

Is Uncle Sam Watching Your *Dikasteria*?

Socio-Legal Significance of U.S. Monitoring of Judicial Transformation in East Asia

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- U.S. Cable, April 9, 2008
 - “Mixed Forecast for American Defendants: Japan’s Pending *Saiban-in* System”
- Wikileaks – 251,287 U.S. diplomatic cables
 - 12/28/1966 – 2/28/2010
 - 274 U.S. embassies in the world
- 3rd largest number of Japan-related cables
 - 1st – Iraq & 2nd -- Afghanistan



Professional Judge's Influence

Lay Judges under Bureaucratic Judge's Control

- “local daily newspapers pursue an overly anti-military agenda ...reporting with editorial outrage over ‘continuous’ victimization of the Okinawan people at the hands of the military”
- “We hope that **career judges’ influence over lay judges will suffice to counter anti-foreign propaganda**”
 - Lenient sentences for military personnel
 - Suspended sentences for teenage military felons

Optimum Deterrence & Prevention

- *Saiban-in* member in Okinawa
 - Sentence “serves as a deterrence”
- Presiding judge in a *Saiban-in* trial
 - “never ignore the effect of deterrence against similar crimes [in the future]”
- Lay adjudication introduces personalize sentiments & local sense of justice into deliberation
- Okinawa – sovereignty & political independence

CIA & Counter-CIA Activities

Irish Example



- Irish Republican Army (IRA) in 1919
 - Irish War of Independence 1919-1921
 - 1921 Anglo-Irish Treaty & Irish Free State
 - Republic of Ireland in 1937
- Northern Ireland under the British Rule
 - Provisional Irish Republican Army (PIRA)
 - Military tactics & “terrorist” campaigns
 - 1-2% of the entire organization
 - Wikileaks – trials of PIRA in 90s
- 1998 Belfast Agreement (Good Friday Agreement)
 - Sovereignty and political independence



US-Supported Intelligence Activities

South Korea's Example

- Radical students, labor unions, labor party members
 - U.S. D. of Homeland Security * Korea's Immigration Bureau
- National Intelligence Service (NIS)
 - Korea's premier intelligence service
 - Analysis of domestic & international intelligence
 - Post-1997 Asian economic crisis
- National Police Agency (NPA)
 - Intelligence collection organization (11 functional bureaus)
 - Pro-North Korean group
 - Supporting counter-intelligence, counter-espionage, counter-terrorism efforts
- Defense Security Command (DSC) in 1977, 1991, & 1998
 - Monitoring & **neutralizing** subversive elements
 - Subversive factions in ROK military
 - Under President's authority (alas KCIA – CIA assistance)



Collaboration with U.S.'s National Security State

- FBI
 - Political police force & police state
 - CIA & NSA
 - Surveillance of U.S. citizens
- Citizens' Resistance & Opposition
 - Whistleblowers
 - WikiLeaks exposure – Bradley Manning
- Maintenance of Statist Legitimacy
 - 1917 Espionage Act against whistleblowers
 - Police & Prison Industrial Complex
 - Merger of private interests & public sectors
 - State-Corporate crimes
 - Mussolini & Fascism



WikiLeaks & National Security State

- U.S. surveillance of the globe
 - National sovereignty & independence
 - Self-sustainability in economics and politics
 - “democratization” through grassroots movement
- Legal & judicial reforms for autonomy
 - Monitor Anti-WTO & anti-corporate agendas
 - anti-IPR legislation (intellectual property rights)
 - Binding adjudicatory authority to citizens
 - Participatory legitimacy (Tom Ginsburg)
 - Autonomous “nationalistic” judicial movement
 - Socialist nation-state construction
 - Anarcho-syndicalist movements
 - Anti-government & armed self-defense



WikiLeaks & U.S. Surveillance

- East Asian States
 - Japan
 - Korea
 - PRC
- Legal & Judicial Reforms
 - Content analysis using key terms
 - Recent transformative reforms in law
 - Lay adjudication
 - Legal empowerment to captive citizenry
- 2006-2010
 - Most recent reforms in three countries

Table 1. Summary statistics for WikiLeaks DoS Cables that discuss issues of law for China, Japan, and ROK, 2006-2010

	China	Japan	ROK
<i>Cables that discuss legal issues in general</i>	654(11.4%)	329(5.7%)	116(5.8%)
Number of Cables by Year:			
2006	113(17.2%)	65(19.7%)	30(25.8%)
2007	156(23.8%)	111(33.7%)	24(20.6%)
2008	134(20.4%)	89(27%)	30(25.8%)
2009	224(34.2%)	62(18.8%)	27(23.2%)
2010	27(4.1%)	2(0.6%)	5(4.3%)
<u>Total N available cables for each country:</u>	5724	5736	1980

NOTE: Data retrieved from US State Department Cables published by the WikiLeaks Organization. Because 2010 cables were only published up until the month of February, 2010 most likely contains an incomplete collection of relevant cables. Note: there are document overlaps with totals in Table 1, given that many cables will contain both phrases given their close topical proximity.

