



Human Rights Now

〒110-0005 Tokyo-To, Taito-Ku, Ueno 5-3-4

Creative One Akihabara Bldg.7F

Tel:03-3835-2110 FAX:03-3834-1025

Email:info@hrn.or.jp URL:<http://hrn.or.jp/>

HRN Protests Government and Ruling Party Intervention in Freedom of Speech

June 30, 2015

Human Rights Now (HRN), a Tokyo-based international human rights NGO, expresses its deep concern that the Japanese government and its ruling party have recently escalated their intervention into freedom of speech.

1. Intervention by the government and ruling party

(1) On November 20, 2014, a day before the election related to the dissolution of the House of Representatives, the Liberal Democratic Party (LDP) sent a letter titled “request for assurance of impartiality, neutrality and fairness of media reporting during the election” to all the major broadcasting companies in Tokyo, demanding “neutrality and fairness” with respect to four factors: the number and speaking time of each guest speaker, the selection of guest speakers, street interviews, and reference videos.

Further, the LDP sent an additional letter to TV Asahi criticizing its report over PM Abe’s economic policy in the program titled “Hodo Station” —broadcast on November 24 following the dissolution of the House of Representatives—demanding that it “produce fair and neutral programs.” According to media reports, the letter mentioned that the program was in conflict with Article 4 of the Broadcast Act which stipulates that broadcasters “shall clarify the points at issue from as many angles as possible where there are conflicting opinions concerning an issue.” It insisted that the program reported as though PM Abe’s economic policy benefited only wealthy people, and it criticized that “editing and comments in the program lacked sufficient careful consideration.”¹

After the matter was revealed, the LDP explained that such demands were “not pressure.”

(2) Moreover, On April 17, 2015, the LDP investigative committee on information and communications strategy (Chairman: MP Jiro Kawasaki) summoned executives from TV Asahi and NHK and carried out inquiries on the content of the programs “Hodo Station” and “Close-up Gendai”, broadcast by TV Asahi and NHK respectively.² At the beginning of the inquiries MP Kawasaki, in justifying them, stated that there was a

¹ Asahi Shimbun (evening edition), April 10, 2015, page 8, available at <http://www.asahi.com/articles/ASH4B3SDNH4BUTFK004.html?iref=reca>.

² <http://digital.asahi.com/articles/ASH4K5CJFH4KUTFK00W.html>

suspicion that some broadcasts had distorted facts, explaining that the inquiries were being conducted pursuant to the Broadcast Act, which stipulates that “broadcasts must be made without distorting facts.” Following the comments, the process went on behind closed doors. While the subject of the inquiry on “Close-up Gendai” was a suspicion of so-called “staging” in the program, the committee inquired about an on-air speech by the commentator Mr. Shigeaki Koga in the “Hodo Station”, in which he said that “I have received severe bashing from members of the Cabinet, including Mr. Suga”, referring to Chief Cabinet Secretary Suga.

On March 30, following the speech by Mr. Koga, Chief Cabinet Secretary Mr. Suga criticized the program stating, “[The speech made in the program] is totally unfounded. Freedom of speech and expression are extremely important, but it is highly inappropriate for a press-report broadcast on the public airwaves.” Mentioning the Broadcast Act, he announced that he would watch responses from the TV station carefully. In response, the president of TV Asahi officially apologized by stating, “there has been no pressure” from the government. LDP’s inquiries on April 17 were conducted after this series of events.

According to media reports, after the inquiries LDP suggested that it would consider filing a complaint to the Broadcasting Ethics and Program Improvement Organization (BPO), a third-party organization, if LDP thought the internal inspection by TV Asahi were insufficient.

After the inquiries session, MP Kawasaki, the Chairman of the investigative committee, said, “if broadcasts are made with distorted facts, we will take measures based on laws” such as the Broadcast Act, and, with the prospect of cases where the response of BPO may not be satisfactory, he allegedly suggested that the government “has authority to suspend broadcasting of TV stations.”³

(3) Recently, similar developments by the government and ruling party have even been escalating. On June 25, 2015, the first meeting of “the LDP study group for discussion on culture and art policies” was held, which group was set up by young MPs close to Prime Minister Shinzo Abe and joined by Deputy Cabinet Secretary Katsunobu Kato and Special Counselor for the President of the LDP Kouichi Hagiuda. During the meeting, some of the participant MPs insisted that they should control media organizations by approaching advertising companies and sponsors of TV programs, stating, “The most effective way to punish media organizations is to cut off their advising revenues. We should work on the Japan Business Federation (Keidanren),” or, “We should disclose TV programs that have adverse effects and list their sponsors.”⁴ Mr. Naoki Hyakuta, a lecturer of the study group, even said that “two newspapers in Okinawa must be closed down by any means.”⁵

³ “LDP mentions BPO and Broadcast Act”, Asahi Shimbun, April 18, 2015, available at <http://digital.asahi.com/articles/DA3S11710894.html>.

⁴ <http://www.asahi.com/articles/ASH6T5W6FH6TUTFK00X.html>; <http://www.tokyo-np.co.jp/article/politics/news/CK2015062702000159.html?ref=rank>

⁵ <http://ryukyushimpo.jp/news/storyid-244806-storytopic-3.html>

2. Intervention by governmental authorities and the ruling party is unacceptable

Intervention by the governmental authorities and ruling party into the contents of broadcast programs as described above should never be accepted, in light of the purpose of Article 21 of the Constitution which guarantees freedom of expression and forbids censorship, as well as Article 19 of the International Covenant on Civil and Political Rights which Japan has ratified.

