

The UN Declaration Of The Rights Of Indigenous Peoples And The Ainu Of Japan: Development And Challenges

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ABSTRACT

The Ainu are an indigenous people who originally inhabited the Japanese island of Hokkaido and the far-eastern region of Russia. The Japanese government had for many years held the position that the Ainu are not indigenous peoples, rather one of the ethnic minority groups. However, in 2008, the National Diet of Japan recognized the Ainu as an indigenous people for the first time. In response to the historic Resolution, the Advisory Council for Future Ainu Policy (ACFAP) was established in August 2008 and Japan's indigenous movement gained momentum. The purpose of this paper is thus two-fold. The first aim is to review the trajectory of Japan's indigenous policies after the Meiji restoration of 1868. The second aim is to illuminate to what extent the rights of indigenous peoples stipulated in the Declaration are promoted in the current political context, specifically in Hokkaido. By reviewing the final report submitted by the ACFAP in July 2009 and the current discussion within the Council for Ainu Policy Promotion (CAPP), the study posits a future agenda in terms of the implementation of the Declaration at the national level.

1. INTRODUCTION

On September 13, 2007, the United Nations Declaration on the Rights of Indigenous Peoples (hereafter 'the Declaration') was adopted. After more than two decades of drafting and negotiation, the Declaration embodies the individual as well as collective rights of indigenous peoples: *inter alia*, the right to self-determination, land and natural resource rights, the right to education, the right to development, intellectual property rights, cultural rights, and the right to treaty recognition (Allen & Xanthaki 2009). The Secretariat of the United Nations Permanent Forum on Indigenous Issues (2009) states that a dynamic relationship between indigenous peoples and the United Nations in recent years has generated at least the following three results: "a) a new awareness of indigenous peoples' concerns and human rights; b) recognition of indigenous peoples' invaluable contribution to humanity's cultural diversity and heritage; and c) an awareness of the need to address the issue of indigenous peoples through policies, legislation and budgets" (United Nations, p.1). Despite the fact that Australia, Canada, New Zealand, and the United States initially voted against the Declaration (the four States subsequently reversed their position and endorsed the Declaration), the epoch-making adoption of the Declaration with a vote of 143 States in favour was a great achievement that reflected indigenous peoples' longstanding efforts to gain recognition of their rights under customary international law.

The Japanese government had held the position that the Ainu were not an indigenous people for many years. However, following the ratification of the Declaration, the government officially recognized the Ainu as an indigenous people for the first time in its history in June 2008. Several months later, the

Advisory Council for Future Ainu Policy (ACFAP) was established and expert members discussed future Ainu policies. Ironically, however, the Ainu had been assimilated into Japanese society during the previous century, having suffered an extreme loss of both culture and language. In addition, most of their ancestral territories have now been lost. Due to generations of endemic social inequality, many of the Ainu are excluded from educational success and find themselves in the lower social and economic echelons of Japanese society (see, for example, Siddle 1996; Oguma 1998; and Takegahara 2008a). In terms of the Ainu language, it is “critically endangered” with less than 15 native speakers (UNESCO Atlas of the World’s Languages in Danger, 2009).

The purpose of this paper is thus two-fold. The first aim is to review the trajectory of Japan’s indigenous policies from the Meiji restoration of 1868 to the present. The second aim is to illuminate to what extent the rights of indigenous peoples stipulated in the Declaration is promoted in the current political context, specifically in Hokkaido. By reviewing the final report submitted by the ACFAP in July 2009 and the current discussion within the Council for Ainu Policy Promotion (CAPP), the study posits a future agenda in terms of the implementation of the Declaration at the national level. The significance of this research lies in shedding light on the politically contested nature of indigenous issues in Japan, which are basically different from indigenous issues in those countries colonised by the Spanish Crown or the British Crown. In the following section, the Japanese government’s indigenous policy since the late 19th century until the present day is described in five periods.

The five key periods studied will constitute the different sections of the study, which are titled as follows: A Brief introduction to the relationship between the Ainu and the Wajin before 1868; Colonisation of Hokkaido since 1868; the Japanese government’s Ainu policy since 1945; Japan after the adoption of the Declaration in 2007; and Current Ainu Policy Issues and Challenges. Having defined these periods, the final section of this paper discusses a future agenda in terms of indigenous rights and the implementation of the Declaration at the national level. To begin with, the next section offers a brief overview of the historical relationship between the Ainu and the Wajin (hereinafter used as a term referring to the majority ethnic Japanese, or non-Ainu people) before the annexation of Hokkaido.

2. A BRIEF INTRODUCTION TO THE RELATIONSHIP BETWEEN THE AINU AND THE WAJIN

The Ainu people are an indigenous people who originally inhabited the Japanese island of Hokkaido and the far-eastern region of Russia (Foundation for Research and Promotion of Ainu culture, 2000). According to the latest survey conducted by the Hokkaido prefectural government in 2006, the population of the Ainu in Hokkaido stands at 23,782 (Hokkaido Government, 2006). In addition, it is estimated that a considerable number of Ainu people have migrated from Hokkaido to mainland Japan due to discrimination and economic factors, and approximately 2,700 Ainu live in Tokyo (Ainu Association of Hokkaido). According to scientists, the ancestors of the Ainu people on Hokkaido Island date back to the Jomon Era, which is approximately 12,000 years ago (ACFAP, 2009). However, their ancient history still remains undiscovered because it was predominantly passed down as an oral tradition, and historical documents on the Ainu were written only from the perspective of Japanese people.

Historical records attest to the history of contact between the Emishi (蝦夷) and the Japanese Imperial Court (central government), which dates back to at least the 8th century (Emori, 2008). As the Chinese character 夷 signifies “the eastern barbarians” in the concept of Sinocentrism, the term “Emishi” was generically used to refer to people who lived in the regions north of Tohoku, including the current Hokkaido, and were not under the dominion of the Imperial Court. Although there is no convincing evidence that the Emishi and the Ainu were related, the final report of the Advisory Council mentions that “some linguistic connections with the Ainu can be observed in the Nihon Shoki (Chronicles of Japan written in 720) and other old documents, where some Emishi names and place names in the Tohoku region might be derived from the Ainu language” (p.9). In the late 12th century, the Emishi was referred as the Ezo.

At the end of the 12th century, Minamoto no Yoritomo seized political as well as military power, and established the Kamakura Shogunate (Kamakura-bakufu, circa 1185-1333). He was appointed as Sei-i Taishōgun (征夷大將軍), the Great General, by the Emperor in 1192 and became de facto leader of Japan. Hokkaido at that time was called Ezogachishima (蝦夷力千島) and was a penal colony of the Kamakura bakufu to which Wajin criminals were exiled. Ando clan, a samurai family who governed northernmost region under the feudal system, was in charge of resettling those criminals and gradually exerted influence on those people in Hokkaido (FRPAC, 2013b). According to Suwa Daimyujin Ekotoba, which was written in the mid-14th century, people in Hokkaido were categorised into three groups depending on regions, namely Hinomoto (日の本), Karako (唐子), and “Watarino-tō (渡党)”. The former two groups were not akin to the Wajin and could have been Ainu people. Ando clan and the Wajin settlers to Hokkaido started to trade with the Ainu for goods, such as sea otter fur, eagle feather, kelp, and dried salmon and gained wealth (FRPAC, 2013b). As can be seen, the Wajin often saw the Ainu as an entirely different people or barbarians, and they were initially good trade partners (Takakura, 1943). It is known that the Hokkaido Ainu had a trade route with China and exchanged goods with neighbouring peoples in the North, including the Sakhalin Ainu (Asahikawa city museum, 2010). Yet their amicable relationship ended by the mid-15th century as their trade expanded and the influx of Wajin settlers increased. It finally culminated in the Ainu people’s rebellion in 1457, known as Koshamain’s revolt. After this revolt, several battles broke out intermittently between two ethnic groups for a century.

