Mission Unaccomplished:
Japan’s Anti-Bôryoku-Dan Law

Andreas Schoenhardt *

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Concern over the growing involvement of yakuza groups in business enterprises and political and administrative decision-making in Japan led to the introduction of the Law to Prevent Unjust Acts by Organised Crime Group Members\(^1\) which came into operation on March 1, 1992 (also known as the Anti-bôryoku-dan Law, or Bôtai-hô). At the heart of the legislation is the proscription (or ‘designation’) of criminal organisations. After nearly twenty years of operation, opinions about the Anti-bôryoku-dan Law remain fiercely divided. This article reviews the available evidence of the achievements and failures of the Anti-bôryoku-dan Law and explores the key objectives and provisions of the Act in the light of contemporary patterns of organised crime in Japan.

I. PATTERNS AND LEVELS OF ORGANISED CRIME IN JAPAN

Organised crime in Japan is frequently associated with the yakuza (やくざ or やくざ), the name for criminal syndicates that have evolved in Japanese society over the last 400 years. The word yakuza refers to a traditional card game and means as much as ‘worthless’. In Japan, the term is used to refer to individual members of criminal organisations, while law enforcement agencies prefer the term bôryoku-dan (暴力団, or violence groups) to refer to the groups themselves.\(^2\)

* The author would like to thank Mr Brendan Hall, Brisbane, for his friendship and assistance with Japanese translations at the time this study was taking shape.
\(^1\) Bôryoku-dan-in ni yôrou futô no kôi no bôshì ni kan suru hô, Law No. 77/1993; an English (or other) translation of the Act was not available at the time of writing.
\(^2\) In this article, the two terms are used interchangeably.
Historically, böryoku-dan comprised groups of outsiders including people involved in gambling, low-level crime, or protection rackets. Beginning in the 1800s, böryoku-dan gradually began to get involved in more sophisticated and organised crime forms, such as prostitution, extortion, illegal supply of liquor, and the sex and gambling industries. To raise further funds and exercise greater power, the böryoku-dan also set up a range of legitimate businesses and entered into strategic relationships with political figures, often by way of corruption. The böryoku-dan and its members were largely tolerated by Japanese society and many yakuza portrayed themselves (or were portrayed by others) as heroes, Robin Hoods, and modern-day samurai. Until the introduction of anti-organised crime laws in 1991, it was also common for some groups to use gang emblems and tattoos to openly display membership. Peter Hill notes that ‘the yakuza apparently enjoyed a position of wealth, security and acceptance, inconceivable for organised crime groups in other advanced democracies.’ Similarly, Keith Maguire remarks that:

Although crime rates in Japan are generally lower than in the West, organised crime is a much more serious problem. Organised crime had been given a role in society which on the one hand leads to serious problems of corruption, but on the other hand contributes to keeping down the worst excesses of street crime and the heroin and cocaine problems that are found in the West.

The yakuza took great advantage of the lack of government control and law enforcement that followed Japan’s defeat in the Second World War. During that time, böryoku-dan in cooperation with low-level racketeering groups ran much of the black market for food and basic supplies. Over the years, the yakuza became increasingly influential across Japan and – particularly in the decade of Japan’s ‘bubble economy’ – became more and more involved in the stock market, real estate, and politics. John Huey-Long Song and John Dombrink note ‘an unusual relationship of Japan’s organised crime groups to that

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8 HILL, supra note 3, 98; KAPLAN/DUBRO, supra note 5, 31–55; MAGUIRE, supra note 3, 135-136.
society and to its legitimate institutions’ and observe that bōryoku-dan ‘evolved into wealthy and sophisticated, even semi-legitimate, societal institutions with a strong political presence.’ At that time, the yakuza also became involved in an activity known as sōkai-ya, a unique form of corporate blackmail, and in corporate crimes such as money lending (sarakin), debt collecting and loss cutting, auction obstruction, and bankruptcy management. The economic boom also allowed Japanese groups to branch out into the Republic of Korea (South Korea), Taiwan, the Philippines, Hong Kong, and the United States.

