

United Nations Human Rights Council

Office of the United Nations High Commissioner for Human Rights

Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes

Input on “the impact of toxics on Indigenous peoples”
from Ryukyu (Ryukyu / Okinawa)
(Japan)

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ACSILs

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I. Questionnaireⁱ from the UN and Answers by the ACSILs

1. Is your Indigenous community (or one that you represent) suffering from the adverse effects of hazardous substances and toxic wastes? Please describe the case and circumstances of these effects in detail, including the source of the toxic exposure, the types of hazardous substances you are being exposed to, the degree of government/company consultation and consent to relevant activities, as well as any efforts made by the government/company to provide effective remedies.

A: Yes. There is a serious water pollution problem by PFAS (Per- and Polyfluoroalkyl Substances)ⁱⁱ originating from the U.S. and Japanese military bases. Please read the following sections for details.

2. What are the adverse impacts of toxic and hazardous waste on your Indigenous community's (or the Indigenous peoples you represent) collective and individual rights, such as your rights to lands, resources, culture, health, livelihood, political and economic involvement, etc.?

A: Violations on Ryukyuans' collective and individual human rights, including free prior and informed consent, self-determination, lands and resources, health and well-being, culture, development, a healthy environment, water, food and subsistence, life, and security of person.

3. Is the government implementing a right to free, prior, and informed consent regarding exposure to toxics and hazardous substances on your lands and territories?

A: No.

4. Is the company responsible for producing the toxics and hazardous waste implementing dialogue with regards to those substances and their consequences with your community?

A: Not applicable. Pollution in the Ryukyu Islands is due to toxic and hazardous chemical compounds from the U.S. and Japanese military bases.

5. Have you tried to take action (either legal action, advocacy campaign, etc.) to raise awareness on the issue and/or have you tried to obtain compensation?

A: Yes!

6. What are the most significant challenges to eliminating exposure to toxics in your community?

A: It will be impossible to solve the problem unless the actual source of contamination is completely eliminated, that is, complete removal of all military bases from Ryukyu should be conducted and colonization on Ryukyu should be immediately stopped.

7. What community education does your country, or the responsible company, provide for Indigenous peoples living in areas with high exposure to toxic and hazardous waste?

A: None.

8. What specific actions has your country taken to protect the rights of Indigenous persons exposed to toxics, in particular women and children?

A: None.

9. Are there any national health assessments or studies that your country conducts to measure the rate of toxic exposure that Indigenous peoples do experience?

A: No.

10. Does your country provide any services to Indigenous peoples and individual persons exposed to toxics, such as health care, education, etc.?

A: No.

11. Do Indigenous peoples and individuals in your country have a constitutional or legal right against the exposure of toxics on their persons or their traditional lands and territories, or are there any environmental laws/policies that require environmental remediation?

A: No.

12. What are the available remedies for Indigenous peoples and individuals exposed to toxics that have experienced damages (in the form of land, health, livelihood, etc.), and what are the challenges to obtaining these remedies in your country?

A: There are no remedies. The challenge we are facing is ongoing colonization and discrimination towards Ryukyuan peoples by the Japanese and U.S. governments. The U.S. and Japanese governments have even refused to pay for health hazard investigations such as blood tests.

13. Is traditional Indigenous knowledge and medicine available in your community to treat people exposed to toxics?

A: No. Chemical compounds such as PFAS are outside the scope of what traditional medicines are meant to deal with.

