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Author(s)	落合, 研一; 常本, 照樹
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# On Policy Measures for the Socio-Economic Betterment of the Ainu People

Ken'ichi OCHIAI  
Teruki TSUNEMOTO

## 1. Prewar Ainu policy

### (1) The Ainu policy of the Meiji government and its impact

Today, Japan's Ainu population is estimated to stand at about 26,000.<sup>1</sup> Some argue that the actual number is probably higher because not all Ainu people are aware of their lineage, and those who are do not always disclose it. However, even an assumed figure of 50,000 would account for only 0.04 percent<sup>2</sup> of the

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<sup>1</sup> The Hokkaido Ainu Living Conditions Survey conducted in fiscal 2006 by the Hokkaido Government showed an Ainu population of 23,782 in Hokkaido. The survey defined Ainu people as individuals considered to have an Ainu bloodline and those residing with Ainu people due to marriage, adoption and so forth. The only living condition survey for Ainu people living elsewhere in Japan was conducted by the Tokyo Metropolitan Government in 1988, with results indicating that Tokyo's Ainu population stood at 2,700.

<sup>2</sup> The Statistical Handbook of Japan 2012 (published by the Statistics Bureau of the Ministry of Internal Affairs and Communications) indicates that Japan's total population in 2010 was 128,057 million. Meanwhile, the website of the Taipei Economic and Cultural Representative Office in Japan (<http://www.taiwanembassy.org/JP/ct.asp?xItem=70263&CtNode=6289&mp=202&xp1=>) states that Taiwan has 489,000 aborigines, accounting for approximately 2 percent of its total population, and that their tribes are officially recognized by

nation's total population.

The Ainu are an indigenous people associated with the northern part of the Japanese archipelago, especially Hokkaido, and have a unique language as well as religious and cultural distinctiveness.<sup>3</sup> Japan became a modern state following the Meiji Restoration, and the relationship between the nation and Ainu people began in 1869 when the Meiji government established the *Kaitakushi* (Hokkaido Development Commission).<sup>4</sup> The government gave the territory, which was then known as Ezochi or Ainu Mosir,<sup>5</sup> the new name of Hokkaido and officially incorporated it as part of Japan<sup>6</sup> to make it a stronghold against the threat of Russian expansion. This led to the development of Hokkaido based on the large-scale immigration of *wajin* (a term used to describe non-Ainu Japanese people).

Ainu people became Japanese citizens when the Family Registration Act was promulgated in 1871. However, the family registration of Ainu households is not thought to have been completed until around 1876.

Immediately after giving Ainu people Japanese nationality, the government encouraged them to earn a living through farming.<sup>7</sup> It also banned common Ainu customs, such as the wearing of earrings among males and tattoos among females, and strongly urged Ainu people to learn the Japanese language and

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the Taiwanese government.

<sup>3</sup> From a 2008 Chief Cabinet Secretary statement on the Resolution to Recognize the Ainu as an Indigenous People

<sup>4</sup> The *Kaitakushi* (Hokkaido Development Commission) was a government office tasked with developing Hokkaido, and was active from 1869 to 1882. The Meiji Government invited immigrants from around the country to promote the development of this then-wild region. In 1873, the government established the *Tondenhei* (farmer-soldier) system to defend and reclaim the land of Hokkaido.

<sup>5</sup> An Ainu term meaning “land of the Ainu”

<sup>6</sup> “*Kaitakushi jigyo hokoku* (Report on the Work of the Hokkaido Development Commission) Volume 1” pp. 4–5, “*Kaitakushi jigyo hokoku furoku: Furei ruiju* Volume 1” p. 185 onward

<sup>7</sup> “*Kaitakushi jigyo hokoku furoku: Furei ruiju* Volume 1” p. 533

master its writing system.<sup>8</sup> These policies were intended to support the improvement and promote the civilization of Ainu people to make them fit for citizenship, but inflicted decisive damage on the distinctive Ainu culture.<sup>9</sup>