In the early 17th century, powerful Ainu leaders ruled their respective regions, but a unified “Ainu nation” did not emerge in Hokkaido. At that time, the Tokugawa Shogunate (Edo-Bakufu, 1603-1867) was established in Edo (the current Tokyo), and the Matsumae, a feudal lord who governed the south of Oshima peninsula, Hokkaido, obtained an exclusive trade right with the Ainu from the first Shogun, Ieyasu, in 1604. Following the creation of Wajin settlements in the Oshima peninsula, the Matsumae restricted Wajin from entering into Ezochi (the rest of Hokkaido or Ainu settlements¹). In the Japanese feudal system during the Tokugawa period, a fief (chigyō), which was granted by a feudal lord to his vassals, was an important source of income and it usually consisted of land or paddy fields (ACFAP, 2009, p. 4). However, Hokkaido’s climate was not suitable to grow rice. Hence, as an alternative for

1 The term “Ezochi (蝦夷地)” means “the lands of Ezo people”, and was also used to refer to the whole of Hokkaido, Sakhalin and the Kuril islands during the Edo period

chigyō, the Matsumae granted their own upper-class vassals the right to trade with the Ainu at trading posts, Akinaiba, once a year. This was called the Akinaiba chigyō system. Since the Matsumae banned Ainu people from engaging in free trade with other Wajin, they were forced to sell goods to Matsumae vassals to their disadvantage. In line with the growing distrust toward the Matsumae amongst the Ainu, Shakushain, the powerful Ainu chief in the Hidaka region (the current Shizunai), led the revolt against the Matsumae in 1669. The united Ainu force fought well, but once Shakushain was foully murdered by the Matsumae at the postwar truce, the Ainu surrendered to the Matsumae (FRPAC, 2013b). After this revolt, the Wajin established a position of superiority vis-a-vis the Ainu.

In the early 18th century, the Akinaiba chigyō system evolved to the Basho ukeioi system. Under this system, the Matsumae vassals entrusted their trade rights with the Ainu at akinaiba to Wajin merchants. For reaping a high profit margin, the merchants expanded their business and started to manage fishing places. The Ainu were exploited as their workers and fell into poverty. In 1789, they were defeated in the last big rebellion of Kunashiri and Menashi and in 1799 they came under the control of the Tokugawa Shogunate (Takakura 1943, and Emori, 2008). The Shogunate tried to trade with the Ainu directly and even promoted “the Japanisation” of the Ainu. However, their attempts met opposition from the Ainu and did not succeed. As the relationship between the Ainu and the Wajin drastically changed in the mid-19th century, the term Ezo (“蝦夷”) which had been used for centuries was changed: the Edo-Bakufu started to use the term “Dojin (“土人” Natives) to refer to the Ainu. Emori (2008) explains that the Bakufu probably changed the name in order to distinguish between foreigners (Europeans and Americans) and the Ainu, because the former were also called I (“夷”) or Ijin (“異人”), which became confusing in official documents (p.374). In any case, both the terms Ezo and Dojin carried discriminatory connotations and these terms reflected the fact that many Japanese people regarded the Ainu as barbarians.

Oguma (1999) points out that the Ainu policy during the Tokugawa Shogunate was formulated in response to Russia’s territorial expansion after the late 18th century. Hence, the Edo-Bakufu signed the Treaty of Shimoda with Russia in 1855 in order to establish the border between the Etorofu Island and the Urup Island in the Kurile Islands. In the treaty negotiations, the Edo-Bakufu insisted that the Etorofu belonged to Japan because the Ainu, natives who inhabited the Etorofu, were Japanese and Russia acknowledged it (Oguma, 1999, p.51). Article 1 and Article 2 of the Treaty of Saint Petersburg stipulate that the Empire of Japan cedes Sakhalin island to the Empire of Russia in exchange for the Kurile Islands, which consist of the group of 18 islands (Ministry of Foreign Affairs of Japan and Ministry of Foreign Affairs of the Russian Federation, 1992). Those Ainu who had lived in Sakhalin island and the Kuril islands were excluded from the treaty negotiation, and were given three years to make the choice of nationality - whether to become a Japanese citizen or a Russian citizen (Japan Center for Asian Historical Records). However, in reality, there were cases that decision was made against Ainu people’s will. For instance, at the end of September 1875, 841 Sakhalin Ainu (equivalent to 35% of the whole Sakhalin Ainu population) were forced to immigrate to the Soya region of Hokkaido, which is the opposite bank from the southern tip of Sakhalin island (Emori, 2008, p.407). However, since Soya is located close to Sakhalin, Japanese officials feared that these Ainu might cause international border issues, and again forced them to move to Tsuishi-kari (the current Ebetsu city) in June 1876. Their new life in Tsuishi-kari was full of difficulties. Due to several outbreaks of infectious

diseases amongst them, more than 300 Tsuishi-kari Ainu people died by 1887, and most of them returned to South Sakhalin after the ratification of the Treaty of Portsmouth between Japan and Russia in 1905 (Emori, 2008, p. 412). Due to limitations of space, the thorny paths which the Kuril Ainu and the Sakharin Ainu tread cannot be discussed here. However, the Ainu people were affected by the political and military competition between Japan and Russia, which continued even after the World War II.

3. COLONISATION OF HOKKAIDO SINCE 1868

The history of modern Hokkaido started with the Meiji Restoration of 1868, when the Tokugawa Shogunate was overthrown by anti-Shogunate forces and the Meiji government was established under the rule of the Emperor. During the course of this restoration, the northern island Ezochi which the Ainu originally inhabited was renamed Hokkaido (the literal meaning is “northern sea route”) and officially incorporated into Japan. From the outset, the Meiji government proclaimed its policy to modernize the nation and adopted Western culture and systems. For example, apart from sending government-sponsored students abroad, a total of 2690 foreign experts, *oyatoi*, were employed by the government between 1668 to 1889 (1975, Centre for East Asian Cultural Studies for UNESCO). Of the workers of the Hokkaido Development Commission (Kaitakushi), 11.4% were *oyatoi* and Americans accounted for 61.6%. The colonization of Hokkaido would not have been completed at such a fast pace without the contributions of these experts.

As has been highlighted, Japan underwent considerable political and social changes in the late 19th century, and became a World Power with strong military and modern technology in the early 20th century. However, as far as the Ainu were concerned, a set of new policies were developed and the Ainu people’s traditional way of life was gradually restricted. For instance, pursuant to the provisions of the Census Registration Act of 1871, the Ainu were incorporated into Japan as *heimin*, or ordinary Japanese citizens (Takakura 1943). However, while the Hokkaido Development Commission forced the Ainu to have a Japanese family name in the process of this Census registration,² in 1878 the Commission issued an order to use the term “Former Natives 旧土人”³ to designate the Ainu. Acknowledging the fact that the term “Former Natives” implied that they were second-class citizens or uncivilised people, there was a visible distinction between the Ainu and majority citizens in practice. The Commission also strictly prohibited traditional Ainu culture and customs, such as women’s tattoos and men’s earrings, claiming that they were *rōsyū* (bad habits).

In 1872, two regulations which directly affected Ainu peoples’ land ownership were promulgated: Regulation for the Lease and Sale of Hokkaido Land and Land Regulation Ordinance.⁴ Siddle (1996)

2 The creation of a family name did not fit well for the Ainu who identified themselves only by their first names (see, the case of Nemuro, cited in Emori, 2008).

3 As for the term “Former Natives”, there are several explanations on its origin. According to the minutes of the Cabinet Committee in 1968, one of the participants from the Ministry of Health and Welfare explained that Hokkaido used to be called 旧土 (ancient land) and 人 means people in Japanese, so 旧土人 signifies “people on an ancient land”. However, the single Chinese character “旧” means “former” in Japanese, hence probably it is more natural to literally interpret the meaning of 旧土人 as “Former Natives”.