II. Background

1. We see water everywhere. We drink water every day. Most of the human body is water. In a sense, we are water. In Ryukyu (Lew Chew / Okinawa), there is a serious water pollution problem by PFAS (Per- and Polyfluoroalkyl Substances) originating from the U.S. and Japanese military bases.
2. The U.S. military bases account for 15% land areas in Okinawa Island which is home to over 90% of Ryukyu's population. These military bases were established in 1945 during the Battle of Okinawa, and the U.S. Marine Corps moved from mainland Japan to Ryukyu between the 1950s and 1970sⁱⁱⁱ without any consultation with Ryukyuans. Nowadays, the construction of the NEW U.S. military base in Henoko Village of Nago City on Okinawa Island has been protested it since 1995. Ryukyuans have carried out prefectoral citizen's referendums on the new base twice, once in 1995 and again in 2019. Both voting results opposed construction of the new base.^{iv} Even when the results came out, the Japanese government did not support the will of the Ryukyuan peoples.
3. Furthermore, the Japanese government is rapidly expanding the JSDF (Japan Self-Defense Forces) military bases in the Nansei Islands of Ryukyu.^v Referendum on the construction of the JSDF military bases was not taken place.^{vi} In addition, there are deployments different from the promises in advance and military exercises between Japan and the U.S. future war operations are planned on the premise of involving the Ryukyuans^{vii}, and colonization by Japan and the U.S. is still progressing.

III. The impact of toxics on Ryukyuan peoples

4. It has been recently revealed that Ryukyu is facing a serious water and soil pollution problem by carcinogenic chemicals (PFAS) originating from the U.S. and the JSDF military bases.^{viii} There are concerns about long-term serious health hazards to people in Ryukyu due to the accumulation of PFAS in human.^{ix}
5. In 2015, both the Japanese and U.S. governments reached a supplementary environmental agreement to allow local authorities to conduct on-base checks following an environmental accident. However, the agreement was inadequate; even though it enabled local authorities to apply for access to military bases, there was no obligation for the U.S. military to grant these requests.

6. In 2016, Okinawa Prefectural officials announced the discovery of PFAS contamination in multiple rivers (Hija River, Dakujaku River, and others) and groundwater in aquifers that provide drinking water to more than 450,000 people in at least eight municipalities in Ryukyu. This PFAS contamination issues had not been reported to Ryukyuans for a long time.
7. It has been revealed that PFAS levels around the U.S. Kadena Air Base in Kadena town, Chatan town, and Okinawa city far exceed the guidelines for drinking water and the environment which was set by the Japanese government in 2020. Recently, it was discovered that high levels of PFAS were detected in people from blood samples taken 40 years ago from Ryukyuans peoples living near the U.S. Kadena Air Base, and have since been stored at a local university. The source of PFAS is thought to be firefighting foam that has been deployed to U.S. military bases around the world. The U.S. Department of Defense has identified suspected contamination at 651 U.S. military bases and, now, it is replacing older firefighting foams with newer alternatives. However, these new alternatives exclude U.S. bases in Ryukyu as well as in Japan. According to Mr. Jon Mitchell (freelance journalist) who used the U.S. Freedom of Information Act to research PFAS issues, there are four main ways that PFAS contamination happens in Ryukyu: (1) accidents, (2) leaks, (3) training, and (4) disposal. However, the U.S. Kadena Air Base declined a request to conduct onsite checks by Okinawa Prefectural officials.
8. Additionally, in the nearby areas surrounding U.S. Marine Corps Air Station Futenma, in Ginowan city, high concentrations of PFAS have been found at natural springs (Chunnaa Gaa, Mendakarihijaa Gaa, and others). The springs are utilized for farming, cultural events, and other every day activities. It was pointed out that PFAS contaminations also have affected water in elementary schools and other civilian areas where the Indigenous population lives.
9. Furthermore, in June 2021, a PFAS spill from a U.S. Army facility occurred in Uruma City, contaminating the Tengan River. Six months later, PFAS was detected at 1,600 times the national standard set by government. As such, it is threatening people's lives and livelihoods.^x
10. Speaking of water and toxicity, the Japanese Government is planning to discharge a huge amount of water contaminated by the Fukushima nuclear power plant into the Pacific Ocean in 2023. If this is done, people all over the world, not just the indigenous peoples who share the Pacific Ocean, will suffer unimaginable consequences. This should be stopped.^{xi}

