

One Year After the CERD Recommendations to Japan

After its consideration of the periodic reports of the Japanese Government in February 2010, the Committee on the Elimination of Racial Discrimination (CERD) has issued its concluding observations, including many concerns and recommendations. One recommendation requested the Government to provide the Committee with follow-up information on three recommendations, namely paragraphs 12, 20 and 21 regarding the establishment of a national human rights institution, which Japan has not yet done, the observance of the rights of the Ainu as indigenous peoples prescribed in the UN Declaration on the Rights of Indigenous Peoples, and engagement in a wide-range of consultations with Okinawan representatives to promote their rights and monitor discrimination against them.

One year later, in March this year, the Government submitted follow-up information in the form of a “comment.” The information provided by the Government does not satisfy us as it is not relevant to what the Committee has asked them to provide.

The NGO Network for the Elimination of Racial Discrimination Japan, or ERD Net (office based in IMADR), has sent its own follow-up information to the Committee. Here, we share the information of ERD Net regarding the Ainu and Okinawa, as prepared by *Makiko Kimura* of the Shimin Gaikou Centre (Citizens Diplomacy Centre), a members of the network.

Recommendations in Para 20 regarding the Ainu as Indigenous People

CERD recommendation: “Further steps be taken in conjunction with Ainu representatives to translate consultations into policies and programmes with clear and targeted action plans that address Ainu rights and that the participation of Ainu representatives in consultations be increased.”

Present situation: While the Meeting for the Promotion of Ainu Policies stresses that it refers to the UN Declaration on the Rights of Indigenous Peoples, it has not clearly indicated which paragraphs of the Declaration are taken into considerations, and how these are reflected in their work. Looking into the substantial work of the Meeting, we

have not found any essential parts of the Declaration that have been being reflected in its work. Now, the two working groups are have almost reached their own conclusion, however, it is hard to say that the Meeting takes into consideration the various voices of the Ainu living in and out of Hokkaido in their promotion work, and its transparency and representation is still questionable.

We recommend that the Meeting for the Promotion of Ainu Policies or future successive agency of the Meeting has a structure in place to reflect the various voices of the Ainu and allows the Ainu to take their own initiatives in the work of the Meeting.

CERD recommendation: The State party, in consultation with Ainu representatives, consider the establishment of a third working group with the purpose of examining and implementing international commitments such as the United Nations Declaration on the Rights of Indigenous Peoples.

Present situation: The Japanese Government has concentrated on the implementation of the work assigned to the two working groups, and not given any attention at all to setting up a third working group.

We recommend that the Meeting for the Promotion of Ainu Policies examine the establishment of a third working group, or that the agency that succeeds it establish a working group with the purpose of examining and implementing the international commitments that the Government has made.

CERD recommendation: It urges the State party to carry out a national survey of living conditions of Ainu in Hokkaido and recommends that the State party take into account the Committee's general recommendation No. 23 (1997).

Present situation: A survey on Ainu peoples in Hokkaido has been made only by the local government of Hokkaido and the University of Hokkaido. The survey under the working group limits its scope only on those who live outside Hokkaido. Also, the 2010 national census did not have any questions regarding indigenous peoples or ethnic minorities.

We recommend that the Government include questions regarding indigenous peoples and ethnic minorities in the national census, and conduct a national survey regarding the

Ainu peoples living in and out of Hokkaido in a systematic way.

CERD recommendation: the State party consider ratifying the International Labour Organization Convention No. 169 (1989) concerning Indigenous and Tribal Peoples in Independent Countries.

Present situation: The government answers in its comments that it is not in a position to ratify the Convention for the reasons that the provisions in Article 9 and 10 need to be examined from the viewpoint of consistency with the penal system of Japan.

We recommend that the Government list up all provisions contained in the Constitution, laws and systems that are not consistent with the provisions contained in ILO No. 169, and study how such provisions could be revised so that Japan ratifies ILO Convention No. 169. In doing so, it is recommended that the government conduct a consultation with the Ainu Peoples and Ryukyu/Okinawa Peoples to examine which provisions of the ILO Convention need to be implemented. It is very unrealistic that the Ainu and Ryukyu/Okinawa Peoples request the implementation of Article 9 and 10.

Recommendations in Para 21 regarding the Okinawans as Indigenous People

CERD's concern: While highlighting that UNESCO has recognized a number of Ryukyu languages (2009), as well as the Okinawans' unique ethnicity, history, culture and traditions, the Committee regrets the approach of the State party to accord due recognition to the distinctness of Okinawa and expresses its concern about the persistent discrimination suffered by the people of Okinawa.

Present situation: The Japanese Government has continued to disregard the assertion that Okinawan people are indigenous peoples. This has caused the continuing violation of their rights up until now. Among others, the construction projects for the new military base in the Henoko Coast and Oura Bay areas, as well as the helipad in Takae, are intensifying the imbalanced concentration of US military facilities in Okinawa, while reinforcing the contemporary form of structural discrimination. Yet, the government has taken no specific and effective measure to implement the CERD recommendation to recognize Okinawa as having inherent rights and a unique ethnicity based on the recognition of the historical discrimination that Okinawa has remained subject to.

We recommend that the Japanese Government recognize Okinawans as indigenous peoples with a unique history, culture and language.

CERD recommendation: The Committee encourages the State party to engage in wide consultations with Okinawan representatives with a view to monitoring discrimination suffered by Okinawans, in order to promote their rights and establish appropriate protection measures and policies.

Present Situation: In its follow-up information submitted to CERD, the government limited itself to explaining only about its Okinawa promotion measures in the legal and institutional framework, which, according to their explanation, are based on the intentions and interests of the Okinawa prefectural government. CERD, however, encourages a wide range of consultations with Okinawan representatives. It is inadequate and insufficient to guarantee the human rights of the Okinawan people only by responding to what the Okinawa prefectural and municipal governments have requested.

We recommend that in addressing the structural discrimination against the people of Okinawa, the Japanese Government guarantee the rights of the Okinawan people in the context of ICERD.

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