

211-0007

ISSN: 2423-8376

378 Tenjinchou Kamimaruko Nakaharaku

Kawasakishi Kangawhken Japan

# International journal of terrorism & national security

2017 2(2)

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**J-INSTITUTE**

Publication state: Japan  
ISSN: 2423-8376

Publisher: J-INSTITUTE  
Website: <http://www.j-institute.jp>

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<http://dx.doi.org/10.22471/terrorism.2017.2.2.01>

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## A Study on Mutual Legal Assistance in Criminal Matters to TRANSNATIONAL THREATS in Northeast Asia

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### Abstract

*Technological and economic development after the World War II promoted the increase of the free movement of goods, services and people, which led to globalization. Contrary to positive expectations for the globalization, it has brought negative side effects such as globalization of crime and international disorder by illegal subnational actors. The phenomenon of international disorder as a dysfunctional element in the process of globalization is expected to increase more rapidly in the future.*

*One of these threats is transnational crime. Transnational crime refers to crimes related to two or more sovereign states, such as the subject, object, act, the benefit, and outcome of a crime. As these transnational crimes increase, closer cooperation with foreign countries is required for prevention, investigation, prosecution, trial and punishment of crime.*

*However, it is questioned whether the traditional system of mutual legal assistance in criminal matters can be played as an effective countermeasure against transnational crimes becoming globalized and widened both quantitatively and qualitatively. Therefore, it is emphasized that the need to reorganize the existing system of mutual legal assistance in criminal matters to be effective. Based on these problems, the purpose of this study is to find ways to build international cooperation on police activities in Northeast Asia for transnational threats, focused on transnational crimes.*

*Due to the various problems inherent in the traditional legal mutual assistance in criminal matters, actual cooperation on mutual legal assistance in criminal matters is not often achieved. Moreover, the new type of mutual legal assistance in criminal matters as bilateral treaties has not been joined in Northeast Asia, and cooperation through international criminal police organizations may concern about violation in human rights.*

*Therefore, it is necessary to discuss how to prevent and suppress these crimes while promoting free movement of individuals and exchange and cooperation. In this article, one of these problematic situations was discussed the international cooperation plan of police activities and suggested the recommendations for improvement.*

**[Keywords]** *National Security, Transnational Threat, Transnational Crime, Mutual Legal Assistance in Criminal Matters, National Security in Northeast Asia*

## 1. Introduction

Technological and economic development after the World War II promoted the increase of the free movement of goods, services and people, which led to globalization of the international society[1]. Unlike

the positive expectation for the globalization phenomenon, the globalization of the international society has brought negative side effects such as globalization of crime, greatly increased various kind of crimes due to the free movement of people, and international disorder by illegal subnational actors. The concept of disorder is not caused

by traditional issues of the twentieth century, such as arms race, security dilemma, and military conflict, but emerged from new issues of the 21st century such as terrorism, organized crime, money laundering, corruption and environmental pollution. The phenomenon of international disorder as a dysfunctional element in the process of globalization is expected to increase more rapidly in the future[2].

Thus, the State is challenged by terrorism, the proliferation of weapons of mass destruction(WMD, transnational threats such as crime, drugs and environmental pollution[3]. One of these threats is transnational crime. Transnational crime refers to crimes related to two or more sovereign states, such as the subject, object, act, the benefit(Rechtgut), and outcome of a crime. As these transnational crimes increase, closer cooperation with foreign countries is required for prevention, investigation, prosecution, trial and punishment of crime.

However, it is questioned whether the traditional system of mutual legal assistance in criminal matters can be played as an effective countermeasure against transnational crimes becoming globalized and widened both quantitatively and qualitatively. Therefore, it is emphasized that the need to reorganize the existing system of mutual legal assistance in criminal matters to be effective. Based on these problems, the purpose of this study is to find ways to build international cooperation on police activities in Northeast Asia for transnational threats, focused on transnational crimes.

## **2. Theoretical Background**

### **2.1. Definition of transnational crime**

Transnational crime has brought attention from academic fields and practitioners since 1990s, when they underwent significant political and economic development in the international system[4]. The collapse of the Soviet Union caused a structural change in the world politics, economy and security order by dismantling the huge anthropomorphic structures of the US-Soviet bipolar

system that dominated the post-war world order and the East-West Cold War system[5].

One of these changes is globalization. The globalization has increased concerns about the vulnerability of countries to cross-border criminal activities[4].

The rise of transnational crimes in the early 1990s and the subsequent discussion in the international security dimension ultimately led to the conclusion of the UN Convention against Transnational Organized Crime, which is the first international regime for organized crime in 2002. The objective of this Convention is to eliminate the differences in the legal framework between countries that have been obstacles to existing international mutual cooperation to combat organized crime and to establish the standards of domestic law and in particular to ratify the Convention for the establishment of Act on money laundering and anti-corruption[2].

However, the problem is that transnational crime is a term widely used not only by criminologists but also by policy-makers, law-enforcement agencies, and the general public. As transnational crime is not a legal concept, the term lacks of exact legal definition.

In the case of the United Nations, transnational crime is defined as “the commencement and prevention of crime and the direct and indirect effects of crime in more than two countries”[6]. Passas refers to transnational crime as “an injury against a society which is unnecessary and can be avoided, which is serious enough to justify intervention by the State, and which is similar to the types of acts defined as crime in the relevant country or international law” and “the offender(s) and the victim(s) are affected by separate jurisdiction”[7].

### **2.2. Types of transnational crime**

Types of transnational crimes can be divided into weapons trafficking, money laundering, organized crime, drug trafficking, forgery of currencies, forgery and alteration of passport, and terrorism. In this article,

four major type of transnational crime will be discussed.