4 These Regulations specifically targeted Japanese settlers from the mainland and the Ainu were excluded (Emori, 2008).

notes that these regulations were “grounded in a doctrine of Hokkaido as *terra nullius*, in which indigenous land use was clearly not recognised as ownership” (p.56). Article 7 of Land Regulation Ordinance states that “the mountains, forests, rivers and streams where formerly the natives fished, hunted and gathered wood shall be partitioned and be converted to private (*jinushi*) or collective (*murauke*) ownership” (cited in Siddle, 1996, p.56). By using the doctrine of *terra nullius*, the new government successfully dispossessed the Ainu peoples of their lands. This justification is exactly the same as the doctrine of *terra nullius* used by other colonial powers to dispossess indigenous peoples of their lands and sovereignty (see Thornberry 2002; Anaya 2004; and Xanthaki 2007). Indigenous lands were encroached without their consent. As seen in these regulations, the incorporation of the Ainu into Japan was earnestly pursued and later strengthened by the Former Natives Protection Act (hereafter, ‘the Protection Act’). At that time, the Ainu lived in extreme poverty due to the dispossession of their lands and the government’s regulations on traditional fishing and hunting. In addition, as the contact between Wajin settlers and the Ainu increased, epidemic diseases, such as tuberculosis and syphilis, spreaded to the Ainu community and devastated its population. For three decades from 1873 to 1903, the proportion of the Ainu population vis-à-vis the entire population of Hokkaido declined from 14.63% to 1.65%, and the Ainu became the minority in many communities (cited in Emori, 2008, p.429). It could be said that this was the flip side of the coin of Japan’s modernisation. In this context, the Protection Act, which shared some similarities with the Dawes Act of 1887 (Tomita, 1989&1990), was promulgated by the Imperial Diet in 1899 in the name of saving these impoverished Ainu. The Protection Act focused on areas such as agriculturalisation, education, and health services. Article 9 specifically stipulates the creation of Former Native Schools at national expense in Ainu Villages (Hokkaido Former Native Act, 1899). Around the turn of the century, the Ministry of Education issued the 1900 Elementary School Order which established the period for compulsory education for Japanese children at four years. In an ordinary primary school, children were to learn moral education, Japanese language, arithmetic, and physical education. In addition, other subjects, such as drawing, singing, handicraft, and sewing (for girls) could be added to the curriculum if appropriate. However, for Ainu children, the Hokkaido prefectural government promulgated separate regulations in 1901: Regulations for the Education of Former Native Children. Following these Regulations, some twenty-three elementary schools were established between 1901 and 1907 in Hokkaido (Ogawa, 1992, p. 199). In areas where a small number of Ainu coexisted with the Wajin populations, Ainu children attended Wajin schools but were segregated from Wajin students. The school enrolment ratio of Ainu children increased rapidly, from 17.9 % in 1895 to 84.2 % in 1907 (Ogawa, 1992, p.201). However, first and foremost, the education that Ainu children received was principally assimilation-oriented and inferior to the one received by Wajin children. The government officials set the Ainu students’ targets at the level of the third grade Wajin students (Emori, 2008, p.446), meaning that the expectations of the educational results of the Ainu was low from the outset. These unequal measures were abolished in 1907, when the Ministry of Education revised the 1900 Elementary School Order and extended the period of compulsory education to six years (see Table 1, cited in Ministry of Education, Japan). Following this Order, the Hokkaido Prefectural government abrogated the 1901 Regulations and announced new regulations for the Ainu: an additional two-year of schooling (six years in total) and additional subjects, i.e. Japanese history, geography and science (including agriculture) (Ogawa, 1992, p.219).

Table 1 School Curriculum under the 1907 Elementary School Order

Subject	Grade 1 (hours /week)	Grade 2 (hours /week)	Grade 3 (hours /week)	Grade 4 (hours /week)	Grade 5 (hours /week)	Grade 6 (hours /week)	Total Hours
Moral Education	2	2	2	2	2	2	12
Japanese Language	10	12	14	14	10	10	70
Arithmetic	5	6	6	6	4	4	31
Japanese History	0	0	0	0	3	3	6
Geography	0	0	0	0			
Science	0	0	0	0	2	2	4
Drawing	0	0	1	1	Boys 2 Girls 1	Boys 2 Girls 1	Boys 6 Girls 4
Singing	4	4	1	1	2	2	14
Physical Education			3	3	3	3	20
Sewing	0	0	Girls 1	Girls 2	Girls 3	Girls 3	9
Handicraft ⁵							
Total hours (by grade)	21	24	Boys 27 Girls 28	Boys 27 Girls 29	Boys 28 Girls 30	Boys 28 Girls 30	Boys 155 Girls 162

The 1907 Elementary School Order (21 March, 1907)

⁵ If it was considered appropriate and met the community's needs, handicraft was introduced as a subject. Each school had sole discretion on this matter.

Table 2 School Curriculum under the 1916 Regulations for the Education of Former Native Children

Subject	Grade 1 (hours/week)	Grade 2 (hours/week)	Grade 3 (hours/week)	Grade 4 (hours/week)	Total Hours
Moral Education	2	2	2	2	8
Japanese Language	11	12	14	14	51
Mathematics	5	6	6	6	23
Physical Education	3	3	3	3	12
Sewing			Girl 2	Girl 2	Girl 4
Farming			Boy 2	Boy 2	Boy 4
Total Hours (by grade)	21	23	27	27	98

Regulations for the Education of Former Native Children (24 December, 1916)

However, in 1916, the Hokkaido government decided to shorten the total length of schooling of the Ainu, from six to four years, and newly added subjects such as geography, history, and science were taken out of the curriculum. In addition, the starting age of primary school for Ainu children was raised from six to seven, whilst that of Wajin children remained unchanged (at six years of age). The Hokkaido government justified this measure according to the belief of Social Darwinism that the level of civilisation and the mental and physical development of the Ainu were different from those of Wajin children, hence the special circumstances of the Ainu should be taken into consideration (cited in Ogawa, 1992, p. 221) According to this argument, six years of schooling was too long for the Ainu and likewise, starting school at the age of six was too early for the Ainu. As for the curriculum, it was much more simple than the one Wajin children received (see Table 2, cited in Ogawa, pp.422-425). This special curriculum focused primarily on learning the Japanese language and developing loyalty to the Emperor and the nation. Use of the Ainu language was prohibited in schools, resulting in a sharp decline in the number of those speaking the Ainu language.

According to national statistics, the school enrolment ratio of Ainu children increased rapidly from 44.6% in 1901 to 96.6% in 1916 (cited in Emori, 2008, p.445). In this way, the Ainu were systematically assimilated into the Japanese nation as subjects of the emperor. Needless to say, these assimilation policies caused irreparable damage to the Ainu culture and societies, and discrimination toward the Ainu persistently continued. Against this background, the Ainu, especially educated young Ainu, raised their voices against racism and social inequality, and they actively engaged in cultivating their fellow Ainu not to be humiliated by the Wajin. In 1922, in the context of increasing criticism for discriminatory education system against the Ainu children, the Regulations for the Education of Former Native Children were abolished. It was during this period that the Ainu Association of Hokkaido, the largest Ainu organisation in Japan, was established in 1930. In 1937, Former Native schools were merged with normal primary schools and racial segregation technically ended.

It is not within the scope of this paper to compare the trajectory of Japan's policies toward the Ainu with that of other countries around the world. However, as seen in the historical relationship between the Ainu and the Wajin, it is worth noting that the geographical proximity and the circumstances surrounding the Ainu (as well as most of the indigenous peoples in Asia and Africa) is historically different from that of other indigenous peoples, particularly those who were colonised by the European settlers following the "discovery" of the Americas. At least it is fair to say that the Wajin are equally indigenous to mainland Japan, as is the case with the Ainu who are indigenous to Hokkaido. The main issue here is that the balance of power between two neighbours changed over a long period of time, and education played a key role in "civilising" indigenous Ainu people. Based on the strong belief in social Darwinism by the end of the WWII, they were considered "backwards" or "barriers" for Japan's national development. Although the Japanese government did not introduce boarding school system to assimilate Ainu children in Hokkaido, partly due to financial constraints, schools functioned as an apparatus for strategically assimilating them into the Meiji Japan between the late 19th and the mid-20th century. In cooperation with local police, schools also played a decisive role in monitoring the progress of enlightenment activities for both the youth and adults of Ainu communities (Hirose, 1995). Needless to say, these assimilation-oriented education policies were not just a Japanese phenomenon but rather a global one. Through various forms of education, including missionary schools and residential/boarding schools, indigenous children around the world had been overtly assimilated into colonial culture, while having been denied their cultures, languages, beliefs, and values (see, for example, Abu-Sadd & Champagne 2005; Takegahara 2008a; Cottrell 2010; and Snyder & Nieuwenhuysen 2010). Religious education also played an important role, and Christianity and school education were inextricably linked to the cultural assimilation of indigenous people in the "New World". As Cole (2011) analyses, one explanation for this common policy is that indigenous peoples appeared to constitute a formidable menace to "fledgling nation-states" which sought to strengthen sovereignty over occupied territories and forge a national identity. Similarly, the Government of Meiji Japan consciously made an effort to build a modern nation-state by borrowing policies from the Western Powers (for example, "The Iwakura Mission of 1871" in Kume, Tsuzuki, & Young, 2009; and also see, JICA Research Institute, 2004) and transformed Japan into a constitutional monarchy with a parliamentary system of government. Japan has been under the Imperial system since around the 7th century, and the Emperor was the sovereign ruler of Japan until 1945. However, the role of the Emperor has shifted over the course of time, as Japan's political regime swung like a pendulum from Imperial rule to Shogunate rule around the 13th century. When the Meiji Emperor became the head of state, as stipulated in the 1889 Constitution of the Empire of Japan,⁶ the government may have had a hidden agenda. Fridell (1976) makes an insightful comment on this point as follows: "the Japanese government systematically utilized shrine worship as a major force for mobilizing imperial loyalties on behalf of modern nation-building" (p.548). Shintoism became an integral part of the government of Meiji Japan, and Emperor worship was incorporated into the "moral education" curriculum for both Wajin and Ainu children. As space is limited, the Ainu people's struggles during the two world wars cannot be analysed in this paper. However, it is very important to bear in mind that whilst the Ainu

⁶ Utari means "companion" or "compatriot" in the Ainu language (ACFAP, 2009, p.15)

were overtly discriminated in a society as “former natives”, they were forced to fight for the sake of the Emperor and many of their lives were lost during these wars.

