



# General Assembly

Distr.: General  
XX May 2017

English only

---

## Human Rights Council

Thirty-five session

Agenda item 3

**Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development**

### **Written statement\* submitted by Human Rights Now, a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 May 2017]

---

\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

## Japan: Concerns with the “Crime of Preparation for Terrorism and Other Acts” Bill

### 1. Background

The UN special rapporteur on the freedom of expression made an official visit to Japan in April 2016 to observe the implementation of freedom of expression in Japan and will present his report to the current session of the UN Human Rights Council calling for improvements. However, instead of improving its current human rights practice, the Japanese government plans to introduce a draconian law which would suppress the space for civil society and individuals in Japan.

During the current Diet session, the government of Japan has been pushing a bill to revise parts of the Act on Punishment of Organized Crime and Control of Crime Proceeds, also known as the “Anti-Conspiracy” bill. The bill adds a new “Crime of Preparation for Terrorism and Other Acts” that would allow for the investigation and punishment of persons planning a total of 277 types of possible crimes. Human Rights Now (HRN), a Tokyo-based international human rights NGO, is deeply concerned that the bill would threaten citizens’ freedom of conscience, right to privacy, freedom of political opinion, freedom of expression and freedom of association.

The government of Japan has tried to enact laws against the crime of conspiracy three times in the past, but it failed each time due to severe opposition from the public. People were concerned by the serious risks the laws threatened against citizens’ freedoms. The current bill should be understood as a continuation of these laws. Even though the government calls the newly-stipulated crime the “Crime of Preparation for Terrorism and Other Acts”, claiming that it is different from the “crime of conspiracy” from past bills, its purpose and structure are basically same as the past laws.

### 2. Misunderstanding of the Convention

The government has explained that the purpose of the bill is to implement the United Nations Convention against Transnational Organized Crime and to prevent terrorism, especially as Japan prepares for the 2020 Summer Olympics. Chief Cabinet Secretary Yoshihide Suga explained that the bill is needed “to fight organized crime by cooperating with international society.”<sup>1</sup> While the government argues that passage of the bill is required to implement the United Nations Convention against Transnational Organized Crime, the convention itself was never intended to prevent terrorism. Instead, its aim is to prevent crimes by transnational organized criminal groups “for a purpose relating directly or indirectly to the obtaining of a financial or other material benefit” (Article 5).<sup>2</sup> The United Nations’ legislative guideline also expressly states that terrorist groups which pursue purely non-material benefits are not the target of the convention (Paragraph 26).<sup>3</sup>

---

<sup>1</sup> Reuters, 9 Sept. 2017, <http://www.reuters.com/article/us-japan-conspiracy-idUSKCN11E0F8?il=0>

<sup>2</sup> United Nations Convention Against Transnational Organized Crime and the Protocols Thereto, <https://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>

<sup>3</sup> Legislative Guides for the Implementation of the United Nations Convention Against Transnational Organized Crime and the Protocol Thereto, [https://www.unodc.org/pdf/crime/legislative\\_guides/Legislative%20guides\\_Full%20version.pdf](https://www.unodc.org/pdf/crime/legislative_guides/Legislative%20guides_Full%20version.pdf)

With regards to anti-terrorism policy, Japan has already ratified the 13 relevant treaties addressing anti-terrorism<sup>4</sup> and enacted domestic laws as required by these treaties. By properly applying and implementing these treaties and laws, Japan can protect their citizens from the terrorism.

### **3. The risk of arbitrary investigations**

The language used in the anti-conspiracy bill is vague and leaves room for abuse by the government if and when it decides to crack down on opposition and dissenting voices. In response to the risk of arbitrary investigations under the Act as amended by the bill, the government argues that the targets of its investigations would be restricted to the crimes in which an “organized crime group, including a terrorist group,” are realistically expected to be involved. However, the definition of an “organized criminal group”, which is one of the key elements of the crime, is vague and may apply to groups other than terrorist organizations. For example, civil society, NGOs, and labor unions might be subject to investigation and punishment under the bill if authorities judge that the nature of such groups has changed. Plus, the bill includes the term “terrorist group” as an example of an “organized criminal group”, but there is no definition of “terrorist group” in the bill.

