



Shimin Gaikou Centre



Situation of Indigenous Peoples in Japan

Submission for the 3rd Cycle of Universal Periodic Review of Japan
28th Session of the Human Rights Council (6 – 17 November 2017)

Submitting Organisations:

Association of Indigenous Peoples in the Ryukyus (AIPR)

1593-2 Nagahama, Yomitan, Okinawa, Japan 904-0324

Cell: +81-90-4100-0454

Contact: shisei.toma@hotmail.co.jp

Shimin Gaikou Centre (Citizens' Diplomatic Center for the Rights of Indigenous Peoples)

3-35-13-204 Higashikomatsugawa, Edogawaku, Tokyo, Japan 132-0033

Website: <http://www.shimingaikou.org/>

Contact: shimingaikou@hotmail.com

Asia Indigenous Peoples Pact (AIPP)

AIPP is a regional organization founded in 1988 by indigenous peoples' movements. It is committed to the cause of promoting and defending indigenous peoples' rights and human rights and articulating issues of relevance to indigenous peoples. Based in Chiang Mai, Thailand, AIPP currently has 48 member organizations from 14 countries in Asia including Japan. It has Special Consultative status with the UN Economic and Social Council (ECOSOC).

Website: www.aippnet.org

Contact: aippmail@aippnet.org

Address: 112 Moo 1, T. Sanpranate, A. Sansai, Chiang Mai, 50210, THAILAND

International Work Group for Indigenous Affairs (IWGIA)

IWGIA is an international human rights organization staffed by specialists and advisers on indigenous affairs. It supports indigenous peoples' struggle for human rights, self-determination, right to territory, control of land and resources, cultural integrity, and the right to development. It was founded in 1968 by anthropologists alarmed about the ongoing genocide on indigenous peoples taking place in the Amazon. The aim was to establish a network of concerned researchers and human right activists to document the situation of indigenous peoples and advocate for an improvement of their rights. Today indigenous peoples from all over the world are involved in IWGIA's global network.

Website: <http://www.iwgia.org>

Contact: iwgia@iwgia.org

Address: Classensgade 11 E, DK 2100 Copenhagen, Denmark

A. Indigenous Peoples of Japan

1. The Ainu and Okinawan are the two indigenous groups of peoples in Japan. They inhabit the northernmost and southernmost parts of Japan, respectively.
2. Most Ainu still live in Hokkaido but thousands migrated to Japan's urban centres for work and to escape the more prevalent discrimination on Hokkaido. Since June 2008, the Ainu have been officially recognised as indigenous peoples of Japan. Recent government survey put Ainu population in Hokkaido at 16,786 (2013)ⁱ and in the rest of Japan at 210 (2011)ⁱⁱ though it is argued to come up to around 10,000, with 2,700 (2010) in Tokyo.ⁱⁱⁱ Ainu, particularly those outside Hokkaido, do not self-identify for fear of discrimination resulting to no credible data on their population.
1. The Okinawans, or Ryūkyūans, inhabit the Ryūkyū archipelago, which stretches southwest of the main Japanese island of Kyūshū towards Taiwan, which make up Japan's present-day Okinawa prefecture. They are composed of several ethno-linguistic groups. Unlike the Ainu, the Japanese government does not recognise the indigeneity of Ryūkyūans. The Ryūkyū islands remain populated largely by Ryūkyūans despite migrations of ethnic Japanese to the islands. The islands also host 50,000 US personnel occupying 34 military installations. Ryūkyūans are estimated to have a population of around 1.1 to 1.4 million (2008).
2. The State of Japan has adopted the UN Declaration of the Rights of Indigenous Peoples (UNDRIP) but does not recognise the unconditional right to self-determination. Further, it has not ratified International Labour Organization (ILO) Convention No. 169.