Bōryoku-dan are generally made up of several smaller entities and sub-groups which – in combination – form a hierarchical, ‘quasi-feudal’, pyramid-style structure. This structure separates senior leaders from lower levels of participants. It also insulates the upper levels from criminal prosecutions as the directors and financiers of big bōryoku-dan generally do not physically engage in criminal activities. The hierarchical structure is often supported by ceremonial rituals, strict codes of discipline, punishments and fines, but also membership fees and mentorship among and between different levels (sometimes referred to as father-son, or brother relationships).

It has been said that membership in bōryoku-dan in Japan peaked with approximately 184,100 members in 1963, prior to the government’s ‘summit strategy’ which resulted in many arrests and prosecutions. Official and unofficial sources suggest that since the mid-1990s, the bōryoku-dan and other criminal organisations have over 80,000 regular members across Japan who are involved in a range of criminal activities. It is estimated that ‘the yakuza generate USD 50 billion annually from their activities.

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10 See further, KAPLAN/DUBRO, supra note 5, 159–164; HILL, supra note 3, 99; HILL, supra note 6, 124–128.

11 MAGUIRE, supra note 3, 137; HILL, supra note 4, 6–8; HILL, supra note 6, 116–136.

12 KAPLAN/DUBRO, supra note 5, 223–323; SONG/DOMBRINK, supra note 9, 232–233.

13 HILL, supra note 4, 2.


15 N. TAKEMURA, Recent Trends of Organised Crime around Japan and (South) East Asia, paper presented at the symposium Organised Crime in Asia, Brisbane, June 2007, 246; HILL, supra note 3, 99.

16 RITCH, supra note 4, 583–585; SHIKATA, supra note 9, 416.

17 SMITH, supra note 14, 1117.
Organised crime groups and membership in organised crime groups
Japan 2000 – 2005

<table>
<thead>
<tr>
<th>Year</th>
<th>Total number of organised crime group members (as of December 31)</th>
<th>Designated organised crime groups</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000</td>
<td>83,600</td>
<td>25</td>
</tr>
<tr>
<td>2001</td>
<td>84,400</td>
<td>24</td>
</tr>
<tr>
<td>2002</td>
<td>85,300</td>
<td>24</td>
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<tr>
<td>2004</td>
<td>87,000</td>
<td>24</td>
</tr>
<tr>
<td>2005</td>
<td>86,300</td>
<td>21</td>
</tr>
</tbody>
</table>

Since 2000, Japan’s Ministry of Justice has published an annual White Paper on Crime which contains extensive data on the number of organised crime groups and their members, and the offences group members are involved in. These reports suggest that the total number of organised crime group members has increased from 79,300 in 1995 to 86,300 at the end of 2005. About half or 43,300 are seen as regular members. Since 2001, there are 24 ‘designated organised crime groups’ in Japan and for the past five years the White Paper has identified three ‘major organised crime groups’: the...
Yamaguchi-gumi (山口組, designated since June 1992), 22 Inagawa-kai (稲川会, designated since June 1992), 23 and the Sumiyoshi-kai (住吉会, designated since June 1992). 24 Their members account for over 76 percent of all organised crime group members in Japan. 25

In 2004, organised crime group members were found to be involved in nearly 30,000 criminal offences (not including traffic violations). Data provided by the Ministry of Justice of Japan shows that members of these groups are particularly dominant, inter alia, in gambling offences (58.9%), illegal confinement (54.3%), drug offences, especially those involving methamphetamine (44.5%), and extortion (39.8%). 26 Bôryoku-dan groups also contribute disproportionately to Japan’s otherwise very low firearms crimes and control substantial parts of Japan’s sex and adult entertainment industries. 27