The Meiji government introduced a modern land ownership system in Hokkaido as part of the nationwide establishment of its land tax collection policy. In 1872, the *Jisho Kisoku* (Regulations for Land in Hokkaido) and the *Hokkaido Tochi Baitai Kisoku* (Regulations for the Lease and Sale of Land in Hokkaido) were enacted, with the former stipulating that owners should be identified for all land in Hokkaido, including areas historically used by the Ainu.<sup>10</sup> However, few Ainu people obtained land ownership under these regulations because they had no concept of individuals possessing land in the first place and very few could understand written Japanese. In this way, as *wajin* who settled in Hokkaido acquired land ownership, Ainu people became displaced from the land where they earned a living. The Ainu were traditionally hunter-fishers, but deer hunting and salmon fishing – their traditional means of subsistence – were soon prohibited all over Hokkaido.

In this way, the decrease in land that could be used for traditional means of living, as well as the regulations on it, eventually seriously damaged Ainu culture, driving the Ainu people into poverty.<sup>11</sup>

## (2) Enforcement of the Hokkaido Former Aborigines Protection Act

Large-scale immigration by *wajin* to reclaim the land of Hokkaido and the introduction of the modern land ownership system reduced the territory available for Ainu people to earn a living, which in turn exacerbated poverty among Ainu communities over time. From the 5th Session of the Imperial Diet in 1893, several Diet members who were well aware of the plight of the Ainu

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<sup>8</sup> “*Kaitakushi jigyo hokoku furoku: Furei ruiju* Volume 1” pp. 448 – 449

<sup>9</sup> Report of the Advisory Council for Future Ainu Policy, p. 11 (2009)

<sup>10</sup> “*Kaitakushi jigyo hokoku furoku: Furei ruiju* Volume 1” pp. 260 – 262

<sup>11</sup> Report of the Advisory Council for Future Ainu Policy, p. 14 (2009)

argued that this indigenous people was in need of protection.<sup>12</sup> This led to the 1899 adoption of the Hokkaido Former Aborigines Protection Act at the 13th Session of the Imperial Diet.

Major protective measures stipulated in the act included the provision of land for agriculture (Article 1), farming tools and seeds (Article 4), medicine (Article 5), livelihood/funeral assistance (Article 6), tuition grants (Article 7), elementary schools (Article 9), and management for shared Ainu property (Article 10).<sup>13</sup> The act was intended to improve Ainu living conditions by providing farmland that would support agricultural subsistence. However, *wajin* immigrants had already acquired much of the land in Hokkaido, and that granted to the Ainu was not necessarily suitable for farming.<sup>14</sup> In addition, little agricultural instruction was provided by the government. As such, these measures did not effectively succeed in improving the living conditions of Ainu people.<sup>15</sup>

## 2. Postwar Ainu policy

### (1) The Ainu policy of the Hokkaido Government

With the promulgation of the Constitution of Japan after World War II, the Public Assistance Act and the Basic Act on Education came into force. Based on these legal stipulations, systems of social security and education

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<sup>12</sup> Stenographic Record of Legislative Proceedings of the 5th Session of the Imperial Diet House of Representatives No. 5, pp. 50–52, No. 15, pp. 203–204; Stenographic Record of Legislative Proceedings of the 8th Session of the Imperial Diet House of Representatives No. 47, pp. 851–852

<sup>13</sup> Stenographic Record of Legislative Proceedings of the 13th Session of the Imperial Diet House of Representatives No. 29, p. 414

<sup>14</sup> Susumu Emori, *Ainu minzoku no rekishi* (History of the Ainu), Sofukan, 2007, p. 442, others

<sup>15</sup> Report of the Advisory Council for Future Ainu Policy, p. 15 (2009). For more details of the act, see *Ainu tokubetsu rippo no seiritsu to sono tenkai* (Enactment of special Ainu legislation and related development) by Mutsuo Nakamura in *Heiwa to kokusai kyochō no kenpōgaku* (Constitutional law in peace and international cooperation), Yasuo Sugihara et al. (ed.), Keiso Shobo, 1990, p. 325 onward

were developed. Accordingly, the social security and school expense subsidies provided to Ainu communities were discontinued in 1946 and 1947, respectively, through revisions of the Hokkaido Former Aborigines Protection Act. The pre-war Ainu policy was based on the concept that Ainu people were Japanese citizens of a different race from other Japanese people. In the postwar years, however, the unequivocal prohibition of race-based discrimination under Article 14 of the Constitution<sup>16</sup> made it difficult to implement special measures exclusively for Ainu communities. Nevertheless, Ainu people continued to suffer discrimination in schools, workplaces and society in general even after the war ended.

