

Rights of Persons Belonging to Minorities The Issue of Ryukyu and Okinawa

Civil Society Report on the Implementation of the ICCPR

(Replies to the Issue No. 20 of the List of Issues CCPR/C/JPN/Q/6)

**To be submitted
for the Consideration of the Sixth Periodic Report of Japan (CCPR/C/JPN/6)
At the 111th session of the Human Rights Committee (Geneva – July 2014)**

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Prepared by:

**Association of the Indigenous Peoples in the Ryukyus (AIPR)
Shimin Gaikou Centre (SGC)**

Submitted by:

NGO Network for the Elimination of Racial Discrimination Japan (ERD Net)

Rights of persons belonging to minorities (arts. 26 an 27)

Issue No. 20: “Please comment on reports that Ainu, Ryukyo and Okinawa continue to face discrimination in the fields of education, public participation and employment. Please indicate measures taken to protect and promote their cultural heritage, traditional way of life and land rights. What steps have been taken to allow Ainu, Ryukyu and Okinawa children to be educated in their language and about their culture (CCPR/C/JPN/6, para. 335)?”

1. Background

The Ryukyu Kingdom, an independent state of the indigenous peoples of the Ryukyus, was forcibly annexed by the government of Japan in 1879 as one of its prefectures named “Okinawa”, in contravention of Article 51 of the Vienna Convention on the Law of Treaties. Since then various policies and practices of colonisation, discrimination and assimilation have been imposed upon the indigenous peoples of the Ryukyus by the government of Japan, while peoples of the Ryukyus were excluded from participating in Japanese policy making process through election until 1919. A series of land reform were also carried out by Japan, denying the traditional form of communal land ownership of the indigenous peoples in the Ryukyus, known as *Somayama*, and converting their land into state owned property. It disintegrated the traditional economies, which were based upon the traditional land ownership system. To assimilate indigenous peoples of the Ryukyus into Japanese cultural norms, government of Japan prohibited the use of their indigenous languages in schools¹ and many traditional cultural practices such as washing bones of the dead (*senkotsu*), tattoo for women (*hajichi*), Ryukyuan hairstyle for men (*katakashira*).

During World War II and the subsequent US military occupation, large tracts of the land of indigenous peoples in the Ryukyus were seized by the government of the United States, in contravention of the 1907 Hague Convention and the Hague Regulations Relative to the Laws and Customs of War on Land (widely known as the 1907 Hague Regulations). This land was used to construct the US military bases and facilities. The government of Japan neglected the illegal expropriation of land and construction of bases without any protest. Furthermore after the 1972 reversion, the government of Japan constructed its own military facilities as well. The presence of the US military in the Ryukyus / Okinawa, including the land occupied by the military bases and facilities, their military activities as well as behavior of military personnel, are creating various human rights issues and risks in the life of the peoples in the Ryukyus / Okinawa. Those human rights problems affecting the indigenous peoples in the Ryukyus e.g. emerging from colonization and militarisation, crimes of UN military personnel and lack of justice and remedies to the victims, sexual assaults, land issues, violation of the right to education, environmental and health issues are also documented in different NGO reports submitted to relevant UN bodies.²

Today, Okinawa is the southernmost prefecture of Japan, consisting of 160 islands with Okinawa Island

¹ See “Language Loss and Revitalization in the Ryukyu Islands,” Patrick Heinrich (2005). <http://japanfocus.org/-Patrick-Heinrich/1596>

² Please ref., among others, written statements submitted to the UN Human Rights Council (A/HRC/20/NGO/20, A/HRC/21/NGO/70 and A/HRC/21/NGO/71), and NGO reports submitted to the Committee on the Elimination of Racial Discrimination (in the Annex 1 and 2)

being the largest. The population of Okinawa prefecture is 1.4 million and the vast majority of the population are the indigenous peoples of the Ryukyus, while there are also a certain number of Japanese (Yamato Japanese), who have migrated to Okinawa. There are more than 50 communities of the indigenous peoples in the Ryukyus i.e. Okinawa prefecture³ having various and strong communal identity and own local languages/dialects. Despite these uniqueness and distinctness of the indigenous peoples in the Ryukyus, the government of Japan has been failing to give due recognition to their existence, while concerns were expressed by several UN Treaty Bodies over the lack of proper recognition of the indigenous peoples of the Ryukyus and protection of their rights.⁴

2. Comments on the State report and reply to Lol by the government of Japan⁵

Regarding the understanding of indigenous peoples, it is regrettable to notice the crucial lack of proper understanding by the government of Japan of the concept of indigenous peoples, the difference between “nationals” and ethnic groups i.e. the ethnic diversity existing among its nationals in general, and of the uniqueness and distinctiveness of the indigenous peoples in the Ryukyus as well as their suffering from the violation of their human rights in particular. Lack of universal definition of “indigenous peoples” in international level or in domestic laws does not justify the non-implementation of international standards as well as the obligation of the government attached thereto in properly recognising indigenous peoples based on the principle of self-identification, the historical facts of colonisation and discrimination, and in effectively protecting their rights as indigenous peoples.⁶ Rather, it is where the government of Japan can play a pro-active role in engaging in effective cooperation and consultation with the indigenous peoples of the Ryukyus and develop legislative and administrative framework for the comprehensive protection and promotion of their rights using the relevant international treaties and instruments as minimum standard.

3. NGO Replies to the List of Issues

a. Colonial Economic Structure, high unemployment rate and low income in the Ryukyus / Okinawa

Under the name of “Okinawa Promotion Plan”, a large amount of national budget has been allocated to the Ryukyus / Okinawa for more than 40 years, in exchange to the usage and occupation of vast areas of the Ryukyus / Okinawa by the US military and its bases. However, no right is given to the indigenous peoples of the Ryukyus to establish and run own economy, but most of the money invested by Japan has been simply filtered through Okinawa and actually returned to Japan i.e. Yamato. As a result, the unemployment rate in Okinawa is 6.8 % (in the year 2012), the highest among the 47 prefectures of Japan, way beyond the second highest of Osaka (5.4 %), while the average of Japan is 4 %. The

³ In this report, the term “Ryukyus” is used to refer to the region i.e. areas belonged to the Ryukyu Kingdom, while “Okinawa” refers to that of Okinawa prefecture.

⁴ See e.g. Concluding Observations of the Human Rights Committee to Japan (2008), CCPR/C/JPN/CO/5, para. 32, and Concluding Observations of CERD to Japan (2010), CERD/C/JPN/CO/3-6, para. 21

⁵ CCPR/C/JPN/6, paras 337-339 and CCPR/C/JPN/6/Add.1 paras 215, 216 and 223

⁶ Please also ref. the comments provided by NGOs (the Annex 3) regarding the response of the government of Japan, published on 31 July 2012 at the website of the Ministry of Foreign Affairs of Japan: <http://www.mofa.go.jp/mofaj/gaiko/jinshu/>, to the letters sent by CERD in its Early Warning Mechanism and Urgent Procedures

disparity is not only large, but also continuous. At the same time, the average income per capita in the Ryukyus / Okinawa is about 2.03 million JPY (in the year 2010), the lowest among the 47 prefectures in Japan, less than half of the highest of Tokyo (4.31 million JPY).

b. Low performance in the educational achievement test and the absence of a curriculum to learn their own culture, history and languages

The Ministry of Education, Culture, Sports, Science and Technology (MEXT) of Japan has introduced in 2007 the national educational achievement test targeting pupils / students of 6th grade in the primary school and 3rd grade in the junior high.⁷ The result of the test, which is conducted annually, shows that children of the Ryukyus / Okinawa have the lowest performance in the educational achievement. One of the factors can be attributed to the economic situation in the Ryukyus / Okinawa, whereby lower income creates the difficulty in obtaining access to more and better educational opportunities, and even the completion of compulsory education does not necessarily ensure the subsequent employment, given the high rate of employment in the Ryukyus / Okinawa. Another factor is the colonial structure in the society and peoples' mind-set. The indigenous peoples of the Ryukyus have been denied their identity throughout the long colonial rule, which implanted the sense of inferiority and condescending character in the peoples' minds while depriving their self-confidence. It can be assumed that such mind-set has resulted in passive behaviour of the peoples and eventually in the low performance in the educational achievement.

At the same time, in the current educational system of Japan, where uniform programme and curriculum are actually forced on all, no opportunity is practically ensured for the indigenous peoples of the Ryukyus to educate their children about their own culture, history or languages. As an example, the Taketomi town in the Yaeyama islands in the Ryukyus is known for maintaining high quality education by selecting textbooks, curriculum and methodology on their own in order to provide children with self-confidence and pride in their identity. However, given that the town is located near Japan's border, MEXT of Japan has been pressuring the town with the state authority and due to the reason of national security, to use textbooks that fit the interest of the government of Japan,.

c. Massive concentration of US military bases (74 % of the US military in Japan is concentrated) in the scarce lands of the Ryukyus / Okinawa (0.4 % of the total land of Japan)

The massive presence of the US military, its bases and the activity have caused enormous physical and mental suffering for the indigenous peoples of the Ryukyus, having negative impact on their economy as well as education resulting in the high unemployment and low educational achievement. Furthermore, the occupation and usage of the vast lands of the Ryukyus / Okinawa by US military bases are depriving the indigenous peoples of the Ryukyus of their rights and access to their land that also closely relate to their culture and identity. However, the governments of Japan and the US have been unilaterally forcing the expansion and transfer of US military bases, whereby the right of the indigenous peoples of the Ryukyus to their lands as well as their clear opposition have been simply and completely ignored. The year 2014 is the 160th anniversary of the conclusion of the Treaty of Peace and Amity between the governments of the Ryukyu Kingdom and the US in 1854. The government of the US should also re-confirm its historical responsibility under the treaty.

⁷ In Japanese educational system, the primary school has six grades and the junior high three.

d. Discriminatory application of laws to the Ryukyus / Okinawa

The government of Japan is insisting that uniform legislation be equally applied to the whole of Japan. However, several laws are actually and discriminatorily applied only to the Ryukyus / Okinawa concerning the land usage by the US military. The Law on the provisional usage of public lands of 1972 was initially valid for the duration of a 5-year period and was enacted to purchase private lands by the government before the Ryukyus / Okinawa was given back to Japan. However, after the end of the 5 years period, many landlords still did not agree to the sale of their lands and, with the addition of the Law on clarification of land registration, the validity of the purchase was extended to 10 years. After the end of the above mentioned law in 1982, the government of Japan has started applying the Law on special measures on the land usage by US military, which was adopted in 1954, to the Ryukyus / Okinawa. This law has been amended in 1996 so that the Prime Minister of Japan can obtain the land for the usage by US military, whereby the right and willingness of the landlords of the Ryukyus / Okinawa were ignored. The fact of the discriminatory application of above mentioned laws can be seen in the concentration of the 74 % of US military bases in the Ryukyus / Okinawa.

4. Suggestion for the recommendations to be issued by the Human Rights Committee to the government of Japan

The government of Japan should:

- Properly recognise the indigenous peoples of the Ryukyus as indigenous and comprehensively protect their rights in full accordance with all the relevant international standards
- Effectively protect the economic, social and cultural rights of the peoples of the Ryukyus / Okinawa, especially the right to land, to their languages and education;
- nullify / amend all the laws, administrative measures, and their application that have intention or effect of discrimination against indigenous peoples of the Ryukyus / Okinawa;
- engage in genuine dialogue and consultation with the representatives of the indigenous peoples of the Ryukyus, ensure their effective participation in relevant decision-making, and develop legislative and administrative framework for the effective protection and promotion of their rights in cooperation with them.

