

# Observations on the State of Indigenous Rights in Japan

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## **Reporting Organizations:**

### **Cultural Survival**

Cultural Survival is an international Indigenous rights organization with a global Indigenous leadership and consultative status with ECOSOC. Cultural Survival is located in Cambridge, Massachusetts, and is registered as a 501(c)(3) non-profit organization in the United States.

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**Association of Comprehensive Studies for Independence of the Lew Chewan Peoples (ACSILs)** is an association of the Lew Chewan Peoples. The association conducts interdisciplinary and comprehensive research. We aim to achieve the independence of Lew Chew. We accept the responsibility to analyze the problems of colonialism and seek a philosophical and political methodology to discuss issues, propose solutions and implement them.

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**All Okinawa Council for Human Rights (AOCHR)** is a research group consisting of researchers, journalists, and committed volunteers. Its purpose is to illuminate the continuing violation of human rights in Okinawa from the perspective of international human rights law, and send voices of Okinawa to the international community.

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**Nirai Kanai nu Kai (Indigenous Peoples' Organization for the Repatriation and Aerial Reburial of Ryukyuan Human Remains into original Ryukyuan Graves)** is dedicated to the repatriation of human remains of Ryukyuan Ancestors from universities, and museums in Japan.

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## **I. Executive Summary**

Although not adequate, the government of Japan made some significant strides in addressing the historical injustices including marginalization and discrimination against Ainu Indigenous Peoples, but is yet to take any efforts to address such injustices faced by Ryukyuan/Okinawan Indigenous Peoples nor does it consider them as Indigenous Peoples of Japan. Moreover, the Japanese government and United States Military have been using the traditional lands and territories of Ryukyuan without their Free, Prior and Informed Consent. The Ainu, Ryukyuan/Okinawan, and other ethnic minorities have undergone similar experiences of historical injustices such as suppression of their socio-cultural practices and dispossession of their ancestral lands and territories. Indigenous Peoples in Japan continue to suffer greater rates of discrimination and poverty and lower rates of academic success compared to non-Indigenous Peoples. There is no meaningful consultation for promotion and protection of their right to self-determination including their language, history and culture.

## **II. Background**

There are two primary Indigenous Peoples in Japan. The Ainu are from the northern region of the Japanese archipelago, particularly Hokkaido,<sup>1</sup> which is considered to be their ancestral territory, while the Ryukyuan, known as Okinawan who identify themselves also as Lewchewans or Uchinanchu, mostly live in the southernmost regions of Ryukyu/Okinawa and Kagoshima Islands of Japan.<sup>2</sup> On 13 September 2007, when the UN General Assembly adopted the Declaration on the Rights of Indigenous Peoples (UNDRIP), the government of Japan voted in favor of it; however, it does not necessarily respect the rights of all its Indigenous Peoples to self-determination. On 8 June 2008, less than a year after UNDRIP was adopted, the Diet, comprising both parliamentary bodies—the House of Representatives and the House of Councilors of Japan—unanimously passed a resolution to recognize the Ainu as an Indigenous Peoples.<sup>3</sup> In July of the same year, the government formed the Advisory Council for future Ainu policy. The council later recommended the government form a comprehensive Ainu policy program department in the cabinet secretariat, based on which the Council for Ainu Policy promotion was established. In 2014, the cabinet approved the basic policy for the development and management of spaces to promote the revitalization of Ainu culture.<sup>4</sup> In April 2019, Ainu Policies Promotion Act was enacted legally recognizing the Ainu as an Indigenous Peoples of Japan and replacing 1997 Ainu Cultural Promotion Act (ACPA). The main function of the Act is for the establishment of an Ainu Park in Shiraoi (opened on 24 April, 2019); the statute, however, does not include any provision for repatriation. The Japanese government has not however made any effort to address the issues of Ryukyu Indigenous Peoples. Both Ainu and Ryukyu Indigenous Peoples have undergone suppression of their culture and livelihood and subsequent denial of their existence. A Hokkaido government survey conducted in 2013 found that the Ainu population in Hokkaido is 16,786; however, there are also Ainu living outside of