Against this backdrop, Ainu individuals established the Ainu Association of Hokkaido in 1946 to promote Ainu dignity and improve their social status. The organization continuously asked the Japanese government to introduce policy measures for the development and preservation of Ainu culture and take steps to address their actual situations.<sup>17</sup>

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<sup>16</sup> However, some provisions remained effective until the abolition of the Hokkaido Former Aborigines Protection Act, such as stipulations mandating that the Governor of Hokkaido should approve all transactions and other matters involving land granted by the government (Article 2 of the Hokkaido Former Aborigines Protection Act revised in 1947) and manage shared Ainu property (Article 10). These provisions were included in the Act to protect the Ainu and ensure that the Government of Hokkaido would check the details of sales contracts to be concluded, as Ainu people had no concept of land ownership/transfer and were often deceived by *wajin* over sales contracts and other agreements. However, the stipulations can be seen to have unfairly restricted Ainu property rights under the Constitution of Japan. Based on this, it was often argued in postwar Diet sessions that the Hokkaido Former Aborigines Protection Act should be abolished. However, the Director General of the Hokkaido Development Agency and the Minister of Health and Welfare, who had jurisdiction over Ainu issues, argued that careful consideration would be required because the Act was the basis for various special measures for the Ainu, and some Ainu people even opposed the idea of such an abolition.

<sup>17</sup> The Ainu Association of Hokkaido was renamed the Hokkaido Utari

It was not until 1960 that measures to support Ainu people were actually implemented. In 1960, the Ministry of Construction conducted a survey on districts with unfavorable living environments, including Ainu communities, and decided to implement housing improvement measures. The Ministry of Health and Welfare also introduced a project designed to improve districts with unfavorable living environments, developing community centers and communal bathhouses as welfare facilities for Ainu communities in 1961. In 1962, state subsidies were provided for local governments to develop community workshops, drainage systems, communal kitchens, laundries and wells.<sup>18</sup> In tandem with these measures, the Hokkaido Government implemented a range of projects to improve the wellbeing of Ainu people, such as efforts to improve living environments and housing and to promote education. However, these initiatives failed to produce satisfactory results.<sup>19</sup>

In 1972, the Hokkaido Government conducted the Survey on Hokkaido Utari Living Conditions to clarify the actual situation of Ainu people. Based on the results, it implemented a set of projects known as the Hokkaido Utari Welfare Measures over a period of seven years from fiscal 1974 to 1980. The prefectural government subsequently conducted living condition surveys every seven years, and with the support of the national government implemented comprehensive welfare measures for Ainu people ranging from

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Association in 1961. The term *utari* means *compatriot* in the Ainu language. The association's name change reflects the scale of the blatant anti-Ainu discrimination that existed in those days; many Ainu asserted that they did not want to reveal their lineage, leaving the association no choice but to cast off a name that clearly showed its Ainu affiliation. The group was renamed the Ainu Association of Hokkaido in 2009.

<sup>18</sup> *Kosei hakusho* (Annual report on health and welfare) for FY 1964, Part 2 in Section 5 of Chapter 10, "*Dowa taisaku nado* (Anti-discrimination efforts and other measures), Database Service for White Papers and Other Documents on the website of the Ministry of Health, Labour and Welfare: <http://www.hakusyo.mhlw.go.jp/wpdocs/hpaz196401/body.html>

<sup>19</sup> Report of the Advisory Committee on Future Measures for Ainu People, p. 5 (1996), Report of the Advisory Council for Future Ainu Policy, p. 19 (2009)

the improvement of social welfare services to the promotion of education and culture. In all, four sets of welfare measures were implemented over a period of 28 years, with the last being from 1995 to 2001.<sup>20</sup> The largest total annual budget allocated for the measures was approximately four billion yen (about 49 million U.S. dollars), and the smallest was three billion yen (about 37 million U.S. dollars).