First, illegal arms trafficking by transnational criminal organizations not only promotes national and political disputes and civil war in many parts of the world, but also, if these weapons are in the hands of terrorist groups, plays a critical risk factor to national security. In addition, as the possibility of nuclear material smuggling by international criminal organizations has been raised recently, the concern of the international community is increasing due to the possibility that terrorist groups may obtain nuclear materials or strategic nuclear weapons. In case of Republic of Korea, the authorities have uncovered smuggling of plastic pistols, lighter-type pistols and key-chain pistols[8].

Second, money laundering is the act of converting illegally created funds into legitimate funds through financial institutions. The term refers to a series of process that conceals the importing rights, source of the money, and its use. transnational criminal organizations can eliminate the traces of illegal activities such as drug trafficking, drug trafficking, corruption, smuggling, tax evasion, abduction, and gambling by money laundering in effort to transform the illegal profits into legitimate ones[8].

Third, the concept of organized crime is not unified, so it has slightly different definitions by different research institutes and researchers. However, the characteristics of organized crime are common[8]. Defining transnational crime, it means that it is a criminal act which is linked directly or indirectly with two or more countries in characteristics of organized crime[2][6]. Organized crime is also related to corruption, including the purchase of public servants as a means to avoid investigation by the authorities[8].

Fourth, drug trafficking is a major source of revenue for transnational criminal organizations, and the tremendous revenues have been the basis for intervening in organizational forces and other crimes. In addition, drug abuse has been pointed out as a major factor not only deteriorating individual

health but also causing a great harm to society[9]. International drug organizations are strengthening their links with drug organizations around the world by securing skilled drug-making technology and advanced equipment and means of transport to avoid interference, and in some jurisdictions[8].

### **2.3. Necessity for police international cooperation in countering transnational crime**

Since the early 1990s, the issue of criminal organizations committing transnational crimes has been actively discussed in terms of economy and security. Transnational crime organizations are not only influencing the informal economy through criminal activities such as drug trafficking, weapons trafficking, and human trafficking, but are also expanding into the formal economy, such as the stock market or real estate market. Many countries that recognize the growth and development of the official economy as one of the important factors of national security in the 21st century have continued to discuss countering transnational crime organizations not only in the economy but also in the security dimension.

Moreover, after 9.11, it is found that some Islamic terrorist groups have intervened in drug trafficking, which is the activity area of transnational criminal organizations, through which they are also involved in trafficking of weapons, including nuclear weapons. Therefore, transnational criminal organizations have become a matter of national security as well as international security.

## **3. Challenges in Mutual Legal Assistance in Criminal Matters**

### **3.1. Definition of mutual legal assistance in criminal matters**

In general, mutual legal assistance in criminal matters in the narrow sense refers to the cooperation of another country at the request of a State in connection with criminal investigations, prosecutions and

proceedings in criminal cases. It is the process of acquiring certification or physical certification for the purpose of proving the non-existence of the offense at the stage of trial, except for the extradition of the offender. It also deals with the cooperation of the countries in collecting data, exchanging information and sending documents related to the lawsuits.

On the other hand, mutual legal assistance in criminal matters in the broad sense includes extradition, and the definition of the broadest term refers to the transfer of proceedings in criminal matters which allows crimes committed in one country to be sought in another and the executing foreign criminal sentences which is a system for executing foreign criminal sentences in Korea upon foreign request. Normally, the term means the mutual legal assistance in criminal matters in narrow sense. Mutual legal assistance in criminal matters are joined based on bilateral or multilateral treaties and its scope varies depending on each treaty joined[1].

As of 2017, Korea has concluded a bilateral treaty on criminal justice and conciliation with 30 nations. Among them, all the treaties are in effect. Korea has concluded a treaty with five countries including China, Hong Kong, Mongolia, and Japan to conclude the Criminal Justice Cooperation Treaty with Northeast Asian countries.

### **3.2. Definition of extradition**

Extradition is a system to bridge the territorial limits of criminal enforcement jurisdiction. It is a system that allows a person to escape to another country after the person has committed a crime or before completed the execution of a sentence. Since crime is against the common interests of mankind, it is necessary to judge criminals in the countries with close interests such as the country where the crime occurred or the nationality of the criminal for the punishment of the offender. For this reason, extradition is a system for punishing criminals who have escaped to arrest and guilty of extradited offenders. As extradition differs from mutual legal assistance in criminal

matters which are based on agreement by requested country and relate individuals, both treaties are joined separately[10].

### **3.3. Challenges in implantation of mutual legal assistance in criminal matters**

Most countries in Northeast Asia, including China and Japan, have domestic laws that make it difficult to implement the mutual legal assistance in their countries. Even though Republic of Korea has also been able to provide more efficient and systematic cooperation in response to requests for assistance from foreign countries in accordance with the enactment of Act on Mutual Legal Assistance in Criminal Matters, act on mutual legal assistance in criminal matters in each country in Northeast Asia has some drawback that makes it difficult to implement the mutual legal assistance.

First, mutual legal assistance in criminal matters doesn't have a prompt procedure in providing the assistance, which makes it harder to combat the transnational criminal activities in the region. Moreover, it is an operation system that intervenes only after the crime has committed. Thus, it cannot obtain any information or intelligence beforehand. However, the essential thing in combatting transnational crime should be to focus on proactive responses such as obtaining proactive terror information to carry out or exchanging information on illegal drug distribution[1].

Second, the activities of officers from foreign governments is limited in Korea. There are two kinds of mutual legal assistance that one State cooperates with foreign lawsuit: active mutual legal assistance and passive mutual legal assistance. Mutual legal assistance in Republic of Korea is regarded as an active mutual legal assistance, but countries whose legal system is based on Anglo-Saxon law have passive mutual legal system. In cooperating with countries with Anglo-Saxon legal system, mutual legal assistance may have obstacles, making it difficult to be effective.