Hokkaido,<sup>5</sup> and it is expected that the population is actually greater, but many Ainu people do not self-identify for fear of discrimination.<sup>6</sup> Due to lack of demographic investigations into the population of Ainu people, the official total number of Ainu inhabitants in Japan is yet unknown. Meanwhile, Ryukyuans/Okinawans live in the Ryukyu/Okinawa archipelago which stretches southwest of the main Japanese island of Kyushu towards Taiwan, which hosts 70 percent of about 56,118 US troops based in Japan as of 2019 data. These troops occupy 32 military installations.<sup>7</sup> Of the total 1.4 million estimated population living in Okinawa,<sup>8</sup> most are Ryukyuan/Okinawan.<sup>9</sup> Japan has not yet ratified the International Labor Organization's Indigenous and Tribal Peoples Convention, 1989 (No. 169) and it has not recognized Okinawa/Ryukyu Peoples as Indigenous Peoples.

### **III. Previous relevant UPR recommendations**

- In the first cycle (2008-2012), Guatemala recommended and Japan supported: “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.” This has not been implemented.
- In the 3rd cycle (2017 - 2021), Namibia recommended and Japan supported: “Continue to strengthen its anti-racist and anti-discrimination measures.” This has not been implemented; the government of Japan has not shown interest in establishing a mechanism to combat discrimination and investigate instances of discrimination against Indigenous Peoples and other ethnic minorities in Japan.
- In the 2nd cycle (2012-2016), Canada recommended and Japan supported: “Consider strengthening legislative protection from racial discrimination and discrimination based on sexual orientation.” The Japanese government has introduced some legislation to protect against racial discrimination targeting Ainu Indigenous Peoples in particular; however, discrimination is ongoing, and Ryukyuan/Okinawan Indigenous Peoples also continue to face and suffer from discrimination.
- In the 3rd cycle (2017 - 2021), Iran recommended and Japan supported: “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.” This has not been implemented; Indigenous women continue to face violence.
- In the 3rd cycle, Maldives recommended and Japan supported: “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 the abuse.” This has not been implemented; there is a lack of legal redress for the abuse.

Additional recommendations have been made to Japan, indicating international recognition of the need to take steps to address Indigenous rights violations, which Japan has merely noted.

- In the 3rd cycle (2017 - 2021), Peru recommended and Japan noted “Strengthen measures so that ethnic minorities - Ainu, Ryukyu and Burakumins - can fully enjoy their economic, social and cultural rights.”
- In the 1st cycle (2008-2012), Algeria recommended and Japan noted: “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.”
- In the 3rd cycle (2008 - 2012), Guatemala recommended and Japan noted: “Ratify the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169).”
- In the 3rd cycle (2017 - 2021), Paraguay recommended and Japan noted: “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.”

#### **IV. Ongoing human rights violations.**

##### **a. Violation of rights to self-determination**

##### ***Violations of UNDRIP Articles 3, 5, 13, 15, 18 and 19; CDESCR Articles 1 and 15; ICCPR Article 27***

The government of Japan recognized the Ainu as Indigenous Peoples of Japan on 8 June 2008, by passing a resolution unanimously and later by adopting the Ainu Promotion Act, 2019. However, it has yet to recognize the Ryukyuan/Okinawan Peoples as Indigenous Peoples, despite their demands to be recognized as per the UNDRIP provision for the right to self-determination, and despite having been recognized by international communities for their unique ethnicity, history, culture and tradition, including by UNESCO.<sup>10</sup> The government of Japan in 2002 introduced the Act on special measures for the promotion and development of Okinawa, amended in 2012,<sup>11</sup> and also formulated the basic policy for the promotion of Okinawa and Okinawa Promotion Plan<sup>12</sup> in the same year, but has not yet taken any measures to consult Ryukyu representatives regarding the protection of their rights, nor has yet taken any steps to promote and protect the distinct language of Ryukyu which is at risk of disappearing. UNESCO considers that Ryukyu languages are likely to be in danger of going silent.<sup>13</sup> A 2008 government policy has resulted in Ryukyu Indigenous Peoples’ history being removed from most mainstream textbooks<sup>14</sup> and initiatives have not been undertaken to develop such content with the participation of Ryukyuan. Similarly, the government of Japan has shown no interest to end discrimination also against other minorities. On 9 December 2016, the Diet (the parliament of Japan) adopted the Act on the Promotion of the Elimination of Buraku discrimination;<sup>15</sup> this law

imposes responsibility on government to combat discrimination against Burakumin by establishing a mechanism for consultation, improve education and investigate instances of discrimination against them, but in reality, this law doesn't fully outlaw discrimination against Burakumin, as the law doesn't include any forms of penalties for perpetrators when discrimination occurs.