B. Follow-up on and developments since the 2nd Review

3. In the 2nd UPR Cycle of Japan, there were no specific recommendations on indigenous peoples but there were several recommendations on minorities, which would be relevant to the Ainu and Ryūkyūans. It should be noted, however, that their national submission included an update on the policies related to Ainu. It reiterated its recognition to Ainu as indigenous peoples in 2008 and mentioned the establishment of the Council for Ainu Policy Promotion in 2009, which includes several Ainu members, though the ratio of Ainu to non-Ainu members was not specified. The Council is said to be specifically discussing on three major topics: the development of the "symbolic space for ethnic harmony" as a national centre for the renaissance of Ainu culture, nationwide policy implementation, and promotion of public understanding.
4. In the 1st UPR cycle, Japan had received the following two recommendations relating to indigenous peoples, which it had noted:
 - Urge Japan to (Guatemala)
 - Review, inter alia, the land rights and other rights of the Ainu population and harmonize them with the United Nations Declaration on the Rights of Indigenous Peoples (Algeria).

5. An update on these developments is discussed further below, including the recommendations that relate to indigenous peoples of Japan.

I. Human rights education in schools

6. Japan, in the 2nd UPR cycle, has noted the recommendation to “put an end to the distortion of past history and raise awareness of historical facts by amending educational curricula to reflect historical realities, including its past crimes and atrocities.^{iv}” But in April 2015, the Ministry of Education, Culture, Sports, Science and Technology announced that the middle school history textbook to be used in 2016 revised a passage on Hokkaido Former Aborigines Protection Act, a discriminatory law enacted in 1899 to force the Ainu to assimilate. Responding to government comments during the screening process, the publisher revised the passage from “the government... *confiscated land* from the Ainu” to “the government... *gave land* to the Ainu.” As of 2015, with historical revisionism, the government believes “defects in the passage have been resolved.”^v
7. Furthermore, CERD has also noted that education textbooks do not adequately reflect the history and culture of the Ryūkyūans.^{vi}

Recommendation:

8. *The State of Japan should ensure that the history of Ainu and Ryūkyūans are properly represented in textbooks used in school curricula, in accordance to the recommendation of CERD.*

II. Equality and non-discrimination

9. In the 2nd UPR cycle, Japan has noted the recommendations to “define discrimination in national legislation in line with the ICERD, and prohibit all forms of direct and indirect discrimination, including on the basis of age, gender, religion, sexual orientation, ethnicity, or nationality^{vii}” and “ensure that economic, social and cultural rights be enjoyed on an equal footing in national legislation.^{viii}” Discrimination and assimilation initiatives, however, remain to persist in Japan. The claim of a member of the Sapporo City Assembly in Hokkaido in 2014 that “Ainu no longer exist” is an example of prevalence of discrimination to indigenous peoples. Such hate speech towards indigenous peoples and other minorities is feared to continue, especially the government failed to pass an anti-hate speech legislation. Furthermore, Ainu and Ryūkyūans remain to struggle from proper recognition and promotion of their culture and language, and opportunities for employment and education are lower compared to the rest of Japan.
10. It is noteworthy that the view of Japan as a homogenous culture has been reconsidered and Ainu has been officially recognised as indigenous peoples. But, despite UNESCO identifying Ryūkyūans as having their unique ethnicity, history, culture and traditions,^{ix} Ryūkyūans have yet to be regarded with the same recognition of being indigenous peoples.

