

International Covenant
on Civil and Political Rights
Alternative Report Submission:
**Violations of Indigenous Peoples’
Rights in Japan**

Prepared for 128th Session, Geneva, 2 March - 27 March, 2020

Submitted by Cultural Survival
Cultural Survival
2067 Massachusetts Avenue
Cambridge, MA 02140
Tel: 1 (617) 441 5400
agnes@culturalsurvival.org
www.culturalsurvival.org

International Covenant on Civil and Political Rights Alternative Report Submission: Violations of Indigenous Peoples' Rights in Japan

I. Reporting Organization

Cultural Survival is an international Indigenous rights organization with a global Indigenous leadership and consultative status with ECOSOC since 2005. Cultural Survival is located in Cambridge, Massachusetts, and is registered as a 501(c)(3) non-profit organization in the United States. Cultural Survival monitors the protection of Indigenous Peoples' rights in countries throughout the world and publishes its findings in its magazine, the *Cultural Survival Quarterly*, and on its website: www.cs.org.

II. Introduction

The nation of Japan has made some significant strides in addressing historical issues of marginalization and discrimination against the Ainu Peoples. However, Japan has not made the same effort to address such issues regarding the Ryukyu Peoples. Both Peoples have been subject to historical injustices such as suppression of cultural practices and language, removal from land, and discrimination. Today, Ainu individuals continue to suffer greater rates of discrimination, poverty and lower rates of academic success compared to non-Ainu Japanese citizens. Furthermore, the dialogue between the government of Japan and the Ainu Peoples continues to be lacking. The Ryukyu Peoples continue to not be recognized as Indigenous by the Japanese government and face the nonconsensual use of their traditional lands by the United States military.

III. Background

The Ainu are an Indigenous Peoples in the northern region of the Japanese archipelago, and the island of Hokkaido.¹ Once separate from the nation of Japan, Hokkaido was annexed by Japan in 1859, leading to increased conflict between the Ainu and the nation of Japan. The marginalization of the Ainu has been a lengthy historical process in Japan. This process began in earnest during the Meiji Restoration period in the mid-late 1800s.² The economic and social marginalization of the Ainu continues into the present era.

The Ryukyu Kingdom was once comprised of 160 islands including the Amami archipelago.³ Today, most of the region is now Okinawa, the southernmost prefecture of Japan.⁴ The Amami archipelago is in Kagoshima Prefecture.⁵ The Ryukyu Kingdom was independent for about 400

¹ "Final Report: Advisory Council for Future Ainu Policy." Advisory Council for Future Ainu Policy. 2009. Available at http://www.kantei.go.jp/jp/singi/ainu/dai10/siryu1_en.pdf

² Id.

³ "Alternative report to the Committee on the Elimination of Racial Discrimination (CERD) for the review of 10th and 11th periodic report of Japan." Association of the Indigenous Peoples in the Ryukyus. 2018. Available at https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/JPN/INT_CERD_NGO_JPN_32100_E.pdf

⁴ "Japan: Violation of human rights of indigenous peoples of Ryukyus in Okinawa." International Movement against All Forms of Discrimination and Racism. 2012. Available at https://imadr.org/wordpress/wp-content/uploads/2013/12/Written-Statement_HRC-20th-session_Indigenous-Peoples-in-Okinawa-2012.pdf

⁵ Yokoto, Ryan Masaaki. "The Okinawan (Uchinanchu) Indigenous Movement and Its Implications for Intentional/International Action." *Amerasia Journal* 41, 1, 2015, 55-73

years until colonized and annexed by Japan in 1879.⁶ Today, the Ryukyu Peoples are the Indigenous Peoples whose ancestors lived in the Ryukyus prior to 1879.⁷ Similarly to the Ainu, the Ryukyu Peoples have faced a long process of social, economic, and cultural marginalization. These struggles continue to this day.

In 2007, Japan voted for the adoption of UNDRIP.⁸ In 2008, the Japanese Diet adopted a resolution which recognized the Ainu as an Indigenous Peoples.⁹ This was reiterated with the 2019 adoption of the Ainu Promotion Act that again recognized the Ainu as Indigenous.¹⁰ Despite recognition, Ainu people continue to face discrimination.