Third, there is a matter of strict requirements in double criminality. In order to make mutual legal assistance effective in

cooperation with a specific crime, double criminality is a basic principle in international mutual legal assistance. However, considering the diversity of criminal laws and punishment in each country, strict application of the requirements of double criminality may hinder the mutual legal assistance. In recent years, there has been a tendency not to require double criminality in the international mutual legal assistance in criminal matters, and to appear domestic laws or international agreements not requiring actual double criminality in exception of legal disposition.

Fourth, it is the problem of the request channel. Judging from the judicial nature of international mutual legal assistance in criminal matters, it is most desirable for mutual legal assistance in criminal matters to be conducted directly between the requesting State and the investigating authority or court of the requested State. Also, it is necessary for the realization of prompt and effective cooperation.

However, cooperation with foreign countries is in principle required to go through the Ministry of Foreign Affairs(Article 11 of the International Criminal Justice Act). In the case of a request for assistance to a foreign country, the Minister of Foreign Affairs has to consult with the Minister of Justice if he/she finds that the request for diplomatic encounters is not worthwhile(Article 31 of the same Act).

Although these provisions are based on the recognition that the Ministry of Foreign Affairs should be a public window because mutual legal assistance in criminal matters is broadly part of the foreign relations of a country, it is very likely that the request for assistance and the provision of requested data will be made very frequently. Whenever the mutual legal assistance in criminal matters is requested, request by diplomatic channel may hinder prompt and effective assistance.

## 4. Recommendations

While transnational crimes such as drug trafficking and illegal immigration are increasing in Northeast Asia, countermeasures are only dependent on traditional mutual legal assistance in criminal matters. Since traditional mutual legal assistance in criminal matters has various problems in itself, it is necessary to conceive a new strategy to respond effectively to transnational crimes.

### 4.1. Improvement of traditional mutual legal assistance in criminal matters

Enhancing the existing system of mutual legal assistance in criminal matters means that the traditional mutual legal assistance in criminal matters should be more flexible and appropriate to the contemporary times. These include relaxation of double criminality and building of mutual trust among Northeast Asian countries. In order to enhance traditional system, it is necessary to review various factors that limit the scope of mutual legal assistance in criminal matters in the first place, which is to ease the principle of double criminality.

However, in order to ease the application of double criminality, it is necessary to cooperate with the requested country, which requires mutual understanding and trust between the two countries. Unlike Europe, which has been showing a centripetal tendency since the end of the Cold War, the geopolitical situation in Northeast Asia is characterized by the overlapping of 'integration' and 'division', which are in conflict with each other.

If there is a lack of understanding of the law of the other country in such a situation, it will be impossible to accumulate the experiences of mutual legal assistance in criminal matters as it has been so far. Therefore, there is a need for formal and informal efforts to expand the understanding and awareness of the legal system between countries in Northeast Asia for the effective operation of mutual legal assistance in criminal matters[1].

## 4.2. Introduction of a new type of judicial assistance system and multilateral treaties

Although there are only mutual legal assistance in criminal matters in the narrow sense and extradition in Northeast Asian countries, a new type of mutual legal assistance emerged, like the enforcement of foreign criminal decisions, the transfer of criminal prosecution and the transfer of foreign prisoners. The new type of mutual legal assistance system does not focus on direct investigation or securing criminals, unlike the traditional mutual legal assistance in criminal matters. Therefore, Northeast Asian countries do not have to hurry to join a new type of treaty, but it is highly recommended to consider new forms of mutual legal assistance as there is a growing need for the protection of human rights and the punishment of serious crimes.

It is desirable to join multilateral treaties on mutual legal assistance in criminal matters between countries in Northeast Asia. Current legal systems for combating transnational crime are pursued on the basis of bilateral treaties, but not based on multilateral treaties. In the long term, it is necessary to develop East Asian multilateral Criminal Justice Cooperation Treaty covering all of Southeast Asia[1].

## 5. Conclusions

Due to the various problems inherent in the traditional legal mutual assistance in criminal matters, actual cooperation on mutual legal assistance in criminal matters is not often achieved. Moreover, the new type of mutual legal assistance in criminal matters as bilateral treaties has not been joined in Northeast Asia, and cooperation through international criminal police organizations may concern about violation in human rights[1].

The best way to jointly respond to transnational crimes is to create an independent body that collects and investigates information to counter regional transnational crime in the region. However, this kind of

coordination is premised on the partial transfer of sovereignty of individual states, and even if such a method is valid, it cannot be realized immediately. Furthermore, since conflicts and conflicting factors exist in Northeast Asia such as the remnants of the Cold War system, arms race, nationalism, historical distortions, and territorial disputes, it is unlikely that certain political issues related to Northeast Asia will be easily solved.

Transnational crime has been accelerating since the 1990s, with changes in the international community. Therefore, it is necessary to discuss how to prevent and suppress these crimes while promoting free movement of individuals and exchange and cooperation. In this article, one of these problematic situations was discussed the international cooperation plan of police activities and suggested the recommendations for improvement.

## 6. References

### 6.1. Journal articles

- [2] Cho SK. Transnational Crime as a New Regional Security Threat in the Northeast Asia and the Control Strategies: An Integrated Perspective. *Journal of International Area Studies*, 25(1), 151-180 (2007).
- [5] Hong WS. Characteristics and Dynamics of Northeast Asian International System. *Journal of International Area Studies*, 10(2), 331-363 (2006).
- [8] Lee YR. The Reality of International Crimes in Korea: From Perspectives of the Need for International Cooperation. *Korean Journal of Criminology*, 12(2), 261-296 (2000).