#### **b. Violation of rights to ancestral lands and territories**

##### ***Violations of UNDRIP Articles 3, 5, 8, 11, 13, 18, 19, 25, 26, 27, 28, and 30; ICESCR Article 15; ICCPR Article 27***

May 15, 2022 marked the 50th anniversary of the ending of the US occupation following World War II and its return of Japan's southernmost prefecture of Okinawa to Japanese rule. Japan first colonized the Ryukyu Kingdom and renamed it Okinawa Prefecture in 1879 through military force in violation of international law including the UN Declaration on the Rights of Indigenous Peoples. Following the annexation, the government of Japan banned the Indigenous language and culture and imposed colonial rule and imperialization policies upon Okinawa, profoundly damaging the unique culture and language of Indigenous Ryukyuans. Later, the Japanese government handed over the administration of Okinawa to the US in exchange for independence after World War II.

Although Okinawa was returned to Japan in 1972, the presence of US military bases has not decreased in Okinawa. Currently over 70 percent of US military facilities in Japan are concentrated in Okinawa Prefecture, although Okinawa comprises less than 1 percent of Japan's territory.<sup>16 17</sup> Okinawa has been plagued with discord and division with the mainland over the burden of US military bases on the island. There are still 47,300 US military and related non-military personnel on the island Prefecture of Okinawa,<sup>18</sup> occupying 32 military installations. Okinawa is the ancestral territory of Ryukyu/Okinawa Indigenous Peoples. Of the approximately 1.45 million people living in Okinawa prefecture, about 1.3 million live on the island of Okinawa, and most of them are Indigenous Ryukyuans, although the Japanese government does not recognize them as Indigenous Peoples.<sup>19</sup> The land used for the military bases was taken from Ryukyu people without their Free, Prior and Informed Consent. Ryukyuans thus have long resisted the US military bases in Okinawa. Despite the long opposition by Okinawans, the Japanese government continued the construction of an additional military base for the US marines in Henoko beach, beginning in 2018.<sup>20</sup> Ever since the Japanese government annexed the Ryukyu kingdom, it has imposed Japanese language in education and banned the Indigenous language, religious practices, and other aspects of Okinawan culture.<sup>21</sup> Okinawans have resisted the increasing militarization in their islands in various ways. They have conducted sit-ins to oppose construction<sup>22</sup> and have brought multiple court cases. Ryukyuan Peoples' rights activists say that the overwhelming presence of US military bases has caused a series of human rights

violations, such as violations of the right to life, violence against girls and women, and violations of right to health, land and the environment.<sup>23</sup> The instances show that both the government of Japan and the US are violating the rights of the Ryukyuan Peoples to the traditional lands, territories and resources which they have traditionally owned. The UNDRIP emphasizes the importance of demilitarization of Indigenous Peoples' land and territories and prohibits military activities on their lands and territories; however, the government of Japan promotes disproportionate militarization on the land and territories of Ryukyu/Okinawa Indigenous Peoples in violation of UNDRIP provisions.

