

Japan's new state secrecy law

John Watanabe
16 November 2013

The new State Secrecy Bill put forward by the Japanese government of Prime Minister Shinzo Abe will lead to a highly secretive regime and undermine the basic democratic right to scrutinise government operations and policy.

The cabinet approved the bill last month and the Diet has begun its deliberations, with a view to passing it before the current session ends on December 6. The ruling bloc of the Liberal Democratic Party (LDP) and New Komeito, with a comfortable majority in both chambers of the Diet, is poised to enact the law despite overwhelming public opposition.

The new law is essential for the full integration of the Japanese military and intelligence agencies into the US-led “pivot to Asia” and the military containment of China. Washington has pressed for the tighter control of information for years, withholding intelligence from the Japanese government, or sharing it only with the Japanese Defence Ministry, where a stricter secrecy regime already applies.

Chapter 1 of the bill, published in Japanese by *Asahi Shimbun Digital* on October 25, refers to the “increasingly complex international situation,” making for the “growing importance of securing information related to national security.”

Abe has repeatedly emphasised that the law is the prerequisite for establishing a US-style National Security Council, an initiative that has cleared the lower house and is being debated in the upper house. Such a body will bring together ministers and senior military officers to coordinate defence planning and give the prime minister sweeping powers—in line with Abe’s plan to build “a strong military.”

Abe has insisted the secrecy law is necessary so that all government departments follow a uniform rule. The legislation is being enacted amid the politically explosive disclosures by American whistleblower Edward Snowden of the US National Security

Agency’s vast spying operations. The Japanese government is clearly determined to prevent similar damaging leaks.

The proposed bill will effectively allow the government to proclaim any potentially embarrassing information a “state secret,” to keep it indefinitely from public scrutiny and harshly punish any attempt to disclose it.

Under Chapter 2, Article 4, a “state secret” can initially be kept from the public for 5 years, with a possible extension of up to 30 years. Even after three decades, the cabinet can maintain an indefinite ban on its release.

Japan Federation of Bar Associations (JFBA) lawyer Tadaaki Muto told Reuters: “Basically, this bill raises the possibility that the kind of information about which the public should be informed is kept secret eternally.” Moreover, “the administrative branch can set the range of information that is kept secret at its own discretion.”

At present, only the Defence Ministry can designate information pertaining to national defence as state secrets. Under the new bill, any ministry or government agency can do so for information falling into four broad categories: defence, diplomacy, counter-terrorism and counter-espionage.

Even under the existing setup, the amount of information eventually made public is miniscule. According to the *New York Times*, between 2007 and 2011 the Japanese Defence Ministry destroyed some 34,000 documents at the end of their classification period. Only one was publicly released.

Currently, non-military leakers can be imprisoned for up to one year, while Defence Ministry employees may be sentenced to five years, or 10 years if the leak is related to the US-Japan alliance. Under the new law, any whistleblower could face up to 10 years in jail for publishing a “state secret.”

In a move aimed at muzzling the media, journalists

can be jailed for up to five years for “wrongful” reporting of “state secrets.” A Foreign Correspondents Club of Japan statement expressed deep concern and urged the Diet to “either reject the bill completely or to substantially redraft it so that it ceases to pose a threat to both journalism and to the democratic future of Japan.”

Chapter 5 states that government employees and contractors entrusted with the state secrets, along with their families and relatives, will be subject to thorough investigation. Background checks will not only cover drug or alcohol abuse, mental states and financial situations, but also political views.

“Terrorism,” defined in the most sweeping terms, is used to justify the draconian law. Chapter 5, Article 12 refers to terrorism as “politically imposing differing ideologies on the country or the citizens.” JFBA lawyer Tsutomu Shimizu told the *Japan Times* that “such activities as the anti-nuclear rallies in front of the prime minister’s office could hence be categorised as terrorist acts.”

The secrecy law lays the basis for the government to silence any political dissent as opposition grows to its austerity measures and militarism. During the current large-scale military exercise in the Okinawa region, the government banned journalists and instructed the media to minimise its coverage. Despite these measures, protests erupted in Miyako Island, where Japanese troops practiced the use of anti-ship missiles to counter the Chinese navy. Locals sought to disrupt the exercise, declaring: “We don’t want missiles!” and “We don’t want war!”

Abe is rushing the secrecy bill through the parliament to pre-empt public opposition. According to a *Kyodo* poll in late October, 50.6 percent of respondents oppose the bill and only 35.9 percent support it. Just 12.9 percent want the legislation passed during the current Diet session, while 82.7 percent said it should be deliberated more carefully.

The Japanese media has ignored public protests against the legislation—such as one in Tokyo on October 25. The British-based *Financial Times* reported: “At a protest march against the bill this week, shouts of ‘protect freedom of press’ were accompanied by denunciations of a plan by the premier to reinterpret Japan’s anti-war constitution to allow the country’s forces to fight overseas in defence of allies.”

After avoiding taking a position for weeks, the opposition Democratic Party of Japan (DPJ) suddenly pointed this week to the overwhelming public opposition and tentatively declared that it could not agree to the State Secrecy Bill. The Democrats are planning a counter-proposal for next Tuesday that would establish limited parliamentary oversight of the government’s designation of state secrets.

The DPJ has no fundamental disagreements with the LDP over the expansion of Japan’s military, or its commitment to the US “pivot to Asia.” In fact, the DPJ governments headed by Naoto Kan and Yoshihiko Noda strengthened Japan’s alliance with the US and, backed by the Obama administration, deliberately heightened tensions with China over the disputed Senkakus/Diaoyu Islands in the East China Sea.

In doing so, the DPJ opened the door for the Abe government’s revival of Japanese militarism and plans to build a “strong military,” which go hand in hand with the profoundly anti-democratic laws it is ramming through the Diet.



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