### 6.2. Books

- [1] Jang JO & Son DK & Lee JK. Zusammenarbeit Zwischen Ostasiatischen Staaten Für Die Bekämpfung Der Grenzüberschreitenden Kriminalität. Korea Institute of Criminology (2007).

- [3] Stolberg AG. The International System in the 21st Century Batholomees J Boone US Army War College Guide To National Security Policy And Strategy. Department of National Security and Strategy (2006).
- [4] Felson D & Kalaitzidis A. Handbook of Transnational Crime and Justice. Sage (2005).
- [6] Muller GO. Transnational Crime: Definitions and Concepts in Williams P & Vlassis D Combating Transnational Crime: Concepts Activities and Responses. Frank Cass (2001).
- [9] Park KR. International Policing. Vision Character (2004).
- [10] Chun JH. A Study on Transfer of Sentenced Persons. Korea Institute of Criminology (2006).

### 6.3. Conference proceedings

- [7] Passas N. Transnational Crime: The Interface between Legal and Illegal Actors. Presented to Workshop on Transnational Organized Crime to Committee on Law and Justice. National Research Crime Council (1998).

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Publication state: Japan  
ISSN: 2423-8376

Publisher: J-INSTITUTE  
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<http://dx.doi.org/10.22471/terrorism.2017.2.2.08>

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## Comparative Study of Communication Restrictions on Crime of TERRORISM

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### Abstract

*In recent years, the world has been emphasizing the role of intelligence agencies in the field of telecommunications aimed at strengthening the response to acts that threaten national security, such as the threat of international terrorism.*

*In particular, crimes against national security such as espionage or terrorism are committed by the criminals who have been trained outside domestic territory, observing their own strict security regulations. For these reasons, investigations on communications conducted by criminals who attempt and direct is essential to investigation crime against national security.*

*Considering legislations on telecommunication restrictions in some advanced countries, the United Kingdoms has enacted the Investigatory Powers Act(IPA 2016) to counter threats to national security and serious crimes, allowing investigative agencies, security and intelligence agencies to monitor a large scale of surveillance.*

*The United States has implemented the CALEA, the Patriot Act, the FISA, and the ECPA, which are legally enforced by law.*

*It is necessary to revise the important part of the domestic communication confidentiality protection law against the crimes which threatens the national security by referring to the matters concerning the communication restriction law of major countries.*

*In the context of IoT communication, individuals, society, and the nation are linked to one fate community through the transmission and reception of packet data over the Internet. Also, telecommunications infrastructures are subject to territorial domination as tangible goods, it is necessary to understand national security as "the safekeeping of the nation as a whole".*

**[Keywords]** *National Security, Terrorism, Investigations in Telecommunication, Investigatory Agency, Intelligence Agency*

## 1. Introduction

Recently, criminals are becoming more advanced and intelligent due to the development of information and communication science and technology. In particular, crimes against national security such as espionage or terrorism are committed by the criminals who have been trained outside domestic territory, observing their own strict security regulations. In addition, the

methods of crime by taking advantage of advanced science and telecommunication technology have been rapidly developed.

On the other hand, the collection of legitimate evidence by investigative agencies is becoming increasingly difficult, but investigations on communications conducted by criminals who attempt and direct is essential to investigation crime against national security.

It is also important in terms of protection of personal information in domestic laws and regulations. Furthermore, it provides the basis of legitimate and proper investigation on communication to ensure national security and public safety by intelligence and investigation agencies.

Hereinafter, the legal system for proactive and preventive measures against transnational crime threatening national security will be discussed. To this end, this article will compare relevant legal system in the United Kingdoms and the United States and suggest the recommendations for amendment of law on communication restrictions.

## **2. Review on Comparative Law**

### **2.1. United Kingdoms**

The United Kingdoms enacted the Investigatory Powers Act 2016, which allows a large-scale surveillance on communications by investigative agencies, security and intelligence agencies to counter threats to national security and major crimes[1], and the Queen expressed her consent to enact the law as of November 29th, 2016[2]. Moreover, the Act became in force by various dates starting on December 30th, 2016[3], establishing and restricting the electronic surveillance powers by the intelligence community in the UK, such as law enforcement agencies and police. It has also influenced data related national security, and technical communications. In addition to this, it has introduced new supervisory systems for managing the use of investigatory powers by law enforcement agencies, security and intelligence agencies and its monitoring, and for strengthening its safeguard in the United Kingdoms.

IPA 2016 provides investigation authorities, security and intelligence agencies with legal right to retain all the information on the telecommunication history, such as infiltration into computers, smart phones, tablets, storage devices, and so forth, to enhance the investigatory powers by the national agencies. It provides legal safeguards to define its scope of power as well.

Still, the law raised some issues in the course of legislation by the Parliament. It was because of the broad authority that technology and telecommunications operators in the UK and abroad provide with governmental agencies to keep their personal information. The authority is regulated in relation to bulk warrant allowing the request for potential support the law enforcement agencies in the United Kingdoms as a form of close access to telecommunication[4].

### **2.2. United States**

Along with European countries, the United States has four major laws relating to legitimate interception: the Communications Assistance for Law Enforcement(CALEA), the PATRIOT Act of 2001, Foreign Intelligence Surveillance Act(FISA, 1978) and the Electronic Communications Privacy Act(ECPA). The Foreign Intelligence Surveillance Act is a legislation that considers that the object of surveillance and interception could be foreigner(s) who does not hold American citizenship. In 1994, the US Congress clarified CALEA more clearly, requiring operators to maintain a network infrastructure for legitimate eavesdropping bodies based on law. In particular, after the September 11 terrorist attacks, Congress increased its electronic surveillance by the PATRIOT Act. This law extends FISA, which was already implemented for surveillance on foreign citizen[5].