### **c. Violations of fishing and subsistence rights**

#### ***Violations of UNDRIP Articles 5, 10, 11, 18, 19, 20, 24, 25, 26, 27 and 32; ICESCR Article 15***

Ainu Indigenous Peoples in Hokkaido Island make their living by fishing salmon, hunting deer and bears, and gathering plant roots.<sup>24</sup> Salmon, for the Ainu, is not merely a source of food but also has cultural, religious, ceremonial, and spiritual value. They have an annual cultural ceremony “Asir Chep nomi or Inawkorcheb” which means “Salmon fish eating ceremony.” Their villages are located along salmon rivers near spawning grounds, and they have traditional clothes including shoes made from embroidered salmon skin.<sup>25</sup> Despite such a close knit relationship between Ainu and Salmon, Ainu have been prohibited from fishing salmon and are forbidden to practice their Indigenous systems and life ways, ever since the Meiji government came into power in 1868.<sup>26</sup> The Meiji regime ended with the end of WW-II, but the Japanese government has not yet revised its policies; rather, it continues to limit Ainu Peoples' access to practice their culture. The Japanese government introduced the Act on Protection of Fisheries Resources in 1949, amended in December 2020 (which is also regarded to be the biggest revision in fishery policy in Japan), including the legislation of Hokkaido, providing that “fishing for salmon in rivers is illegal. Ainu can fish by requesting prior permission for non-commercial purposes only.”<sup>27</sup> The Ainu face criminal prosecution for catching salmon. For example, Satoshi Hatakeyama-Ekashi, the chairman of the Monbetsu Ainu Association, was charged with a crime for salmon-fishing in the Monbetsu River in Hokkaido for two traditional rituals—Icharpa (memorial service for ancestors) and Ashiricheppunomi (ceremony to welcome salmon) on 31 August and 1 September 2019. He was accused of violating the provisions contained in the Fisheries Act.<sup>28</sup> Satoshi Hatakeyama further says, “Salmon fishing is something that our [Ainu's] ancestors have continued doing for a long, long time. If the central government recognizes Ainu as Indigenous Peoples, then it must seriously think about the return of compensation for land and resources.”<sup>29</sup> On 17 August 2020, a group of Ainu also filed a lawsuit against authorities to grant them an exemption from a ban on the commercial fishing of salmon in rivers.<sup>30</sup>

In 1869, the Japanese government established the Kaitakushi—the Development Commission in Sapporo to develop Hokkaido. Though it aimed to develop Hokkaido, it exploited natural

resources and promoted the settlement of Japanese citizens in the region. The land was expropriated from the Ainu and offered to them through the Land Regulation Act, 1872 and Hokkaido Ordinance for issuing land certificates, 1877.<sup>31</sup> The resulting forced relocation and displacement of Ainu communities meant that they could no longer access their traditional livelihoods of hunting, fishing, and cultivation of the land, violating their rights to steward and live in relationship with their traditionally owned or occupied territories and to sustain their own economies, of which fishing in particular comprises a fundamental part.<sup>32</sup> Therefore, the Japanese government should not only refrain from denying Ainu Peoples their rights, but it also has an obligation to adopt legislative measures respecting their right to fish. The Ainu Promotion Act, 2019, also does not simplify the process for Ainu persons to get permission to practice traditional salmon fishing or collect timber from the national forests for traditional rituals. The Act also 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.<sup>33</sup>

#### **d. Violations of Indigenous Peoples' rights in Japanese law and policy**

##### ***Violations of UNDRIP Articles 3, 5, 14, 18, 19 and 32; CDESCR Article 1; CERD Articles 5, 6 and 7***

On 6 June 2008, both the Japanese Diet (parliaments) unanimously passed a resolution to recognize the Ainu as an Indigenous Peoples and established the Advisory Council for Future Ainu Policy and the Council for Ainu Policy Promotion, with the chairmanship of Chief Cabinet Secretary which finally submitted the final report consisting of proposition to develop the National Ainu Museum and Park also known as Upopoy, which opened to the public on 12 July 2020, under a new Act, the Ainu Policy Promotion Act, 2019. Ainu Indigenous leaders are not happy with the government's decision to establish a theme park; rather, they want their rights as an Indigenous People to be fully guaranteed. Moreover, they demand the government make a formal apology for the historical injustices committed against Ainu Indigenous Peoples.<sup>34</sup> Ainu leaders express that this park is another means of government exploitation of their culture for the benefit of the tourism industry, and they consider the Ainu Policy Promotion Act of 2019 to fail in protecting their rights.

The Ainu Policy Promotion Act is the first new Ainu law which abolishes the previous two Acts—Ainu Culture Promotion Act of 1997 which then had repealed the Hokkaido Former Aborigines Protection Act of 1899 and the first law that recognized the Ainu as an Indigenous People of Japan, which also includes measures to stimulate the local economy to support the self-reliance and eliminate discrimination.<sup>35</sup> Although the Japanese government states that it incorporated Ainu opinions through information sessions in Hokkaido and Tokyo and via many rounds of negotiations with the Ainu Association of Hokkaido prior to finalizing the legislation, the government did not ensure the meaningful representation in the policy-making nor in two

councils, the Advisory Council for Future Ainu Policy and the Council for Ainu Policy Promotion, which were formed in chairmanship of Chief Cabinet Secretary. The Advisory Council for Future Ainu Policy for example, has only one Ainu member among the body of eight members.<sup>36</sup> There was minimal consultation with the Ainu Peoples when drafting the Act; although some Ainu participated in the drafting, they were few. Discussions to develop the Act were not open to the public and most Ainu Indigenous people were left out of the decision making process<sup>37</sup> which clearly showed that there was a failure to respect the right to self-determination of the Ainu Indigenous Peoples.