ANNEX 1

Request to the Committee on the Elimination of Racial Discrimination (CERD) under the Early Warning Measures and Urgent Procedures

Situation of U.S. Military Base Constructions in Okinawa, Japan

Joint Submission by:

**Association of the Indigenous Peoples in the Ryukyus (AIPR),
Citizens' Network for Biodiversity in Okinawa (Okinawa BD),
International Movement Against All Forms of Discrimination and Racism
(IMADR)**

Contacts:

- **Gosamaru MIYAZATO (Mr.), Representative of AIPR**
Email: mi_koko2001@yahoo.co.jp, Mobile (Japan): +81-90-4100-0454
- **Hideki Yoshikawa (Mr.) Chief Secretariat, Okinawa BD**
Email: yhideki@cosmos.ne.jp, Mobile (Japan) +81-90- 2516-7969
- **Daisuke SHIRANE (Mr.), IMADR Geneva Office**
Email: dshirane@imadr.org, Mobile (Switzerland): +41 (0) 788595763

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IMADR's statement delivered at the UN Human Rights Council 7th Session, in Response to the Report of the Special Rapporteur on Racism, United Nations Human Rights Council Seventh Session, Geneva, 19 March 2008; In Response to the Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (March 19, 2008): http://www.imadr.org/statement/archives/imadrs_statement_delivered_at/

IMADAR Oral Statemen, Human Rights Council 16th Session (March 14, 2011) (pdf): <http://img03.ti-da.net/usr/okinawabd/IMADRsitems4sGD.pdf>

Follow-up Information from the Japan NGO Network for the Elimination of Racial Discrimination in relation to the CERD recommendations included in paragraphs 12, 20 and 21 of its Concluding Observations on Japan (CERD/JPN/CO/3-6). Prepared by Japan NGO Network for the Elimination of All Forms of Racial Discrimination (ERD Network Japan, 84 organizations and 28 individuals) with the coordination of IMADR-JC (May 16, 2011) (excerpt) (pdf):

1. Introduction

1) We are submitting this request to the Committee on the Elimination of Racial Discrimination (CERD) for the consideration under its Early Warning Measures and Urgent Procedures and for immediate action concerning the construction of new U.S. military bases at two locations, Henoko/Oura Bay and Takae in the Yambaru forest, both in the northern part of Okinawa Island, Okinawa, Japan.

2) The construction plans of the new U.S. military bases are forced by the Japanese and U.S. governments upon the Ryukyans/Okinawans and Japanese residents of Okinawa despite their strong opposition to the plans. The Ryukyans/Okinawans and Japanese residents of Okinawa already bear and suffer from the disproportionate “burden” of presence of U.S. military bases in Japan. 74% of U.S. military bases in Japan are concentrated in Okinawa which consists of only 0.6 % of Japanese territory.¹ The presence of the U.S. military bases has caused various problems to the Ryukyans/Okinawans and Japanese residents of Okinawa, including accidents and crimes of U.S. military servicemen, “noise pollution” and environmental degradation.²

3) These new bases, if constructed, will further impose gross and irreparable harm and damage to the life of Ryukyans/Okinawans and Japanese residents of Okinawa as well as to the environment. In fact, the Japanese and U.S. governments have already undermined the rights of Ryukyans/Okinawans to self-determination, livelihood, the environment and the freedom of expression in the processes of drawing up and implementing these plans.

4) With the high concentration of U.S. military bases and various issues caused by their presence, the new construction plans should be regarded as manifestations of the continuing discriminatory policies and practices and human rights violation by the Japanese and U.S. governments against Ryukyans/Okinawans.³ They are also affecting the Japanese residents of Okinawa.

5) We call upon the Committee to consider this situation and take immediate action to stop the construction of problematic military bases in Henoko/Oura Bay and in Takae, as well as to help bring an end to the long- and wide-ranging discriminatory policies and practices and human rights violation against the Ryukyans/Okinawans by the Japanese and U.S. governments.

¹ “US Military Issues in Okinawa,” Okinawa Prefectural Government (2011).
<http://www3.pref.okinawa.jp/site/contents/attach/24600/2011.6%20Eng.pdf>

² Also ref Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance: E/CN.4/2006/16/Add.2, paras. 51 and 52

³ Also refer to the view of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance: E/CN.4/2006/16/Add.2, paras. 6, 69 and 88.

2. Background

2.1 Annexation of the Kingdom of Ryukyu to Japan and Concentration of US Military Bases in Okinawa

6) Okinawa is the southernmost prefecture of Japan, consisting of 160 islands with Okinawa Island being the largest. The population of Okinawa is 1.4 million and the vast majority of the population are Ryukuans/Okinawans, while many Japanese have moved to live in Okinawa through marriage to Ryukyuan/Okinawan spouses, occupation, or education.

7) Over 50 Ryukyuan/Okinawan communities can be identified along with as many local languages/dialects, with each community providing a strong sense of communal identity. Despite the credible uniqueness and distinctness of Ryukuans/Okinawans as indigenous peoples as well as the views / concerns expressed by the UN Treaty Bodies, the Japanese government has not yet given due recognition to them.⁴

8) The modern history of Okinawa is that of colonization and militarization in which Ryukuans/Okinawans have been deprived of their rights to self-determination, livelihood, culture and language, as well as to the environment, while suffering from and enduring discriminatory policies and practices against them.

9) After the “quasi-colonization” of the Kingdom of Ryukyu, an independent kingdom, by a southern Japanese Satsuma, the then newly developed Japanese Meiji government in 1792 annexed the Kingdom of Ryukyu and created Okinawa Prefecture. Various national policies and practices were imposed upon Ryukuans/Okinawans by the Japanese government, while they were excluded from participating in national policy making process through election until 1919.

10) A series of land reform policies were, for example, imposed by the Japanese government upon Ryukuans/Okinawans, denying their traditional form of communal land ownership known as *Somayama* and converting their land into state owned property. This in turn disintegrated the traditional economies, which were based upon the traditional land ownership system.

11) To assimilate Ryukuans/Okinawans into Japanese cultural norms, the Japanese government prohibited the use of Ryukyuan/Okinawan languages in schools⁵ and many traditional cultural practices such as washing bones of the dead (*senkotsu*), tattoo for women (*hajichi*), Ryukyuan hairstyle for men (*katakashira*). As a result, these cultural characteristics of Ryukyu/Okinawa became stigmatized among Ryukuans/Okinawans themselves.

12) The annexation of the Kingdom of Ryukyu by the Japanese government and the discriminatory policies and practices imposed upon the Ryukuans/Okinawans in forcefully created Okinawa Prefecture should be considered as contravention of Article 51 of the Vienna Convention on the Law of Treaties.

⁴ See Concluding Observations of the Human Rights Committee to Japan (2008), CCPR/C/JPN/CO/5, para. 32, and Concluding Observations of CERD to Japan (2010), CERD/C/JPN/CO/3-6, para. 21

⁵ See “Language Loss and Revitalization in the Ryukyu Islands,” Patrick Heinrich (2005). <http://japanfocus.org/-Patrick-Heinrich/1596>

13) Towards World War II, Okinawa became an important strategic forefront for Japan. As such, the land of Ryukyuan/Okinawans was taken and converted into Japanese military's airfields. At the end stage of WWII, Okinawa became a fierce battle site between the U.S. and Japanese military forces, resulting in deaths of over 200,000 people, of which 100,000 were Ryukyuan/Okinawan civilians, 107,000 Japanese soldiers, and 12,000 U.S. soldiers.

14) When WWII ended and Japan accepted the Proclamation Defining Terms for Japanese Surrender (Potsdam Declaration) in 1945, the U.S. military seized administrative control over Okinawa along with the rest of Japan. Between 1945 and 1950, then the US military occupied what Ryukyuan/Okinawan land it wanted. In 1950, the US military established the United States Civil Administration of the Ryukyu Islands (USCAR) as the "Government of Okinawa", while it allowed the formation of a local government, the Government of Ryukyu Islands (GRI). The USCAR surveilled the GRI and could overrule all the decisions made by the GRI. This system of governance would remain in place until 1972.

15) When the 1951 Treaty of Peace with Japan (San Francisco Peace Treaty) took effect in 1952, enabling Japan to regain the status of an independent nation, the administration of Okinawa remained in the hands of the USCAR under the US military. Article 3 of the Treaty specified with respect to the Ryukyu Islands that "the United States will have the right to exercise all and any powers of administration, legislation and jurisdiction over the territory and inhabitants of these islands, including their territorial waters."

16) Through 1953 to 1957, responding to the Korean War (1950-53) and to its intensifying Cold War context, the US military government seized the land of Ryukyuan/Okinawans and converted it into military bases and training areas, often "at bayonet-point and by bulldozer". Many of the Ryukyuan/Okinawan landowners, especially farmers, lost their livelihood, although most of the Ryukyuan/Okinawan landowners never gave up their titles to land and received payments for their land.

17) Provided that, like Korea and Taiwan, Okinawa was colonized by Japan before WWII, the U.S. military's seizing of administrative control over Okinawa immediately after the end of WWII and its consequent policies and practices regarding Okinawa and Ryukyuan/Okinawans should be considered as violation of the 1945 Potsdam Declaration.⁶ Moreover, the U.S. military government's seizing of the land from Ryukyuan/Okinawans under the USCAR rule should be considered as contravention of Article 46 of the 1907 Hague Regulations.⁷

18) During the period of U.S. military occupation from 1945 to 1972, accidents caused by U.S. military such as plane crashes and vehicle collisions occurred frequently, resulting in death of Ryukyuan/Okinawans or damage to their property. Crimes ranging from robbery to rape to homicide, involving U.S. soldiers harming Ryukyuan/Okinawans or their property, also took place.⁸ Cases of such accidents and crimes were tried by U.S. military

⁶ This argument is made because Article 8 of the Potsdam Declaration provides "Japanese sovereignty shall be limited to the islands of Honshu, Hokkaido, Kyushu, Shikoku and such minor islands as we determine," and the 1943 Cairo Declaration referred to in the Potsdam Declaration provides that "Japan will also be expelled from all other territories which she has taken by violence and greed."

⁷ Article 46 of the 1907 Hague Regulations provides "Family honour and rights, the lives of persons, and private property, as well as religious convictions and practice, must be respected. Private property cannot be confiscated."

⁸ The Ryukyu Shimpo reports that, according to a statistic report released by the Japanese Ministry

courts, not by the judicial branch of the GRI. U.S. soldiers who committed serious crimes were usually transferred out of Okinawa to a different military unit.

19) Against this context, in the 60s, Ryukyuan/Okinawans envisioned reunification with Japan, longing for an end to the U.S. military occupation, being under Japan's Peace Constitution, and for similar economic and social benefits enjoyed by their Japanese counterparts.⁹

2.2 1972 Reversion of Okinawa and Continued Presence of U.S. Military Base

20) In 1972, the “reversion” of Okinawa to Japan took place and most Ryukyuan/Okinawans welcomed the reversion with high expectations for better life. However, these expectations have been met only partially.