Japan’s rapidly growing economy in the 1970s and ‘80s was also a magnet for foreign criminal organisations that sought to take advantage of local conditions. The available information suggests that for the most part these foreign organisations collaborated rather than competed with local bôryoku-dan. They often supplied commodities, such as narcotics, weapons, or sex workers, that are not easily available in Japan. 28 Taiwanese groups, for instance, became very actively involved in supplying women from Taiwan to work in brothels and entertainment venues in Tokyo’s Shinjuku district. There are several accounts of criminal organisations from Taiwan working hand in hand with Japanese groups in this industry. During anti-organised crime campaigns in Taiwan, several key figures relocated to Japan, sometimes resulting in violent clashes and gangland killings involving Taiwanese groups operating in Japan. 29

Some overseas groups began to withdraw from Japan as the economy started to slow in the 1990s. More recently, there have been accounts of criminal organisations from North Korea (DPRK) and Iran being involved in the illicit methamphetamine trade in Japan, sometimes in cooperation with local groups. 30

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22 For more on the Yamaguchi-gumi see, for example, UNODC, Results of a Pilot Survey of Forty Selected Organized Criminal Groups in Sixteen Countries, Appendix B; KAPLAN / DUBRO, supra note 5, 113–123.
23 For more on the Inagawa-kai see, for example, KAPLAN / DUBRO, supra note 5, 135–143.
24 For more on the Sumiyoshi-kai see, for example, ibid. at 123–135.
27 TAKEMURA, supra note 15, 249.
28 HILL, supra note 3, 111–112.
II. **Organised Crime under Japan’s Criminal Law**

Japan’s *Criminal Code* of 1907\(^{31}\) is modelled after Germany’s criminal law which was conceived in the late 19\(^{th}\) century. Part I of the Japanese Code sets out the general principles of criminal liability, which includes standard provisions relating to complicity such as liability of joint principals (Art. 60), accessorial liability (Art. 62), and also incitement (Art. 61). The Code does not contain provisions relating to conspiracy and there are no specific offences for participating in criminal organisations. Outside the *Criminal Code*, there is some sentencing legislation which allows for the imposition of higher penalties on ‘acts of intimidation, assault, and destruction of property committed by several individuals, or by showing the force of an enterprise or a group’.\(^{32}\)

1. **Law to Prevent Unjust Acts by Organised Crime Group Members 1991**

Work on a new *anti-bôryoku-dan* law began in November 1990\(^{33}\) and in May 1991 the Diet passed (without much debate) the *Law to Prevent Unjust Acts by Organised Crime Group Members* which came into operation on March 1, 1992 (also referred to as the *Anti-Organised Crime Group Law*, *Anti-bôryoku-dan Law*, or *Bôtai-hô*).\(^{34}\)

Several triggers led to the introduction of this law. In the late 1980s, concerns arose over the growing involvement of *yakuza* groups in legitimate and quasi-legitimate business enterprises. Simultaneously, some groups sought to influence political and administrative decision-making through violent interventions in civil affairs, a practice known as *minbô*. Furthermore, some high-profile conflicts between several gangs (sometimes killing innocent third parties) and corruption scandals in Japan led to further calls to legislate against criminal organisations. Lastly, pressure from the United States and the international community was growing on Japan to increase its efforts to suppress the illicit drug trade and other forms of organised crime.\(^{35}\) Since its introduction, the *Bôtai-hô* has seen two significant amendments in 1993 and 1997.\(^{36}\)

The law has been described as ‘mainly an administrative and regulatory law aimed at the prevention of illegal acts rather than a substantive criminal law.’\(^{37}\) Membership in a criminal organisation is not a criminal offence in Japan. At the heart of the legislation is the proscription (or ‘designation’) of criminal organisations. The power to designate a


\(^{32}\) SAEKI, *supra* note 5, 419; the title and English translation of this Act were unavailable at the time of writing.

\(^{33}\) The draft of the *anti-bôryoku-dan* law is discussed in HILL, *supra* note 6, 155–157.

\(^{34}\) *Supra* note 1.


\(^{36}\) See further HILL, *supra* note 6, 163–166.