3.1 The Japanese government’s Ainu policy since 1945

On August 15, 1945, Japan made an unconditional surrender and the Second World War came to an end. Consequently, the General Headquarters (GHQ) occupied Japan from 1945 to 1951 and implemented democratic reforms. In the postwar period, whilst Japan achieved a miraculous economic recovery, social discrimination against the Ainu continued and they were excluded from enjoying the fruits of this economic development. In the process of democratization, “the Ainu failed to improve significantly on their pre-war position as an excluded ‘dying race’” (Siddle, 1996, p. 147). It was not until the late 1960s that a dramatic change occurred: civil activist groups, inspired by social movements overseas such as the American Indian Movement, started to protest against the marginalization of the Ainu. In the early 1970s the Ainu problems became increasingly salient, and Hokkaido Utari Welfare Measures⁷ were issued by the government. Supported by the national government as well as the Hokkaido government, specific welfare policies to improve the Ainu people’s quality of life were implemented in 1974. As a result, the economic gap between the Ainu and the Wajin was gradually reduced. For instance, the Hokkaido prefectural government has conducted surveys on the living conditions of the Ainu on six occasions since 1972 (1972, 1979, 1986, 1993, 1999 and 2006). In the 1972 survey, the ratio of Ainu people receiving social welfare was 11.57% but it decreased to 3.83% (per mill) in 2006. In the report submitted to the Committee on the Elimination of Racial Discrimination Government of Japan emphasised (August 19, 2008) the Japanese government stated that “the decrease in the public assistance application ratio shows the positive effects of the Hokkaido Utari measures, which include a facility improvement project to ameliorate the overall living environment...and measures for facilitating employment and skill training” (para. 10, p.8). In a similar vein, the educational gap between the Ainu and the Wajin dwindled: the percentage of Ainu students attending high schools increased from 41.6 % in 1972 to 93.5% in 2006 (Government of Japan, 2008). However, in essence, the Japanese government maintained its position that Japan is a homogeneous nation until quite recently. For instance, in the 1980s, Yasuhiro Nakasone, the then Prime Minister, referred to Japan as “an ethnically homogeneous nation (Tan-itsu-minzoku-kokka)” and stated that there is no racial discrimination against ethnic minorities who hold Japanese citizenship (AP News, October 22, 1986). At that time, it was still common for Japanese policy makers and even the Prime Minister to make discriminatory and ethnocentric statements in public. Hence, in response to Nakasone’s ethnocentric remark, Ainu organisations expressed a strong protest which led to an apology by the Prime Minister apologised in the form of a letter. It seemed that the Ainu problem gained some momentum in 1986 but the Japanese government did not even recognise the Ainu as “a minority group” of Japan in the second periodic report on the International Covenant on Civil and Political Rights (ICCPR) submitted to the Human Rights Committee (March 24, 1988). It was not until 1991 that the Ainu were referred to as a minority who possess their own culture, religion, and language, according to Article 27 of ICCPR.

⁷ In the current Constitution of Japan, it is stipulated that “the Emperor shall be the symbol of the State and of the unity of the people.”

Following the recognition of the Ainu as a minority group, a major political shift occurred in 1993 when the Liberal Democratic Party (LDP), which had been the sole ruling party of Japan since 1955, lost the election of the House of Representatives. In the following year, on June 30 1994, the Japan Socialist Party (JSP), the New Party Sakigake (NPS), and the LDP formed a ruling coalition under Prime Minister Murayama of the Japan Socialist Party. The most surprising news was that Mr. Kayano, a distinguished Ainu researcher, ran for election with the JSP and became the first-ever Ainu Diet member. This political momentum created a favourable environment for the Ainu. Under the coalition government, in 1995, the Advisory Council for Future Utari Policy was set up under the Prime Minister's Office for the first time. As a result of this Council, the Former Native Protection Act of 1899 was abolished, and the Law for the Promotion of the Ainu Culture and for the Dissemination and Advocacy for the Traditions of the Ainu and the Ainu Culture (hereafter the "Law for the Promotion of the Ainu Culture") came into force in July 1997. Up until the present day, the Law for the Promotion of the Ainu Culture is the sole domestic law concerning Ainu people in Japan.

Then, pursuant to this law, the Foundation for Research and Promotion of Ainu Culture ('FRPAC') was established in November 1997. It is the sole public utility foundation designated by the Hokkaido Development Agency (current Ministry of Land, Infrastructure and Transport and Tourism) and the Ministry of Education, Culture, Sports, Science and Technology. As Article 1 of the Act states that "this law aims to realize the society in which the ethnic pride of the Ainu people is respected and to contribute to the development of diverse cultures in our country", the Foundation's main focus is Ainu culture. Hence, it is fair to say that this law only serves for the promotion of Ainu culture, but not for the recognition of broader indigenous rights. Despite this limitation, the enactment of the Law for the Promotion of the Ainu Culture was a tremendous step towards acknowledging the uniqueness of the Ainu people (see Table 3 for summary of Ainu policies and related measures).

Another great victory was that the Sapporo District Court claimed the illegality of a dam construction in a sacred Ainu place in Nibutani town, Hokkaido. The District Court recognised that the Ainu people had established a unique culture in Hokkaido before the arrival of the Japanese and therefore their rights should have been given consideration under Article 13 of Japan's Constitution which protects the rights of the individual as well as under the ICCPR (Kayano et al. v. Hokkaido Expropriation Comm., 1997). This occurred in March 1997, four months before the abolition of the Former Native Protection Act. The significance of this court decision lies in affirming the Ainu people's indigenous cultural rights and in giving consideration to these rights whilst referring to Article 13 of Japan's Constitution and Article 27 of the ICCPR (Iwasawa, 1998). It could be said that this historical lawsuit over the Nibutani Dam heralded a new chapter in Ainu history.

Table 3. Summary of Ainu Policies and Relevant Laws and Measures

Main focus (organisation in charge/focal point)	Basic Policies	Related laws and measures	Operating Fund (subsidy) from
Promotion of Ainu Culture (The Foundation for Research and Promotion of Ainu Culture)	1.Promotion of comprehensive and practical research on the Ainu 2.Promotion of the Ainu language 3.Promotion of the Ainu culture 4.Dissemination of knowledge of Ainu traditions 5. Revival of Ainu traditional life style (IWOR)	Law for the Promotion of the Ainu Culture	National government (Ministry of Land, Infrastructure and Transport and Tourism, Ministry of Education, Culture, Sports, Science and Technology), and the Hokkaido Government
Improvement of Hokkaido Ainu peoples' lives (The Hokkaido Government/ Office of Ainu Measures Promotion)	1.Lifestyle stability 2.Enrichment of education 3.Employment stability 4.Promotion of industry	Hokkaido Utari Welfare Measures	National government (Ministry of Education, Culture, Sports, Science and Technology, Ministry of Health, Labour and Welfare, Ministry of Agriculture, Forestry and Fisheries, Ministry of Economy, Trade and Industry, Ministry of Land, Infrastructure, Transport and Tourism), and the Hokkaido Government

(Data compiled by author from the websites of FRPAC and Hokkaido Government)

4. JAPAN AFTER THE ADOPTION OF THE DECLARATION IN 2007

On June 6 2008, roughly 9 months after the adoption of the United Nations Declaration on the Rights of Indigenous Peoples (henceforth “Declaration”) in September 2007, the National Diet of Japan (the House of Representatives and the House of Councillors) unanimously adopted the Resolution to Recognize the Ainu as an Indigenous People on June 6 2008. The Resolution acknowledged past wrongs against Ainu people in the process of Japan’s modernisation despite the fact that they were equal Japanese citizens under the law. Subsequently, the government recognised the Ainu as an indigenous people, and decided to follow the Resolution, which demanded the implementation of comprehensive Ainu policy measures. Considering the historical trajectory of Japan’s Ainu policy since the late 19th century, this is a historic resolution for this people. However, at the same time, the adoption of the Resolution seems rather abrupt because the government had not expressed concerns on the issue of the Ainu’s “indigeneity” for a long time.