21) With the 1960 Treaty of Mutual Cooperation and Security Treaty between Japan and the United States, which came into effect in Okinawa in 1972, the Japanese government has been unwilling to reduce the presence of U.S. military bases in Okinawa. The vast majority of US military bases remained in place, with accidents, crimes, noise pollution, environmental degradation, and many other problems still continuing.¹⁰

22) Under the 1960 Status of Forces Agreement (SOFA) between the US and Japan, which came into effect in Okinawa in 1972, the U.S. military has kept primary jurisdiction in dealing with crimes committed and accidents caused by U.S. soldiers and the military's civilian employees on duty. U.S. soldiers, who on duty committed offenses, harming Ryukyuan/Okinawans or Japanese residents, are rarely tried in Japanese courts. The U.S. military often fails to pay compensation for the victims, while the Japanese government now take some financial responsibilities for the victims' compensation.

23) The issues of land seized from Ryukyuan/Okinawans for U.S. military bases have become more complex since the reversion. As the main land broker, the Japanese government leases the lands from their Ryukyuan/Okinawan landowners and then sub-leasing the lands to the U.S. military, thereby exerting influence on the Ryukyuan/Okinawan landowners and municipalities with U.S. military bases.

24) Since the reversion, the Japanese government has been providing significant financial assistance to Okinawa mainly through the Okinawa Shinko Kaihatsu Keikaku (Okinawa Promotion and Development Plans) in the forms of monetary grants, subsidies and development projects, especially in the area of infrastructure building.

of Foreign Affairs, 5367 cases of crimes committed by U.S. military service members were reported between 1964 and 1968. Among the crimes considered “serious”, only one third of the cases were “disclosed.” *The Ryukyu Shimpō* (in Japanese) (December 23, 2011).

<http://ryukyushimpo.jp/news/storyid-185512-storytopic-111.html>

⁹ Ironically, to prepare and promote for reunification, Okinawan schools vehemently encouraged the use of the standard Japanese language while prohibiting the use of Ryukyuan/Okinawan languages to the extent that Ryukyuan/Okinawans born after 1950 no longer speak Ryukyuan languages. At present, all the Ryukyuan languages are considered by UNESCO as “endangered languages. See “Language Loss and Revitalization in the Ryukyu Islands,” Patrick Heinrich, *The Asia-Pacific Journal* (November 10, 2005). <http://japanfocus.org/-Patrick-Heinrich/1596>. See also *UNESCO Atlas of the World's Languages in Danger* (2007).

¹⁰ “US Military Issues in Okinawa,” Okinawa Prefectural Government (2011):

<http://www3.pref.okinawa.jp/site/contents/attach/24600/2011.6%20Eng.pdf>

25) The Japanese government's financial assistance to Okinawa is often regarded as "compensation" for Okinawa's bearing of the "burden" of U.S. military bases. In fact, municipalities with U.S. military bases receive financial assistance in various projects from the Ministry of Defense. With its accompanying restrictions and conditions, the government's financial assistance is also seen as a political tool with which the Japanese government ensures Okinawa to play its designated role within the U.S.-Japan security relationship.¹¹

26) Ryukyans/Okinawans, an increasing number of Japanese who have come to live in Okinawa, municipalities, and the Okinawa prefectural government have been calling for reduction in the presence of U.S. military bases in Okinawa. Various forms of protest have been taking place against the continuing militarization of Okinawa as well as incidents and accidents caused by U.S. military and its soldiers. They have been demanding for change in the SOFA as well as in the 1960 Security Treaty with the U.S, which they see as important legal causes for the continuing concentration of U.S. military bases in Okinawa.

27) As stated before, there has not been significant change in terms of Okinawa's burden from the concentration of the U.S. military bases. The Japanese and US governments have not made any change or amendments to the SOFA or the Security Treaty.¹²

2.3 Special Action Committee on Okinawa (SACO) Agreement and New U.S. Military Base Construction Plans

28) In 1995, a 12-years old girl was raped by three US military servicemen in the northern part of Okinawa Island. The raping incident angered the people of Okinawa, both Ryukyans/Okinawans and Japanese residents of Okinawa and, as a result, protest against the incident and ultimately against the overwhelming presence of US military bases in Okinawa spread throughout Okinawa. Responding to the Okinawan people's anger and protest, the US and Japanese governments established the Special Action Committee on Okinawa (SACO) with its aim to "reduce the burden on the people of Okinawa and thereby strengthen the US-Japan alliance" and issued the "SACO Final Report" in 1996.¹³

29) The SACO Final Report stipulated the closing of the US Marine Futenma Air Station in Ginowan City and returning to Okinawa prefecture of a part of the US military's Northern Training Area in the subtropical forest of Yambaru on Okinawa Island. However, the closure of the Futenma Air Station and the return of a part of the Northern Training Area required construction of new military bases in other areas of Okinawa in return.

30) Construction of a massive military base at Henoko/Oura Bay in Nago City on Okinawa Island was proposed in 1997 in return for the closure of the Futenma Air Station. Construction of six new helipads at the Takae community of Higashi Village on Okinawa Island was proposed in 1999 in return for the returning of a part of the Northern Training Area.

¹¹ *Islands of Discontent: Okinawa Responses to Japanese and American Power*, Laura Elizabeth Hein and Mark Selden (2003).

¹² "US Military Issues in Okinawa," Okinawa Prefectural Government (2011): <http://www3.pref.okinawa.jp/site/contents/attach/24600/2011.6%20Eng.pdf>

¹³ "The SACO Final Report December 2, 1996," <http://www.mofa.go.jp/region/n-america/us/security/96saco1.html>

31) Ryukyans/Okinawans and Japanese residents of Okinawa and national and international NGOs have been opposing these construction plans. Given that 74% of U.S. military bases in Japan are already concentrated in Okinawa, the construction of the new military bases will impose further burden on them. Moreover, given that the Henoko/Oura Bay area and Yabbaru Forest are areas of the richest biodiversity in Japan,¹⁴ holding key to eco-related development of Okinawa in the future, the construction of these new military bases, which will cause irreversible destruction to the environment, will deprive the people of Okinawa of their future. Concerning all these negative impacts they are creating, the purpose of the new construction and presence of the bases of US marines becomes highly questionable and related criticism can be found even in the U.S. Congress.¹⁵

32) Despite the opposition from Ryukyans/Okinawans and Japanese residents of Okinawa and NGOs worldwide, the Japanese and U.S. governments have been proceeding with the base construction plans, contravening the articles and violating the rights enshrined in the UN Declaration on the Rights of Indigenous Peoples (UNDRIP, Articles 20, 30 and 32) and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD, Articles 2 and 5).

3. Situation that requires the consideration of CERD under Early Warning Measures and Urgent procedures

3.1 Construction of US Military Base at Henoko/Oura Bay

33) Located in the eastern part of Nago city, the Henoko/Oura Bay area is home to 13 close-knit communities of Ryukyans/Okinawans with a total population of 5,000 people. The U.S. military base Camp Schwab is also located in this area. It is one of the most biodiversity-rich coastal areas in Japan, symbolized by the presence of the endangered marine mammal and Okinawa's cultural icon, "Okinawa dugongs", and the endangered blue coral.¹⁶ The rich environment of the area provides the basis for the livelihood of the local communities.

34) Camp Schwab was established in 1959 and has been used ever since. Today, various types of military training including live-firing practices and landing exercises of amphibious vehicles take place on the base and its designated "training water areas." These practices and exercises frequently cause mountain fires and noise as well as red-soil pollution.¹⁷

35) Claiming their rights to their life and to the environment, Ryukyans/Okinawans and Japanese residents of Okinawa have been opposing and protesting against the construction

¹⁴ *Nature in Okinawa*, Okinawa Prefectural Government (2000).

<http://www3.pref.okinawa.jp/site/view/contview.jsp?cateid=70&id=12017&page=1>

¹⁵ For the letter to President Barack Obama sent by four U.S. Congress members, see "Four Congress Members Write to President Pressing Him to Back Actual Cuts to the Military," David Swanson (January 12, 2012).

<http://warisacrime.org/content/four-congress-members-write-president-pressing-him-back-actual-cuts-military>

¹⁶ *Nature in Okinawa*, Okinawa Prefectural Government (2000).

<http://www3.pref.okinawa.jp/site/view/contview.jsp?cateid=70&id=12017&page=1>

Also *Marine Life of Oura Bay*, Okinawa Reefcheck and Research Group and others (2009).

¹⁷ "US Military Issues in Okinawa," Okinawa Prefectural Government (2011).

<http://www3.pref.okinawa.jp/site/contents/attach/24600/2011.6%20Eng.pdf>

for more than 15 years, in every democratic and non-violent means available to them, from statements to elections to resolutions to rallies to sit-ins. National and international NGOs have also been opposing the construction plan.¹⁸

36) Notably, the people of Nago City, in which the planned construction site is located, rejected the base transfer plan in a referendum in 1997. Present Mayor of Nago city, Susumu Inamine, was elected in 2010 on his election platform that he clearly opposes the plan.

37) In the 2010 gubernatorial election, 97% of the voters voted for candidates who wanted US Futenma Marine Air Station out of Okinawa. Governor Nakaima, who was re-elected then, has repeatedly stated that “moving the Futenma base to Henoko/Oura Bay is not possible.”¹⁹ The Okinawa prefectural assembly has also passed a resolution opposing relocation of the Futenma base anywhere within the Prefecture. At present, all leaders of municipalities in Okinawa are opposing any plan where the relocation site would be within the prefecture.²⁰

38) Despite Okinawa’s overwhelming opposition, the Japanese government has been proceeding with the construction plan. The Okinawa Defense Bureau (ODB), the agency to construct the US military base, has been engaging in and using its Environment Impact Assessment (EIA) process as a political tool to force forward the construction plan, often in coercive and fraudulent manners.

39) In May 2007, for example, to “support” the ODB’s pre-EIA surveys of Henoko/Oura Bay for the construction plan, the Maritime Self-Defense Force minesweeper *Bungo* was dispatched.²¹ The dispatch outraged Okinawan people and threatened those who were protesting on-site against the construction plan. Okinawa Governor Hirokazu Nakaima described the dispatch as “likely to stir in Okinawan minds memories of living under American bayonets.”

40) In the EIA process, the ODB often withheld information regarding important details of the base operation, thereby depriving citizens of the opportunities guaranteed by law to make “public comments” on the base construction plan in a timely manner. For instance, information regarding the deployment of MV-22 Osprey to the base had not been provided until the very last stage of the EIA process.²²

¹⁸ IUCN Recommendation (2.72) (October, 2000)(pdf).

<http://sea-dugong.org/english/main/IUCNrecommendation.pdf>

IUCN Recommendation (3.114) (November, 2004) (pdf).

<http://www.jelf-justice.org/prefecture-map/documents/20041125IUCNreport.pdf>

IUCN Resolution (4.022) (October, 2008) (pdf).

http://intranet.iucn.org/webfiles/doc/IUCNPolicy/Resolutions/2008_WCC_4/English/RES/res_4_022_promotion_of_dugong_during_the_un_2010_international_year_for_biodiversity.pdf

¹⁹ Governor Hirokazu Nakaima reiterated his stance on Futenma issues at a symposium in the US. For the text of his speech, see “The Futenma Relocation Issue” (September 19, 2011).

<http://www3.pref.okinawa.jp/site/contents/attach/25418/Governor%20Nakaima%20Speech%209-19-2011.pdf>

²⁰ “Political Situation in Okinawa, Okinawa Prefecture,” Okinawa Prefectural Government (April 2011).

<http://www3.pref.okinawa.jp/site/contents/attach/25418/Political%20Situation%20in%20Okinawa.pdf>

²¹ “The Guam Treaty as a Modern ‘Disposal’ of the Ryukyus,” Kunitoshi Sakurai, *The Asia-Pacific Journal* (September 21, 2009).