\(^{37}\) SAEKI, *supra* note 5, 417; HILL, *supra* note 3, 102. See also SHIKATA, *supra* note 5, 419, who refers to the Act as ‘executive law, rather than a justice law’.
group is vested in the Public Safety Commissions of Japan’s 47 prefectures, which are independent administrative panels that supervise local police forces and their activities. The Commissions hold public hearings and, with the consent of Japan’s National Public Safety Commission, can declare an organisation that meets the statutory requirements a ‘designated organised crime group’ or an ‘alliance of designated organised crime group’. The organisations under consideration may partake in the hearings and also have the right to have the decision by the Commissions judicially reviewed. As mentioned earlier, Japan’s three largest and most notorious groups, the Yamaguchi-gumi, Inagawa-kai, and Sumiyoshi-kai were all designated in June 1992.

Bôryoku-dan are broadly defined in Art. 2 (2) as ‘a group of which there is a risk that its members (including members of its component groups) will collectively or routinely promote illegal violent behaviour’. The Public Safety Commissions may designate bôryoku-dan groups using criteria set out in a definition of ‘designated bôryoku-dan’ in Art. 3 of the Law to Prevent Unjust Acts by Organised Crime Group Members, which contains elements relating to the purpose, structure, and activities of the organisation:

- Structurally, the law requires that the organisation have a hierarchical structure and be controlled by a leader.
- Further, the group has to have a certain number (percentage) of members with prior convictions. Specifically, the law requires that the ratio of members with a criminal record within the group be higher than that ratio in the general population.
- The objective of the group has to be economic gain by way of intimidation, threats or force.
- The group encourages or facilitates activities of the group members, individually or collectively, involving either ‘illegal acts typically committed by bôryoku-dan members’, such as gambling, drug trafficking, prostitution, or loan sharking, or ‘illegal violent acts’ such as murder, bodily harm, robbery, coercion, extortion et cetera. The existence of a criminal organisation alone does not create any criminal offences. Liability only arises if orders made under the Law are violated, specifically if a yakuza member makes threatening demands or is otherwise involved in extortion or racketeering activities on behalf of the group. The complete list of activities (which was expanded with the 1993 and 1997 reforms) is set out in Art. 9. The Law allows for injunction
orders to be issued against members of organised crime groups who engage in threatening or coercive activities. These orders may be made at the request of victims. Any violation of an injunction order is a criminal offence and may result in imprisonment or a fine. In 1997, this offence was extended to apply to persons of authority, informal members, and business associates of designated organised crime groups. Additionally, an organised crime group member who is likely to repeatedly violate provisions under the Law to Prevent Unjust Acts by Organised Crime Group Members may be placed under a recurrence preventive order. The law also allows victims of organised crime to recover any lost property and seek compensation from the criminal organisation. In 1997, additional measures were introduced to prevent intra-gang turf wars and to authorise police to close gang offices and prohibit public displays of emblems and insignia. The legislation is also accompanied by a range of measures relating to education, public awareness campaigns, and rehabilitation of former gang members.

2. Law for Punishment of Organised Crimes, Control of Crime Proceeds and Other Matters 2000

Since the mid 1990s, there have been calls on Japan to improve the anti-organised crime laws and direct enforcement measures more specifically against the profit and other wealth accumulated by large-scale criminal enterprises. Demands for law reform in this field were further fuelled by the sarin gas attack on Tokyo’s subway by the Ōmu shinrīkyō sect on March 20, 1995. While not connected to organised crime, this terrorist incident raised concerns about the operation of secret organisations in Japan. In August 1999, Japan further enhanced its organised crime control regime with the enactment of the Law for Punishment of Organised Crimes, Control of Crime Proceeds and Other Matters which came into force in February 2000. This legislation is designed to enhance the penalties for persons who commit a criminal offence as part of an organised crime group:

A person who commits specific penal code offences under the Law will be additionally punished in the case where (i) the offence is committed as a group activity by an organisation that intended to commit an act corresponding to the offence or (ii) the offence is committed for the purpose of obtaining illegal interests for the group.