11. The languages of Ainu and Ryūkyūans, which is inextricably linked to their culture, are considered to be endangered.^x There should be determined actions to save and promote their languages and culture. Correspondingly, education of their children using their own language should be supported.
12. The gap between indigenous peoples of Japan and the rest of the population with regard to employment, education and living conditions are apparent. The ratio of Ainu going to high school is 92.6% compared to the general average of 98.6% (2013).^{xi} Similarly, the ratio of Ainu progressing to university is a low 25.8% compared to the general average of 42.0% (2013).^{xii} And for Ryūkyūans, 95.5% are in high school and a low 34.4% continue on to university. The drop-out rates of university students due to financial incapability are also higher for Ainu and Ryūkyūans compared to the rest of Japanese population.^{xiii} Their opportunities for education gravely affects the job prospects available for them to improve their future and current living conditions.
13. It should also be noted that data on the population and the status of their socio-economic development have not been extensive, thus, not credible and official. The absence of reliable numbers and data on these areas negatively affects analysing the discrimination and does not provide proper guiding actions for the Japanese government to address these gaps between indigenous peoples and the rest of the Japanese population. It also not easy to conduct survey as many Ainu and Ryūkyūans are hesitant to self-identify for fear of discrimination.

Recommendations:

14. *The State of Japan should build on their efforts to promote and protect the rights of Ainu and recognise the rights of Ryūkyūans as indigenous peoples as well. It should ensure that discrimination in all its forms, against their indigeneity, should be prevented and effective judicial remedies should be sought and provided without delay.*
15. *The State of Japan should publicly recognise and apologise to address the fear of self-identifying as Ainu or Ryūkyūans that is caused by deeply rooted stigma brought by centuries of discrimination and assimilation policies towards Ainus and Ryūkyūans. It should conduct a sincere comprehensive survey to produce an official and credible disaggregated data on their population and status of their socio-economic welfare.*
16. *In line with the recommendations of CESCR,^{xiv} CERD,^{xv} and CCPR,^{xvi} the state of Japan should intensify its efforts to improve the standard of living of Ainu and Ryūkyūans and implement proactive measures to address the gap between them and the rest of Japanese population, particularly in the field of education and employment.*
17. *Their language and culture should be promoted and protected in cooperation with Ainus and Ryūkyūans. The state of Japan should facilitate school curricula promoting the use of their languages and preserving their culture, particularly for children and youth.*
18. *Proactive measures to address the gap in higher education such as lowering fees and providing scholarships for higher learning that are specifically for Ainu and Ryūkyūans should be enacted, in relation to the recommendation that Japan has noted in the 2nd Cycle.^{xvii}*

19. *The Ainu and Ryūkyūans should be allowed to identify the development initiatives that will affect their lives and future in their own terms. In the case of Ainu, the Ainu representatives in the Council of the Ainu Promotion Policy should be specifically for Ainu and, in other consultative bodies, their number should be increased, to ensure meaningful participation.^{xviii} Similarly, for Ryūkyūans, the “Act on Special Measures for the Promotion and Development of the Okinawa and the Okinawa Promotion Plan,” should be implemented in sincere and effective consultation with the Ryūkyūans.*

III. Rights of indigenous peoples to their lands, territories and ancestral domains

20. The US military bases in the Ryūkyū archipelago has been a long-running running issue that has fallen on deaf ears to the Japanese government. For over 60 years now since the end of the World War II, the Ryūkyūan landowners have been restricted or banned to get their own lands where they grew up or have their ancestors’ tombs due to the bases. These military bases have been a source, among others, for environmental destruction, noise pollution and political harassment, including sexual harassments to women and girls living in the archipelago. In April 2015, Obama and Abe reaffirmed commitment in relocating and expanding Futenma’s military functions at Henoko. There have been strong and sustained campaign against it, including Governor Onaga Takeshi, but Abe administration responded with violence, political pressure, arrests and even filed a suit against Onaga. Unless the rights of the Ryūkyūans to their lands and territories are respected and protected, the encroachment of their lands will persist. In the 1st UPR cycle, Japan has noted the recommendation to seek ways to initiating a dialogue with its indigenous peoples so that it can implement the UNDRIP^{xix}. Though the Council for Ainu Policy Promotion has provided some space for dialogue with Ainu people, Japanese government is yet to make any such initiative for Ryūkyūans in lack of recognition as indigenous peoples.