The objectives of the first set of welfare measures were to promote the self-reliance of Ainu people and enhance their social and economic standing through the improvement of social environment and social welfare provisions, the promotion of stable employment, the enhancement of education and culture and the advancement of production bases. There were three major policy areas: 1. district measures (improvement of living, employment and welfare conditions and the promotion of education and culture); 2. individual measures (housing loans and employment, education and welfare measures); and 3. support for the development of relevant organizations. Since then, cultural promotion measures have been gradually enhanced. In the fourth set of welfare measures implemented from fiscal 1995 to 2001, the objectives were to improve the social and economic standing of Ainu people based on cultural promotion, educational improvement, enhancement of stability in daily life, industrial promotion and the advancement of popular understanding of the Ainu people. In particular, the promotion of Ainu culture and understanding of the Ainu were emphasized as part of efforts to advance comprehensive measures. Major policy measures included: 1. cultural promotion (cultural inheritance, promotion of investigative research); 2. educational improvement (enhancement of educational standards); 3. stability in daily life and industrial promotion; and 4. promotion of the understanding of Ainu people.<sup>21</sup>

In 1997, the Ainu Culture Promotion Act<sup>22</sup> was established, and the Hokkaido

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<sup>20</sup> Report of the Advisory Committee on Future Measures for Ainu People, p. 5 (1996), Report of the Advisory Council for Future Ainu Policy, p. 19 (2009)

<sup>21</sup> Teruki Tsunemoto, Requests for Ainu Policy Measures, Hokkaido University Center for Ainu and Indigenous Studies, Report on the 2008 Hokkaido Ainu Living Conditions Survey, 2010, p. 105

<sup>22</sup> The law's official name is the Act on the Promotion of Ainu Culture, and

Former Aborigines Protection Act was abolished.<sup>23 24 25</sup> In this way, it was

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Dissemination and Enlightenment of Knowledge about Ainu Tradition, etc. Article 1 (purpose): The purpose of this Act is, in view of the situation in which Ainu tradition and culture (hereinafter referred to as “Ainu Tradition, etc.”), which are sources of pride of Ainu people, are placed, to realize a society in which the pride of Ainu people as an ethnic group is respected and thereby to contribute to the development of diverse culture in Japan by promoting measures for Ainu culture and dissemination and enlightenment of knowledge about Ainu tradition, etc. (hereinafter referred to as the “Promotion, etc. of Ainu Culture”).

<sup>23</sup> Ainu people argued that discrimination against them would continue as long as the Hokkaido Former Aborigines Protection Act was in place because it represented national feeling against them with its use of the derogatory term *former aborigines*. In 1984, the Hokkaido Utari Association adopted the Draft Law concerning the Ainu People at a general meeting, calling on the national and prefectural governments to abolish the Hokkaido Former Aborigines Protection Act and introduce a new law based on the draft. The draft law stated that in view of the fact that the fundamental human rights of Ainu people had been severely violated due to racial discrimination, the fundamental aim of the new law should be to eliminate discrimination against them. The provisions of the draft also covered the following: the securement of seats for Ainu representatives in the National Diet and local legislatures; the integration of courses on Ainu language, culture, history and other considerations in university education programs; the establishment of national research facilities to advance studies on Ainu culture and other matters and to preserve the culture; and the abolition of welfare measures and other protective programs for the Ainu combined with the establishment of an Ainu people's independence fund to be self-governed by Ainu people. In 1994, Shigeru Kayano became the first Ainu Diet member (in the Upper House) under the premiership of Tomiichi Murayama, the head of the Social Democratic Party of Japan, of which Kayano was a member. This started the Japanese government's movement toward the introduction of a new law. In 1997, the new Ainu Culture Promotion Act was adopted, and the Hokkaido Former Aborigines Protection Act was finally abolished in its supplementary provisions.