On this matter, the G8 Hokkaido Toyako Summit may offer the key to understanding the government’s sudden policy change. The Resolution mentions “it is significant that the G8 summit, which is also called the Environmental Summit, is going to be held this year in Hokkaido, where the Ainu people have originally inhabited and coexisted with nature”. At that time, the Japanese government was

preparing to host the G8 summit in July 2008 and probably expected that the Ainu people would take advantage of the opportunity to lobby the member countries toward recognising their indigenous rights. The idea was that the Japanese government and politicians might be afraid of being criticized by other G8 member states over Ainu issues and suffering a sense of shame over its internal affairs. Consequently, some Diet members organised a bipartisan society for establishing Ainu people's rights in March 2008. Hiroshi Imazu, a member of the House of Representatives, was a chief organiser and Yukiko Hatoyama, who later served as Prime Minister of Japan between September 2009 and June 2010, was also one of the members of this society. According to the Ainu Peoples Resource Centre (15 May, 2008), Imazu reported on his official website that the bipartisan society stated an urgent need to recognise the Ainu as indigenous people of Japan in order to show its commitment to the UN Declaration. He also mentioned that it would be in line with Japan's national interest to make an international declaration to the effect that the Ainu are indigenous people at the G8 summit.

For their part, Ainu activists collaborated together and convened the 2008 Indigenous Peoples Summit in Biratori town, Hokkaido prior to the G8 Summit. According to the report published by the Indigenous Peoples Summit in the Ainu Mosir 2008 Steering Committee, more than 600 participants gathered from Japan and abroad, including Australia, Bangladesh, Canada, Guam, Guatemala, Hawai'i, Mexico, New Zealand, Nicaragua, Norway, the Philippines, Taiwan, and the United States (IPS Steering Committee, 2008a). Victoria Tauli-Corpus, the then Chair of the UN Permanent Forum on Indigenous Issues and other distinguished indigenous experts were invited to this alternative Summit. From July 1 to July 4, they discussed important indigenous issues such as the environment, history, culture, education, and the reparation of indigenous rights. As a result of this international conference, they adopted the Nibutani Declaration of the 2008 Indigenous Peoples Summit in Ainu Mosir (IPS Steering Committee, 2008b). This Declaration highlights global environmental, economic, and development issues and calls for G8 nations to respect mother earth and indigenous knowledge, philosophies, culture, and traditional way of life for sustainable development. Amongst the proposals to the G8, the first point they made was to "effectively implement the United Nations Declaration on the Rights of Indigenous Peoples and use this as the main framework to guide the development of all official development assistance (ODA), investments and policies and programmes affecting Indigenous Peoples". It should be noted that the recent policy changes would never have occurred in such a short time without the efforts of indigenous peoples as well as that of civil societies. In collaboration with international indigenous organisations, Ainu-related NGOs have actively engaged in lobbying the government and the UN to claim their indigenous rights. The alliance of international civil society and indigenous groups has accelerated the wider endorsement of the UDRIP in recent years.

In August 2008, following the Diet's historic Resolution, the Advisory Council for Future Ainu Policy was formally established. Amongst the eight members of the Council, Ainu represented only one seat and the other members were professors, the governor of Hokkaido, human rights specialists, and an administrative director of a cultural organisation. These expert members discussed future Ainu policy on a monthly basis from August 2008 to July 2009. Each session covered various issues that were discussed from anthropological, historical, political, economic, educational, cultural, and human rights perspectives. During the second and third sessions, the Council members visited Hokkaido to hear the voice of Ainu and they also met Ainu people in Tokyo. The main items on the Council's agenda

included indigenous people's rights to culture, language, education, and to development and political participation. In terms of the socio-cultural status of the Ainu, there are still gaps between Ainu and non-Ainu in Hokkaido. In addition, the Council specifically highlighted the situation of Ainu people who live outside Hokkaido and suggested a new measure for them. Two Ainu-related organisations submitted their recommendations to the Council, and both proposed to designate Ainu as an official language. Specifically, one of the groups addressed the need for establishing Ainu ethnic schools for teaching the Ainu language, culture and arts for children and young adults. This group underlined the importance of creating a multilingual and multicultural society in Japan, and criticised the lack of a perspective for ethnic minorities in public education.

The Council submitted its final report in July 2009. The main recommendations the Council made are as follows: "1) Promotion of the public understanding; 2) Measures for culture in a broader sense; and 3) Establishment of an organizational framework for future Ainu policy" (ACFAP, 2009, pp.24-30). The first point underlines the importance of school education in order to raise awareness about the history and culture of the Ainu amongst students. In particular, universities are encouraged to promote research on educational materials and pedagogical methods suited to children's levels of development in order to apply the findings in classroom settings. The report requests short-term measures such as the enhancement of textbook contents, enlargement of distribution of supplementary reading material, enrichment of teacher training on the Ainu and so forth. Improving school environments is also recommended so that students can learn about the history and culture of the Ainu by the end of compulsory education. In connection to the second point, the Council recommended measures, such as the establishment of an area symbolizing the coexistence of ethnic groups. The major difference between the 1995 Expert Council and the 2008 Council is that the latter put more emphasis on the economic, social, and cultural rights of the Ainu (See, APPENDIX A). In addition, the language issue is considered to be a top priority in the promotion of Ainu Culture. As for the third point, creating national mechanisms for planning is recommended: more specifically, the Council urges the government to establish consultation and deliberation bodies in order to promote Ainu policy from the Ainu's perspective as well as to monitor the implementation process. Based on these recommendations, the government set up the Department of Comprehensive Ainu Policy within the Cabinet Secretariat in August 2009.

As can be seen, the Council adopted a broad and forward-looking agenda for the future Ainu policy. In particular, with regard to the discussion on "special measures for the Ainu", the Council expressed its view that "it is generally interpreted that this Article allows differentiated treatment for a portion of the population if it is based upon rational reasons in accordance with the nature of things" (ACFAP, 2009, p.21). Article 14 of the Constitution of Japan stipulates that "All of the people are equal under the law and there shall be no discrimination in political, economic or social relations because of race, creed, sex, social status or family origin". Therefore, some critics challenged Ainu policy because it would be unfair or even unconstitutional if the Ainu gained a special status and were treated differently. But taking the Council's view into consideration, Ainu policy is now publicly considered constitutional with certain limitations. However, the real issue is that special Ainu measures could only be implemented if the majority population considered this treatment to be "rational" and not in conflict with public interests.

In considering this issue, Kymlicka's theory on multiculturalism and “group-differentiated” rights (1995) will be useful. He discusses how to accommodate the needs of national minority and ethnic groups, and creates three categories of group-differentiated rights as follows: 1. Self-government rights; 2. Poly-ethnic rights; and 3. Special representation rights. Going further into this theory is beyond the scope of this paper. However, with regard to the Ainu’s special representation rights, the report points out that setting aside seats for the Ainu people in the Japanese Diet or other governmental body is in conflict with the Japanese Constitution. In addition, it will most likely require an amendment of the Constitution. Since the Ainu population is small, the possibility of a constitutional amendment is remote. The only channel they have for making their voice heard within society as a whole is to become a Diet Member, which also presents further challenges. For instance, the Council did not discuss in detail what kind of criteria would constitute “rational reasons” for special treatment of the Ainu and how to successfully secure the Ainu’s special representation rights. In any case in-depth and comprehensive debates will be necessary to obtain public understanding on this type of group-based special measures in future years.

As far as the Declaration is concerned, the Council expressed its complete respect for the document and affirmed its importance. However, it considered the Declaration to be nothing more than “a general international guideline for indigenous policies”. For instance, the final report discusses whether the diverse situations of indigenous people around the globe are applicable to the Ainu of Japan:

However, just as the histories and current situations of the world’s 370 million indigenous people are enormously diverse, so are the countries in which they live. These individual conditions cannot be ignored as far as the Declaration is concerned. In this respect, Japan should establish its Ainu policy in line with the current conditions of the country as well as of Ainu people themselves, referring to relevant clauses of the Declaration and sincerely listening to the voices of Ainu people living today. (ACFAP, 2009, p.21, emphasis added).