There are also concerns over the Act that the “bill is missing one important thing—an apology.”<sup>38</sup> Ainu elder Yuji Shimizu asks, “Why doesn’t the government apologize? If the Japanese recognized what they did in the past, I think we could move forward. The Japanese forcibly colonized us and annihilated our culture. Without even admitting to this, they want to turn us into a museum exhibit.”<sup>39</sup> The absence of an apology and lack of recognition of any wrongdoing by the Japanese government, such as discriminatory colonization processes and policies, were the catalysts that led several Ainu activists to call for a withdrawal of the Act.<sup>40</sup>

Moreover, the Act does not recognize the Indigenous Peoples’ rights provided for in the UN Declaration on the Rights of Indigenous Peoples, nor does it provide for reparations that would take into account and address injustices. It “obstruct[s] the Ainu’s ability to develop their culture on their own terms by prescribing what is considered as ‘Ainu culture,’”<sup>41</sup> violating their right to self-determination Japan as provisioned in the UNDRIP, mainly to develop their culture, equally to own, develop, control and use their communal lands, territories and resources and where they have been otherwise inhabited or used without their Free, Prior and Informed Consent and take steps to return these lands and territories.<sup>42</sup> The Act also provides that no person shall discriminate against the Ainu people on the basis of their being Ainu or commit any other act that infringes on their rights and interest.<sup>43</sup> But this Act lacks penal regulations<sup>44</sup> of those who discriminate. A 2016 survey found that 72 percent of Ainu people state that they experience discrimination and prejudice; meanwhile, only 18 percent of the general population observe such discrimination.<sup>45</sup> Also, the Act fails to address education issues,<sup>46</sup> including the gap in educational achievement between Ainu people and the Japanese population at large. On average 92 percent of Ainu attend high school compared with 98.6 percent of the general population; just 24.8 percent of Ainu students attend university compared with the 42 percent of the general population. Education is essential to addressing social inequities facing Ainu Peoples.<sup>47</sup> There have been some steps taken by the Ainu Indigenous Peoples’ Organization in coordination with the Hokkaido government to teach Ainu languages in Hokkaido, however, it is not adequate.

#### **e. Violations of Indigenous Peoples’ rights to ancestral remains**

#### ***Violations of UNDRIP Articles 11, 12, 25 and 31; ICCPR Article 27***



Although museums and universities globally have repatriated the unjustly excavated ancestral remains of Indigenous Peoples to their rightful communities, the remains of Ainu Indigenous Peoples which had been under the management of 12 Japanese universities were aggregated—against the will of many Ainu—at the newly built symbolic spaces for Ethnic Harmony in Shiraoi, Hokkaido, known as the National Ainu Museum and Park, nicknamed “Upopoy.”<sup>48</sup> It was opened in July 2020 in the town of Shiraoi, Hokkaido, as a center from which to revitalize and expand the Ainu culture. Fumio Kimura, vice president of the Ainu Association of Biratori says, “they have used us throughout history and they continue to do so. Our history is one of forced displacement, even of our dead.”<sup>49</sup> Ainu Indigenous Peoples want their remains which were excavated without permission to be returned to their land. The medical examination of the remains and burial accessories of Ainu people is said to have gone on for nearly a century, beginning with the former Tokyo Imperial University’s Koganei Yoshikiyo in the late 19th Century and also carried out by researchers of the former Hokkaido Imperial University. The Japanese government facilitated researchers’ violations of Ainu rights by loosening laws regarding exhumation of Ainu remains.<sup>50</sup> The government invested in this research financially and networks were formed among hospitals, police, and other entities to support the gathering of body measurement data and human remains. The government of Japan has ignored the objections made by Ainu Indigenous Peoples against 12 Universities including Hokkaido University and their demands to stop conducting research on their remains. The government thus instead of taking actions towards repatriation rather continued supporting scholarly injustices against Ainu Indigenous Peoples.<sup>51</sup> Over 1600 Ainu human remains have since been excavated, collected and held in repositories across research institutions in Japan with a number also circulating internationally. Since the 1980s, Ainu activists have initiated legal battles to reclaim their ancestral remains in addition to a large repository of cultural artifacts which were also excavated from gravesites, but research institutions have ignored these requests.<sup>52</sup> According to the UNDRIP, “States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with Indigenous Peoples concerned,”<sup>53</sup> but Japan government has failed to comply with its obligation to return Ainu remains.<sup>54</sup>