<sup>24</sup> Article 3 (Responsibility of National Government and Local Governments): The national government shall endeavor to implement measures that support

decided that the national government should be responsible for implementing Ainu cultural promotion measures under the basic plan developed by the Hokkaido Government. In the same year, the Hokkaido Development Agency (now the Hokkaido Bureau of the Ministry of Land, Infrastructure, Transport and Tourism) and the Ministry of Education, Science, Sports and Culture (now the Ministry of Education, Culture, Sports, Science and Technology) designated the Foundation for Research and Promotion of Ainu Culture as the organization that would implement related operations.<sup>26</sup> Since then, the

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the promotion, etc. of Ainu culture, including the nurturing of those who will inherit it, the improvement of publicity concerning Ainu traditions, etc., and the promotion of research and studies contributing to the promotion, etc. of Ainu culture. It shall also endeavor to provide local governments with advice and other assistance as necessary to promote measures by such governments for the promotion, etc. of Ainu culture.

(2) Local governments shall endeavor to implement measures for the promotion, etc. of Ainu culture according to the social conditions of their respective areas.

<sup>25</sup> Article 6 (Basic Plan): Prefectures specified in the Cabinet Order as appropriate for the implementation of comprehensive measures toward the promotion, etc. of Ainu culture in view of local social conditions (hereinafter referred to as “the prefectures concerned”) shall provide basic plans concerning measures for the promotion, etc. of Ainu culture in the prefectures concerned in accordance with the basic policy (herein referred to as the “basic plan”).

– The rest is omitted. –

<sup>26</sup> Article 7 (Designation, etc.): The Minister of Land, Infrastructure, Transport and Tourism and the Minister of Education, Culture, Sports, Science and Technology may designate no more than one juridical body in Japan as the organization to implement the operations prescribed in the following Article in response to an application from such a body providing that the body is either a general incorporated association or a general incorporated foundation established for the promotion, etc. of Ainu culture, and that it is recognized as being capable of appropriately and reliably performing the operations prescribed in the following Article.

– The rest is omitted. –

Article 8 (Operations): The designated juridical body shall perform the following operations:

foundation has overseen programs to promote Ainu culture and language. The total budget for measures concerning the promotion of Ainu culture in fiscal 2011 amounted to approximately 330 million yen (about 4 million U.S. dollars). Other welfare measures, such as efforts to improve Ainu living conditions, have been implemented by the Hokkaido Government since fiscal 2002 under an initiative called Measures on the Improvement of Living Standards of Ainu People.<sup>27</sup> The second set of improvement measures that started in fiscal 2009 included: 1. Provision of loans to Ainu people to help improve living conditions and build new houses for the promotion of stability in everyday life; 2. Improvement of opportunities for educational counseling to enrich education; 3. Improvement of vocational training and vocational counseling to stabilize employment situations; 4. Market expansion for Ainu handicrafts and enrichment of technical training for Ainu artisans to support the promotion of their industries.<sup>28</sup> The total budget for the measures was approximately 700 million yen (about 8.6 million U.S. dollars) in fiscal 2010 and 650 million yen (about 8.0 million U.S. dollars) in fiscal 2011.

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1. Execution of business concerning the promotion of Ainu culture, such as the nurturing of people who will inherit it;
  2. Work to disseminate and raise awareness regarding Ainu traditions and related matters, such as the implementation of publicity activities;
  3. Conduct of research and study contributing to the promotion of Ainu culture, etc.;
  4. Provision of advice, aid and assistance to those who promote Ainu culture, those who engage in activities to provide information and raise awareness regarding Ainu traditions and related matters, and those who conduct research and study for the promotion of Ainu culture, etc.; and
  5. Execution of business necessary to promote Ainu culture, etc. in addition to what is listed in each of the preceding items.

<sup>27</sup> Teruki Tsunemoto, Requests for Ainu Policy Measures, Hokkaido University Center for Ainu and Indigenous Studies, Report on the 2008 Hokkaido Ainu Living Conditions Survey, 2010, p. 105

<sup>28</sup> Second set of Measures to Promote the Improvement of Ainu Living Standards, Hokkaido Government (2008)

## (2) Living conditions of Ainu people today

The last Ainu living conditions survey by the Hokkaido Government was conducted in 2006.<sup>29</sup> This section covers the results pertaining to living and educational conditions among the various questions asked.