This paragraph could be interpreted as meaning that the Japanese government needs to refer to provisions of the Declaration only if they are relevant to Ainu policy and the current context of Japan. As a matter of fact, the Council’s view on the Declaration coincides with that of the Japanese government. When the Resolution was adopted by the Diet in June 2008, the then Chief Cabinet Secretary, Machimura, made the following statement: “Not only will the government further enhance the Ainu policies taken so far, but it will make efforts to establish comprehensive policy measures, in reference to relevant clauses of the UN Declaration on the Rights of Indigenous Peoples (ACFAP, 2009, p.1, emphasis added)”. The common views of the government and the Council regarding the implementation of the Declaration exemplify Japan’s “skewed” indigenous policy model that treats indigenous rights only from the perspectives of cultural diversity and individual rights.

As shown in table 3, the promotion of Ainu culture and the improvement of the living standards of the Ainu are the two pillars of Japan’s indigenous policy (Government of Japan, May 22, 2013). This policy stance on the part of the Japanese government has been consistent since the General Assembly adopted the Declaration in 2007. At that time, the government reserved the collective rights of indigenous peoples on the grounds that “the concept of collective human rights is not widely recognized as a well-established concept in general international law” (Explanation of Vote, 13 September, 2007). With regard to the right to land and natural resources, a Japanese U.N. diplomat

explained that land and resource rights should be “limited by due reason in harmonizing and protecting third-party interests and other public interest” (Explanation of Vote). The Declaration is considered to be the most comprehensive and normative international legal framework that recognizes the concept of the collective rights of indigenous peoples. However, the government seems to turn a blind eye to the collective nature of indigenous rights, such as collective rights to land and natural resources, language, education, and political participation. These rights are more often contested than individual rights in practice and are a politically sensitive issue.

In regard to the issue of the Declaration’s implementation at national level, Lokawua, a member of the United Nations Permanent Forum of Indigenous Issues (PFII), presented her observations as follows: “the declaration has legal relevance and reflects obligations of states under other sources of International Law such as Customary Law and General Principles of Law” (Lokawua, 2009, January). As she pointed out, greater emphasis should be placed on the significance of the Declaration in international law. For instance, the whole text of Article 3 of the Declaration (“Indigenous peoples have the right self-determination.”) reflected Article 1 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR) which affirm the peoples’ right to self-determination (“All peoples have the right of self-determination.”). Although, according to the two Conventions “peoples” means the entire population of a state, it has been recently understood that the term indigenous “peoples” in the Declaration carries the same implications as “peoples” in existing international law (Anaya, 2004). The Declaration also reflects relevant clauses of other (legally-binding) international human rights instruments, such as the Convention on the Rights of the Child and Convention on the Elimination of All Forms of Racial Discrimination. Therefore, although the Declaration possesses no legal binding authority, states should acknowledge their moral as well as legal responsibilities toward implementing the Declaration at national level. Japan underwent its first cycle of Universal Periodic Review in 2008 (United Nations, Human Rights Council, March 30, 2008). With regard to the Ainu and the Declaration, Algeria recommended Japan to “review, inter alia, the land rights and other rights of the Ainu population” (para.19) to harmonize them with the Declaration. Guatemala also urged Japan “to seek ways to initiate a dialogue with its indigenous peoples” (para.19) for better implementation of the Declaration. As a signatory to human rights instruments, Japan should fulfil its obligations and respect recommendations made during the review.

5. CURRENT AINU POLICY ISSUES AND CHALLENGES

In December 2009, the Council for Ainu Policy Promotion (CAPP) was established under the Prime Minister’s Office as a follow-up mechanism. Since its first meeting in January 2010, it convenes once a year to further advance Ainu policy measures while taking into account the views of Ainu peoples. In contrast to the situation in the Advisory Council, the Ainu representatives held five out of fifteen seats at these meetings. Ms. Noto, the youngest representative whose mother is an Ainu, commented that “many people helped me to get to where I am now. I hope that I represent as many voices of the Japanese and the Ainu as possible” (Tomakomaiminpo, December 26, 2009). Two ad hoc groups, the Working Group for Symbolic Space for Ethnic Harmony and Working Group for Research on the

Living Conditions of Ainu People outside Hokkaido, were set up in March 2010, and submitted their reports to the Council in June 2011.

The former group discussed the basic concept of “the Symbolic Space for Ethnic Harmony” and finally constructed a national centre for Ainu culture around Poroto Kotan (the Ainu Museum) in Shiraoi, Hokkaido (CAPP, 2011a). The Symbolic Space will not only offer multifaceted educational, cultural and recreational facilities but will also serve as a space to respect the spirituality of the Ainu where traditional rituals can be performed. A memorial facility will also be constructed to console the souls of Ainu ancestors whose skeletal remains were dug up from their graves by scholars without the consent of Ainu families. According to an article by a local newspaper (Tomakomaimimpo, December 18, 2010), building the entire Symbolic Space is estimated to cost a total of over ten billion yen. On the other hand, the latter Working Group conducted the first-ever survey on the living conditions of Ainu people outside Hokkaido in order to formulate policies which target Ainu people all over Japan (CAPP, 2011b). The survey, for instance, found that the ratio of young Ainu people (outside Hokkaido) who go on to study at college is 31.1%. This figure is relatively higher than that of Hokkaido Ainu (20.2%), but much lower than the national average (42.2%). Previously, the social survey on the Ainu was only conducted in Hokkaido, but now it broadens the scope of survey to every region of the country. Ainu-related issues are now on the government agenda.

After the dissolution of the above-mentioned Working Groups, a new ad hoc group called the Working Group for Ainu Policy Promotion (‘WGAPP’) was set up as a subsidiary body of the Council in August 2011. Since its establishment, WGAPP members hold regular meetings (often bimonthly) to follow up recommendations made by the ACFAP and the previous two Working Groups. A lot of time has been spent on discussing topics regarding the implementation process of the Symbolic Space for Ethnic Harmony and the special measures for Ainu people living outside Hokkaido, including scholarships for higher education and financial and cultural supports. In addition, various issues were discussed in connection with these topics, such as the issue of human remains kept at universities, government budgets for Ainu measures, and the implementation of strategic public relations campaigns with Ainu people. With regard to scholarships for Ainu students outside Hokkaido, a new measure will be introduced in 2014 by utilising the existing interest-free scholarship loan scheme administrated by the Japan Student Services Organization (JASSO).⁸ Accordingly, those Ainu people living outside Hokkaido and enrolling in higher educational institutions will be able to apply for JASSO scholarship loan programmes (CAPP, February 22, 2013). JASSO will take into account the special circumstances of Ainu students and ease the standards for scholarship eligibility, such as high school GPAs.

In order to apply for the JASSO scholarship programmes, an applicant must meet the following criteria as a principle: (1) an applicant must be an individual of Ainu descent who identifies himself or herself as an Ainu; or (2) an applicant must be an individual who lives with an Ainu who falls into category (1) through marriage, adoption etc.; and (3) an applicant must be an individual who lives outside Hokkaido (CAPP, February 22, 2013). The criteria (1) and (2) are almost same as the ones used for Ainu living condition survey by the Hokkaido prefectural government (see, for example, Hokkaido Government 2006). More detailed administrative and operating procedures will be discussed in the

⁸ JASSO is an independent administrative organisation established under the Ministry of Education, Culture, Sports, Science and Technology.

months ahead, but an applicant needs to certify his or her identity by official documents, such as a *koseki* (a Japanese family registry), and the Ainu Association of Hokkaido will be in charge of certifying those eligible for this new scholarship measure (CAPP, April 19, 2013). Normally, JASSO allocates a limited number of scholarships to each university, but this time, it will set up special quotas for eligible Ainu students. In addition, based on the discussions at CAPP, it was also decided that an interest-free loan programme - implemented by the Hokkaido prefectural government - for Ainu students enrolling in higher education in Hokkaido would continue to exist for the time being (CAPP, June 14, 2013). Speaking of scholarship programmes, there have also been some positive changes in supporting Ainu students at the local level.