IV. Previous Recommendations from ICCPR

Japan's previous ICCPR review cycle was in 2014. Recommendations provided to Japan included:

- *While welcoming the recognition of the Ainu as an indigenous group, the Committee reiterates its concern regarding the lack of recognition of the Ryukyu and Okinawa as well as of the rights of these groups to their traditional land and resources or the right of their children to be educated in their language.*
- *The State party should take further steps to revise its legislation and fully guarantee the rights of Ainu, Ryukyu and Okinawa communities to their traditional land and natural resources ensuring respect for the right to engage in free, prior and informed participation in policies that affect them and facilitate, to the extent possible, education for their children in their own language.*

V. Previous Recommendations from other UN bodies

a. Universal Periodic Review

The following are recommendations have been made to Japan in the country's first and third cycle reviews at the UPR:

- *Strengthen measures so that ethnic minorities - Ainu, Ryukyu and Burakumin - can fully enjoy their economic, social and cultural rights -Peru*
- *Ratify the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169) - Guatemala*

⁶ "Alternative report to the Committee on the Elimination of Racial Discrimination (CERD) for the review of 10th and 11th periodic report of Japan."

⁷ Id.

⁸ "Final Report: Advisory Council for Future Ainu Policy."

⁹ "National Report Submitted in Accordance With Paragraph 15(a) of the Annex to the Human Rights Council Resolution 5/1." Available at : <https://documents-ddsny.un.org/doc/UNDOC/GEN/G12/187/52/PDF/G1218752.pdf?OpenElement>

¹⁰ Umeda, Sayuri. "Japan: New Ainu Law Becomes Effective." Library of Congress. 2019. Available at <http://www.loc.gov/law/foreign-news/article/japan-new-ainu-law-becomes-effective/>

- *Continue and deepen the implementation of measures to avoid and prevent discrimination against minorities and indigenous populations, including through consultations with the different indigenous peoples. -Paraguay*
- *Take adequate measures to effectively address violence against foreign, minority and indigenous women by prosecuting and sanctioning all forms of violence and ensuring that victims have access to immediate means of redress and protection. - Iran*
- *Continue with the positive work already being implemented to combat domestic violence, in particular against foreign, minority and indigenous workers and through ensuring that victims have support, care and redress for abuse. -Maldives*
- *Urge Japan to seek ways to initiate a dialogue with its indigenous peoples so that it can implement the United Nations Declaration on the Rights of Indigenous Peoples. - Guatemala (FIRST CYCLE)*
- *Review, inter alia, the rights and other rights of the Ainu population and harmonize them with the United Nations Declaration on the Rights of Indigenous Peoples. -Algeria (FIRST CYCLE)*

b. Concluding observations from the Committee for the Elimination of Racial Discrimination 2018 review of Japan:

The committee made the following recommendations regarding discrimination of the Ainu People:

- *While noting recent efforts by the State party to protect and promote the rights of the Ainu people, the Committee is concerned that:*
 - (a)Cases of discrimination against Ainu in employment, education and access to public services continue to be reported and that, despite some improvements, there remains a gap between the living standards of Ainu and those of other residents in Hokkaido;*
 - (b)While some efforts are being made to preserve Ainu language and culture, the land and natural resource rights and the linguistic and cultural heritage of the Ainu people are not sufficiently protected;*
 - (c)The proportion of Ainu on consultative bodies remains low, and only about a third of the members of the Council for Ainu Policy Promotion are Ainu (art. 5).*
- *Recalling its general recommendation No. 23 (1997) on the rights of indigenous peoples, the Committee recommends that the State party:*
 - (a) Step up efforts to eliminate discrimination against Ainu in employment, education and access to services ;*
 - (b) Ensure monitoring of the implementation and impact of current efforts, such as the “ Third Promotion Policy for the Improvement of Ainu People ’ s Life ” , and provide*

information on this and other measures taken to improve the living standard of Ainu in its next periodic report ;

(c) Adopt measures to protect the land and natural resource rights of the Ainu people, and continue to step up efforts for the realization of their rights to their culture and language;

(d) Increase the proportion of Ainu representatives on the Council for Ainu Policy Promotion and other consultative bodies.