IV. Recommendations

11. With the water for more than 450,000 Ryukyuans peoples contaminated, the ongoing colonization and discrimination towards Ryukyuans peoples by the Japanese and U.S. governments proved to be violating Ryukyuans' collective and individual human rights, including free prior and informed consent, self-determination, access to lands and resources, health and well-being, culture, development, a healthy environment, water, food and subsistence, life, and security of person.
12. It will be impossible to solve the problem unless the actual source of contamination is completely eliminated, that is, complete removal of all military bases from Ryukyu should be conducted and colonization on Ryukyu should be immediately stopped.
13. The Japanese and U.S. governments should urgently conduct health examinations of residents in the contaminated areas and a survey of the actual health damage. The Japanese and U.S. governments must clean up the contaminated soil, water and watershed. The Japanese government should request that the U.S. submit an environmental impact report on the area by the U.S. military base and make its contents public. The Japanese and U.S. governments should provide compensation to the affected areas. The Government of Japan should ensure that indigenous peoples have the

opportunity to participate in decision-making in matters affecting their rights in the process of decontamination decisions and implementation through self-selected representatives in accordance with the procedures in each affected area. Access to safe drinking water and sanitation is a fundamental human right, as water is essential for maintaining health and is the basis for a dignified life. The Government of Japan should implement policies to decontaminate (including soil replacement) water and soil contaminated by PFAS and create a safe environment for people in the affected areas. The Government of Japan should comply with articles 2, 11, and 12 of ICESCR.

14. Indigenous peoples affected by PFAS elect their representatives according to traditional procedures. The Government of Japan should involve elected representatives of the Ryukyuan in each affected area in the decision-making and implementation process of decontamination. Access to safe drinking water and sanitation is a fundamental human right, as water is essential for maintaining health and is the basis for a dignified life. The Government of Japan should implement policies to decontaminate (including soil replacement) water and soil contaminated by PFAS and create a safe environment for people in the affected areas. The Government of Japan should comply with UNDRIP 18, 21, 24, 25, 26, 27, 28, 29, 30, and 32.
15. The government of Japan and United States must immediately stop the construction of the new base in Oura Bay in Henoko Village, the so called FRF (Futenma relocation facility).
16. The Japanese Government should stop discharging contaminated water by the Fukushima nuclear power plant into the Pacific Ocean. If this is done, people all over the world, not just the indigenous peoples who share the Pacific Ocean, will suffer unimaginable consequences.

