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Human Rights Now
info@hrn.or.jp
<http://www.hrn.or.jp/eng/>
7F Creative One Akihabara Bldg.
5-3-4 Ueno, Taito-ku, Tokyo 110-0005 JAPAN
Tel : +81-3-3835-2110 Fax : +81-3-3834-1025

Statement reflecting on the approval of the special secrets bill

On 6th of December 2013, despite strong opposition from both inside and outside of Japan, a special secrets bill was approved at the 185th Extraordinary Diet session.

Human Rights Now has been opposing this bill due to a range of potential dangers including: a) the danger of violating the public's right to know, as the bill does not specify the scope of the concerned secrets, b) violation of the Constitution, c) the danger of government crime and human rights violations being included in the contents of designated secrets, d) the absence of third party checks for abuses when specifying secrets, e) no protection for whistle-blowers, f) damage to the freedom of the press as a result of provisions to punish "abetting, conspiracy, incitement" which leads to a violation of surveillance and monitoring system by civil society, g) the danger of the collapse of census rights, and control of the judiciary.

The Bill lacks any safe guard for the protection of human rights and is far from meeting international human rights standards regarding freedom of speech, the public's right to know, and the Tsuwane principle. For this reason, Human Rights Now, and other international human rights organizations including Human Rights Watch, Amnesty International Japan, Article 19, and PEN International have expressed serious concerns about the bill, pointing out concerns of the Bill detailed below. The Japan Civil Liberties Union, the Japan Federation of Bar Associations, and other law organizations have also opposed the Bill.

Moreover, on the 22nd of November, Frank La Rue, the United Nation's Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and Anand Grover, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health said "Transparency is a core requirement for democratic governance. The draft bill not only appears to establish very broad and vague grounds for secrecy but also include serious threats to whistle-blowers and even journalists reporting on secrets." On the 2nd of December, Navi Pillay, the United Nations High Commissioner for

Human Rights, also commented on the government of Japan, saying that "They should not rush through the law without first putting in proper safeguards for access of information and freedom of expression as guaranteed in Japan's constitution and international human rights law."

It is very unusual that the United Nations has expressed its concern about the bill before its establishment, which in turn demonstrates how dangerous it is being against accepted international standards of human rights and even facilitating the violation of human rights.

However, the Japanese government has not listened to these critical voices and it is extremely regrettable that it has forced through the vote to pass the bill without accepting these criticisms or first exhausting their discussion in order to remove serious human rights concerns. Human Rights Now strongly protest against the approval of the special secrets bill.

During the process of its approval, there was no satisfactory debate on the Bill and the government has forced the vote through regardless. More than 80% of the public have expressed opinions either in opposition or concern, and all the participants have opposed and expressed serious concerns at the public hearing held in Fukushima. Furthermore, public opinion polls revealed more than half being against the bill and over 80% of people requested a just deliberation. Opposition was also heard from researchers, cultural figures, and journalists.

Despite this, the government forced the vote for the bill, failing to listen to civil society, the press, and all other concerns and oppositions expressed by the public. This move is both autocratic and severely problematic.

The Chief Secretary of the Liberal Democrat Party, Ishi Shigeru commented on his personal blog regarding the discussion on the bill, stating that "Public merely denouncing the Bill seems to be little difference with the act of terrorism (...)" comparing the just speech made by the public with principle of terrorism.

If the government continues in an autocratic way, there is a serious fear of a crisis for freedom of speech, expression and democracy in Japan.

The bill has a high risk of violating the Constitution which secures freedom of expression and the public's right to know, and will not be improved by the method of application. Human Rights Now requests that the Japanese government abolish the bill immediately without enforcement.

We cannot possibly accept a situation where the government or the investigating authorities deviate from the Constitution and international human rights law based on this bill.

Even if enforced, we strongly request that investigating authorities and the judiciary apply the bill in a way that does not violate the Constitution and international human rights law. Especially in the case of the judiciary, it must comply with its responsibility of being a guardian of the Constitution and take steps to properly judge the constitutionality of the bill.

As an international human rights organization, Human Rights Now will fulfil our role and responsibility as a member of civil society and continue related activities such as policy recommendations with outside networks and conscientious press organizations without atrophy or self-regulation. Moreover, we will continue monitoring the situation to prevent any violations of human rights including those related to freedom of speech and freedom of expression as a possible result of the operation of the specials bill.