The committee made the following recommendations regarding discrimination of the Ryukyu Peoples:

- *The Committee is concerned that the Ryukyu/Okinawa are not recognized as indigenous peoples despite its previous recommendation (CERD/C/JPN/CO/7-9, para. 21) and recommendations from other human rights mechanisms. The Committee is also concerned at reports of violence against women in Okinawa, and challenges reportedly faced by the Ryukyu/Okinawa peoples related to accidents involving military aircraft in civilian areas, owing to the presence of a military base of the United States of America on the island of Okinawa (art. 5).*
- *The Committee recommends that the State party reconsider its position on recognizing the Ryukyu as indigenous peoples and step up measures to protect their rights. The Committee recommends that the State party ensure the proper safety and protection of Ryukyu/Okinawa persons, including by protecting Ryukyu/Okinawa women from violence and ensuring proper prosecution and conviction of perpetrators of violence against them.*

These recommendations largely remain not implemented.

VI. Respecting, Protecting, and Fulfilling the Rights of Ainu Peoples (ICCPR Articles 1, 2, & 27, General Comment 23)

a. The Ainu Promotion Act of 2019

In recent years Japan has taken legal and cultural steps to end systemic discrimination against the Ainu, and to promote a resurgence of Ainu culture. In 2019, the Ainu Promotion Act became effective.¹¹ Under the act, the National Ainu Museum and Park is set to open in Hokkaido in April 2020, and the government of Japan, both national and local, must adopt policies that help the Japanese population understand the traditions of the Ainu and the importance of diversity.¹² Furthermore, the government must adopt measures to stop discrimination, and the national government must subsidize local government efforts to maintain

¹¹ Id.

¹² Id.

Ainu culture.¹³ Finally, Ainu individuals can apply for special rights over national lands and rivers, and trademarks to sustain and revitalize their traditions and culture.¹⁴

Though the new act has shown great improvements, some concerns with the act have been raised. Concern has been expressed over the act's lack of an apology. As Yuji Shimizu, Ainu elder stated, "Why doesn't the government apologize? If the Japanese recognized what they did in the past, I think we could move forward."¹⁵

The absence of an apology, and lack of recognition of any wrongdoing by the Japanese government, such as discriminatory colonization practices and policies, was the catalyst that led several Ainu activists to call for a withdrawal of the act.¹⁶ Furthermore, there was minimal consultation with the Ainu Peoples when drafting the resolution.¹⁷ Though there were some Ainu who participated in the drafting of the act, it was a limited number.¹⁸ Discussions to develop the act were not open to the public, and most Ainu Peoples were left out of the decision making process¹⁹ demonstrating a failure to respect the self-determination of the Ainu Peoples. Moreover, while the act does simplify the process for Ainu persons to get permission to practice traditional salmon fishing and collect timber from the national forests for traditional rituals, the act does not touch on recovering fishing rights that were taken from the Ainu Peoples. The Ainu must seek permission from the government to practice traditional fishing.²⁰

The act also fails to address education.²¹ There is a gap in educational achievement between Ainu individuals and the Japanese population at large. The ratio of those attending high school is 92.6% compared with the general average of 98.6%, and the ratio of those progressing to university is a low 24.8% compared with the general average of 42.0%. As education plays an important role in the improvement of the Ainu's social standing, the alleviation of this disparity is an urgent priority.²² Furthermore, there have been some strides in teaching the Ainu language in Hokkaido.²³ However, it is important that both an Ainu language education and a curriculum that focuses on Ainu heritage and culture is accessible to Ainu people of all socio-economic levels both in Hokkaido and throughout Japan. Moreover, middle school textbooks have been

¹³ Id.

¹⁴ Id.

¹⁵ Jozuka, Emiko. "Japan's 'vanishing' Ainu will finally be recognized as indigenous people." *CNN*, Turner Broadcasting Systems, Inc, 22 April 2019, Available at <https://www.cnn.com/2019/04/20/asia/japan-ainu-indigenous-peoples-bill-intl/index.html>

¹⁶ Higashimura, Takeshi. "No Rights, No Regret: New Ainu Legislation Short on Substance." *Nippon*, Nippon Communications Foundation, 26 April 2019. Available at <https://www.nippon.com/en/in-depth/d00479/no-rights-no-regret-new-ainu-legislation-short-on-substance.html>

¹⁷ Jozuka, Emiko

¹⁸ Higashimura, Takeshi

¹⁹ Id.

