

Statement
opposing the state funeral of former Prime Minister
Shinzo Abe by the Kishida Cabinet

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Japan Lawyers Association
for Freedom (JLAF)

President Kenichi Yoshida

On July 14, Prime Minister Kishida announced that he would conduct a state funeral for former Prime Minister Shinzo Abe this fall, and according to media reports, a cabinet decision is expected tomorrow.

State funerals, in which the state presides over a funeral of an individual, and the cost is paid for with state funds, were not practiced after the war, except in one instance. There is a wide divergence of opinion on whether or not to hold a state funeral for former Prime Minister Abe. JLAF strongly opposes it because of the serious legal, social, and political problems that would result from forcing such an action, as described below.

Lack of legal basis and possible violation of fiscal constitutionalism

Currently, there are no laws or regulations governing state funerals. Originally, before the end of World War II, there was a provision on state funerals in the Imperial Ordinance (State Funeral Ordinance) enacted in 1926. However, this imperial decree has been revoked in accordance with Article 1 of the "Law Concerning the Validity of Provisions of Orders Currently in Force at the Time of the Enactment of the Constitution of Japan" 「日本国憲法施行の際現に効力を有する命令の規定の効力に関する法律」 as being incompatible with the Constitution.

As for the state funeral of former Prime Minister Shigeru Yoshida, which was the only exception in the postwar period, Toshiro Tsukahara, then Director-General of the General Affairs Bureau, stated, "We had a hard time because there was no law on which to base the ceremony." When the government considered holding a state funeral for former Prime Minister Eisaku Sato, the Cabinet Legislation Bureau's opinion that "the legal basis was not clear" led to the decision not to do so. Thus, it is clear that there is no legal basis for state funerals, and Prime Minister Kishida's interpretation that states funerals are "state ceremonies" under the jurisdiction of the Cabinet under the Law for Establishment of the Cabinet, and can be held if a Cabinet decision is

made, is absolutely unacceptable.

Such an arbitrary decision by the Cabinet, without legal basis, cannot escape criticism as an arbitrary expenditure of government funds based on political motives, and is impermissible by fiscal constitutionalism, which states that "the power to administer national finances shall be exercised as the Diet shall determine" (Article 83 of the Constitution).

May violate people's freedom of thought and conscience

The fact that the government sponsors the funeral of former Prime Minister Abe, a member of the Diet who belongs to a particular political party, and pays for the funeral with government funds is an expression of the nation's condolences to a particular person, as opposed to an individual's mourning for a deceased person. Therefore, all citizens could be effectively forced to offer their condolences to a particular Diet member, and this would have the same effect as forcing them to donate money to a particular political party. In fact, at the time of the state funeral of former Prime Minister Shigeru Yoshida, under the grand order "the whole nation prays for the repose of his soul," horse races, bicycle races, and other public sports were cancelled, entertainment programs were stopped, sirens were sounded throughout the country, and silent prayers were offered at work and on the streets.

Some local governments already raised flags of condolence and set up a memorial table and flower offering stand at the time of former Prime Minister Abe's private funeral, and there have been cases, such as the Board of Education of Sanda City, Hyogo Prefecture, which requested that flags be flown at half-staff at school sites. If the government implements the state funeral, there is concern that this trend will be furthered, and such forced condolences are in violation of the freedom of thought and conscience (Article 19 of the Constitution) and are not permissible.

May block criticism of former Prime Minister Abe and create divisions among citizens

Prime Minister Kishida praises former Prime Minister Abe, saying that his achievements in various fields, such as recovery from the Great East Japan Earthquake, revitalization of the Japanese economy, and development of diplomacy based on the Japan-U.S. alliance, are outstanding, and that is the reason for his state funeral. However, that is exactly what the pros and cons are so widely divided on.

In July 2014, during his tenure, former Prime Minister Abe forced

through a cabinet decision to change the government's long-held position that the exercise of the state's right of collective self-defense which is beyond the scope of exclusive defense would be a violation of the Constitution, and in 2015 he passed the Security Law, which authorized the exercise of collective self-defense, over the objections of many citizens. He also forced the passage of the Act on the Protection of Specially Designated Secrets, which shook the foundations of democracy, and Abenomics, which was designed to "make Japan the easiest country in the world for corporations to operate," has significantly widened the gap between the rich and the poor among the people. In addition, former Prime Minister Abe has brought about the Moritomo/Kake Gakuen issue, the "Cherry Blossom Viewing Party," and other allegations of privatization of politics, and has repeatedly given false answers in the Diet, the truth of which has yet to be revealed. Furthermore, the issue of falsification of administrative documents, which even resulted in a suicide, remains unresolved. We have criticized former Prime Minister Abe's "achievements" on numerous occasions, it is impossible to "pretend that they did not happen" due to his death. The unresolved issues must continue to be investigated and verified, and legitimate criticism of former Prime Minister Abe must never be allowed to be blocked.

In reality, however, attacks on criticism of former Prime Minister Abe have occurred, as well as obstructions against those who are carrying out street demonstrations criticizing the Kishida administration, the successor to the Abe administration. There have been unfounded accusations that the court ruling that the Hokkaido police's action was illegal in the case where the Hokkaido police suddenly removed an audience who yelled during a speech by former Prime Minister Abe made it difficult for the police to provide security for him. There have even been unfounded accusations, such as the spread of false rumors that the shooter was a Korean living in Japan.

Holding a state funeral in this atmosphere would have to have an actual effect of glorifying former Prime Minister Abe. As a result, there is a strong risk that this will spur attacks on former Prime Minister Abe's criticisms, further contributing to divisions among citizens. If this happens, free speech will not be guaranteed, and there is concern that democracy will be endangered.

Opinions opposing the holding of a state funeral for former Prime Minister Abe have already been expressed from all walks of life, and it is clear that this is not an issue that should be decided by the Cabinet

in a hasty manner. Therefore, JLAF strongly opposes the implementation of the state funeral for former Prime Minister Abe and calls for the immediate withdrawal of the plan.