The Telecommunications Privacy Act(ECPA) distinguishes the definition of communication interception in the following three categories: (i) wire communications through the telephone line as an auditory transmission related to a conversation involving human upbringing; (ii) oral communications where one party of the conversation does not intend to interfere; (iii) electronic communications that transmit all or part of symbols, signals, and visual material, excluding telephone calls and voice conversations, by using telephone lines, radio waves, or other media[6].

Interception of national security crimes is permitted by the Foreign Intelligence Surveillance Act(FISA). The object to be audited by FISA is related to overseas information activities: i) the content of the communication is foreign confidential information, ii) the application for interception shall be filed with the Foreign Intelligence Surveillance Court(FISC), a special court established by FISA.

The Law on mutual legal assistance(CALEA) is a complement to ECPA and FISA for effective interception. Under the Act, a telecommunications operator shall have telecommunications facilities and equipment capable of intercepting the subscriber's communications within the scope of the provision of services and providing the information to the information and investigation agencies pursuant to a court order or related regulation. If a telecommunication operator or manufacturer does not have the necessary equipment for interception or does not provide interception services, the court may order the establishment of eavesdropping facilities and provide the communication contents in accordance with the Act. The telecommunication operator shall provide the investigation agency with a communication history of the alleged offender by the court.

### **3. Suggestions for Revision of Domestic Telecommunication Protection Act**

#### **3.1. Necessity and legitimacy of the Internet interception**

If the conventional communication means is aimed at voice conversation via a telephone line, contemporary communication means is not limited to voice by means of the Internet, but is converted into digital data such as letters, pictures, expressions and commands for various electronic devices including various websites. All possible information is targeted. In addition, since these digital data transmitted and received on a packet-by-packet basis are easily distinguished from the evidence of crime

in the real space because of the infinite copying, modification and deletion, it is possible to prevent the crime by capturing the crime in advance[7].

#### **3.2. Provisions of exceptional grounds for wiretapping against national security threat crimes**

The Internet line data is not only easy to deleted, changed, and encrypted, but also makes it difficult to detect if the dark web is used. Even if it detects, it cannot be expected to prevent damage. Especially, it is obvious that there is a need to provide an exception clause for the Internet wiretapping.

#### **3.3. Base station investigation through tracking location information**

Base station investigations that identify location information are a necessary investigation method for tracking offenders of specific crimes or other crimes that threaten national security. In many cases, the communication confirmation data is used at the early stage of the intervention or investigation and it is often difficult to specify the person 's personal information. It is necessary to re-investigate the personal information of the subscriber(s) separately before requesting the communication confirmation data, and if the result of the investigation cannot be grasped, the investigation cannot proceed any longer. Therefore, considering the risks and urgency of crimes that threaten national security, base station investigation that grasps real - time location information is an area that is actively necessary for suppressing the crime.

### **4. Conclusions**

It is not arguable that public interest and crime prevention are traditionally regarded as critical issues. In order to strengthen the response to acts threatening national security, such as threats of international terrorism or provocations by North Korea, information on communications held by telecommunications providers is essential to in-

vestigative agencies or intelligence agencies[8]. In addition, there may be various discussions on the concept of national security or national security.

However, in the context of IoT communication, individuals, society, and the nation are linked to one fate community through the transmission and reception of packet data over the Internet. Also, telecommunications infrastructures are subject to territorial domination as tangible goods, it is necessary to understand national security as "the safekeeping of the nation as a whole".

## 5. References

### 5.1. Journal articles

- [7] Jung JH. Legal Study on the Necessity and Legitimacy of the Interception of Packets Over Internet Communication. *Hong-Ick Law Review*, 18(1), 505-529 (2017).
- [8] Choi CS. The United States Legislation for Investigative and Information Authorities Right to Collect Information on Use of Telecommunications and the Implications - Focused on Review of the USA Freedom Act of 2015. *Informedia Law Review*, 20(1), 113-140 (2016).

### 5.3. Additional references

- [1] <http://www.computerweekly.com/> (2016).
- [2] Alan Travis Home Affairs. "'Snooper's charter' Bill becomes Law, Extending UK State Surveillance". The Guardian. Retrieved (2016).
- [3] Investigatory Powers Act goes into Force, Putting UK Citizens under Intense New Spying Regime Published by The Independent (2016).
- [4] <https://www.mi5.gov.uk/> (2017).
- [5] Cable Television Laboratories: Packet Cable Electronic Surveillance Specification, PKT-SP-ES-DCI-101-060914 (2006).
- [6] U.S. v. Herring, 993 F.2d 784, 787 (1993).

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Publication state: Japan  
ISSN: 2423-8376

Publisher: J-INSTITUTE  
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<http://dx.doi.org/10.22471/terrorism.2017.2.2.12>

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## Theoretical Approach to Radicalization and Violent Extremism that leads to TERRORISM

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### Abstract

*As Korea is changing into a multi-racial and multicultural society, the number of immigrants has exceeded two million people, making heterogeneous members in Korea society increase. The changes in Korean society are similar to those of the international migration phenomenon that occurs globally.*

*The phenomenon that individuals of diverse nationalities leave their origin country affects the various institutions of origin and destination countries, playing a key role in social transformation. However, not everyone agrees with this change. There is also a movement to resist social change derived from international migration, which usually appears in the form of fundamentalism. In addition, social and economic instability is presented as a key link in the process of transforming this fundamentalism into violent extremism.*