²⁰ "Japan enact law recognizing Ainu as indigenous, but activists say it falls short of U.N. declaration." *The Japan Times*, The Japan Times Ltd, 2019. Available at <https://www.japantimes.co.jp/news/2019/04/19/national/japan-enacts-law-recognize-ainu-indigenous-despite-criticism-ethnic-group/#.Xjm6nmhKg2w>

²¹ Id.

²² "Actual Living Condition of the Hokkaido Ainu." Ainu Association of Japan. Available at <https://www.ainu-assn.or.jp/english/life.html>

²³ Tahara, Kaori. "The saga of the Ainu Language." *The UNESCO Courier*, October 2009. Available at <https://en.unesco.org/courier/numero-especial-octubre-2009/saga-ainu-language>

revised by the Japanese government to conceal the harsh realities of past treatment of the Ainu.²⁴ This is a serious hindrance in furthering the education of Ainu history in Japan.

b. Other Areas of Concern

Economic marginalization continues to be an ongoing issue for Ainu people. A 2008 survey of Ainu people showed that Ainu households were about 2.5 times as likely to be receiving public assistance compared to households through the country.²⁵ The most recent Hokkaido government survey of Ainu individuals found that “[a]pproximately 77.6% of residents said that life was ‘very difficult’ or ‘somehow difficult,’ showing a slight improvement from the last survey (81.1%). The number of Ainu receiving welfare assistance is 1.6 times as many as the general Hokkaido residents²⁶

Ainu individuals continue to feel that they face discrimination from the wider Japanese society. According to the previous survey, 23.4% of respondents indicated they had experienced discrimination since they can remember, and 9.6% indicated that they had not experienced discrimination against themselves but knew someone who had.²⁷ Many still conceal their identity on surveys when seeking jobs or marriage because they are afraid of being discriminated against. “If we disclose ourselves as Ainu when we seek a job, we are refused. If we want to get married, the family doesn’t want us in their homes,” stated one Ainu woman.

It should be noted that much of the data available on the Ainu population is not extensive or official, as there is a lack of disaggregated data studying the specific condition of Indigenous Peoples within the last six years.²⁸ Available data does not provide the necessary information for the Japanese government to properly address issues of inequality between the Ainu Peoples and the general population.²⁹

Finally, the Ainu continue to have extremely limited representation in the parliamentary system of Japan. There is no mechanism in place which allows the Ainu people to interact with the government of Japan as co-sovereigns, or through designated representatives. This lack of consultation stands in contradiction to principles of Free, Prior, and Informed Consent with regard to Ainu issues.³⁰ While the government of Japan has engaged with Ainu cultural groups, these groups do not necessarily speak for or represent the Ainu as a whole. “The Japanese government and Japanese people still are with a mind of one nation, one people, and one language. In fact, Japan is a multicultural, multilingual, and multiethnic country. We want all Japanese and the Japanese government to accept this fact,” stated one Ainu woman.

²⁴ “Situation of Indigenous Peoples in Japan.” Shimin Daikou Centre. November 2017. Available at <https://webcache.googleusercontent.com/search?q=cache:e0wQKe71maUJ:https://uprdoc.ohchr.org/uprweb/downloadfile.aspx%3Ffilename%3D4473%26file%3D%26EnglishTranslation+%&cd=12&hl=en&ct=clnk&gl=us>

²⁵ “Final Report: Advisory Council for Future Ainu Policy.”

²⁶ “Actual Living Conditions of the Hokkaido Ainu.”