²² MV-22 Osprey is a U.S. military [tilt-rotor aircraft](#) which combines the functionality of a

41) The EIA is now at the last stage as the ODB has submitted its Environment Impact Statement (EIS) to the Okinawa prefectural government. The EIS concludes that the construction and use of the US military base will not have adverse impact on the environment and thus the base construction can be proceeded with.

42) However, the ODB's EIA has been criticized for compromising scientific reasoning and distorting the democratic processes that are required for any EIA. The ODB's EIA has been described as the "worst ever EIA" in Japan by Japanese experts.²³

43) The EIA's "no adverse impact" conclusion is now being challenged by the Okinawa prefectural government which has appointed EIA review committee. The committee has drawn its own conclusion that the EIS has many flaws and, if the construction is carried out, environmental conservation would be impossible.²⁴

44) To bring the problems of the EIA to light and challenge the legality of the EIA, the "Henoko Environmental Impact Assessment Lawsuit" was filed in 2009 by 622 plaintiffs including Ryukyans/Okinawans and Japanese residents of Okinawa against ODB in the Naha district court. The lawsuit is now well under way and its ruling is expected to be delivered in a few months.

45) The "Dugong lawsuit," filed by plaintiffs consisting of Okinawa individuals, Okinawa, Japanese and U.S. NGOs, against the US Department of Defense (DoD) under the US National Historical Preservation Act (NHPA) is also in process in the US federal district court of northern California. In January 2008, the court ruled that the DoD failed to take into account possible adverse impact of the construction on the Okinawa dugong as Japan's culturally and historically valued "national monument." The court ordered the DoD to comply with the NHPA by consulting with stakeholders. As of today, however, the plaintiffs and the DoD have not reached any agreement regarding the process of consultation, because the DoD is unwilling to seek local peoples' voices. With the EIA almost completed now, the lawsuit is expected to move forward.²⁵

46) Despite these democratic actions taken by Ryukyans/Okinawans and Japanese residents of Okinawa to oppose the base construction, the Japanese and US governments have been unwilling to consider alternatives. In fact, Defense Minister of Japan, Naoki Tanaka and Leon E. Panetta, Secretary of Defense of the U.S. government, had a telephone talk on January 27, 2012, reconfirming that the governments continue to proceed with the construction plan.²⁶

conventional [helicopter](#) with the performance of a [turboprop](#) aircraft. Since it was first introduced, a number of issues over the safety of the aircraft have been raised. See "MV-22 Osprey Aircraft: Assessments Needed to Address Operational and Cost Concerns to Define Future Investments," United State Government Accountability Office (2009). <http://www.gao.gov/assets/130/122610.pdf>.

²³ "The Fatally Flawed EIS Report on the Futenma Air Station Replacement Facility – With Special Reference to the Okinawa Dugong," Kunitoshi Sakurai, *The Asia-Pacific Journal* (January 7, 2012).

²⁴ "Conserving habitat impossible if Futenma moved to Nago: panel," *The Mainichi Daily News* (February 8, 2012).

<http://mdn.mainichi.jp/mdnnews/news/20120208p2g00m0dm025000c.html>

²⁵ "The Dugongs vs. The Department of Defense," Earthjustice.

<http://earthjustice.org/features/the-dugongs-vs-the-department-of-defense>

²⁶ "Japan, U.S. defense chiefs agree to push for Futenma relocation plan," *The Mainichi Daily News* (January 27, 2012):

<http://mdn.mainichi.jp/mdnnews/news/20120127p2g00m0dm029000c.html>

47) In light of this dire situation, Ryukyuans/Okinawans and Japanese residents of Okinawa are immensely concerned that the Japanese government could resort to extreme means to intervene in local decision-making process to force the construction on them.

48) For example, Okinawa Governor Hirokazu Nakaima is expected to decide in June 2012 whether he grants permission for reclamation required for the construction of the US base at Henoko/Oura Bay. Judging from all the indications so far, he is likely to refuse the insurance of the permission. However, the Japanese government could pass a special measure to deprive him of the authority to grant permission like the case of the “Act on Special Measures Incidental to Reversion of Lands in Okinawa Prefecture Offered for Use by United States Forces in Japan” in 1997.²⁷

49) In that case, as then Okinawa Governor Masahide Ota declared that he would no longer perform the legal act of "in lieu signings" for base lease agreements, an amendment was made to the existing law as to eliminate the prefectural governor's role as intermediary and to allow the central government to perform the proxy signing.

50) Also, in possible breach of law, the ODB has been found to be intervening in the up-coming mayoral election of Ginowan City, where the election outcome has further implications for the construction plan due to the presence of the Futenma Air Station in the city. Similar interventions by the ODB were also found to take place in Nago City's 1997 referendum and past mayoral elections, supporting candidates and positions that would help force the construction plan.²⁸

51) The construction plan, accompanying EIA process and other practices by the Japanese government is violation of Article 30 of UNDRIP, “*Military activities shall not take place in the lands or territories of indigenous peoples, unless justified by a relevant public interest or otherwise freely agreed with or requested by the indigenous peoples concerned.*”

52) It is also violating the Article 29 of the UNDRIP, “*Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.*”

53) It is also contravening the Article 32-1 of the UNDRIP, “*Indigenous peoples have the right to determine and develop priorities and strategies for the development or use their lands or territories and other resources*” and Article 32-2 of the UNDRIP “*States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.*”

²⁷ For the text of Governor Masahide Ota's speech delivered in April 1997 to the U.S. Congressional Study Group regarding the “Act on Special Measures Incidental to Reversion of Lands in Okinawa Prefecture Offered for Use by United States Forces in Japan,” see <http://www.iwanami.co.jp/jpworld/text/okinawa01.html>

²⁸ “Defense chats in Okinawa said lobbying,” Masami Ito, *The Japan Times* (Feb. 2. 2012). <http://www.japantimes.co.jp/text/nn20120203a3.html>

3.2 Construction of Six U.S. Military Helipads at Takae

54) Located on the outskirts of the Yambaru forest in northern part of Okinawa Island, Takae is one of the small rural communities of Higashi Village.²⁹ Its 160 population consists of a mixture of Ryukyans/Okinawans and some Japanese residents. The Yambaru forest is one of the richest areas of biodiversity in Japan with rare species such as the endangered Okinawan woodpecker and the Okinawan rail.³⁰ The rich environment of the Yambaru forest provides the basis for the livelihood of the local communities and the forest serves as “Okinawa’s water reservoir.”

55) Since 1957, the U.S. military has been using a large part of the Yambaru forest for training. At present, 30% of the Yambaru forest is designated as the U.S. military’s “Northern Training Area.”³¹ In this training area, there are already 22 frequently used US military helipads, causing various problems and danger to the nearby local communities and the environment.

56) Under the 1996 SACO agreement and subsequent agreements between the U.S. and Japanese governments, the construction plan of six new helipads at Takae was proposed in 1999 as a condition for returning of 51% of the Northern Training Area to Okinawa.³²

57) Since then, the residents of Takae, Ryukyans/Okinawans and Japanese residents of Okinawa, NGOs and experts have been opposing to the plan, expressing their concerns in democratic and non-violent means available to them, while reasoning that the construction of new helipads in Takae area will impose further danger on the Takae community and adverse effects on the Yambaru forest.³³

58) In October 1999, the Takae community adopted a resolution to oppose the helipad construction. In June 2007, as the ODB began construction work, the Takae community adopted a new resolution, now calling on its residents to “act to stop the construction.” Residents of Takae then began sit-in protest near the construction sites with the help of their supporters, they have been staging sit-in protest for last 5 years.³⁴

59) In June 2010, the village assembly of Ogimi, an adjacent village to Higashi Village, adopted a resolution to oppose the helipad construction plan,³⁵ while the Higashi village

²⁹ “Voice of Takae,” No Helipad Takae Resident Society (October 14, 2010)(pdf).

<http://nohelipadtakae.org/files/VOT-english2010Oct14.pdf>

³⁰ *Nature in Okinawa*, Okinawa Prefectural Government (2000).

<http://www3.pref.okinawa.jp/site/view/contview.jsp?cateid=70&id=12017&page=1>

³¹ “US Military Issues in Okinawa,” Okinawa Prefectural Government (2011).

<http://www3.pref.okinawa.jp/site/contents/attach/24600/2011.6%20Eng.pdf>

³² “Voice of Takae,” No Helipad Takae Resident Society (October 14, 2010)(pdf).

<http://nohelipadtakae.org/files/VOT-english2010Oct14.pdf>

³³ “Call for Your Attention and Action:Protect Yanbaru Forest and Local Community from Helipad Construction,” Citizens’ Network for Biological Diversity in Okinawa (February 16, 2011), <http://okinawabd.ti-da.net/e3264329.html>

See also “No Military Helipads in Yanbaru Forest,” World Wide Fund for Nature (WWF) Japan and No Helipad Takae Resident Society(pdf). <http://www.wwf.or.jp/activities/lib/pdf/yanbaru0706e.pdf>

³⁴ “Voice of Takae,” No Helipad Takae Resident Society (October 14, 2010)(pdf).

<http://nohelipadtakae.org/files/VOT-english2010Oct14.pdf>

³⁵ “Takae Helipad Ogimi songikai hanntaiikennwo kaketsu (Takae Helipads: Ogimi Village Assembly Becomes First Assembly in Okinawa to Passes Opinion against Helipad Construction), *The Ryukyu Shimpō* (in Japanese) (June 10, 2006).

<http://ryukyushimpo.jp/news/storyid-163332-storytopic-1.html>

assembly passed an ordinance to protect the Okinawan Woodpecker in June 2010.³⁶

60) Also, since the deployment of U.S. MV-22 Osprey to Okinawa, replacing the aircrafts used at present, was confirmed in June 2011, the Okinawa prefectural assembly, Higashi Village assembly, and many other municipal assemblies have adopted similar resolutions against the deployment of MV-22 Osprey to Okinawa.³⁷ Since the planned helipads at Takae are most likely to be used by MV-22 Osprey, these resolutions are now applied to the construction of the six helipads at Takae.

61) While residents of Takae called for dialogue with the ODB to settle the issues of the construction plan, the ODB in November 2008 filled in the Naha district court a motion for temporary injunction against 13 residents of the Takae community and their supporter, who were engaging in a peaceful sit-in protest against the helipad construction, for obstruction of traffic.³⁸

62) The accused initially included an eight years old girl, while the ODB later dropped charge for her. In December 2009, the court also dismissed the ODB's charge for 11 of the 13 accused. In December 2010, the court ordered both the ODB and the two defendants (Takae community members) to enter negotiation out of court.³⁹ Such a negotiation has not yet taken place as the ODB keeps declining to negotiate with the defendants.

63) Considered by many as a Strategic Lawsuit against Public Participation (SLAPP) targeted at those who oppose the helipad construction, the case is still pending and its final court order is expected to be delivered on March 14, 2012.⁴⁰ Meanwhile, the Kyushu Federation of Bar Association has submitted a letter of recommendation to the Japanese government, urging them to conduct a thorough investigation of the lawsuit and not to violate the right to freedom of expression enshrined in Japan's Constitution.⁴¹

64) Despite the Takae lawsuit still pending, the ODB has been proceeding with the construction in manners coercive to the local residents and their supporters who oppose the construction plan.⁴²

65) In February 2011, the ODB marched in and began felling trees in the construction sites of the Yambaru forest, ignoring peoples' protest on site.⁴³ In November 2011, the ODB

³⁶ "Village moves to save rare woodpecker," *The Japan Times* (June 11, 2010).

