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## Japan: Harsh Secrecy Law Fails to Respect International Standards

The Centre for Law and Democracy (CLD) is concerned that a secrecy law about to be adopted by Japan's parliament signally fails to respect international standards and, in particular, the standards set out in the *Global Principles on National Security and the Right to Information* (The Tshwane Principles), which CLD participated in drafting.

*"We respect the right of Japan, and indeed every State, to protect genuinely sensitive national security information,"* said CLD Executive Director, Toby Mendel. *"But this law fails to define national security in a sufficiently clear and precise manner, and also grants too much power to officials to classify information as secret."*

It is a fundamental principle of international law that limitations on the right to access information held by public authorities must be set out clearly and narrowly in law. Principle 3(a) of the Tshwane Principles states: *"Prescribed by law.* The law [setting out restrictions on access] must be accessible, unambiguous, drawn narrowly and with precision so as to enable individuals to understand what information may be withheld, what should be disclosed, and what actions concerning the information are subject to sanction." Principle 3(c) elaborates: *"Protection of a legitimate national security interest.* The narrow categories of information that may be withheld on national security grounds should be set forth clearly in law."

The draft secrecy law being considered by the Japanese parliament signally fails to meet this standard, instead providing a list of 23 vaguely worded categories of information which may be declared secret on national security grounds.

The law also allocates an undue measure of discretion to the heads of public authorities to classify information. Principle 4(d) of the Tshwane Principles clearly rules out such measures, providing: *"In no case may the mere assertion, such as the issuing of a certificate by a minister or other official to the effect that disclosure would cause harm to national security, be deemed to be conclusive concerning the point for which it is made."*

The Centre for Law and Democracy urges lawmakers in Japan to reject the draft secrecy law in its current form and to make it clear that no law which fails to conform to international standards will be adopted.

The Tshwane Principles are available at: <http://www.law-democracy.org/live/national-security-principles-launched/>.

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