Appendix

17. Ryukyuan (Ryukyuan) peoples who can trace their ethnic roots to the islands of the Ryukyu are a distinctive group of peoples. Today, Ryukyuan peoples live not only in the Ryukyu Islands and Japan, but also throughout the world.
18. The process of Japanese colonization of Ryukyu has its beginnings in the Satsuma invasion of 1609.^{xii} This colonization was made complete with the Japanese government's forcible annexation of Ryukyu in 1879 (the so-called "Ryukyu Disposition"), which was an act that violated article 51 of the Vienna Convention on the Law of Treaties.^{xiii} Because of Japan's forcible annexation and colonization, Ryukyuan peoples have become stateless minorities who have been subject to discrimination, exploitation, and subordination. History makes clear that in 1945 Japan sacrificed the Ryukyu Islands during its Pacific War with the U.S., thus turning the islands into a hell on earth, and later pawned the islands to the U.S. military in order to regain its own sovereignty in 1952. This led to 27 years of oppressive occupation by the U.S. military following the end of the war, and although the Ryukyu Islands account for only 0.6% of "Japanese territory," they unwillingly host more than 70% of the U.S. military bases in Japan even after the so-called "reversion" to Japanese administration in 1972, which violates article 8 of the Potsdam Declaration accepted by Japan on 14 August 1945.^{xiv} In truth, this "reversion" was merely a re-annexation by secret agreements between the Japanese and U.S. governments.^{xv} Currently, the U.S. and Japan have deployed MV-22 Ospreys, widely known to be defective and dangerous, to Ryukyu in 2012.^{xvi} It did so despite nearly unanimous opposition on the island. Moreover, both the Japanese and U.S. governments are violently pushing through construction of NEW military bases at Henoko and Takaue in the northern part of Okinawa Island in Ryukyu.^{xvii} These actions constitute further evidence of the continuing colonization and discrimination of Ryukyuan peoples.
19. Japan has exploited Ryukyu for her own "peace and prosperity" for their future. We Ryukyuan peoples shudder at the horror of future wars and fear that we will never be able to live in peace if this exploitation continues. Also, both the economic domination of Japanese corporations and the number of Japanese settlers continue to increase in Ryukyu. Further, the Japanese government's plans for promotion and development have destroyed the Ryukyuan environment, while its assimilation policies have become firmly embedded in our minds. We remain enslaved due to these different forms of exploitation and oppression.
20. Ryukyuan peoples are essentially independent and legal agents entitled to exercise the right to self-determination that is guaranteed in the common article 1 of the ICCPR^{xviii} and the ICESCR.^{xix} Only Ryukyuan peoples can determine the future of Ryukyu. By gaining independence from Japan, restoring our sovereignty, and removing all military bases from our islands, we Ryukyuans will achieve our long sought-after goal of becoming sovereign islands of peace and build friendship with other countries, regions, and nations of the world.
21. In 2007, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) was adopted by the General Assembly of the United Nations. (A/RES/61/295)^{xx}
22. In 2008, the Human Rights Committee (CCPR) concluded that Japan "should expressly recognize the Ainu and *Ryukyu/Okinawa as indigenous peoples* in domestic legislation, adopt special measures to protect, preserve and promote their cultural heritage and traditional way of life, and recognize their land rights. It should also provide adequate opportunities for Ainu and Ryukyu/Okinawa children to receive instruction in or of their language and about their culture, and include education on Ainu and Ryukyu/Okinawa culture and history in the regular curriculum." (CCPR/C/JPN/CO/5, para. 32)^{xxi}
23. In 2010, the Committee on the Elimination of Racial Discrimination (CERD) concluded that "while

highlighting that UNESCO has recognized a number of Ryukyu languages (2009), as well as the Ryukyuans' unique ethnicity, history, culture and traditions, the Committee regrets the approach of the state party to accord due recognition to Ryukyuans' distinctness and expresses its concern about the persistent discrimination suffered by the people of Ryukyu. It further reiterates the analysis of the special rapporteur on contemporary forms of racism that the disproportionate concentration of military bases on Ryukyu has a negative impact on residents' enjoyment of economic, social and cultural rights (art. 2, 5)." (CERD/C/JPN/CO/3-6, para. 21)^{xxii}

24. In 2012, Japan reported that "people who live in Okinawa and natives of Okinawa are Japanese nationals." (CCPR/C/JPN/6, para. 337)^{xxiii}
25. In 2014, the Human Rights Committee (CCPR) concluded that Japan "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 their right to engage in free, prior and informed participation in policies that affect them and facilitating, to the extent possible, education for their children in their own language." (CCPR/C/JPN/CO/6, para. 26)^{xxiv}
26. In 2014, the Committee on the Elimination of Racial Discrimination (CERD) concluded that "the Committee regrets the position of the State party in not recognizing the Ryukyu/Okinawa as indigenous peoples, despite recognition by UNESCO of their unique ethnicity, history, culture and traditions. While noting measures taken and implemented by the State party concerning the Ryukyu — based on the Act on Special Measures for the Promotion and Development of the Okinawa and the Okinawa Promotion Plan — the Committee is concerned that sufficient measures have not been taken to consult Ryukyu representatives regarding the protection of their rights. The Committee is also concerned by information that not enough has been done to promote and protect the Ryukyuan languages, which are at risk of disappearance, and that education textbooks do not adequately reflect the history and culture of the Ryukyu people (art. 5)." (CERD/C/JPN/CO/7-9, para. 21)^{xxv}
27. In 2016, Japan released "Comments by the Government of Japan regarding the Concluding Observations of the Committee on the Elimination of Racial Discrimination (CERD/C/JPN/CO/7-9)" and said "we understand that people in Okinawa have inherited a unique culture and tradition over their long history. However, the Government of Japan recognizes only the Ainu people as indigenous people in Japan."^{xxvi}
28. Fifteen percent of Okinawa Island is occupied by the U.S. military bases, supported with the Japanese government. Furthermore, although majority of us is denying, both Japan and the U.S. are forcefully constructing NEW military bases in Ryukyu, which is based on the attitude of NIMBY, which leads sexual assault against women and children and also threat to educational environment of youth.^{xxvii} This goes against the sustainable development goals, as well as against ICESCR articles 1(1) and 13^{xxviii}, ICCPR articles 1(1), (2) and 27^{xxix}, and UNDRIP articles 14, and 25 to 32.^{xxx}
29. Lately, the situation of Ryukyu was reported, for example, at the United Nations Permanent Forum on Indigenous Issues (17th session, 2018)^{xxxi} and at the UN General Assembly (76th session, 2021)^{xxxii} issued by the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence (A/76/180).