²⁷ *Id.*

²⁸ “Situation of Indigenous Peoples in Japan.” Shimin Gaikou Centre. November 2017. Available at <https://webcache.googleusercontent.com/search?q=cache:e0wQKe71maUJ:https://uprdoc.ohchr.org/uprweb/downloadfile.aspx%3Ffilename%3D4473%26file%3D%26EnglishTranslation+%&cd=12&hl=en&ct=clnk&gl=us>

²⁹ *Id.*

³⁰ United Nations Declaration on the Rights of Indigenous Peoples Article 19

VII. The Ryukyu Peoples (Article 1, 2, 21 & 27, HRC concluding observations 2014, Gen Comment 23)

a. Lack of recognition, history of assimilation policies, and language

Unlike the Ainu, the Ryukyu Peoples have not been recognized as Indigenous by the Japanese government.³¹ Therefore, the Japanese government has not taken any specific measures “to recognize or protect the rights of Indigenous Peoples in the Ryukyus.”³² Ryukyuans have faced a history of forced assimilation policies that prohibited their languages, cultures, and customs.³³ Today, UNESCO considers Ryukyu languages to be in danger of going silent.³⁴ It is vital to the survival of the Ryukyu languages that there is language education available to Ryukyuans. Current textbooks do not adequately reflect the history and culture of the Ryukyuans and have not been developed with the participation of Ryukyuans.³⁵

b. Land and US Military Bases

After World War II, Japan handed administration of Okinawa to the US military. In 1972 the US military returned governance of Okinawa to Japan.³⁶ However, the US bases that were built on the island during the US administration remained and were even expanded upon.³⁷ 74% of US military bases in Japan are located in Okinawa, though Okinawa only makes up 0.6% of Japan.³⁸ There is also a concern for the environmental impact that the bases may have in the area.³⁹ Land used for the military bases was taken from Ryukyu people without their Free, Prior and Informed Consent.⁴⁰ Currently, the US military is working to relocate their Futenma air base in Ginowan, Okinawa, to a base in the Henoko coastal area.⁴¹ The Henoko Bay location was also decided without any consultation or consent of the local people of Okinawa.⁴² Furthermore, the Japanese government has violently removed groups peacefully protesting the base’s construction as well

³¹ “Alternative report to the Committee on the Elimination of Racial Discrimination (CERD) for the review of 10th and 11th periodic report of Japan.”

³² *Id.*

³³ *Id.*

³⁴ “Japan: Violation of human rights of indigenous peoples of Ryukyus in Okinawa.”

³⁵ “Situation of Indigenous Peoples in Japan”

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ Yokoto, Ryan Masaaki.

⁴⁰ “Suppression of civilians peacefully protesting US military bases in Okinawa, and violations of the rights of the Ryukyuan/Okinawan indigenous people.” Human Rights Now. 2016. Available at https://imadr.org/wordpress/wp-content/uploads/2016/09/Joint-Written-Statement_HRC33_Item3_Suppression-of-civilians-peacefully-protesting-US-military-bases-in-Okinawa-and-violations-of-the-rights-of-the-Ryukyuan-Okinawan-indigenous-people1.pdf

⁴¹ “Henoko dispute between Okinawa and Japan’s central government seen further intensifying.” *The Japan Times*, The Japan Times Ltd, 2019. Available at <https://www.japantimes.co.jp/news/2019/12/15/national/politics-diplomacy/henoko-dispute-okinawa-japan/#.XjnUnmhKg2w>

⁴² “Suppression of civilians peacefully protesting US military bases in Okinawa, and violations of the rights of the Ryukyuan/Okinawan indigenous people.”

as the construction of helicopter pads in Takae, Okinawa.⁴³ For example, in July of 2016 the Japanese government dispatched riot police from across the country to Takae. 500 to 700 riot police surrounded the town with a population of about 160. The riot police forcibly removed civilians protesting at the construction site gate. Some protesters were injured, and others were arrested and detained.⁴⁴

There have been numerous cases of violence against Okinawan women by US military personnel.⁴⁵ In 2016 tens of thousands protested after a US military base worker was arrested “in connection to the rape and murder of a local woman.”⁴⁶ Furthermore, many Okinawans oppose the base in part to various accidents involving US aircrafts near the bases.⁴⁷