(1) Intervention under the auspice of the Broadcast Act

The Broadcast Act must be interpreted and applied in conformity with Article 21 of the Constitution so as to assure freedom of expression to the maximum extent possible.

Article 1 of the Broadcast Act lists as its purpose “to ensure freedom of expression through broadcasting by guaranteeing the impartiality, truth and autonomy of broadcasting” and “to enable broadcasting to contribute to the development of sound democracy.” Article 3 states that “broadcast programs shall not be interfered with or regulated by any person except in cases pursuant to the authority provided for in laws.” Following these articles, Article 4 stipulates that editing of broadcast programs by broadcasters must:

- “1. Not harm public security and good morals;
2. Be politically neutral;
3. Ensure that broadcasts must be made without distorting facts; and
4. Clarify the point at issue from as many angles as possible with regards to problems with confronting opinions.”

Given that broadcasting is prone to influences by the government or authorities due to the license system, the Broadcast Act ensures the independence of broadcasts and the guarantees freedom of expression by excluding undue control and interference from the government or authorities, and it prescribes broadcasters to voluntarily provide impartial and fair broadcast programs for citizens as viewers. In light of Article 21 of the Constitution and the above-mentioned Articles 1 and 3 of the Broadcast Act, Article 4 must not be construed as a ground for the government to intervene on the pretext of seeking “impartiality” at the convenience of the government.

Additionally, the Broadcast Act grants to the Minister of Internal Affairs and Communications the sole authority to provide permissions and recommendations; thus, the intervention and interference by the Members of the Cabinet or the LDP into the contents of broadcasts based on Article 4 of the Broadcast Act obviously contravenes Article 3 of the Broadcast Act and is inadmissible.

If the government and ruling party can arbitrarily interpret “impartiality” and “without distorting facts” used in Article 4 of the Broadcast Act to intervene into the media based on opinions that contradict government’s view—on the grounds that they are “partial” or “distorting facts”—it would be impossible for the news media to broadcast reports or opinions not in line with the government’s views, severely impairing freedom of the press. Similarly, if judgments and intervention into the contents of programs by authorities using the threat of suspending broadcasts go unchecked and become rampant, it would amount to *de facto* censorship.

Of course, civil society's rights to sound criticism, discussions, and rebuttals regarding broadcasting must be guaranteed, rights which also apply to MPs and members of political parties. However, under the Broadcast Act, the Minister of Internal Affairs and Communications has the authority to approve licenses for TV broadcasting operations. The license is renewable every five years, and the Act even grants to the Minister the authority to suspend broadcasting.

Under the above circumstances, with regards to licensing, the ruling party stated that the aforementioned report and comments broadcast in the TV program violated the Broadcast Act, for which it conducted undisclosed inquiries and suggested a suspension of broadcasting. This series of actions obviously constitutes pressure by the governmental authority on the news media and violates freedom of the press. If such conducts become prevalent, it would seriously impair the activities of the media whose role is to independently meet the citizen's right to know and to support democracy.

(2) The recent trend of further suppression of speech

In addition to the above, damaging statements by LDP MPs were overtly allowed at a meeting of LDP's study group, such as calls to "work on the Japan Business Federation to punish media organizations" and to "disclose TV programs that have adverse effects and list their sponsors," as well as the statement by Mr. Naoki Hyakuta that "two newspapers in Okinawa must be closed down". These statements reveal an ideology of suppression of speech whereby the ruling party feels it can restrain speech not in line with their opinions, which should never be acceptable. Needless to say, intervention based on such an ideology should never be allowed.⁶ However, even aside from this, the fact that members of LDP could even make such statements at all precisely demonstrates the critical situation which freedom of speech in Japan faces.

It is obvious that the statements occurred under circumstances in which the government and central members of the LDP have repeatedly intervened into and interfered with the media reports that are not in line with their opinions, facilitating a situation in which intervention and interference have been and continue to be tolerated.

(3) Obligation under the Constitution and international human rights laws

Article 19 of the International Covenant on Civil and Political Rights (ICCPR), which Japan has ratified, requires the utmost guarantee of freedom of expression. A General Comment on ICCPR Article 19 adopted in 2011 and regarding freedom of press stipulates that "a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion" must be assured, and the public has a corresponding right to receive media output. The comment also states, regarding broadcast media, that "States parties should ensure that public broadcasting services operate in an independent manner" and "[i]n this regard, States parties should guarantee their independence and editorial freedom."

⁶ Following the meeting in which these statements were made, the LDP administration decided to punish the responsible persons.

The Japanese government should be well aware of its obligations under its constitution and international human rights laws.

3. Conclusion

Human Rights Now protests vigorously against the intervention by the Japanese government and ruling party into freedom of speech. We also call on the government and ruling party to take strict measures never to intervene into nor put pressure on media regarding the contents of reports in any form, irrespective of whether such intervention or pressure is made open or closed to the public.

Furthermore, since the attitude of news media is now being put into question, we request news media to protest against interferences with and interventions into freedom of speech, to support democracy by responding to citizens' right to know, and to fulfill their role to monitor the authorities as media organizations.