To clarify Ainu living conditions, the prefectural government investigated resident taxes levied and the provision of public assistance. It was found that the number of tax-exempt households exhibited a downward trend, suggesting an upward trend in the overall income of Ainu households. The results also showed that the disparity between the ratio of Ainu households receiving public assistance and those receiving such assistance in municipalities with Ainu residents showed a decline. This indicates a shrinking income gap between Ainu and other Japanese people, although inequalities in economic standing are not redressed.

In the area of education, the prefectural government investigated the numbers of students going on to senior secondary school and university. The results showed that 93.5% of Ainu children went on to senior secondary school after graduating from junior secondary school while 1.4% found employment, and that 17.4% of senior secondary school graduates went on to university, including junior college, while 49.9% found employment. In both cases, the ratio of those going on to higher-level schools increased, whereas that of students securing employment declined. Comparison between these ratios and those of all students who went on to higher-level schools in Hokkaido, however, shows a trend toward a widening of the gap for those who advanced to senior secondary school and those who went on to university.<sup>30</sup>

The Hokkaido University Center for Ainu and Indigenous Studies also conducted the Hokkaido Ainu Living Conditions Survey in October 2008. The results showed that the ratio of Ainu households receiving public assistance

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<sup>29</sup> Report on the 2006 Hokkaido Ainu Living Conditions Survey, Hokkaido Government Department of Environment and Lifestyle (2006)

<sup>30</sup> Report on the 2006 Hokkaido Ainu Living Conditions Survey, Hokkaido Government Department of Environment and Lifestyle (2006) pp. 5–7

was about 1.5 times that of all households in Hokkaido and 2.5 times that of households nationwide. The college entrance ratio of Ainu people under 30 was about half of the national average. More than 70 percent of Ainu people who advanced to higher education reported financial difficulties, while about three quarters of those who gave up on a college education cited economic difficulties as the reason.<sup>31</sup>

The surveys have revealed that the living and educational conditions of Ainu in Hokkaido have steadily improved. However, gaps between Ainu and other Japanese still remain.<sup>32</sup> The measures implemented by the Hokkaido Government have therefore failed to produce satisfactory results, and some Ainu people say this failure is because the measures were not derived from the indigeneness of Ainu people,<sup>33</sup> and because the lack of a process to reflect Ainu opinions resulted in measures that failed to adequately address their needs.<sup>34</sup> The measures implemented by the Hokkaido Government cover only Ainu people living in Hokkaido, and few efforts have been made for those outside Hokkaido. The Japanese government therefore faces a need to implement Ainu measures nationwide.<sup>35</sup>

### 3. Future Ainu policy

On September 13, 2007, the United Nations General Assembly adopted “the United Nations Declaration on the Rights of Indigenous Peoples”. Despite

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<sup>31</sup> Report of the Advisory Council for Future Ainu Policy (2009), p. 19

<sup>32</sup> Report of the Advisory Council for Future Ainu Policy (2009), p. 19

<sup>33</sup> Report of the Advisory Council for Future Ainu Policy (2009), p. 24, etc.

<sup>34</sup> Giichi Nomura, *Ainu shimpo: Utari kyokai ga motomete kitamono* (New Ainu Law – What the Hokkaido Utari Association wanted), Susumu Emori et al., *Ainugo ga kokkai ni hibiku* (The Ainu language resounds through the Diet building), Sofukan, 1997, p. 39 onward

<sup>35</sup> Teruki Tsunemoto, *Ainu shimpo no igi to senjuminzoku no kenri* (Significance of the New Ainu Law and indigenous rights), Horitsu Jiho, Vol. 69, No. 9, p. 2 onward

its affirmative vote on the declaration, the Japanese government presented the view that it was difficult to clarify whether the Ainu were indigenous as proposed in the declaration due to the lack of a clear definition of indigenous people in the document and in the international community, although the Japanese government recognized as a historical fact that the Ainu people indigenously inhabited in Hokkaido and other areas.<sup>36</sup> However, on June 6, 2008, both chambers of the Diet unanimously adopted “the Resolution to Urge the National Government to Recognize the Ainu as an Indigenous People”. In response, the Japanese government indicated its recognition of the Ainu as an indigenous people through a Chief Cabinet Secretary statement<sup>37</sup> and established “the Advisory Council for Future Ainu Policy” as an advisory body to the Chief Cabinet Secretary in July 2008.