*It is argued that radicalization and violent extremism are root cause of recent terrorist attacks in Europe as a form of lone wolf terrorism. Even though political and religious motives are different from each case, it is remarkable to focus that radicalism and violent extremism are commonly observed in these cases as the underlying causes.*

*Republic of Korea is not free from violent extremism spreading to Asia, making it urgent to homegrown terrorism and lone wolf terrorism. In order to prevent violent extremism, all aspects of social efforts are required. Therefore, it is appropriate to prevent violence from the economic, social and educational level as well as the law enforcement related to police activities.*

*That is, the response to radicalism is characterized by a social and economic response to the improvement of the environment that promotes radicalization and the spread of violent extremism, in which not only the government but also religion, education, business, and civil society participate. In particular, it is pointed out that the social integration of social minority groups and vulnerable groups, which can be transformed into violent extremism with radicalism, is the most important.*

*This article is an exploratory research for the prevention of violent extremism in the context of Korea Peninsula, reviewing on the explanatory models on violent extremism.*

**[Keywords]** Radicalization, Violent Extremism, Terrorism, Counterterrorism, Countering Violent Extremism

### 1. Introduction

As Korea is changing into a multi-racial and multicultural society, the number of immigrants has exceeded two million people, making heterogeneous members in Korea society increase. The changes in Korean so-

ciety are similar to those of the international migration phenomenon that occurs globally.

The phenomenon that individuals of diverse nationalities leave their origin country affects the various institutions of origin and destination countries[1], being a key role in

social transformation[2]. However, not everyone agrees with this change. There is also a movement to resist social change derived from international migration, which usually appears in the form of fundamentalism[3]. In addition, social and economic instability is presented as a key link in the process of transforming this fundamentalism into violent extremism[4].

It is argued that radicalization and violent extremism are root cause of recent terrorist attacks in Europe as a form of lone wolf terrorism. Even though political and religious motives are different from each case, it is remarkable to focus that radicalism and violent extremism are commonly observed in these cases as the underlying causes.

Republic of Korea is not free from violent extremism spreading to Asia, making it urgent to homegrown terrorism and lone wolf terrorism. In order to prevent violent extremism, all aspects of social efforts are required. Therefore, it is appropriate to prevent violence from the economic, social and educational level as well as the law enforcement related to police activities.

This article is an exploratory research for the prevention of violent extremism in the context of Korea Peninsula, reviewing on the explanatory models on violent extremism.

## **2. Theoretical Background**

### **2.1. Definition of violent extremism**

Extremism means “an attitude in which all thoughts or actions are overly biased” in the dictionary. Thus, extremism is not found only in certain fields such as religion, but in all fields of a society. According to Neuman(2010), the term, extremism, is “a political ideology that opposes the core values and principles of a society”[5]. In democracies, extremism is defined as “the ideology of certain racialism and religious supremacy, as well as an ideology against the principle of democracy and universal human rights”. Following by this definition, an extremist is a person who aims to achieve its purpose by

means of violating to life, liberty and human rights of others[6].

In order to explain the root causes of homegrown terrorism and lone wolf terrorism emerging as a new type of terrorist threat in recent years, the conception of radicalization should be examined together with extremism. Radicalization implies a radical change in the current social system and political system practices in order to realize social ideals. As can be seen from the dictionary definition of radicalization, radicalization itself is not perceived as a social threat if it is not associated with violence or illegal behavior. Rather, it can serve as a driving force for socially beneficial changes[7].

When radicalization is combined with violence and illegal activities and transformed into radicalization for terrorism, it becomes extremism. In particular, extremism in this case is violent extremism, and violent extremism not only allows an individual to acknowledge violence, such as terrorism, as one of the available means of action, but also acts as a justifying mechanism for such violence. Furthermore, violent extremism does not stop radicalized individuals from advocating terrorism, but rather enables them to support or carry out direct acts of terrorism. In light of these points, radicalization is intended to change the existing political and social structure, while extremism embraces a certain ideology and, according to its ideology, uses violence against the governance of a society and the dominant group[8]. Taking these differences into account, extremism as a cause of terrorism is described as violent extremism.

### **2.2. Theories in violent extremism**

Since violent extremism is pointed out as a process that is affected by various structural and psychosocial factors[9], this article focus on psychological causes.

#### **2.2.1. Social movement theory**

Social movement theory(SMT) is a theory developed by paying attention to collective complaints arising from the illogical process of collective action that takes place under

oppressed environmental conditions. According to SMT, an individual thinks that the reason why one participates in a specific social movement is passively subdued to an overwhelming social atmosphere or social power. For its survival as an organization, it has objectives to form a potential group of potential members, network for recruiting members, motivation for the participation of the members, and elimination of obstacles to participation in the exercise[10].

In addition, SMT explores two-way methods of the process of recruiting potential members, informing them about the opportunities they can gain from participation in the group, and using the incentive[11]. Later, SMT has evolved into Resource mobilization theory(RMT), focusing on the process of participating in specific contexts such as group dynamics[6].

### **2.2.2. Framing theory**

Framing theory focuses on the process by which specific social movements and social aggregates constitute, produce, and disseminate their meanings. Framing theory deals with the process of repeatedly presenting specific frames of messages about beliefs, attitudes and beliefs of supporters so as to generate the most repercussions of potential support for a particular social movement or group. According to the framing theory, as individuals acquire frames of reference from a particular social movement, they gradually find their identity in collective action. This means that specific social movements are motivated to diagnose problems that individuals perceive vaguely, ask for their responsibilities, and provide solutions and tactics and strategies for those problems so that potential participants can actively participate in the exercise. It is in providing the framework. A key element in the participation of the members through the framing process is how 'reality' presented by the exercise provokes repercussions from those potential participants[12].