45 HILL, supra note 4, 9; HILL, supra note 3, 102.
46 HILL, supra note 4, 10; HILL, supra note 6, 165.
48 HILL, supra note 3, 102; HILL, supra note 6, 161–163.
49 See further KAPLAN / DUBRO, supra note 5, 206–209; SAeki, supra note 5, 419.
50 Soshikiteki na hanzai no shobatsu oyobi hanzai shûeki gisei-tô ni kan suru hûritsu, Law No. 136/1999.
The Act also contains additional provisions against money laundering and for the confiscation and seizure of proceeds of crime and other assets of criminal organisations.

III. OBSERVATIONS AND ASSESSMENT

From the outset, it is noteworthy that the criminalisation of bôryoku-dan and yakuza in Japan has not been without difficulty given the way in which the organisations and their members are firmly entrenched in Japanese society. Thus the creation of laws to proscribe bôryoku-dan organisations is a milestone of great symbolic significance, even if their enforcement has sometimes been slowly forthcoming. Hill, for instance, describes the Bôtai-hô as ‘epoch making’ because it is ‘targeting activities that were hitherto immune from legal intervention’. He further remarks that ‘[t]he Bôtai-hô was seen as a clear break in that, for the first time, there was a legal definition of bôryoku-dan and a law existed that specifically and explicitly identified these groups as a social evil to subject to special controls.’

Japan’s organised crime laws adopt a unique model that is partly inspired by the United States’ Racketeer Influences and Corrupt Organizations (RICO) Act but also includes features of laws that proscribe organisations and criminalise activities committed on their behalf. Mere membership and participation in a criminal organisation are not criminalised.

In the absence of complete English translations of the statutes, it is difficult to make comprehensive and critical comments about Japan’s anti-organised crime laws and about their practical application using primary sources. The literature remains divided about the fairness, legality, and effectiveness of Japan’s Law to Prevent Unjust Acts by Organised Crime Group Members 1991.

One criticism of the Anti-bôryoku-dan Law 1991 (Japan) has been that it is an administrative statute that ‘has nothing to do with punishing serious crimes committed by organised crime members’. David Kaplan & Alec Dubro note that ‘[m]uch of what it attacks was already illegal and the law’s scope and penalties are relatively limited.’ The application of the Law is limited to the violent demands set out in Art. 9 if they are used to exploit a group’s reputation in order to secure economic or other benefit.

52 Cf. SAEKI, supra note 5, 418.
53 HILL, supra note 6, 168 [emphases removed].
55 Cf. HILL, supra note 4, 9.
56 SAEKI, supra note 5, 419.
57 KAPLAN / DUBRO, supra note 5, 211.
Hill remarks that:

From the comparative weakness of the penalties and the restriction of the Bôtai-hô to one area of yakuza activity, it is apparent that, ceteris paribus, the introduction of this law cannot achieve the goal, declared by the police, of eradicating these groups. At best, and assuming that it actually works as described, it will only drive out gang participation in minbô, protection, and those other categories of ‘violent demand’ covered by Article 9, without reducing the many other overtly criminal enterprises in which the yakuza are engaged. In fact, there are very good reasons for believing that the Bôtai-hô will fail to achieve even that.\(^{58}\)

Japanese scholar Hitoshi Saeki, in contrast, views the fact that the Law does not ban certain organisations per se and does not create a membership offence as a major advantage. For any criminal liability to arise, the accused has to engage in a criminal act; there is no guilt by association and no criminal liability arises merely from the status or role held by bôryoku-dan members.\(^{59}\)

