law. However, we cannot permit provisions that resemble the public servant law simply to be carried over into the national referendum bill unmodified.

For elections, the actors are definitely the candidates or the political parties so a degree of regulation of the voting activities is necessary to ensure openness of the elections. Further, in the elections the Japanese people can select as a representative, from among the many political parties or candidates holding different opinions, the one that expresses an opinion identical to or resembling their own.

On the other hand, for constitutional amendments, the actors in the national referendum movement should be the Japanese people, who possess the right to amend the constitution. Moreover, the bill proposed at the Diet is no more than one plan. Different opinions regarding this proposed bill were not expressed, therefore different opinions have to be actively expressed from the side of the Japanese people, who are the subject of the national referendum. Rather than only being able to express their opinion by agreeing or disagreeing with the bill proposed in the Diet in the national referendum, in the period before we reach the national referendum the Japanese people should exchange various opinions.

As indicated above, the National Referendum bill impedes the circulation of information for deciding the good and bad aspects of constitutional amendments and restricts the free exchange of opinions among citizens. We at the Japan Civil Liberties Union request that the National Referendum Bill be reexamined.

The attachment groups and consolidates all of the problems which can arise from the restriction of the national referendum movement. With regard to other problems pertaining to the national referendum bill, this Union intends to release a special statement in the near future.

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