The struggles through legal battles for repatriation of Okinawan human remains on Okinawa Island since the 1920s also have continued.<sup>55</sup> Academic researchers in the Kyoto Imperial University have stolen more than 400 bodies of human remains of our ancestors from graves in Ryukyu and Amami Islands. They had used the discriminatory relationship between Ryukyuans and Japanese after the annexation of the Kingdom of Ryukyu. These researchers wanted to justify the annexation of it and Japanese superiority over Ryukyuans in the point of eugenics by the measurement over Ryukyuans’ human remains.

In 1929, Associate Professor Takeo Kanaseki at Kyoto Imperial University robbed Ryukyuan human remains from graves in several locations in Okinawa Island with no consent from the bereaved families and local residents under the colonial rule. After April 2017, Professor Yasukatsu Matsushima, of the organization Nirai Kanai nu Kai, which is a co-author of this report, requested access to the information about this and the repatriation of the Ryukyuan human remains kept at Kyoto University, but his requests have been refused because the university "will not answer individual inquiries." On 4th December 2018, he, along with other plaintiffs, filed a lawsuit against Kyoto University by requesting the return of, apology and compensation for the stolen Ryukyuan human remains. But Kyoto University insisted without good reason that its researchers didn't rob them even though they did it against criminal law at that time.

On 21 April 2022, Kyoto District Court decided that Kyoto University can use those human remains for academic studies forever.<sup>56</sup> The plaintiffs appealed to the Osaka High Court for this case.

The Japanese government repatriated some human remains of Ainu Indigenous Peoples collected by Japanese researchers and stored in various universities in Japan; likewise, the government should also prioritize and facilitate repatriation of the human remains of Ryukyans to their communities. The case of Kyoto University is the tip of the iceberg. Other universities like Tokyo University and Kyushu University have kept human remains of Ryukyans in those museums. Now Kyoto University has human remains of Ryukyans, Amamians, Ainu in Sakhalin, Native Americans, Chinese people, Koreans, Aboriginal peoples of Taiwan, which have been robbed by researchers in the age of Kyoto Imperial University.

Grave robbery, storage, and research of our ancestors' human remains by academic institutions have deeply damaged funerary practices, spiritual world, peace of mind, and dignity as Peoples. That also violates the UN Declaration on the Rights of Indigenous Peoples, especially Article 12 concerning the rights to religious traditions and customs, as well as repatriation of human remains.

Kyoto University should return Indigenous Peoples' ancestors' human remains to original graves in Ryukyu and Amami Islands on the UN Declaration on the Rights of Indigenous Peoples, especially Article 12 concerning the rights to religious traditions and customs, as well as repatriation of human remains.

Indigenous Peoples have been impacted by the robbery of their ancestors' human remains resulting in the separation of spiritual relationship with lands. Kyoto University and Kyoto District Court violate the UN Declaration on the Rights of Indigenous Peoples, especially Article 25 concerning the rights to distinctive spiritual relationship with our traditionally owned lands, which include graves.

Takeo Kanaseki became a professor in Taipei Imperial University in Taiwan under the control of Japan with Ryukyuan's human remains. In March 2019, 63 skulls were moved to the Okinawa Prefectural Board of Education. But this Board rejected repatriation of them to original graves and did the measurement research without the agreement of bereaved families. They utilize human remains of Ryukyuan's ancestors as specimens to proceed in the assimilation policy of Ryukyuan to Japanese.

Now Kyoto University and Okinawa Prefectural Board of Education have been keeping these ancestral human remains in their storage to research for demonstrating the history of Japanese peoples even though Ryukyuan are not Japanese.