Based on the theory of social movements and the framing theory, four models of the development of the armed Islamic group

have been proposed. This model is based on the assumption that individuals who are subjected to violent extremism are first exposed to a new worldview(cognitive openness), religion is recognized as a path to pursue meaning(religious pursuit), narrative and ethos(frame adjustment), and finally the step of introducing into the group through socialization process(injection of social movement)[13].

### **2.2.3. Social psychology theory**

Violent extremism is most frequently seen in collective phenomena. Therefore, socio-psychological explanations of group dynamics will help understand the behavior of terrorist groups that make ordinary individuals more violent extremist. The social psychology theory(SPT) explains that the context of the group develops extreme attitudes. The opinions and attitudes of the group are more extreme than the opinions and attitudes of the individual, which means group polarization.

This makes group decisions more biased and irrational than personal decision making. This phenomenon, called so-called groupthink, occurs when members of a group are overly consensual, which occurs when the means of consensus among members has evolved the goal of making the most appropriate decision. It also recognizes the group on the basis of a more favorable prejudice to the group members, which in turn has a negative perception and attitude toward the outsider. One of the important socio-psychological explanations that extremism develops is that individuals feel less responsive to group behavior. Individuals are more likely to be receptive to violence if violent behavior is to be grouped.

Finally, an individual joins a certain group because there are perceived incentives and rewards, and a group has internal norms and disciplines to control its actions. If the individual is highly cohesive and isolated from society, and if the individual has a high price to refuse the instructions, the compliance of the group will increase and the degree of obedience will increase. Therefore, extreme attitudes must be developed[14].

### 3. Review on Models for Violent Extremism

Although factors influencing violent extremism are presented as aspiration and exclusion factors, the process of transition from radicalism to violent extremism is not the same process as a single formula[7].

In Europe, where violent extremism has been the cause of lone wolf terrorist attacks in recent years, in order to understand the process of turning an individual into a violent extremism, it is regarded as a process by which an individual is transformed into radicalization and violent extremism is not a process of a single formula, and it is suggested that it is not a one-way linear one.

#### 3.1. Staircase to terrorism model

Although factors influencing violent extremism are presented as aspiration and exclusion factors, the process of transition from radicalism to violent extremism is not the same process as a single formula[7].

Moghaddam(2005) presented a model of “Staircase to Terrorism” to illustrate the process of transition to extremism and personalization using various psychological components. Moghaddam’s model saw gradual progression of individuals to radicalization and violent extremism, such as climbing stairs from one level to five. Individuals’ perceived grievances and current pitfalls lead to perceptions of deprivation, and they are seen as the basic rationale and fuel for the path to terrorism. However, not every individual develops to a higher level than he or she recognizes. Individuals who are radicalized at each stage gradually decrease in number as they move up to the higher level, and individuals who emerge to the level of violent extremism associated with actual terrorist acts are relatively few in number compared to the initial stage of rapid evolution[15].

According to Moghaddam’s model, radicalized individuals begin their actions with the desire to improve the plight of their current situation. However, if this attempt is unsuccessful, it leads to despair or aggression. The despair or aggression thus induced

is projected to the object which is regarded as the cause of his failure. These objects are regarded as so-called ‘enemies’ to individuals who feel desperation. Once the anger against the enemy is formed, some individuals become violent, extreme ideologies and sympathetic to the terrorist group. Some of these ideologically motivated and sympathetic individuals are finally joined by extremist groups or extremist movements, and then participate in actual acts of terrorism. Only individuals who are radicalized to the highest levels are able to overcome obstacles to terrorism and actually engage in terrorism[16].

#### 3.2. Jihadization model

The jihadization model suggests that the process of accepting the Islamic fundamentalist ideology of the citizens of the Western countries as a linear process with four stages. The New York Police Agency’s jihadization model is similar to the terms and order used in the radicalization model proposed by the FBI. The first step in the NYPD’s jihadization model is the “pre-radicalization” phase. This stage corresponds to a situation before an individual is exposed to Islamic fundamentalism, such as Salafist Jihad.

In the second phase of the Self-Identification, individuals who are radicalized by studying Salafi Islam accept ideological doctrines, and associate with supporters of Islamic fundamentalism. In the third step, the ‘Indoctrination phase’, the strengthening of radicalization is reinforced by the radicalization beliefs of radicalized individuals and the commitment to radicalized ideology and their sympathizers. The final stage, the ‘Jihadization phase’, is characterized by accepting jihad practices and fulfilling personal obligations to perform jihad[17].

#### 3.3. Typical radicalization pattern model

The Model of a “Typical” Radicalization Pattern, which studies European radicalization and violent extremism that lead to terrorism, consists of four stages similar to those of the FBI and the New York Police Department. The first stage of radicalization in

Precht's model is the "pre-radicalization stage", the second stage is "conversion and identification with radical Islam", the third stage is And the third is the stage of terrorism and planned plots. The second is the level of terrorism and terrorism. Precht(2007) found that the group dynamics and self-identification in small groups acted as a powerful force to devote to radicalization and extremist ideology.

He also analyzed factors affecting the process of radicalization and violent extremism of individuals living in Europe into Islamic fighters. He suggested that personal conflict against religious identity, background factors such as experience of being discriminated, and lack of social integration, trigger factors such mentors charismatic leaders who can induce radicalization and violent extremism, and opportunistic factors such as degree and accessibility to radicalization and violent extremism[18].

#### 4. Conclusions

Taken together with the factors that influence violent extremism and the discussion of radical evolution models that are hardened by violent extremism, the response to extremism requires a comprehensive and multidimensional approach that can address both aspiration and exhalation factors .