<http://search.japantimes.co.jp/cgi-bin/nn20100611b5.html>

³⁷ "Osupurei hantainoikennsho saitaku motome 21 shichousonnkaigi ni chinnjyo (Requesting 21 municipal assemblies to adopt opinions to oppose Osprey deployment)," *Toitusren NEWS* (in Japanese) (September 20, 2011).

<http://homepage3.nifty.com/anpohaiki/anpo-news/okinawa11-15.pdf>

³⁸ "Voice of Takae," No Helipad Takae Resident Society (October 14, 2010) (pdf).

<http://nohelipadtakae.org/files/VOT-english2010Oct14.pdf>

³⁹ "Voice of Takae," No Helipad Takae Resident Society (October 14, 2010) (pdf).

<http://nohelipadtakae.org/files/VOT-english2010Oct14.pdf>

⁴⁰ "Takae soshō ga kesshin hanketsu ha sangatsu juyottka (Takae trial ended: Final decisions will be delivered on March 14, 2012)," *The Okinawa Times* (in Japanese) (December 14, 2011).

http://www.okinawatimes.co.jp/article/2011-12-14_27304/

⁴¹ For the Federation's Letter of Recommendation to the Japanese government, see

<http://kyubenren.org/seimei/data/111206.pdf>

⁴² "Call for Your Attention and Action: Protect Yanbaru Forest and Local Community from Helipad Construction," Citizens' Network for Biological Diversity in Okinawa (February 16, 2011).

<http://okinawabd.ti-da.net/e3264329.html>

⁴³ "Call for Your Attention and Action: Protect Yanbaru Forest and Local Community from Helipad

returned to Takae to resume the construction along with 30 security guards and heavy machineries, placing the sit-in protesters in danger.⁴⁴

66) And most recently, in January 2012, the ODB attempted to resume construction work, demanding with the loud speakers that the local residents and their supporters make way for them to resume the construction work.⁴⁵ The ODB also video-recorded the faces of the sit in protesters. Despite the deafening noise from the ODB, the protesters continued their peaceful sit-in with their earplugs on. The sit-in protesters were harassed both physically and psychologically.

67) As in the case of Henoko/Oura Bay, the construction plan of new six helipads and its accompanying construction work by the ODB should be regarded as violation of the Articles 29, 30, 32-1 and 32-2 of UNDRIP.

3.3 Violation of the Articles of ICERD

68) The aforementioned situations require immediate attention and action by CERD under its Early Warning Measures and Urgent Procedures, as acts of Japanese government and state actors are regarded as violation of Articles 2.1 (a), 2.1 (c) and Article 5 of ICERD:

4. Request to the Committee

(69) Civil society actors have been raising various issues emerging from long-standing discrimination against Ryukyans/Okinawans at local, national and international levels. The 3rd to 6th periodic reports of Japan was last considered by CERD in February 2010 and the Committee issued due recommendations in its concluding observations.⁴⁶ Though additional information was provided by the Japanese government under CERD's follow-up procedure, no action has been taken by it to monitor or address the discrimination, no measure or policy have been established for the protection of the rights of Ryukyans/Okinawans and Japanese residents of Okinawa. The situations described above require urgent actions from all the relevant stakeholders, in particular the governments of Japan and the U.S. In this context, we respectfully request the Committee for the consideration under the Early Warning Measures and Urgent Procedures and:

a) to urge the Japanese and US governments to thoroughly review the construction plans of the U.S. military bases in Henoko/Oura Bay and Takae and take appropriate action, including their stop if no consent of the Ryukyans/Okinawans and the Japanese residents of Okinawa is given;

b) to urge the Japanese government to engage in wide and genuine consultation with the representatives of Ryukyans/Okinawans and the Japanese residents of

Construction,” Citizens’ Network for Biological Diversity in Okinawa (February 16, 2011).
<http://okinawabd.ti-da.net/e3264329.html>

⁴⁴ “Japanese government restarts construction of the Takae helipads, resulting in stand-off with residents,” *The Ryukyu Shimpo* (November 16, 2011).

<http://english.ryukyushimpo.jp/2011/11/25/3864/>

⁴⁵ “Boeikyokuga daionnryo kakuseiki Takaejumin wa mimisen (Okinawa Defense Bureau uses loud speakers: Takae residents put ear plugs on)” *The Okinawa Times* (January 26, 2012).

<http://nohelipadtakae.org/files/times2012jan26.pdf>

⁴⁶ CERD/C/JPN/CO/6, para. 21

Okinawa and to take appropriate measures regarding, in particular, the construction of the U.S. military base in Henoko/Oura Bay and helipads in Takae, and negative impact of the U.S. military presence in general;

c) to urge the ODB and the Japanese government to immediately stop the physical and psychological harassment to those who are engaging in peaceful sit-in demonstrations at Takae;

d) to urge the Japanese government to review, amend, rescind or nullify its policies, regulations and practices, including its agreements with other States, that have the intention or effect of discrimination against Ryukyans/Okinawans;

e) to urge the Japanese government to give due recognition to Ryukyans/Okinawans as indigenous peoples and to ratify the ILO Convention No. 169 and implement it.

Annex 2

Committee on the Elimination of Racial Discrimination (CERD)

Fifty-ninth session

March 2001

Information on OKINAWA
Concerning the Initial and Second Periodic Report of
The Japanese Government Submitted to CERD

Submitted jointly by the *Association of Indigenous Peoples in the Ryukyus (AIPR)*, the *Okinawa Citizens' Information Centre (OCIC)* and the *Shimin Gaikou Centre (SGC; Citizens' Diplomatic Centre for the Rights of Indigenous Peoples)*, an NGO in special consultative status with the Economic and Social Council (ECOSOC) of the United Nations

January 16th, 2001

Members of the committee that drafted and completed this NGO report:

MIYAZATO, Gosamaru (AIPR)

TERUYA, Midori (AIPR/SGC)

KIKUZATO, Yasuko (OCIC/AIPR)

NAKACHI, Ayako (OCIC/AIPR)

ONAKA, Chika (AIPR/SGC)

UEMURA, Hideaki (SGC)

KIMURA, Makiko (SGC)

SHIOBARA, Yoshikazu (SGC)

Translated from the Japanese by Tom Gill.

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- * Assimilation policy in violation of the Preamble to the International Convention on the Elimination of All Forms of Racial Discrimination
- * Violations of the International Convention on the Elimination of Racial Discrimination, the recommendations of the Committee on the Elimination of Racial Discrimination, and other international laws

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- 1) From the annexation of the Ryukyu Kingdom (1879) to the end of World War II (1945)
 - i. Japanese monopoly control of the organs of domination.
 - ii. Denial of traditional forms of land ownership.
 - iii. Forced use of Japanese and outlawing of Ryukyuan languages
 - iv. Suspension of political rights as "subjects of Japan."
 - v. Implementation of colonialist economic policies
 - vi. Reluctant migration caused by economic poverty
 - vii. Denial of their own culture and cultural rights
 - viii. Forced expropriation of land for military uses by the government and military of Japan
 - ix. Destruction of cultural assets and heritages by the Japanese government and military
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 - xi. Deprivation of the right to higher education
- 2) From 1945 to the end of the US military occupation in 1972
 - * Connivance of the government of Japan to division of administrative authority
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 - * Connivance to violations of human rights under US military rule
- 3) From 1972 to the 1990s
 - * Abnormal concentration of US military bases
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- 1) Failure of implementation of agreements to return base facilities
- 2) Discriminatory provisions in the SACO Final Report
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 - ii. Firing of live ammunition over a general trunk route during military exercises
 - iii. Discriminatory policies violating human rights and living rights
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US Military Use and Expropriation of Land

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5. Article 5, Paragraph b / page 14

- 1) Human rights violations committed by the US military bases and the US military service persons both on duty and off duty
- 2) Violations of the rights of women and children
- 3) Environmental destruction and violations of the land rights of indigenous peoples
 - i. Denial of rights of Okinawans to conduct environmental surveys
 - ii. Pollution of vital water resources
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 - iv. Everyday threat caused by air crashes, accidents of dropping exercises, near-miss incidents etc.
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6. Article 5, Paragraph d (8) / page 15

- 1) Violations of freedom of thought, conscience and religion
- 2) Violations of freedom of speech and expression
 - i. Lack of apology or compensation for wartime violence and abuse based on cultural difference
 - ii. Denial of the rights to use Ryukyuan languages as official languages
 - iii. Denial of Traditional Ryukyuan costumes in National Diet
 - iv. Prohibition of traditional performing arts at a National sports event
 - v. Denial of the right to use and learn Ryukyuan languages in public education in Okinawa
 - vi. Denial of the right of Okinawans to create their own educational curriculum
 - vii. Lack of training system for teachers to teach Okinawan culture and history
 - viii. Denial of the right to make textbooks and educational materials

7. Article 5, Paragraph e (1) / page 17

Violations of social rights, such as restrictions on freedom of choice in work and occupation

8. Article 5, Paragraph e (5) / page 17

Violations of the right to receive education and training

9. Article 5, Paragraph e (6) / page 18

- 1) Violations of the right to participate equally in cultural activities
- 2) Denial of cultural rights to self-determination
- 3) Violations of Okinawans' rights to indigenous heritage

10. Article 6 / page 18

Serious restrictions of rights to fair trial and judicial redress under the Status of US Forces Agreement, the revised Law for Special Measures Regarding the US Military Use and Expropriation of Land and the Freedom of Information Act

11. Article 7 / page 19

- 1) Inadequacy of education regarding the culture, history and rights of the Okinawans at a national level

1.Preface

The Ryukyu Kingdom was an independent country until 1879, when it was forcibly annexed by the government of Japan, in contravention of Article 51 of the Vienna Convention on the Law of Treaties. This article is looked upon as customary international law. From then on the people of Okinawa were subjected to policies of colonialism and forced assimilation, which have resulted in various forms of ethnic discrimination to this day.

These discriminatory policies have two main aspects, the first being abnormal concentration of the US military bases and violation of human rights. During World War II and the subsequent US military occupation, large tracts of Okinawan land were seized by the government of the United States, in contravention of the 1907 Hague Convention and the Hague Regulations Relative to the Laws and Customs of War on Land (widely known as the 1907 Hague Regulations). This land was used to construct the US military bases and facilities. The government of Japan neglected the illegal expropriation of land and construction of bases without any protest. Furthermore after the 1972 reversion, the government of Japan constructed its own military facilities as well. The resulting abnormally high concentration of military facilities on Okinawa persists to this day, violating various rights of the Okinawan people and especially threatening the human rights of women and children.

The second aspect of ethnic discrimination towards Okinawans is the assimilationist policy of the Japanese government. Movements to reevaluate their own history and culture and to restore the rights of the Okinawan people have been repressed in a variety of ways that clearly contravene the Declaration on the Granting of Independence to Colonial Countries and Peoples and the Preamble to the International Convention on the Elimination of All Forms of Racial Discrimination, which is based on the same principles. In 1998, during deliberations of the Human Rights Committee, the government of Japan did not deny that Okinawans constitute an ethnic minority as defined in Article 27 of the International Covenant on Civil and Political Rights (ICCPR). However, the report of the Japanese government made no reference whatsoever to the inherent condition of ethnic discrimination in Okinawa, a fact symbolic of the continuing policy of assimilation and discrimination.