Paragraph 1 in Article 14 of the Constitution of Japan stipulates: “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.” A leading theory in constitutional law holds that the French Revolution paved the way for the establishment of modern constitutionalism, which was significant because it liberated individuals by replacing the medieval class system and accepted liberated individuals as the *peuple*, with whom sovereignty resides, and as *citoyens*, who constitute the people, based on the principle of popular sovereignty.<sup>38</sup> Thus, the significance of modern constitutionalism lies in the fact that it brought people with various attributes together under the constitutional status of citizens. Based on this concept, the Japanese government’s recognition of the Ainu as indigenous may lack legal significance. Moreover, an increasing number of people receive public assistance in Japan due to its lingering economic malaise, and the Ainu are no longer the

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<sup>36</sup> House of Representatives, Written Reply No. 24. Naikaku Shushitsu 168 No. 24, September 25, 2007

<sup>37</sup> Chief Cabinet Secretary statement in 2008 on the Resolution to Recognize the Ainu as an Indigenous People

<sup>38</sup> Yoichi Higuchi, *Kokuhogaku* (Constitutional law), revised and extended edition, Yuhikaku Publishing Co., Ltd., 2007, pp. 7 – 14

only people who need national welfare measures. The rights guaranteed under the constitution should be enjoyed equally by Japanese people, and some argue that the implementation of welfare measures exclusively for Ainu people based entirely on their Ainu status is against the Constitution of Japan (particularly Article 14).<sup>39</sup>

In contrast, Koji Sato, a constitutional scholar and Chairman of the Advisory Council for Future Ainu Policy, explained the significance of recognizing the Ainu as an indigenous people in a lecture hosted by the Hokkaido University Center for Ainu and Indigenous Studies as follows: The concept of “the people” in the Constitution of Japan has two dimensions: one is the people represented by “We, the Japanese people” as stated in the preamble, and the other is “the people as individuals” as stated in Article 13. The recognition of the Ainu as indigenous means the Japanese government expressly acknowledged that the concept of “We, the Japanese people” includes two categories: the people as an ethnic majority and the people as an indigenous community. The Constitution of Japan mandates that two ethnic groups with different cultural backgrounds should live in harmony as “We, the Japanese people.”<sup>40</sup> From the viewpoint of “the people as individuals,” it further calls for the realization of a society in which Ainu people can live proudly without hiding their heritage. It should also be noted that the very existence of the Ainu as an ethnic group is essential for Ainu individuals to preserve their identity as Ainu. To this extent, therefore, measures targeting the Ainu as an indigenous group can be regarded as necessary and reasonable.<sup>41</sup>

The Report of the Advisory Council for Future Ainu Policy maintains that future related policies should be developed and implemented based on the recognition that the Ainu are an indigenous people. This is because the

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<sup>39</sup> This view was also recognized by the Advisory Council in the Report of the Advisory Council for Future Ainu Policy (2009), p. 26

<sup>40</sup> Koji Sato, *Nihonkoku kenpo to senjumin dearu Ainu no hitobito* (The Constitution of Japan and the indigenous Ainu), lecture hosted by the Hokkaido University Center for Ainu and Indigenous Studies, October 13, 2011

<sup>41</sup> Report of the Advisory Council for Future Ainu Policy (2009), p. 28

national government has a great responsibility to take sufficient measures to ensure the revival of indigenous Ainu culture,<sup>42</sup> taking into consideration the historical context of how the modernization of Japan as a national policy seriously damaged their culture.<sup>43</sup>

Based on the report, the Japanese government established “the Comprehensive Ainu Policy Office” within the Cabinet Secretariat, and its Council for Ainu Policy Promotion headed by the Chief Cabinet Secretary now examines specific policy issues.