Table 2. Summary statistics for Subset of WikiLeaks DoS Cables that discuss legal or judicial reform for China, Japan, and ROK, 2006-2010

	China	Japan	ROK
<i>Number of cables that discuss legal reform</i>	491(8.5%)	130(2.2%)	68(3.4%)
Number of Cables by Year:			
2006	100 (20.3%)	26(20%)	19(27.9%)
2007	103(20.9%)	39(30%)	12(17.6%)
2008	100(20.3%)	29(22.3%)	8(11%)
2009	160(32.6%)	33(25.3%)	21(30.8%)
2010	29(5.9%)	3(2.3%)	0
<u>Total N available cables for each country:</u>	5724	5736	1980

NOTE: Data retrieved from US State Department Cables published by the WikiLeaks Organization. Because 2010 cables were only published up until the month of February, 2010 most likely contains an incomplete collection of relevant cables.

Table 3. Summary Statistics of WikiLeaks DoS Cables by Classification and Country, 2006-2010

	China				Japan				ROK			
<u>Category</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009-10</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009-10</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009-10</u>
Labor	26(2.5%)	26(2%)	20(1.4%)	32(1.4%)	1(0.07%)	5(0.8%)	3(0.1%)	8(0.4%)	18(0.4%)	11(2.8%)	0	2(0.2%)
Intellectual Property Rights	25(2.4%)	121(9.4%)	64(4.6%)	108(4.9%)	27(2%)	18(1.3%)	3(0.1%)	1(0.06%)	3(0.06%)	0	1(0.2%)	3(0.4%)
Judicial	118(11.7%)	41(3.2%)	97(7.0%)	135(6.1%)	1(0.07%)	2(0.15%)	2(0.1%)	3(0.1%)	4(0.09%)	1(0.2%)	1(0.2%)	1(0.1%)
*Civil Society Development	96(9.5%)	94(7.3%)	137(9.9%)	176(8.0%)	2(0.14%)	1(0.07%)	1(0.06%)	2(0.01%)	8(1.8%)	7(1.8%)	8(2%)	5(0.7%)
Military	-----	-----	-----	-----	17(12%)	8(0.2%)	5(0.3%)	7(0.04%)	54(12.2%)	40(10.5%)	32(8.6%)	31(4.5%)
“Media Reaction”	4	2	36	312	578	613	705	831	0	1(0.2%)	5(1.3%)	83(12%)
<u>Total Yearly N</u>	<u>1002</u>	<u>1275</u>	<u>1375</u>	<u>2192</u>	<u>1331</u>	<u>1330</u>	<u>1526</u>	<u>1611</u>	<u>440</u>	<u>381</u>	<u>369</u>	<u>688</u>

NOTE: Data retrieved from US State Department Cables published by the WikiLeaks Organization. Because 2010 cables were only published up until the month of February, 2010 most likely contains an incomplete collection of relevant cables.

*For Civil Society Development for Japanese cables, we looked exclusively at cables originating from Consulate Naha, Okinawa (total n=37)

Reference id: 08NAHA132

Cable time: Thu, 11 Dec 2008 08:32 UTC

Origin: Consulate Naha

Classification: CONFIDENTIAL

Published on: 1 Sep 2011 (now)

CLASSIFIED BY: Kevin K. Maher, Consul General, U.S. Consulate General, Naha, Japan, Department of State..

REASON: 1.4 (b), (d)

¶1. (C) SUMMARY AND ACTION REQUEST: Okinawa's Prefectural Governor is planning to visit Washington D.C. between January 7-11 and again in May or June of 2009 to seek meetings with USG officials. He intends to ask for changes to bilaterally-agreed base realignment plans for Okinawa, the return of three U.S. force training ranges located within the prefecture of Okinawa, and possibly revisions to the Status of Forces Agreement (SOFA). The USG position is to reject such requests. We ask that any office that is approached with a request to receive Governor Nakaïma coordinate its response with Deputy Assistant Secretary of Defense for Asian and Pacific Affairs David Sedney in order to maintain a unified USG response and to prevent forum shopping by the Governor. END SUMMARY AND ACTION REQUEST.

¶2. (C) On December 5, Okinawa Prefectural Governor Hirokazu Nakaïma informed visiting Senator Daniel Inouye that he now intends to travel to Washington between January 7-11. The Governor had postponed an earlier plan to travel to Washington last September (reftel B). The Governor indicated that he will be seeking meetings with USG officials, despite the difficulty