#### **f. Violations of Indigenous Women's Rights**

##### ***Violations of UNDRIP Articles 8, 21 and 22; CEDAW Articles 2 and 3***

Ainu Indigenous women face double discrimination, not only by the dominant Japanese, but also by Ainu men. Kaori Tahara, who teaches Ainu history at Tokyo University, explained that the Japanese government recognized Ainu as Indigenous Peoples. It is a real victory for the Ainu community, but their struggles are not over yet. They have continuously faced discrimination and are not yet free to celebrate their culture, speak the Ainu language, or reveal their distinct identity, rather, they are forced to take Japanese names.<sup>57</sup>

The Ainu Policy Promotion Act, 2019, includes a clause that prohibits discrimination against the Ainu, but lacks the sanction and perspective on intersectionality thus ineffective to eliminate multiple forms of discrimination against Indigenous women in Japan. In addition to Ainu Policy Promotion Act, the Act on elimination of hate speech and Act on the promotion of elimination of Buraku discrimination were enacted in 2016, but both of these Acts focus on education and consultation as means for addressing human rights violations, but do not include any clauses that prohibit and sanction on discrimination. Since the arrival of US military forces in Okinawa, many instances of sexual violence have taken place against Ryukyuan/Okinawan women.<sup>58</sup> Data gathered by the Okinawa Prefectural Police report 6,052 arrests between 1972 and 2020 committed by US military personnel and their families, almost 10 percent being crimes such as murder, rape, and arson; 129, specifically, were rapes.<sup>59</sup> It is believed that the true number of crimes significantly higher, and the sexual violence that Ryukyuan/Okinawan women experience is ongoing and without legal recourse.<sup>60</sup>

Indigenous women, as well as women from other minority communities in Japan, face other forms of discrimination as well, including educational disparities, access to employment, and domestic violence.<sup>61</sup> However, these challenges are not adequately being addressed either in human rights policies or women's rights policies both in the public and private sectors. One of the reasons rests with an absence of public data and information collected from the relevant

communities. While various treaty bodies have recommended that the Japanese government collect disaggregated data to illuminate these situations, it has not done so.<sup>62</sup> It is essential that Japan ensure the meaningful participation of Indigenous and minority women in decision-making processes, including those related to the collection of disaggregated data.<sup>63</sup>

## **VI. Recommendations**

We urge member states to make the following recommendations to Japan:

1. Ratify ILO Convention Concerning Indigenous and Tribal Peoples in Independent Countries, 1989 or ILO Convention No. 169.
2. Recognize and protect Indigenous Peoples' right to self-determination including their right to own, develop, control and use their communal lands, territories and resources and where they have been otherwise inhabited or used, with their Free, Prior and Informed Consent, and take necessary steps to return their lands and territories with reparation.
3. Recognize Ryukyu/Okinawa People as Indigenous Peoples and take appropriate measures to ensure their right to traditional land and natural resources and to meaningfully participate in decision-making matters which would affect their rights to language, history and culture.
4. Strengthen measures to respect and fulfill the rights of the Ainu and Ryukyu Indigenous Peoples in regards to their traditional land and territories and their right to Free, Prior and Informed Consent, also ensuring the right of other groups such as Burakumins — to fully enjoy their economic, social and cultural rights.
5. Apologize publicly in good faith, acknowledging the centuries of discrimination and assimilation policies towards Ainu and Ryukyu Indigenous Peoples.
6. Conduct meaningful dialogue with Ryukyu Peoples regarding the US military bases in Okinawa.
7. Take appropriate measures to eliminate all forms of discrimination against Ainu and Ryukyu Indigenous Peoples and conduct up-to-date surveys, including disaggregated data, with the meaningful participation of Ainu and Ryukyu Indigenous Peoples about their educational and socio-economic status as a step towards ending the socioeconomic and educational gaps and other inequities between Indigenous and non-Indigenous Peoples of Japan.
8. Ensure access to and repatriation of ceremonial objects and human remains to the Ainu and Ryukyu Indigenous Peoples through development of fair, transparent and effective mechanisms with meaningful consultation and participation of the respective Indigenous Peoples.
9. Invite the UN Special Rapporteur on the Rights of Indigenous Peoples to visit Japan.
10. Create a national action plan on implementing Indigenous Peoples' rights based on the World Conference on Indigenous Peoples' Outcome Document.

## Endnotes:

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