VIII. Global Funding of Energy Projects

One important issue which relates to Japan and Indigenous Peoples does not directly link to the Ainu or Ryukyu Peoples, but to Indigenous Peoples in the United States and Indonesia. Major Japanese megabanks, including the Mizuho Bank Ltd and the Bank of Tokyo-Mitsubishi UFJ, have been financially involved with the development of the Dakota Access Pipeline (DAPL) in the United States.⁴⁸ These banks have also financially backed companies in Indonesia contributing to widespread fires and deforestation in the country.⁴⁹ The impact of a major global financial power, such as Japan, extends beyond the boundaries of the nation. The controversial DAPL has been the target of large-scale protests in North Dakota because of its potential to negatively impact the water resources and cultural heritage sites of the Standing Rock Sioux Tribe. In Indonesia, 850,000 hectares of forest and land were burned in 2019.⁵⁰ Of these fires, 80% “were deliberately started to clear land for oil palm plantations, while the existing pulp plantations have resulted in hundreds of fires due to their heavy reliance on fire-prone peatlands.”⁵¹ The expansion of plantations in Indonesia has negatively affected “Indigenous people’s rights to their forests, livelihood, food, water, and culture.”⁵²

⁴³ Id.

⁴⁴ Id.

⁴⁵ “Ryukyuan (Okinawans).” Minority Rights Group International. April 2018. Available at <https://minorityrights.org/minorities/ryukyuan-okinawans/>

⁴⁶ Id.

⁴⁷ Id.

⁴⁸ “Global Call on Banks to Halt Loan to Dakota Access Pipeline.” Banktrack, 2016. Available at https://www.banktrack.org/show/article/global_call_on_banks_to_halt_loan_to_dakota_access_pipeline

⁴⁹ “Will Japan’s Megabanks Stop Financing Rainforest Destruction?” Rainforest Action Network. 2020. Available at https://www.ran.org/wp-content/uploads/2020/01/RAN_JP-Megabanks-Briefing_Jan2020_FINAL.pdf

⁵⁰ Id.

⁵¹ Id.

⁵² “When We Lost the Forest, We Lost Everything: Oil Palm Plantations and Rights Violations in Indonesia.” Human Rights Watch. 2018. Available at <https://www.hrw.org/report/2019/09/22/when-we-lost-forest-we-lost-everything/oil-palm-plantations-and-rights-violations>

These banks are part of an international loan syndicate which is led by four banks that are signatory to the Equator Principles, a risk-management framework designed to manage and limit environmental and social risk in projects.⁵³ Given that Indigenous rights commitments are presumed to be respected by the Principles, specifically the right of Indigenous communities to withhold consent to projects affecting their ancestral lands through the exercise of Free, Prior and Informed Consent, the continued involvement of financial interests in the Dakota Access Pipeline project and Indonesian forest clearing for plantation development violates international human rights standards which seek to protect the rights of Indigenous Peoples.

IX. Recommendations

Cultural Survival encourages the ICCPR to make the following recommendations to Japan:

1. Recognize the Ryukyu Peoples as Indigenous
2. Acknowledge the centuries of discrimination and assimilation policies towards the Ainu and Ryukyuan and publically and sincerely apologize.
3. Participate in a dialogue with the Ryukyu Peoples regarding the US military bases in Okinawa.
4. Respect and fulfill the rights of the Ainu and Ryukyuan as Indigenous Peoples in regard to their rights over their traditional lands and territories and their right to Free, Prior and Informed Consent.
5. With the participation of Indigenous Peoples, develop and make available educational curriculum of the history, cultures, traditions, heritage, and languages of the Ainu and Ryukyuan to people of all socio-economic levels throughout all of Japan.
6. Take steps to eliminate any and all discrimination against the Ainu and Ryukyuan Peoples.
7. With the active participation of the Ainu and Ryukyuan, design and conduct a thorough, comprehensive, up-to-date survey of the educational and socio-economic state of Indigenous Peoples of Japan.
8. Take steps to address the educational gap between the Ainu people and the general population of Japan.
9. Ratify the ILO Convention concerning Indigenous and Tribal Peoples in Independent countries 1989, or ILO-C169
10. Consult with the Ainu and Ryukyu Peoples in order to understand the needs of their communities.
11. Urge Japanese banks to adopt policies that will properly implement the UN Global Compact and Guiding Principles on Business and Human Rights, and reduce involvement in projects which do not comply with the principles of Free, Prior, and Informed Consent.

⁵³ "Global Call on Banks to Halt Loan to Dakota Access Pipeline."

12. Consider measures to allow Ainu communities increased self-determination, and measures to promote increased political representation by seeking to engage with direct representatives of the Ainu Peoples.