The existing laws do not criminalize the creation of criminal organisations and membership in them. The constituting elements of organized crime groups set out in Art. 3 Law to Prevent Unjust Acts by Organised Crime Group Members 1991 require a considerably higher threshold than most other jurisdictions in the region. The deterrent effect of the law may thus be rather limited.\(^{60}\) Official records show that after the introduction of the new laws, the number of organised crime members initially dropped, but the number has grown again slightly since the mid 1990s.\(^{61}\) Some more recent reports suggest that bôryoku-dan have difficulties finding new and younger members.\(^{62}\) On the other hand, it has been noted that criminalising membership in an organised crime group would also create a practical enforcement problem in a country that has well over 80,000 yakuza members. ‘Would criminalisation result in trebling the overall prison population? Regardless of the cost of such a measure, would it be desirable?’ asks Hill.\(^{63}\)

There have been some concerns that the Bôtai-hô may violate constitutionally guaranteed rights such as the freedom of association (Art. 21 Constitution of Japan) and the principle of equality of all citizens (Art. 14).\(^{64}\) However, public protest against the laws and legal challenges by notorious groups such as the Yamaguchi-gumi, Sumiyoshi-kai, and the Aizu Kotetsu, have thus far been unsuccessful.\(^{65}\) Fears that the Law may be unjustly used against left-wing groups and trade unions have been described as un-

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58 Hill, supra note 6, 167.
59 Saeki, supra note 5, 416, 417.
60 Cf. Shikata, supra note 9, 419.
61 Kaplan / Dubro, supra note 5, 211–212.
62 Hill, supra note 4, 11.
63 Hill, supra note 6, 174.
64 See further, ibid, at 169.
65 Ibid, at 202–204; and Hill, supra note 3, 103.
warranted, as the Law requires that the group consist of a proportion of members with
criminal records.  

The process of designating böryoku-dan has been criticised by some scholars. It has
been pointed out that relevant definitions in the Law to Prevent Unjust Acts by Organ-
ised Crime Group Members 1991 are very vague and open to subjective interpretation
by the Public Safety Commissions and the National Public Safety Commission. Hill
also highlights the fact that the functions of Public Safety Commissions are often carried
out by police. He further noted that the Law inadequately deals with corruption and
does little to disentangle the close relationship between the yakuza and Japan’s political,
financial, and law enforcement communities.

While the number of yakuza supporters today is small in comparison to the 1960s,
the introduction of the anti-organised crime laws also resulted in a further consolidation
of böryoku-dan. The number of criminal organisations may have dropped, but the exist-
ing syndicates are larger and more sophisticated than ever before. It was shown earlier
that the three main organisations alone account for nearly 75 percent of all yakuza
members.

Official figures support the view that the Japanese legislation was able to halt the
growth in böryoku-dan membership and that numbers have levelled out since the
1990s. But the experience of Japan has also shown that the legislation quite imme-
diately pushed the organisations and their members further underground, and reduced
the chances of cooperation between gang members and the police. Some organisations
have split and regrouped under different names. The Yamaguchi-gumi also instantan-
eously instructed its members to remove emblems, conceal tattoos, and abandon or hide
insignia to conceal membership. Some organisations set up legitimate front companies
to conceal their operations or diversify their incomes by engaging in non-traditional
yakuza crimes such as fraud, robberies, loan sharking, and theft. There have also been
suggestions that the yakuza is increasingly resorting to violence. Saeki, for instance,
expressed concern that

if people become more resistant to the illegal demands of the böryoku-dan,
böryoku-dan members may begin to rely on violent acts more often than in the
past. Destroying the positive self-image of yakuza members may also lead them to
resort to violent acts more easily.

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66  SAEKI, supra note 5, 416, 417; HILL, supra note 6, 169–170.
67  HILL, supra note 6, 170.
68  Ibid, at 171.
69  HILL, supra note 6, 171.
70  HILL, supra note 3, 99, 110; KAPLAN / DUBRO, supra note 5, 212.
71  TAKEMURA, supra note 15, 246.
72  SHIKATA, supra note 9, 417; HILL, supra note 3, 103–104; HILL, supra note 4, 10, 15;
KAPLAN / DUBRO, supra note 5, 212; HILL, supra note 6, 196–201; SMITH, supra note 14,
1118.
73  SAEKI, supra note 5, 418.
This view is shared by other observers. The new measures may have also led to a displacement of criminal activities and may have contributed to Japanese organisations exploring opportunities abroad. On the other hand, some authors have noted that the laws have significantly reduced the violence used by different gangs against each other.