The people of Okinawa possess their own history and culture. As such, their rights are those of an indigenous people, including the right to self-determination. As we will show below, they have been put in a position that contravenes international laws,

including the International Convention on the Elimination of All Forms of Racial Discrimination, and recommendations adopted by this committee, such as CERD General Recommendation 21(Right to self-determination), 1996, CERD General Recommendation 23(Indigenous peoples), 1997, and CERD General Recommendation 24(Reporting of persons belonging to different races, national/ethnic groups or indigenous peoples - Article 1), and various other international laws discussed in this NGO report.

2.Background

The background to ethnic discrimination in Okinawa may be broadly divided into three phases, each of which forms part of the foundation of contemporary discrimination: the period from the annexation of the Ryukyu Kingdom to the end of World War II, the period of the US military occupation, and the period from the end of the occupation to the present.

1) From the annexation of the Ryukyu Kingdom (1879) to the end of World War II (1945)

i. Japanese monopoly control of the organs of domination.

The Japanese government forcibly abolished the Ryukyu Kingdom and established "Okinawa prefecture". The vast majority of positions of authority, such as prefectural governor, high-ranking officials, principals and deputy principals were occupied by Japanese. Local school teachers, who implemented the assimilation policy at ground level, were trained by Japanese and unconsciously driven to facilitate the assimilation policy. The Amami islands, originally apart of the Ryukyu Kingdom, were forcibly incorporated into Japan at that time.

ii. Denial of traditional forms of land ownership.

Traditional forms of communal land ownership were denied, and the characteristic Okinawan local communities were destroyed. In addition, the communally owned forests known as *SOMAYAMA* were forcibly broken up, progressively redefined as state-owned property, and largely sold off to Japanese interests.

iii. Forced use of Japanese and outlawing of Ryukyuan languages

The Ryukyu languages were redefined as one dialect of Japanese as a whole. To speak Ryukyuan languages was banned in schools and stigmatized in whole society. School children who spoke in one of the Ryukyuan languages were punished by being forced to hang a wooden board [*HOUGEN FUDA*], a literal mark of shame. In addition to this linguistic Eradication program in the schools, Okinawans who were conscripted into the Japanese army, or who went to Japan as migrant laborers, were subjected to intense discrimination within their military units or in the local society where they lived.

iv. Suspension of political rights as "subjects of Japan."

In 1889 Constitution of the Empire of Japan and the 1889 Members of the House of Representatives Election Law were passed, clearly establishing the rights of a Japanese subject. But until 1919 the people in Okinawa prefecture, although they were a part of the subjects of Japan, were excluded from participating in state affairs through elections.

v. Implementation of colonialist economic policies

The government of Japan promoted exploitative economic policies such as sugar industry policy including charging of excessive tariffs to its sugar industry, and increased the dependence of the Okinawan people on cash crops. However, in times of economic recession no protective policies were implemented. During the Great Depression of the 1920s particularly, Okinawans were plunged into a state of acute poverty that came to be known as "cycad hell".

vi. Reluctant migration caused by economic poverty

From the 1900s onward, the poverty induced by colonial economic policy obliged many Okinawans to leave the land of their ancestors and migrate to Japan and other countries. Nearly 10% of the population migrated abroad, a far higher proportion than in any other prefecture of Japan, and the number of people going to Japan temporarily, as migrant workers, was several times higher than that.

vii. Denial of their own culture and cultural rights

As one part of the forced assimilation policy, traditional Ryukyuan practices such as washing the bones of the dead [*SENKOTSU*], tattoo for women [*HAJICHI*], and the characteristically Ryukyuan hairstyle for men called the *KATAKASHIRA* were outlawed. Likewise pressure was applied in various ways to rename places and people

in the Japanese style.

viii. Forced expropriation of land for military uses by the government and military of Japan

After 1943 instances of the Japanese government's confiscation of land for military use rapidly increased. Land was expropriated to build airfields, grow crops to feed the army, etc. There were cases of land expropriation within Japan too, but in the case of Okinawa the government took no responsibility whatsoever for returning the land to its owners or taking legal measures for compensation. Many tracts of land were resold after the war, or simply handed on to the US military. This practice remains a major cause of the current problems over the military bases, and is at present the subject of lawsuits brought by citizens of Okinawa.

ix. Destruction of cultural assets and heritages by the Japanese government and military

After the annexation of 1879, the government of Japan took over Shuri Castle, the seat of the defeated Ryukyu government, and turned it into a barracks for units of the Japanese army of occupation, thereby destroying a valuable cultural heritage. During World War II, as well, the Japanese government built fortresses and other military installations in the vicinity of historic buildings and sacred religious sites, or under the ground they occupied, and deployed military units there. The result was large-scale destruction of cultural assets and heritages in the fighting, in contravention of Article 56 of the 1907 Hague Regulations. This was a violation of the cultural rights of the Okinawans by the governments of both Japan and the United States.

x. Forced relocation to hazardous areas at the hands of the Japanese government and military

During World War II, the inhabitants of the Yaeyama islands were forcibly moved to the mountainous areas of the islands and Iriomote Island -- known breeding grounds for malaria by the military order of the Japanese army. Though done in the name of protecting the inhabitants from the hazards of combat, this policy resulted in numerous deaths. To this day nothing has been done to redress physical and mental damages and compensate the victims or their survivors.

xi. Deprivation of the right to higher education

Before World War II there were no colleges and universities in Okinawa, which severely restricted the people's right to receive higher education.

2) From 1945 to the end of the US military occupation in 1972

The United States' seizure of administrative rights over Okinawa was in violation of the 1945 Proclamation Defining Terms for Japanese Surrender (Potsdam Declaration), yet the Japanese government raised no protest. When the 1952 Treaty of Peace with Japan (San Francisco Peace Treaty) was signed the administration of Okinawa was ceded to the US, leaving Okinawa under US military rule while "Japan" became an independent state under the Constitution of Japan. Although Japan had maintained sovereignty over Okinawa, the Okinawans were excluded by the Japanese government from participating in the process of drafting the new constitution. Meanwhile, appropriation of land for military purposes, and the subsequent construction of military bases, proceeded in violation of Article 46 of the 1907 Hague Regulations. The US government allowed violations of Okinawan people's human rights to go unpunished on the pretext that such violations were justified under military rule, and there is no evidence to suggest that the Japanese government made the slightest effort to improve the human rights situation. Furthermore, another wave of migration ensued as farmers who had been stripped of their land by the US military found themselves with no choice but to join emigration programs, having lost both their source of livelihood and the symbolic link with their ancestors.

3) From 1972 to the 1990s

After the reversion of Okinawa to Japanese rule in 1972, ethnic discrimination continued under the following circumstances. Okinawa accounts for just 0.6% of the land area of Japan, yet 75% of all the US military facilities in Japan are concentrated in this tiny area. Moreover, the Japanese government continues to enforce colonialist policies via special bodies such as Okinawa Development Agency which was established in 1972. Opportunities to learn their own history, language and culture of the Okinawans/Ryukyus are not systematically guaranteed the assimilation policy continues to violate the cultural rights of Okinawans.

3. Article 1

At the 64th session of the Human Rights Committee, held in October 1998, the

4th periodic report of the Japanese government was examined. The committee debated the rights of Okinawans, as a group with their own history and culture, in terms of the rights of minorities as defined in Article 27 of the ICCPR. During the deliberations the Japanese government did not deny that the Okinawans had rights as an ethnic minority, but in this initial and second periodic report regarding the ICERD, the government made no reference to the rights of Okinawans. This was clearly an infringement of CERD General Recommendation 24 (Reporting of persons belonging to different races, national/ethnic groups or indigenous peoples - Article 1), 1999, which demands that the States Parties provide as much information as possible regarding all ethnic groups within their borders. The Japanese government should be called upon to supply an additional report as a matter of urgency.

4. Article 2, Clause 1, Paragraph a

1) Failure of implementation of agreements to return base facilities

Agreements to return military bases have been made, but they were not implemented because they frequently carried the extremely unjustified conditions that the facilities be relocated to other areas within Okinawa. We are strongly concerned there is a tacit understanding between the governments of Japan and the US that the military bases will be made a permanent presence on Okinawa. For example, in 1974 the governments of Japan and the US reached agreement on the return of the naval base at Naha, but with a relocation clause. The result is that 26 years later the naval base has still not been removed. There are quite a number of other cases of military facilities where a bilateral agreement on their return has been reached, but with no sign of that agreement actually being realized.

2) Discriminatory provisions in the SACO Final Report

In November 1995 the governments of Japan and the US set up the Special Action Committee on Okinawa (SACO), and in December 1996 the two governments published the SACO Final Report, in the form of an official agreement on the bases problem. This report contained a number of discriminatory provisions, some of the worst of which are listed below.

i. Discrimination in rules on the return of land

The SACO report lists 11 military facilities and zones whose land is to be

returned to the Okinawan people, but each one carries the harsh and unreasonable stipulation that alternative sites be found within Okinawa. The result is that there is not even the prospect of any of these 11 sites actually being returned. This is in sharp contrast to the conditions attached to the return of land on mainland Japan after World War II, and it demonstrates that there has been no improvement at all in the structure of discrimination, whereby the Japanese government deliberately places the bulk of the nation's military burden on Okinawan shoulders.

ii. Discrimination in the practice of firing live ammunition during military exercises

In Okinawa, the practice of firing live rounds of ammunition had been done through suspending the traffic of a general trunk road and firing over it, resulting in the disruption of daily lives and insecurity of the residents. This practice came to be seen as a major problem, and the SACO Final Report called for this practice to cease and to be transferred to the mainland. However, in the detailed ordinances of the SACO Final Report there is an escape clause whereby live firing practice is forbidden "except for artillery firing practice necessary in the event of an emergency" and this clause leaves a risk of reopening the practice, thus making residents' feeling insecure. Moreover, in exercise grounds such as that of the Camp Hansen, as of the present day, the live firing practice is still continuing, causing damages like forest fires.

iii. Discriminatory policies violating human rights and living rights

The construction of airfields in the heart of residential districts that are centers of civic life has caused noise pollution by military aircrafts that has long been regarded as a major social problem. Until the release of the SACO Final Report, no measures had been put in place to reduce noise levels, even after the return of Okinawa to Japan. The bilateral SACO agreement did lead to the construction of a "sound-proof wall" along the north side of the Kadena air base in the name of protecting the human rights of the citizens. However, things like the fact that the level of noise from touch and go exercises by planes of aircraft carriers has reached higher levels than ever recorded before, show that there has been no real diminution of the violation of the living rights of citizens. Moreover, it is worth noting that when the US military training facilities have been transferred to mainland Japan, noise reduction measures have immediately been taken. This is clear evidence of a discriminatory policy towards Okinawans. The situation also contravenes Article 2, Clause 1 of the Convention.