In 2010, Sapporo University launched a unique project called Urespa (ウレシバ, “growing together” in the Ainu language) project. This section is written based on the book “Urespa Oruspe ” published by Sapporo University Urespa Club in July 2013. The Urespa project is comprised of the following three pillars: the Urespa scholarship programme; Urespa companies; and Urespa movements. If Ainu students are admitted to Sapporo University as Urespa fellows, they are awarded scholarships equivalent to the full tuition and admission fees. In return, they belong to the Urespa club and are expected to learn, practice and promote Ainu culture to the general public together with other club members. As of June 2013, the Club has 21 members (14 Ainu students and 7 Wajin students) and it functions as the main organ of Urespa movements. About 20 leading companies based in Hokkaido join the list of Urespa companies and support the club’s activities. Building face-to-face relationships with those companies through activities, the project aims to create future job opportunities for Ainu students as well as to overcome social stigma. Professor Yuko Honda of Sapporo University, the founder of the Urespa Project, states in the book that there was much criticism for the first time when she proposed the project to the university. The main reason for opposition was that it could be considered as a reverse discrimination against non-Ainu students. In response, she argued that the Urespa project would not only be beneficial for Ainu students but it would also benefit Wajin students’ interests because it promotes diversity and opportunity at university. This argument is in line with “the diversity rationale” for affirmative action by Michael Sandel (see, Sandel, 2009, chap. 7). As Sandel explains that “the diversity rationale is an argument in the name of common good - the common good of the school itself and also of the wider society” (2009, p. 171), the Urespa project enables both Wajin and Ainu students to learn from each other.

However, challenges still remain for taking ethnicity into account in higher education and employment. For instance, a Wajin student who was as committed to Urespa activities as other Ainu students once faced financial difficulties to continue his studies. At that time, even though Professor Honda acknowledged the importance of diversity at university and the mission of the Urespa project, she had an ethical dilemma. The Wajin student might feel a flash of envy and think “Isn’t it unfair that only Ainu students receive financial support even though Wajin students do the same work?” For reasons of space, affirmative action and the relevant issue of “social justice” and “equity” cannot be discussed here. But it is a controversial issue and new Ainu measures may cause tensions between the Wajin and the Ainu in the future. Therefore, as the Council’s final report reiterates, it is important to raise public understanding about the Ainu culture, the historical relationships between the Wajin and the Ainu, and

the recent development of indigenous rights. In doing so, people will make a well-reasoned argument about the future direction of indigenous policy in Japan.

In relation to the future Ainu policy, there is one important item the Council missed: the definition of the Ainu. At its 10th session, one of the CAPP members addressed the issue of the official definition of the Ainu and the need for demographic data in order to implement more comprehensive Ainu policy in the future (CAPP, February 22, 2013). Although the Ainu are now acknowledged as an indigenous people, an absence of the official definition of the concept of “indigenous people” by the Japanese government makes the status of the Ainu ambiguous. As mentioned earlier, since 1972 the Hokkaido prefectural government has actually conducted surveys on Ainu living conditions based on its own criteria (Hokkaido Government, 2006, p.1). However, the precise population of the Ainu is still unknown since the ethnic background of Japanese citizens is not identified in Japan’s Population Census. Generally speaking, most CAPP members seemed to agree upon the necessity of Ainu population data, but they also acknowledged that it would be controversial to add a question regarding a citizen’s ethnicity to a census, which is probably an uncommon concept to most Japanese people. Furthermore, it is noteworthy that many Ainu people hide their identity in order to minimise the negative impact of racism and social inequality (Gayman, 2011). The 2008 survey on the Ainu (Hokkaido University, 2011) found that 57.4% of informants suffered inequality based on race and ethnicity and 46.3% of them experienced racial discrimination. It can be said that many Ainu people still experience discrimination from (non-Ainu) Japanese based on their appearance and other traits in their daily life. When it comes to the definition of the Ainu, self-identification is a fundamental factor as an indigenous individual. However, from another perspective, Ainu descendants can hide their identity or keep dual ethnic identities at any point in their life; their identity is not always fixed, rather it is fluid in nature. In some cases, Ainu people cross ethnic boundaries with great flexibility and go beyond the dichotomy between “Ainu” and “Japanese.”⁹ In any event, as far as the definition of the Ainu is concerned, extensive discussions need to be carried out from various points of view.

While the CAPP members and government officials were discussing the promotion of Ainu policy, the Ainu Party made its sensational inauguration speech in Biratori town, Hokkaido in January 2012. The Party was founded by several Ainu activists and Mr. Shiro Kayano, the representative of the Party (a son of the late Mr. Kayano), called for more comprehensive Ainu policies in line with the Declaration. The Ainu Party’s main policies are as follows: (1) the restoration of the Ainu’s rights and enhancement of their education and welfare; (2) the realization of a multi-cultural and multi-ethnic society based on coexistence; and (3) the realization of a sustainable society based on coexistence with nature (Ainu Party, 2012). As a political organisation solely for the Ainu, the Party aims to promote indigenous rights to language, land and natural resources, autonomy, education, and participation in political negotiation for the Northern Territories with Russia. In particular, it highlights the importance of school education for raising awareness on the Ainu history and culture and proposes an indigenous education system run from early childhood to university. The CAPP also appreciates the importance of school education in

9 For example, Sekiguchi’s oral history interviews with a practitioner of Ainu cultural activities in Tokyo depicted the “flexible dual-identity” of the Ainu: When I went to [lower secondary] school, I hardly ever thought about it [Ainu cultural activity]. In those days, I was “sometime being an Ainu”. So, I felt that I was both Japanese and Ainu at the same time...very strongly. It was like I was Japanese in my ordinary life but became Ainu on very special occasions. (Sekiguchi, 2007, p.142)

teaching Japanese children about the Ainu history. However, the CAPP and the Ainu Party show clear differences on the future Ainu education model. The model proposed by the Ainu Party is in line with the right to education stipulated in Article 14 of the Declaration.¹⁰ It is intriguing that the Party also expressed concerns over other minority groups' issues. Not only does it advocate a multicultural language programme in public schools, the Party also express its support for local suffrage for permanent foreign residents and ethnic schools, such as the Korean schools run by Zainichi Koreans.¹¹ Mr. Kayano stated that "the role of the Ainu Party is to eliminate the discrimination that continues to exist today and restore the rights of indigenous peoples" (Ainu Party, January 21, 2012) and their policy reflects generations of grievances suffered by the Ainu people, which many Zainichi Koreans have also experienced in Japan. As for environmental issues, the Party promotes the use of renewable energy and the elimination of nuclear energy, which is particularly relevant in Japan after the Great East Japan Earthquake, which occurred on the 11th of March 2011. However, considering the rigidity of the current Japanese political and social system, the aspirations of the Ainu Party are considered to be rather radical. As of August 2013, the Ainu Party has not held a seat in the National Diet of Japan. Amid these growing political movements of the Ainu people, some nationalistic Japanese politicians have intensified their resistance to pro-Ainu measures. In March 2012, a member of the Hokkaido prefectural assembly as well as a member of the Diet started to criticise the contents of the supplementary textbooks *The Ainu People: The Past and the Present*, arguing that the textbooks contain "misleading expressions" (see, for details, Onodera, March 19, 2012). These textbooks have been published by the FRPAC since 2001 to offer primary and junior-high school students a basic knowledge of Ainu history and culture. The editorial board consists of a university professor, a board member of the Ainu Association of Hokkaido, teachers (including retired teachers), and a NPO board member. The textbooks are distributed to the fourth and the eighth graders at all compulsory schools (except special schools) in Hokkaido. Politicians challenged specifically the interpretation of "Ainu history" in the textbooks, such as the descriptions of the annexation of Hokkaido in 1869. After the broad criticism of these textbooks, the FRPAC decided to revise texts (6 revisions in a primary textbook and 5 revisions in a junior-high school textbook) without consulting the editors (FRPAC, May 14, 2012). For instance, the italicized section of the following quotation was deleted: "in 1869, the Government of Japan decided to rename the island 'Hokkaido' and annexed it to Japan unilaterally without any consent of Ainu people" (Abe, 2012). However, the FRPAC's decision provoked a fierce backlash from the textbook editors. As a result of discussions within the editorial committee in July 2012, most of the texts, including the one mentioned here, were changed back to the original versions (Hokkaido Shimbun, July 19, 2012).

10 Article 14 of the Declaration states indigenous peoples' right to education as follows: Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination. States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.

11 Zainichi means "(foreigner) residing in Japan," and is often used to refer to Zainichi Koreans. More specifically, the term "Zainichi Chōsenjin" is used for people from North Korea and the term "Zainichi Kankokujin" is for people from South Korea.