21. On the other hand, the issue of returning ancestral remains continues to be a point of contention with the Government of Japan and Ainu people. The Government is working to develop a national center called “Symbolic Space for Ethnic Harmony”, which will consolidate and memorialize Ainu ancestral remains. But there have been demands that remains be returned directly to the Ainu community. Complaints were forwarded to Japan Federation of Bar Associations under the human rights remedy program, claiming that consolidation of ancestral remains was a violation of human rights. The government has yet to address these complaints directly but is already planning to press on with the consolidation and memorialization of Ainu ancestral remains in early 2017. Japan, in 1st UPR cycle, had noted the recommendation to review the land and other rights of the Ainu population and harmonize them with UNDRIP^{xx}, which has not been implemented in this regard.

Recommendations:

22. *The State of Japan should initiate a dialogue with the Ryūkyūans in order to resolve the issue of US military bases in Ryūkyū islands based on their recognition as indigenous peoples with rights over their lands, territories and resources as provided in the UNDRIP.*

23. *The State of Japan should facilitate a peaceful discussion to resolve the issues related to the consolidation of the Ainu ancestral domain through the “Symbolic Space for Ethnic Harmony.”*

The demands and concerns should first be heard and addressed before any planned action to the consolidation and memorialization of the Ainu ancestral remains are conducted.

24. *The State of Japan should respect, protect and fulfill the rights of Ainu and Ryūkyūans as indigenous peoples who have specific rights, including over their lands, territories and resources and to right to free, prior and informed consent for any development initiative that will affect them, as stipulated the UNDRIP to which the state of Japan has voted in favour of. It should ensure that the UNDRIP is resonated in the national policies and programmes without any conditions and/or reservations.*

25. *The State of Japan should ratify the ILO Convention concerning Indigenous and Tribal Peoples in Independent Countries, 1989 or the ILO C-169, in accordance to the recommendation of CERD.^{xxi}*

ⁱ Ainu Association of Hokkaido. (2013). Retrieved on 27 March 2017, from <https://www.ainu-assn.or.jp/english/life.html>

ⁱⁱ International Working Group on Indigenous Affairs. (2016). Retrieved on 27 March 2017, from <http://www.iwgia.org/regions/asia/japan>

ⁱⁱⁱ Moriya, H. (2010). Documentary Tokyo Ainu, from Nakamura, N. (2015) <http://journals.sagepub.com/doi/abs/10.1068/a130003p>

^{iv} A/HRC/22/14/Add.1, para 147.159 (Democratic People's Republic of Korea);

^v International Working Group on Indigenous Affairs. (2016). Retrieved on 27 March 2017, from <http://www.iwgia.org/regions/asia/japan>

^{vi} (CERD/C/JPN/7-9), para 21

^{vii} A/HRC/22/14/Add.1, para 147.85 (Norway)

^{viii} A/HRC/22/14/Add.1, para 147.32 (Palestine)

^{ix} CERD/C/JPN/CO/7-9, para 21

^x UNESCO. (2009). *Atlas of the world's languages in danger*

^{xi} Ainu Association of Hokkaido. (2013). Retrieved on 27 March 2017, from <https://www.ainu-assn.or.jp/english/life.html>

^{xii} *ibid.*

^{xiii} Hirano, K. (2009). *Ainu still lead underprivileged lives, survey finds*, from <http://www.japantimes.co.jp/news/2009/06/10/national/ainu-still-lead-underprivileged-lives-survey-finds/#.WNoDeRJ97eR>

^{xiv} E/C.12/JPN/CO /3, para 30

^{xv} CERD/C/JPN/CO/7-9, para 20, 21

^{xvi} CCPR/C/JPN/CO/6, para 27

^{xvii} A/HRC/22/14/Add.1, para 147.157 (Bahrain)

^{xviii} CERD/C/JPN/CO/7-9, para 20 (a)

^{xix} Guatemala

^{xx} Algeria

^{xxi} CERD/C/JPN/CO/7-9, para 20 (e)