IV. SUMMARY AND CONCLUSION

Japan’s *Law to Prevent Unjust Acts by Organised Crime Group Members* creates a system of positive prohibition which involves the labelling of certain groups as criminal or illegal by way of proscribing or declaring them. Moreover, Japan has instituted mechanisms to place individual members and associates of criminal organisations under injunction orders which prohibit them from engaging in certain activities or from associating with other members.

This system is designed to outlaw groups and individuals that are seen as dangerous, violent, or as otherwise constituting a risk to public safety. This labelling approach shares similarities with laws dealing with terrorist organisations in that they create lists of prescribed organisations and criminalise support of other associations with them.

The rationale and method of this labelling model has been fiercely criticised. Many commentators have expressed concerns about the elements, indicia, standard of proof, and other methods used to outlaw organisations. Labelling an organisation as illegal effectively criminalises the very existence of a group on the basis of conduct in which that group may engage in the future. The administrative process set up in Japan is also said to lack clarity, consistency, and safeguards, and creates a risk of collusion between different branches of government and the judiciary. The set standards to establish the existence of a criminal organisation are also well below the standard of ‘beyond reasonable doubt’ used in criminal trials, and the general rules of evidence do not apply.

While the Japanese approach may be helpful in identifying and labelling some criminal organisations, it is of no use to act against flexible criminal networks that do not carry a particular name and have no formal organisational structure. It also creates the risk that outlawed groups will consolidate, move further underground, and engage in more clandestine, more dangerous, and more violent operations. Alternatively, other groups may simply resurface under a different name, thus circumventing the legislation.

In comparison to the anti-organised crime laws in other countries, liability under Japan’s *Law to Prevent Unjust Acts by Organised Crime Group Members* is much more restricted. A criminal offence will only be made out if a *yakuza* member makes threatening demands or is otherwise involved in extortion or racketeering activities on behalf of

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75 KAPLAN / DUBRO, *supra* note 5, 212.
the group or if an injunction order is violated. While Japan’s law has thus avoided criticism relating to overbreadth and creating guilt by association, the limited scope of the Anti-bôryoku-dan Law 1991 has come under attack for having ‘nothing to do with punishing serious crimes committed by organised crime members’. 77

In the so-called ‘war on organised crime’, Japan’s Law to Prevent Unjust Acts by Organised Crime Group Members is seen by some as the ultimate weapon. But the expectation that this law will achieve what no other law, policy, or law enforcement strategy – however harsh – has ever accomplished has not been met with success. This is perhaps not surprising given that the introduction of the Anti-bôryoku-dan Law was driven by particular incidents and political interests, and not by empirical research.

Organized crime continues to exist throughout Japan, regardless of the existence of specialized offences. Critics argue that the Law to Prevent Unjust Acts by Organised Crime Group Members failed to achieve its objectives. If the fight against organised crime is indeed a war, then Japan’s Anti-bôryoku-dan Law has not been able to secure a victory. Its mission has not been accomplished.

ZUSAMMENFASSUNG


nalität zu tun hat“, da sie nicht die Schaffung krimineller Organisationen und die Mitgliedschaft in ihnen pönalisiert.

Die Gesetzgebung hat die Organisationen und ihre Mitglieder weiter in den Untergrund gedrängt. Einige Organisationen haben sich aufgespalten und unter neuen Namen neu gruppiert. Andere haben rechtmäßige Unternehmen als Fassade gegründet, um ihre Tätigkeiten zu verbergen oder ihre Einkommensquellen zu mehren, indem sie sich in für Yakuza bisher untypischen Bereichen wie Betrug, Raub, Kreditwucher und Diebstahl betätigen.

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