The bill also stipulates that a crime planned by an organized criminal group, including terrorist groups, which has the objective of jointly committing criminal acts would be punishable when two or more people plan the crime and any of them procures funds or supplies, surveys a related location, or makes any other preparatory action for carrying it out. The government stressed that the new bill requires for investigation not only “planning” but also “preparatory actions”. Nevertheless, both the terms “plan” and “preparatory actions” are too vague to clarify the scope of the proscribed conduct.

It is deeply concerning that the bill would significantly strengthen the government’s power of punishment and dramatically increase the risk that it violates citizens’ freedom of conscience, freedom of expression, and other freedoms. Vague key elements in the law, such as the term “organized criminal group”, “planning”, and “preparatory actions” could lead to arbitrary exercises of power. Accusations of an agreement on crime could lead to someone being punished even though they did not actively participate in the preparation of a criminal activity.

### **4. Serious Concerns regarding NGO activities**

The government excludes Non Profit Organizations from the target of the bill, but vagueness in the definition of “organized criminal group” could provide an excuse for interventions into citizens’ activities which would risk violating their freedom of association necessary to do their work, as well as causing a severe chilling effect on legitimate activities. In China, for instance, the government has similarly been using vague language in its 2014 counter-espionage law, 2015 national security law, and 2016 cybersecurity law to crackdown on political opposition expressed through speech and association.<sup>5</sup>

Today, we face so many enormous challenges such as war, poverty, discrimination, and human rights abuses, which NGOs are working to tackle. Because NGOs often take a contrary view of abusive government actions and work at the grassroots level, authoritarian governments tend to label NGOs as an “enemy” or “illegal” “terrorist” organizations. The shrinking democratic space in the course of suppression of civil society by national governments becomes an international concern. This bill could make global collaboration of civil

---

<sup>4</sup> Ministry of Foreign Affairs, [http://www.mofa.go.jp/mofaj/gaiko/terro/kyoryoku\\_04.html](http://www.mofa.go.jp/mofaj/gaiko/terro/kyoryoku_04.html)

<sup>5</sup> The New York Times, 2 Nov. 2014, <https://www.nytimes.com/2014/11/03/world/asia/china-approves-security-law-emphasizing-counterespionage.html>

society subject to surveillance, for example, based on suspicions of involvement in foreign terrorism. Under these circumstances, NGOs pursuing the public interest with a different view than the government would face enormous difficulties to perform their roles. Citizens' activities would lose their impact, and their freedoms of expression and association would be violated.

## **5. Recommendations**

Human Rights Now is deeply concerned about the "Crime of Preparation for Terrorism and Other Acts" bill which conflicts with the freedom of conscience, right to privacy, freedom of assembly, freedom of association and freedom of expression guaranteed under the Articles 13, 19 and 21 of the Constitution of Japan, and Articles 17, 18, 19, 21 and 22 of the International Covenant on Civil and Political Rights which was ratified by the Japanese government.

We strongly call on the government of Japan not to approve the bill to revise the Act for Punishment of Organized Crime and Control of Crime Proceeds to add the "Crime of Preparation for Terrorism and Other Acts" which is likely to violate citizens' freedom of expression and other freedoms due to arbitrary investigation and punishment, as well as severely hinder the work of NGOs by stifling collaboration. Instead, the government should ensure citizens' safety against terrorism by properly applying and implementing the 13 treaties regarding anti-terrorism which Japan has already ratified<sup>6</sup> and their related domestic laws which have already been enacted.

We urge the UN Human Rights Council and relevant UN special rapporteurs to make an urgent intervention calling on the government to reconsider its policy without delay.

---

---

<sup>6</sup> Ministry of Foreign Affairs, [http://www.mofa.go.jp/mofaj/gaiko/terro/kyoryoku\\_04.html](http://www.mofa.go.jp/mofaj/gaiko/terro/kyoryoku_04.html)