As mentioned earlier, the ratio of Ainu people to Japan’s total population is considerably smaller than that of aborigines to Taiwan’s total population. Very few Japanese citizens realize that Ainu people today have yet to lose their ethnic identity or their own culture, and that they continue to demonstrate the will to bring about a cultural renaissance and to live in the region around Hokkaido.<sup>44</sup> This makes it important for people to acquire a sound understanding of the history, tradition and current situation of the country’s indigenous Ainu people. The continuation of welfare measures exclusively for Ainu people in the absence of such understanding might provoke a backlash from non-Ainu Japanese people, who constitute the ethnic majority, and give rise to new anti-Ainu discrimination. Against this background, the Council for Ainu Policy Promotion proposed the establishment of “the Symbolic Space for Ethnic Harmony” as a pivotal point in future Ainu policy. The space will be created in the Hokkaido Town of Shiraoi, which is home to many Ainu people and is easily accessible from Hokkaido’s capital city of Sapporo and New Chitose Airport. It will take the form of a large-scale national cultural park with a range of facilities, including a national museum, installations for cultural activities, and a zone for exchanges among people with various ethnic

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<sup>42</sup> The term “culture” as referred to here should be interpreted as representing all unique aspects of the Ainu lifestyle, including land usage, as well as language, music, dance and craftwork.

<sup>43</sup> Report of the Advisory Council for Future Ainu Policy (2009), p. 24

<sup>44</sup> Report of the Advisory Council for Future Ainu Policy (2009), p. 24

backgrounds from Japan and elsewhere.<sup>45</sup>

Little is known about the living conditions of Ainu people based outside Hokkaido because the previous welfare measures for the Ainu were implemented by the Hokkaido Government. Accordingly, the Council for Ainu Policy Promotion conducted research on the living conditions of Ainu people outside Hokkaido. Based on the results, it submitted the following set of recommendations as measures to be implemented both in Hokkaido and on a nationwide scale: 1. Support for people going on to higher education; 2. Implementation of measures for welfare counseling services; 3. Support to ensure stable employment; and 4. Support for the preservation of Ainu culture outside Hokkaido.<sup>46</sup>

One of the most recent movements toward the economic development of Ainu people relates to the Traditional Crafts Promotion Program sponsored by the Ministry of Economy, Trade and Industry (METI). METI's effort to promote traditional Japanese crafts is done in the hope that these traditions be passed on to future generations as one of the cultural treasures of the Japanese people.

For a craft item to be designated a Traditional Craft Product under the Promotion of Traditional Craft Industries Act, it must satisfy the criteria such as the article must be manufactured using traditional techniques. Once designated as a Traditional Craft Product, public commendations, as well as financial awards, are bestowed on those people who have contributed to the production of such items. A certificate of authenticity is issued for each craft product that bears the symbol mark of a traditional craft product designated by the METI.

Since the enactment of the Traditional Craft Act, 198 craft industries

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<sup>45</sup> Comprehensive Ainu Policy Office of the Cabinet Secretariat & Hokkaido Bureau of the Ministry of Land, Infrastructure, Transport and Tourism, *Minzoku kyosei no shocho tonaru kukan koso nitsuite* (The concept of the Symbolic Space for Ethnic Harmony), 2012

<sup>46</sup> Report of the Working Group for Research on Living Conditions of Ainu People outside Hokkaido of the Council for Ainu Policy Promotion, 2011, p. 34

have been recognized by the government. These crafts represent 46 out of 47 prefectures of Japan. The only prefecture which has no recognized craft industry is Hokkaido, mainly because the criteria for the recognition practically requires history of more than 100 years and any industry developed by the Japanese since the colonization of Hokkaido does not meet this.

Recently Ainu people in Hokkaido decided to apply for this program since their distinctive products including wood crafts and clothes have histories of far more than 100 years. Ainu people from Biratori Town in southern Hokkaido applied a traditional "bark" clothes made of Attush fabrics and a wooden tray with traditional Ainu pattern for recognition.

On March 8, 2013, The METI designated these Ainu traditional crafts as a Traditional Craft Product under the Promotion of Traditional Craft Industries Act. These Ainu crafts are the first Traditional Craft Product in Hokkaido, and the 215th in the whole country.

As described above, the policies for the Ainu people are putting into force slowly yet steadily.