The existing counter-terrorism activities are mainly government-led political, military, and economic responses. Therefore, the main contents of the counter-terrorism activities are terrorist group factors and hiding place, blocking terrorists' movement and strengthening border control, punishing terrorists, blocking terrorist financing and equipment provision, and stabilizing disputed areas where terrorism occurs.

On the other hand, the response to radicalism is characterized by a social and economic response to the improvement of the environment that promotes radicalization and the spread of violent extremism[19], in which not only the government but also religion, education, business, and civil society

participate. In particular, it is pointed out that the social integration of social minority groups and vulnerable groups, which can be transformed into violent extremism with radicalism, is the most important[20].

Therefore, the response to extremism is based on public-private partnership, and it is necessary to develop common values such as anti-extremism, early intervention in community-led initiative, social minority groups including Muslims And empowerment of vulnerable groups, building resources for extremist responses, promoting tolerance and multiculturalism through education, promoting citizens' awareness, and online anti-extremist activities[21].

In recent extreme terrorist attacks, there has been little use of precision explosive devices that require heavy equipment and advanced technology, and the use of explosives and rifles The use of a hardening machine and vehicles to spread the fear that soft-target terrorism at an individual level is possible at all times. In some countries experiencing terrorism due to Islamic extremism and experiencing anxiety due to the massive outbreak of refugees, a kind of 'compartmentalization' phenomenon and extreme right nationalism are also emerging. However, in order to solve the fundamental problem, it is necessary to build good governance based on international cooperation and to recognize diversity.

In other words, even if the forces of Islamic countries are weakened, there is a high possibility that the development and propagation of publicity and persuasion means related to terrorism will continue in the future, as many terrorists with expertise to construct various propaganda and narratives have participated. Extreme attention will be an important mechanism for proliferation. In countries where Islamic immigrant communities such as France, Belgium, and the United Kingdom have been activated, there have been reported cases of similar small groups receiving the ideology, ideology and violence tactics of the Islamic countries among the immigrant group. Taking this into account, it is believed that

blocking such movements will be the key to responding to terrorism.

## 5. References

### 5.1. Journal articles

- [2] Castles G. Understanding Global Migration: A Social Transformation Perspective. *Journal of Ethnic and Migration Studies*, 36(10), 1565-1586 (2010).
- [4] Hogg AM & Kruglanski A & Kees v B. Uncertainty and the Roots of Extremism. *Journal of Social Issues*, 69(3), 407-418 (2013).
- [6] Borum R. Radicalization into Violent Extremism I: A Review of Social Science Theories. *Journal of Strategic Security*, 4(4), 7-35 (2011).
- [9] Cable S & Walsh EJ. & Warland RH. Differential Paths to Political Activism: Comparisons of Four Mobilization Processes after the Three Mile Island Accident. *Social Forces*, 66(4), 951-969 (1988).
- [10] Klanderman B & Oegema D. Potentials Networks Motivations and Barriers: Steps Towards Participation in Social Movements. *American Sociological Review*, 52, 519-531 (1987).
- [11] Brady H & Verba S. Prospecting for Participants: Rational Expectations and the Recruitment of Political Activists. *American Political Science Review*, 93, 53-168 (1999).
- [15] Borum R. Radicalization into Violent Extremism II: A Review of Conceptual Models and Empirical Research. *Journal of Strategic Security*, 4(4), 39 (2011).
- [16] Moghaddam FM. The Stairways to Terrorism: A Psychological Exploration. *American Psychologist*, 60(2), 161-169 (2005).
- [20] Bizina M & Gray DH. Radicalization of youth as a Growing Concern for Counter-terrorism Policy. *Global Security Studies*, 5(1), 72-79 (2014).

### 5.2. Books

- [1] Koslowski R. Migrants and Citizens: Demographic Change in the European State System. Cornell University (2000).
- [3] Nye JS. Understanding International Conflicts: An Introduction to Theory and History. Pearson Education (2009).
- [14] McCauley CR & Segal ME. Social Psychology of Terrorist Groups in Hendrick C. Group Process and Intergroup Relations: Review of Personality and Social Psychology Sage (1987).

### 5.3. Additional References

- [12] Dalgaard Nilsen A. Studying violent radicalization in Europe II: The potential Contribution of Socio-psychological and Psychological Approaches. Danish Institute for International Studies (2008).
- [5] Neumann P. Preventing Violent Radicalization in America. Bipartisan Policy Center Report June Bipartisan Policy Center's National Security Preparedness Group (2011).
- [7] OSCE ODHIR. Preventing Terrorism and Countering Violent Extremism and Radicalization that Lead to Terrorism: A Community-Policing Approach, Vienna: Organization for Security and Co-operation in Europe (2014).
- [8] Hall M & Pawlak P & Ferguson C. Radicalisation Extremism And Terrorism: Words Matter. European Parliamentary Research Report (2016).
- [13] Wiktoriwicz Qu. Radical Islam Rising: Muslim Extremism in the West. Rowman & Littlefield (2005).
- [17] Silber MD & Bhatt A. Radicalization in the West: The Homegrown Threat. NYPD Intelligence Division (2007).
- [18] Precht T. Home Grown Terrorism and Islamist Radicalisation in Europe: From Conversion to Terrorism, Danish Ministry of Justice Research Paper (2007).
- [19] United Nations. Plan of Action to Prevent Violent Extremism. United Nations (2016).
- [21] Mirahmadi H & Farooq, M. A Community Based Approach to Countering Radicalization. World Organization for Resource Development and Education (2010).

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- The Effect of Police Officers' Emotional Intelligence and Professionalism on Their Minds in Coping Strategies at Crisis, Dongguk University, Doctoral Thesis (2017).

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