According to Ito (2007), 84.4% of sample schools in Hokkaido (496 primary schools) allocate one to three hours per year to teach about the Ainu culture and history (p.68). However, their attempts are very much restricted by teachers' knowledge, textbooks, and government guidelines on education. As seen in the current controversy over the supplementary textbook, teaching the history of Hokkaido from the Ainu perspective in Japanese public schools would have far-reaching consequences. The Ainu issues are politically contested, particularly in Hokkaido, partly because the reparation of indigenous rights will involve transferring power from the Wajin to the Ainu. Consequently, it has caused a power struggle between the two groups and may even escalate into a power struggle among the Ainu themselves. It may appear rather naive but some Japanese politicians seem to fear that admitting past injustices against the indigenous Ainu inevitably leads to denying efforts of early Wajin settlers in Hokkaido and hamper national unity. In this context, it will take time to reach a national consensus on the Ainu policy, specifically in terms of the reparation of indigenous rights.

Nevertheless, the recent environmental case in Mombetsu, Hokkaido, shows the development of the recognition of indigenous cultural rights. In February 2010, the municipal government of Mombetsu authorised a plan to build an industrial waste dumping site near the Mobetsu River. Following this announcement, a group of Monbetsu Ainu and the Monbetsu branch office of the Ainu Association of Hokkaido (AAH) sought to recover their traditional fishing rights and legal access for ceremonies in the Mobetsu River. A Japanese NGO, the Shimin Gaikou Centre, delivered an intervention about this issue at the Permanent Forum in 2010, claiming the violation of the principle of the FPIC (Shimin Gaikou Centre, 2010). As a result of these efforts, the Monbetsu branch office of the AAH finally came to an agreement on environmental pollution control with a contractor of the dumping site on 10 March 2012. It took nearly two years to reach this result, but it is significant that the Ainu concluded an environmental agreement with a Japanese company based on indigenous cultural rights for the first time.

6. CONCLUSION

As summarily described in this paper, Japan's official recognition of the Ainu as an indigenous people corresponded to the historical development of global indigenous movements as well as the international legal discourse on indigenous peoples. It is particularly worth noting that the active participation and partnership of global indigenous organisations with member states inside and outside of the United Nations played an important role in developing the new international standards on indigenous rights. In recent years, the Government of Japan has promoted Ainu policy measures more positively than ever before. The works of the ACFAP were fundamental in steering future Ainu policy. The current discussions at the CAPP are equally important when implementing concrete Ainu policy measures recommended by the ACFAP. However, judging from the final report submitted by the ACFAP, policy priorities are mainly towards Ainu culture and language, traditional life, and improvement of living standards. When it comes to the implementation of the Declaration, the Japanese government expressed its negative view on the collective rights of indigenous peoples at the adoption of the Declaration in 2007. Therefore, in practice, neither the Council nor the government has discussed Ainu peoples' collective rights vis-a-vis indigenous peoples' collective rights as stipulated in the Declaration.

As the Council's final report states, the Declaration is seen to offer general international guidelines for indigenous people.

Japan has found a way to coexist harmoniously with different cultures in local communities due to a consequence of globalization in the last few decades. Accordingly, in recent years a number of researchers have challenged the myth of Japan "as a homogeneous nation" (see, for example, Oguma 1998). However, the myth of Japan's racial homogeneity still seems to prevail amongst some people, as is evident in the textbook controversy. Indigenous rights discourse could provoke both positive and negative "emotional" responses in Japanese society. Hence, although the Working Group for Ainu Policy Promotion finalised its strategic public relations campaigns on Ainu people, it will take a considerable amount of time to discuss controversial indigenous issues, including the constitutional recognition and an official definition of indigenous Ainu people. The Declaration has no binding force, hence its success hinges on the political will and actions of individual States. Acknowledging the fact that the Declaration is the culmination of decades of efforts by indigenous peoples and their advocates, the Japanese government is expected to carefully examine and implement future Ainu policy in line with the Declaration.

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APPENDIX A: The Declaration on the Rights of Indigenous Peoples and Japan (1995-2009)

Gov Panel '95	UN Declaration 2007		J-GOV*	Advisory Council for Future Ainu Policy					Policy Priorities (Final report '09)
				Main Subjects of Discussion	Gov Panel '09 Interview Results		NGO's recommendations (priorities)		
					Hokkaido	Tokyo	Int'l Network AINU	Chi Kara Nisatta	
	<i>Part I Fundamental Rights</i>								
	Article 1	Human rights (Individual and Collective rights)	Individual only	✓					◎
	Article 2	Equity	Individual only	✓	✓	✓	✓	✓	◎
	Article 3&4	Self-determination and autonomy	Reservation				✓	✓	
	Article 5	Effective participation	Individual only						
	Article 6	Citizenship							
	<i>Part II Life and Security</i>								
	Article 7	Existence	Individual only						
	Article 8	Cultural integrity	Individual only						
	Article 9	Right to belong to an indigenous community or nation	Individual only	✓	✓	✓	✓	✓	
	Article 10	Removal and Relocations	Individual only						
	<i>Part III Culture, Religion and Language</i>								

✓	Article 11	Culture	Individual only	✓	✓	✓			⊙
	Article 12	Spiritual and Religious Traditions	Individual only	✓	✓			✓	⊙
✓	Article 13	Language	Individual only	✓	✓	✓	✓ (Designation of Ainu as official language)	✓ (Designation of Ainu as official language)	⊙
	<i>Part IV Education, Media and Environment</i>								
	Article 14	Education	Individual only	✓	✓	✓	✓	✓ (Opportunity to receive ethnic education)	⊙
✓	Article 15	Information	Individual only	✓	✓	✓		✓	⊙
	Article 16	Media	Individual only	✓	✓	✓			
	Article 17	Employment	Individual only		✓	✓			
	<i>Part V Participation and Development</i>								

	Article 18	Decision-Making	Individual only	✓	✓	✓		✓	
	Article 19	Law and Policy-Making	Individual only					✓	
	Article 20	Economic Activities	Individual only	✓	✓	✓			
	Article 21	Economic and Social Development	Individual only	✓	✓	✓	✓	✓	©
	Article 22	Special Measures (children, senior citizen, gender)	Individual only	✓		✓			
	Article 23	Exercising right to development	Individual only	✓	✓	✓	✓	✓	
	Article 24	Health	Individual only		✓	✓			
	<i>Part VI Land and Resources</i>								
	Article 25	Spiritual relationship to land (spiritual relationship)	Individual only	✓	✓	✓			© (IWOR) *Promotion of usage of land and resources
	Article 26	Property rights	Reservation		✓	✓	✓	✓	
	Article 27	Procedure	Individual only						
	Article 28	Reparation	Reservation		✓	✓	✓	✓	

	Article 29	Environment	Individual only		✓				
	Article 30	Army	Individual only						
	Article 31	Cultural and Intellectual Property right	Individual only	✓	✓	✓		✓	
	Article 32	Development and FPIC	Reservation						
	Article 33	Community Membership/Identity	Individual only			✓			
	Article 34	Indigenous Law and Customs	Individual only						
	Article 35	Responsibilities	Individual only						
	Article 36	Cross-Border Rights	Individual only					✓	
	Article 37	Treaties and Agreements	Individual only						
	<i>Part VII Implementation</i>								
	Article 38	State obligations	Individual only	✓	✓	✓	✓	✓	©
	Article 39	Financial Assistance	Individual only	✓	✓	✓			
	Article 40	Disputes	Individual only						

	Article 41	Role of International Organisation for Technical and Financial Assistance	Individual only						
	Article 42	Implementation/Follow-up	Individual only						
	<i>VIII Principle of the Declaration</i>								
	Article 43	Minimum Standard	Individual only				✓		
	Article 44	Gender Equity (individual right)	---		✓				
	Article 45	Other Indigenous Rights	Individual only						
	Article 46	Sovereignty and territorial integrity of states	Individual only		✓				
	<i>Note</i>	*Japanese government denies collective rights in the Declaration stating that “the concept of collective human rights is not widely recognized as a well-established concept in general international law and most states do not accept it” (Explanation of Vote, 13 September, 2007).	Official apology	Official apology	⊙=Top priorities				

			Implementati on of the Declaration	Establishment of a permanent advisory panel					
			Participation to the negotiation process of northern territorial issue	Establishment of a Human right committee					