3) Lack of measures to protect human rights in the Status of US Forces Agreement

The Status of US Forces Agreement (Agreement under Article 6 of the Treaty of Mutual Cooperation and Security between Japan and the United States of America, Regarding Facilities and Areas and the Status of United States Armed Forces in Japan) includes no provisions for protection of human rights. In Okinawa, where so many US military bases are concentrated, the citizens are daily subjected to violations of their human rights, with women and children the principal victims. The prefectural government of Okinawa has several times demanded amendments of the agreement, but hitherto the government of Japan has done no more than to adjust its rules for implementing the agreement, leaving the terms themselves unreformed. This has resulted in the continuation of discriminatory situations as listed below.

i. The discriminatory situation regarding procedure in criminal cases and violation of jurisdiction

When the US soldiers and support staff are suspected of committing criminal offenses, even off-base, complicated procedures are required before the suspect can be taken into custody. In some cases the suspect returns to the United States, or even quits the military, making it extremely difficult for an Okinawan to get the case fairly tried in court. For example, in one case involving a fatal traffic accident caused by an off-duty US soldier, the accused resigned from the military and disappeared, whereabouts unknown. It took a whole year just to get an initial verdict settled. This case is by no means exceptional. The right of the Okinawan people to fair judicial process is being violated.

ii. Violations of rights in civil cases

The special status of US military personnel is frequently abused, for example in the non-repayment of loans, evasion of compensation payments after traffic accidents etc. Here again, the Status of US Forces Agreement has no effective provisions to secure the rights of Okinawans, so that all too often the US military personnel involved in these cases can evade their responsibilities simply by returning to the US, leaving many of these problems unresolved, at the expense of the Okinawan plaintiffs. This situation also contravenes Article 2, Clause 1, Paragraph c of the Convention.

iii. Discrimination regarding the rights of women and children

The rights of Okinawan women who give birth to children to demand paternal contributions to the cost of bringing up those children are being violated in cases where the father is a US military personnel. When a US military personnel suddenly goes back

to the US, abandoning a family in Okinawa, the right of the mother to sue for financial assistance is not guaranteed -- unlike the situation in Germany. This means that both mother and children suffer serious violations of their rights to live, much to their detriment. This situation has arisen because of the irresponsible policy adopted by the government of Japan.

4) Discriminatory provisions in the revised Law for Special Measures Regarding the US Military Use and Expropriation of Land

Under the revised law, which was implemented in 1999, the property rights of Okinawan landowners are totally denied by the government of Japan. Under the pre-revision law, the owners of land forcibly expropriated for US military use were at least permitted to declare whether or not they consented to the expropriation. The revised version, however, enables the prime minister of Japan to undertake all the necessary procedures for expropriation. This denies the right of property ownership as specified in the Universal Declaration of Human Rights. The ethnic discrimination endemic in this situation is further symbolized by the fact that when the revision of this law was debated in the Japanese Diet, the issue of the violation of Okinawan people's human rights was not once raised by any legislator. Further, the legitimacy of this revision became an issue at the Supreme Court, but it was decided as constitutional. The situation here contravenes Article 5, Paragraph A and D (1), and Article 2, Clause 1, Paragraph C of the Convention.

Moreover, the discriminatory character of this law on expropriation of land for US military use is evident from the fact that since the 1960s it has not once been applied in any part of Japan other than Okinawa.

5) Discrimination concerning the use of land returned to Okinawan ownership

As mentioned earlier, the governments of Japan and the United States have attempted to divert the hostility of the Okinawan people by returning a very small portion of the land expropriated for military use, albeit in slow succession and with conditions, such as the supply of alternative sites, attached. However, problems of environmental pollution have emerged in connection with these returned tracts of land. One specific case is that of the Onna Communications Facility, which was returned from US military control in 1996. A survey revealed traces of chemical substances harmful to humans, including PCB, in the soil on which the facility's internal water

purification plant had previously stood. The government of Japan has not demanded that the US military be held responsible for protecting the natural environment within the bases; nor has it insisted that the US authorities conduct environmental pollution surveys or present environmental reports when facilities are returned to Okinawan ownership. Nor has the government of Japan arranged for such surveys to be carried out by a responsible third-party institution.

5. Article 5, Paragraph b

The governments of Japan and the United States have neglected to establish, observe and implement measures to protect the human rights of Okinawans. Therefore, the human rights of Okinawans continue to be violated in the following ways.

1) Human rights violations committed by the US military bases and the US military service persons both on duty and off duty.

i. The incessant and unbearable noise around the US military airfields has caused hearing difficulties among citizens and school children living in the area. Especially, at the time of training the noise reaches extremely intolerable level.

ii. This noise damage has also resulted in low birth weight.

iii. US servicemen have been involved in considerable cases of rape, injury and murder where the victims have been Okinawan women and girls. Most of the cases are not reported.

iv. US servicemen have been involved in numerous criminal and civil cases, including cases of murder, injury, rape and damage to property.

2) Violations of the rights of women and children

i. Some irresponsible US servicemen who have married, including common-law marriages, and lived together with an Okinawan woman leave their family suddenly under the guise of the return to the US. The women have their lives wrecked by the sudden return to the home country of their husbands, and find themselves in serious social and economic difficulties.

ii. The children of returned US servicemen are guaranteed only limited educational opportunities and social security by the governments of both Japan and the US. Their

freedom to choose US nationality is also violated.

iii. The government of Japan has not established any public organ to investigate the whereabouts of these absconding fathers or to take judicial action against them.

3) Environmental destruction and violations of the land rights of indigenous peoples

i. The government of Japan has not negotiated with the US authorities for Okinawan people to recognize the right to inspect, survey and issue recommendations on locations within US military bases and training grounds where there is fear or suspicion of environmental pollution. This situation also contravenes Article 5, Paragraph e (5) of the Convention.

ii. Okinawa is composed of islands large and small, whose geomorphology places a premium on water resources. There is increasing concern that US military exercises in the region of the northern dams and river sources, which supply the citizens with drinking water, may be causing pollution or exploitation of the water supply.

iii. Across Okinawa there is a steady spread of environmental pollution, including the destruction of forestry resources by shooting and bombing practice using live ammunition; pollution of rivers and seas by erosions of red clay which covers mountains in the north of Okinawa Island, and radioactive pollution from depleted uranium shells.

iv. The US military bases rub shoulders with densely populated areas, where they continue to impose a daily psychological stress on the lives of the civilians. This especially applies to ammunition dumps, where there is always a risk of explosions; airfields, where there have been numerous aircraft crashes; and surrounding areas of landing practice grounds, where there are accidents involving heavy vehicles being mistakenly dropped by parachute; and in the crowded skies over Okinawa, where there are constant near-misses between military and civil aircrafts.

v. There are fears of environmental pollution caused by illegal dumping of wastes, including unexploded munitions left over from military exercises, military batteries, and harmful chemicals.

6. Article 5 Paragraph d (8)

The Japanese government's human rights policy towards the Okinawans is absent, therefore, various rights of Okinawan people, particularly cultural rights, are

being violated as listed below. As these items show, the pressure to assimilate with the Japanese nation is still intensifying today.

1) Violations of freedom of thought, conscience and religion

- i. The Okinawan people's own cultural and religious rights are not recognized, so that sites sacred to traditional Ryukyuan religions are still littered with symbols of other religions, such as Shinto *TORII*, which are remnants of Japanese colonialism.
- ii. The Okinawans have been deprived of the right to conduct ceremonies at traditional religious facilities such as *UTAKI* and *UGANJU* [places of worship], etc., or to visit family graves, where those places are located within the grounds of US military bases.

2) Denial of freedom of speech and expression

- i. There has been no apology or compensation whatsoever from the Japanese government for the military order during World War II based on the assimilation policy, under which people who spoke the Ryukyuan languages were treated as spies, nor for the abuse and violence inflicted on the victims of this order, either to the victims or their surviving family members.
- ii. The Ryukyuan languages are not recognized as their own languages, but are defined as "dialects" as part of the assimilation policy. The Ryukyuan languages are not recognized for use as an official language at the law courts or other public institutions.
- iii. Inside the Japanese Diet building, the wearing of full traditional Ryukyuan costumes is forbidden while the Japanese dress is accepted as formal dress.
- iv. The Ministry of Education has taken no responsible action against the racist ban on performances of the traditional Ryukyuan *EISAA* [traditional Okinawan dance] by supporters of Okinawan teams at the twice-yearly high-school baseball tournament held at Koshien Stadium, which is a major national event.
- v. Even after the end of World War II, the custom of punishing school students for using Ryukyuan languages by making them wear the "dialect tag" continued, especially in primary schools. The pre-war assimilationism that sought to eradicate their own languages had clearly survived. Even today, using Ryukyuan languages is discouraged in classrooms. Nowadays the government of Japan claims that its objective is to attain a multi-cultural society, yet it does not recognize the right to use and learn any

Ryukyuan language in the public education system.

- vi. The right of educational institutions in Okinawa to draw up a curriculum that educates students in their own history and culture of the Ryukyus is not guaranteed.
- vii. There is no program to train teaching staff to teach their own history and culture of the Ryukyus.
- viii. The right of Okinawans to make their own textbooks and educational materials to teach their own history, languages and culture of the Ryukyus is not guaranteed.

7. Article 5 Paragraph e (1)

The absence of any human rights policy of Japanese government has led to the following violations of social rights, which contravene both this Convention and the International Covenant on Economic, Social and Cultural Rights.

1) Restrictions on freedom of choice etc. in work and occupation

The abnormal concentration of US military bases is seriously impeding the locally-initiated development of communities. For example, 80% of the town area of Kadena has been occupied by US base, and many residents of the town have to rely on their living on the jobs in the base. As a result, the citizens' freedom of choice over work and occupation is unjustly limited.

In Japan's prefectural system of local government, Okinawa is subject to direct control from central government through a special bureaucratic body -- the Okinawa Development Agency. The government of Japan, in the form of the Okinawa Development Agency and Okinawa General Bureau, wields enormous power over the development of Okinawa, greatly restricting the right of Okinawan people to enjoy their own development.

8. Article 5, Paragraph e (5)

1) Violations of the right to receive education and training

Okinawa is distanced some 3,000 km from Tokyo area where higher educational institutions densely concentrate, and in prewar times, the Japanese government forced it an assimilationist and discriminatory educational policy. In the

present days, the right of the Okinawans to receive higher education and the right to establish their own higher educational institutions and their courses are deprived. Of the five four-year universities currently established in Okinawa, only two offers post-graduate courses to doctoral level. Moreover, only one university offers courses in science and engineering, and medical science.

9. Article 5, Paragraph e (6)

1) Violations of the right to participate equally in cultural activities

The government of Japan has not fulfilled its responsibility to provide the people of Okinawa with compensation to enable them to rebuild cultural assets destroyed as a result of Japanese military policy during World War II. Moreover, there have been cases of destruction of cultural assets, such as *UTAKI*, *UGANJU* and graves, on land covered by US military bases and exercise grounds, and failure to restore cultural assets that were there at the time.

2) Denial of cultural rights to self-determination

The Agency for Cultural Affairs has imposed foreign cultural policies unilaterally, therefore, has denied the rights of the Okinawans to interpret, restore, protect and develop their own culture.

3) Violations of Okinawans' rights to indigenous heritage

The government of Japan has not provided the kind of education needed at national level to secure the rights to indigenous heritage, including intellectual property rights. As a result, parts of Okinawa's cultural heritage have been hijacked by Japanese interests. For example, a Japanese company has unfairly monopolized the patents to make prints using the *BINGATA* pattern, a traditional Okinawan design. Likewise, the word *AWAMORI*, the traditional Okinawan name of a rice-based brandy, has also been patented by a Japanese company, meaning that it is now impossible to use that word as a name for products made in Okinawa itself.

10. Article 6

The rights of Okinawans to receive fair trial, and to seek judicial redress for various kinds of damages, have been conspicuously restricted in the following areas.

1) Because of the lack of any guarantee of human rights in the Status of US Forces Agreement, the special status of US military personnel means that there is a discriminatory situation over the right to seek redress from a court of law when those personnel are involved in criminal or civil cases.

