

Japan's Conspiracy Crime Bill

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Protesters in front of the Diet building with signs that read “Making conspiracy a crime means we cannot talk,” “Even blinking will become a crime,” and “No more joking around if conspiracy becomes a crime.” (October 2006, Tokyo)

Japan's Conspiracy Crime Bill proposes to make conspiracy to commit a crime punishable for more than 600 offenses even if no crime is actually carried out. Toshimaru Ogura, Co-President of the People's Plan Study Group, has campaigned against the bill since its inception and shares his reasons on why Japanese society has to become more aware of the bill and what it stands for. The bill was first introduced to the Diet in 2003. The Democratic Party of Japan, Social Democratic Party and Japanese Communist Party are all calling for its repeal. (-Editor)

THE CONSPIRACY CRIME BILL AS AN ANTI-TERRORISM MEASURE?

The need to introduce the Conspiracy Crime Bill should not be rationalized by “legislative reality” (where societal background has created circumstances such that the law must be adopted). Put another way, the current situation in Japan does not show a particularly serious organized crime problem, or even a problem of current investigative methods being unable to deal with existing crimes. Despite this, the governing party wants to change the law to make the mere discussion of a crime a criminal offense—before a crime has been committed, and even before it has entered the

planning stages. This is the ostentatious purpose, but doubts have been raised that the new law will actually be used to regulate and suppress the activities of civic movements, NGOs, labor unions and political groups. With each passing day, the voices of protest against the Conspiracy Crime Bill grow louder and can no longer be ignored.

The fears of these protestors are right on target. It is apparent from the government response at the Diet that the logic being stressed for the Conspiracy Crime Bill is that it is a necessary element of “anti-terrorism measures.” For example, the Minister of Justice Seikin Sugiura (also a lawyer and chairman of the Liberal Democratic Party's constitution revision project team) gave the following comments at the April 28th House of Representatives Legal Affairs Committee meeting: “[T]his law was created under an international treaty regarding anti-terrorism measures. Japan was involved in the creation of this treaty. The starting point [for the bill] was when the idea to cooperate on an international level in the creation of anti-terrorism measures was raised.” In addition, the following comments were made at a press conference on May 23: “This is a domestic law necessary to implement two treaties—the UN Convention against Transnational Organized Crime and the Council of Europe Cybercrime Convention. These are



Conspiracy Crime Bill protest march (June 2006, Tokyo)

both centered around anti-terrorism measures—how to fight organized crime, and how to battle computer viruses. The aim is to stop both of these within an international framework.” “The main focus is to work on anti-terrorism measures while cooperating with the international community. The crime of conspiracy would only be applied to one part of organized crime, and in serious instances only. The introduction of this bill is totally unrelated to the general public, but there is still some misunderstanding by the public. However, these misunderstandings will eventually be resolved.”

The points that the Minister of Justice continues to push, that the Conspiracy Crime Bill (and the Computer Surveillance Bill) are “focused on fighting terrorism” and “are mainly anti-terrorism measures” are simply not true. The original reason that the government and ruling party proposed the Conspiracy Crime Bill was: “In recent years, with the internationalization and organization of crime, as well as the advancement of information technology, [the bill] was created to establish punishment regulations for organized crime conspiracy and prepare regulations regarding criminal profits, in line with the UN Convention against Transnational Organized Crime....” This has no connection with anti-terrorism measures. In reality, the UN Convention against Transnational Organized Crime is not an anti-terrorism treaty. In order to be able to argue that the introduction of the Conspiracy Crime Bill is “totally unrelated to the general public,” the government must want to argue that it is not about

general criminal offenses, but, rather, an anti-terrorism measure whereby only terrorists are the target of the bill. However, as there have already been more than 600 crimes targeted by the Conspiracy Crime Bill, it is clear that the claim that it is an anti-terrorism measure is completely illogical. The government and ruling party that continue to refer to this bill as an “anti-terrorism measure” must have some ulterior motive.

THE CONSPIRACY CRIME BILL PUNISHES THOUGHTS AND BELIEFS

The UN Convention against Transnational Organized Crime defines an “organized criminal group” as “a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit.” Thus, this organized crime measure is limited to cases in which the organization includes three or more members and is working for material gains. This means that, by this definition, “terrorist organizations” working for political and religious goals are considered out of scope. However, the ruling party’s proposal is to modify the law to apply to groups of two individuals, and remove the requirement that the goal be for “material benefit.” We can understand the real target of the Conspiracy Crime Bill when considering the implications of the

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government and ruling party's removal of the "material benefit" language from the bill. The government and ruling party intend to apply the Conspiracy Crime Law to benefits other than those that are material in nature. In other words, they wish to apply the law to activities related to thoughts and beliefs. In this sense, it is consistent with the Minister of Justice's "anti-terrorism measure" reasoning. However, this no longer aligns with the logic that it is domestic legislation in line with the ratification of a treaty. By continuing to spread this falsity, the UN Convention against Transnational Organized Crime has come to be viewed as an anti-terrorism treaty. In fact, this mistaken statement by the Minister of Justice has not even been criticized in the Diet or by the press. In this way, through the skillful manipulation of the UN Convention against Transnational Organized Crime, the Conspiracy Crime Bill is setting a wider range of application for the crime of conspiracy than what exists under the treaty itself.

The biggest problem in the current situation, in which the Conspiracy Crime Bill has been connected with anti-terrorism measures, is that there still is no clear legal definition of "terrorism." The National Police Agency, Defense Agency, Foreign Ministry, Cabinet, and other groups all arbitrarily use the idea of terrorism to best fit their needs at any given time. As a result, investigative methods conducted by law enforcement agencies in the name of anti-terror measures that violate human rights are being allowed more and more frequently. The United States has adopted aggressive immigration policies, and is monitoring, restricting and deporting people from Muslim countries and followers of Islam. In much the same way, while keeping North Korea and China in mind, Japan has monitored Korean

and Chinese communities living in Japan. Many post-war polices that put civil activities under special surveillance will no doubt be strengthened by the introduction of the Conspiracy Crime Bill.

FOREIGN NATIONALS WILL BE TARGETED

This is not to imply that the bill should be accepted if it is actually for the implementation of an international treaty at the domestic level. In fact, adopting the Democratic Party's proposed revision to the UN Convention against Transnational Organized Crime, which would limit the scope of the Conspiracy Crime Bill to transnational organized crime, would actually introduce other problems. If we consider the current clampdown by Japan's police and immigration authorities, transnational organized crime will likely become closely related to the crime currently classified as "crimes committed by foreigners." If the Conspiracy Crime Bill includes the transnational element as a requirement, foreign residents in Japan, migrant worker communities, and their support groups will be targeted as suspects. Behavior that the National Police Agency considers as "crimes committed by foreigners" include overstaying a visa, engaging in employment outside of that allowed by status of residence, illegally providing employment and international money transfers through illegal financial institutions. In many of these cases, the criminalization of actions that would not be considered illegal if the offender was a Japanese national can be seen, as well as the protection of the financial institutions that collect unlawful fees, a result of unfair foreign exchange control measures. Despite this existing problem in the gravity given to these crimes, the Conspiracy Crime Bill will be used to justify discrimination based on nationality by law enforcement.

Be it an original proposal, or even a revision, the Conspiracy Crime Bill will further exclude members of Japanese society who are already forced to live a marginal existence. It is obvious that this is going to serve to justify surveillance by police and law enforcement agencies.

Discussions regarding the Conspiracy Crime Bill will continue and we must search for a creative and imaginative way to repeal the Conspiracy Crime Bill. 🗣️

*Translated by Harvey Beasley.