i <https://www.ohchr.org/en/calls-for-input/calls-input/call-input-impact-toxics-indigenous-peoples>

ii <https://www.epa.gov/pfas>

iii <http://www.asahi.com/special/news/articles/SEB201304270003.html>

iv <http://english.ryukyushimpo.jp/2019/02/26/29999/>

v <http://english.ryukyushimpo.jp/2020/08/26/32577/>

vi <https://www.asahi.com/ajw/articles/14383626>

vii <https://english.kyodonews.net/news/2021/12/f5ed60ab6502-japan-us-draft-operation-plan-for-taiwan-contingency-sources.html>

viii <https://www.youtube.com/watch?v=kjBOO4D4Ow8> “Forever Chemicals – How the US military contaminated the drinking water for 450,000 Okinawans”

ix <https://apjif.org/2020/16/JMitchell.html>

x <https://on1.la/buKdjTy> Okinawa, Again – The U.S. Air Force and the U.S. Marines Have Poisoned Okinawa’s Water and Fish with Massive Releases of PFAS. Now it’s the Army’s Turn.

xi <https://www.greenpeace.org/japan/nature/press-release/2021/11/02/53596/>

xii <http://www.japanupdate.com/2016/04/meiji-invasion-of-ryukyu-kingdom/>

xiii http://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf

xiv <http://www.ndl.go.jp/constitution/e/etc/c06.html> Potsdam Declaration. Proclamation Defining Terms for Japanese Surrender. Issued at Potsdam on 26 July 1945. Article 8: “The terms of the Cairo Declaration shall be carried out and Japanese sovereignty shall be limited to the islands of Honshu, Hokkaido, Kyushu, Shikoku and such minor islands as we determine.”

xv <http://english.ryukyushimpo.jp/2012/05/24/7151/>

xvi <http://english.ryukyushimpo.jp/2012/09/09/7924/>

xvii <http://english.ryukyushimpo.jp/2015/05/20/18545/>

xviii <http://www.un-documents.net/iccpr.htm>

xix <http://www.un-documents.net/icescr.htm>

xx <http://www.un-documents.net/a61r295.htm>

xxi http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FJPN%2FCO%2F5&Lang=en

xxii http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CERD%2FC%2FJPN%2FCO%2F3-6&Lang=en

xxiii http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FJPN%2F6&Lang=en

xxiv http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/JPN/CO/6&Lang=En

xxv http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CERD/C/JPN/CO/7-9&Lang=En

xxvi <http://www.mofa.go.jp/files/000190869.pdf>

xxvii <http://english.ryukyushimpo.jp/2018/04/12/28710/>

xxviii <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

xxix <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

xxx <http://www.un-documents.net/a61r295.htm>

xxxi <https://drive.google.com/file/d/1diPccg7l3Ulkv94Maq6qfqTaqges0Gs/view>

xxxii <https://undocs.org/A/76/180>