2) the Status of US Forces Agreement has no provisions on the rights of women and children, and consequently there is no channel to receive legal redress in the event of an American serviceman returning to the US and abandoning his wife and children.

3) The revised Law for Special Measures Regarding the US Military Use and Expropriation of Land denies the property rights of Okinawan landowners, meaning that they are deprived of legal redress in this respect.

4) In 1999 the Freedom of Information Act was passed, permitting citizens to lodge complaints about non-release of information by government bodies. However, these complaints may only be lodged at a high court. There are only eight of these in the whole of Japan, and the nearest one to Okinawa is at Fukuoka, at least 1,500 kilometers away. This requirement to travel much further than mainland Japanese in search of justice constitutes a discriminatory situation.

11. Article 7

1) Inadequacy of official education regarding the Ryukyus/Okinawa

Official education on the history and culture of the Ryukyus/Okinawa, and on the rights associated with that history and culture, is not being carried out on a national level in Japan. For instance one of the textbooks used today spend only one page on history of Okinawa out of 301 pages. References to Okinawa in social education are very scarce. This situation constitutes a breeding ground for further discrimination against Okinawans, yet the government of Japan has not undertaken any fundamental educational reform to deal with it.

FINAL EDITION

Annex 3

Comments on the response of the Government of Japan to the Request of the Committee on the Elimination of Racial Discrimination (CERD) dated 9 March 2012¹

15 August 2012

Jointly made by:

**Association of the Indigenous Peoples in the Ryukyus (AIPR),
Citizens' Network for Biodiversity in Okinawa (Okinawa BD),
International Movement Against All Forms of Discrimination and Racism
(IMADR)**

Contacts:

- **Gosamaru MIYAZATO (Mr.), Representative of AIPR**
Email: mi_koko2001@yahoo.co.jp, Mobile (Japan): +81-90-4100-0454
- **Hideki Yoshikawa (Mr.) Chief Secretariat, Okinawa BD**
Email: yhideki@cosmos.ne.jp, Mobile (Japan) +81-90- 2516-7969
- **Daisuke SHIRANE (Mr.), IMADR Geneva Office**
Email: dshirane@imadr.org, Mobile (Switzerland): +41 (0) 788595763

¹ The response of the government was published on 31 July 2012 at the website of the Ministry of Foreign Affairs of Japan: <http://www.mofa.go.jp/mofaj/gaiko/jinshu/>

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1. Regarding the part “Overview”(page 1 of the Government’s response)²

- 1) While welcoming the recognition by the government of Japan of the rich cultural features and traditions of Ryukyu / Okinawa, we deeply regret that the government is failing to recognize the distinctiveness of the peoples of Ryukyu / Okinawa, not only in terms of their culture and tradition, but also languages and history, as an ethnic group and indigenous peoples in the Ryukyu islands. Furthermore, we also regret that the history of the colonization and militarization of Ryukyu / Okinawa by Japanese government is not mentioned at all.
- 2) We deplore that the government of Japan has been failing to recognise, or even trying to ignore, various forms of de fact discrimination experienced by the peoples of Ryukyu / Okinawa since the annexation of the Ryukyu Kingdom to then Japan in 1972.
- 3) Although the government of Japan might have “*been working to protect and promote the culture and traditions of Okinawa*”, it is unclear what kinds of measures were taken concretely, other than the nomination for the UNESCO lists. It is also deplorable that no information was provided by the government regarding its assimilation policy towards Ryukyu / Okinawa.
- 4) In this context, we also regret that no substantive information was provided so far by the government concerning the implementation of the recommendations made by CERD (CERD/C/JAP/CO/3-6, para 21), even under its follow-up procedure.
- 5) It is also a pity fact that the government of Japan has not been able to understand the scope of ICERD, in particular its Article 1, despite the repeated examinations and observations by CERD as well as the analysis of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, who visited Japan.³ In our view, discrimination faced by the peoples of Ryukyu / Okinawa is the discrimination based on ethnic origin as stipulated in the Article 1 of ICERD.
- 6) In this vein, it should be also noted that the Japanese translation of ICERD Article 1 made and published by the government of Japan does not fully or properly reflect the difference between “*ethnic*” and “*national*” origin, while the term “*Japanese*” in government’s response rather refers to a group of people who have Japanese nationality. This might be a reason for the failure of the government of Japan to properly recognise existence of, and often discrimination faced by, various ethnic groups among the people who have Japanese nationality.
- 7) Furthermore, it is not clear why the government of Japan refers to the prevalence of a “*view*” in Japan, when the ethnic belonging of individuals living or born in Okinawa is asked. It rather should be the principle of self-identification to be applied. A survey based on this principle will easily clarify the question raised by the government of Japan concerning the ethnic group i.e. peoples mentioned in the CERD’s letter.

² Please also refer to our previous submission as well as the written statement of IMADR submitted to 20th session of Human Rights Council (A/HRC/20/NGO/20)

³ Ref. report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance: E/CN.4/2006/16/Add.2,

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8) The government of Japan is repeatedly emphasising in its response to CERD that the construction plans are not “*based on any discriminatory intention*”. However, this emphasis shows another unfortunate failure of the government to appropriately understand the scope of the Convention, especially regarding Article 1 (1) which refers to the “*purpose or effect of nullifying or impairing the recognition, enjoyment or exercise*” of human rights. Furthermore, it is repeatedly stressed by the Committee that the Convention covers not only acts with discriminatory intention but also discriminatory effects through e.g. its General Recommendation No. 14 (1993) or examination of State reports.⁴ Against this backdrop, it is again deeply unfortunate that the government of Japan is still not able to fulfil its obligation to address the indirect or de facto discrimination in this regard.

2. Regarding the part “Henoko Relocation Plan” (pages 3 – 7)

9) Although some information was provided by the government of Japan on a part of the process how it, together with the government of USA, has been putting forward the plan, we regret that no substantive information is provided regarding crucial aspects such as: involvement i.e. participation of local population in the decision making, transparency of the process i.e. the fact of concealment of information by government, and the opposition expressed by more than 70 % of population in Ryukyu / Okinawa.

10) While recognizing that certain measures were taken for the “*development*” of Ryukyu / Okinawa, in particular in terms of its infrastructure, we must note that no decisive measure has ever been taken to “*reduce*” the burden of Ryukyu / Okinawa. The fact that 74 % of US military bases are still concentrated in Ryukyu / Okinawa, which consists only 0.6 % of the territory of Japan, is a clear evidence of it. Other burdens suffered by the peoples of Ryukyu / Okinawa including violation of their human rights are also documented in our previous submissions as well as written statement to 20th HRC.

11) Furthermore, we are deeply concerned that the government of Japan seems to be trying to use national security as a justification for its discriminatory policy towards Ryukyu / Okinawa, while the real necessity of the new base in Henoko / Oura is rather questionable, especially concerning the already existing massive presence of US military and its facilities in Ryukyu / Okinawa. In this context, the wording of the government of Japan “*increasingly uncertain security environment in the Asia-Pacific region*” is somehow anxiety fanning, nevertheless unclear which exact situation is referred to.

12) Similarly, measures might have been sought and considered between Japanese and US governments how to keep the high presence of US military in the region, but no action seems to be considered as to how to achieve peaceful environment in the region where no military presence is required.

13) We find it extremely problematic that the government of Japan has failed to mention that Okinawa Governor’s Comments on the government’s Environment Impact Statement (EIS) submitted as a part of the environment impact assessment (EIA) process. The Governor's Comments concluded that the construction and use of the military base will have serious problems in terms of environmental conservation and that the proposed measures in the EIS cannot ensure both the social and environmental

⁴ E.g. CERD annual report 2009, A/64/18, para. 32, China (14); para. 42, the Philippines (13)

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environments.

- 14) *“Efforts to Gain the Understanding of the People of Okinawa”* might have been given by the government of Japan. However, it was rather one-way “explanation” by the government about its plan without any intention of changing or nullifying it. No efforts have been made to reach mutual understanding through genuine dialogue with the local population.

3. Regarding the part “Takae Helipad Construction Plan” (pages 8 – 9)

- 15) The government of Japan emphasizes that the US military is returning some 40 km² of the Northern Training Area (75 km²) to Okinawa as *“reducing the burden on the people of Okinawa”*. It also states in the part *“Overview”* that the construction of helipads in Takae is one of the conditions set for the return of certain land to Okinawa. However, unfortunately, it has failed to mention that the helipads would surround the Takae community, even two of the helipads are planned to be constructed just 400 m away from the Takae community. As can be seen in the strong opposition of Takae residents to the construction, the plan does not realise any reduction in the *“burden of the people of Okinawa”* to them, but bring additional burden as well as danger in their life.
- 16) In this context, it is highly deplorable that no information is provided in the response of the government of Japan on the deployment and safety of US military’s MV-22 Osprey aircraft, for which the planned pads are actually to be used. We also regrettably highlight that the deployment plan of Osprey has been concealed from the public for a long time till recently. The government of Japan has yet to explain to the Takae community about the deployment of MV-22 Osprey.
- 17) Regarding the Environmental Impact Assessment (EIA) conducted by the Japanese government, it should be duly noted that the EIA has been criticized by experts for its lack of scientific validity. Moreover, it should be stressed that the EIA was conducted with the presumption that the helipads would be used by the helicopters currently stationed at MCAS Futenma, but not by MV-22 Osprey aircraft.
- 18) While the government of Japan has already conducted the EIA and began construction work, it is very confusing that the section of *“2 Measures to Protect the Living Environment of People Living in and around the Takae District”* (pages 5 and 6) are written in future tense. In similar vein, it is very confusing and problematic that the government of Japan states *“Construction work will be avoided as a matter of principle in the early morning, during the night, and on Sundays and national holidays”* (page 8), while the construction work, including transportation of construction equipments into construction sites, is sometimes beginning in the early morning.
- 19) We also regret that the government of Japan has not provided any information on the lawsuit it has brought against residents of Takae including an elementary school student and a supporter who engaged in a sit-in protest. It should be also noted that the lawsuit is widely considered as a SLAPP lawsuit.
- 20) Concerning *“the importance of gaining substantial understanding and cooperation of local communities”*, it needs to be emphasized that the opinion of the Okinawa prefectural assembly that *“the work to relocate the helicopter landing zones ... should be implemented steadily”* and *“readiness to accept the helicopter landing zones”*

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expressed by the mayors of Higashi and Kunigami Villages (page 9) were all obtained under the premise that only the aircrafts which are currently stationed at MCAS Futenma would use the helipads, but not MV-22 Osprey. Against this backdrop, it is extremely worrying that the government of Japan considers “*that it has gained the understanding of Okinawa Prefecture and other local governments*”.

4. Regarding the part “Overview of the Okinawa Promotion Plan” (page 10)

21) It is important to note that while the government of Japan has been implementing “Okinawa Promotion Plans” and related measures and providing financial assistance to Okinawa, some of them are considered as being “linked” to the continued presence of US military bases in Okinawa. In fact, the government of Japan halted the Base Realignment Grants to Nago city when Susumu Inamine, anti-base construction candidate, won the city’s mayoral election in 2010. However, no information on this critical aspect is provided in the response of the Japanese government to CERD.

22) It should be also noted that despite the “Okinawa Promotion Plans” and various measures implemented in the last 40 years by the Japanese government, Okinawa still has the lowest average income and the highest unemployment rate among Japan’s 47 prefectures today.