Comments by the Government of Japan regarding the Concluding Observations of the Committee on the Elimination of Racial Discrimination (CERD/C/JPN/CO/7-9)

1. In the concluding observations of the Committee on the Elimination of Racial Discrimination (hereinafter referred to as "the Committee") (CERD/C/JPN/CO/7-9) that were adopted on September 26, 2014, following the consideration of the combined seventh to ninth periodic reports of Japan during the Committee's 85th session, the Committee requested the Government of Japan to provide information on its follow-up to the recommendations contained in paragraphs 17, and 22 within one year. The Government of Japan hereby submits an additional report in response to that request. The Government of Japan also provides additional comments regarding paragraph 19 and 21 for which information on its follow-up was not requested, as the Government of Japan deems it necessary to provide the Committee with further explanation. The additional report is as follows.

2. The Government of Japan will provide information on its follow-up to the recommendations contained in paragraphs 18 in due course.

Paragraph 17

In the light of its general recommendation No. 25 (2000) on the gender-related dimensions of racial discrimination and No. 30 (2004) on discrimination against non-citizens, the Committee recommends that the State party take adequate measures to effectively address the issue of violence against migrant, minority and indigenous women by prosecuting and sanctioning all forms of violence against them, and to ensure that victims have access to immediate means of redress and protection. The State party should also review its legislation on residence status to ensure that foreign women married to Japanese citizens or to non-citizens with permanent residence status will not be expelled upon divorce or repudiation, and that the application of the law does not have the effect, in practice, of forcing women to remain in abusive relationships.

3. The efforts made to ensure that foreign victims of spousal violence have access to immediate means of redress and protection include the preparation of information materials for foreign victims and their distribution to relevant organizations as well as the provision of useful information for foreign victims in eight languages via the website of the Cabinet Office. Spousal Violence Counseling and Support Centers are also making efforts, such as the appointment of counselors who can speak foreign languages.

4. In cases of domestic violence (hereinafter referred to as "DV") and other occasions where the physical safety of persons needs to be secured immediately, the police has been promoting

prompt and appropriate responses in an organized manner, including the arrest of the perpetrator and protective measures for victims and their related persons, placing highest priority on their safety.

5. The Immigration Bureau has established its own guidelines concerning cases of DV in line with the "Basic Policy Concerning Measures for the Prevention of Spousal Violence and the Protection of Victims" formulated by the ministries and agencies concerned, including the Ministry of Justice. Under the guidelines, if any victim of DV is identified, appropriate measures will be taken commensurate with the victim's physical and psychological conditions, while placing top priority on the protection of the victim and taking into account the fact that the victim was subjected to both physically and mentally harrowing conditions. The Immigration Bureau is also making efforts for further protection of victims through cooperation with Spousal Violence Counseling and Support Centers, Women's consultation offices, and relevant organizations, including the police.

6. Women's consultation offices provide consultation for DV victims of any nationality, and if temporary protection is necessary, in addition to providing temporary protection themselves, these offices entrust temporary protection to private shelters, etc., that can provide appropriate support for victims.

7. In Japan, in cases where a foreign national who entered and has been residing in Japan with a status of residence of "Spouse or Child of Japanese National" or "Spouse or Child of Permanent Resident" that was acquired upon marriage to a Japanese national or a person who has the status of permanent resident is divorced from or bereaved of his/her spouse, if he/she applies for permission to continue residing in Japan for any reason, whether or not to grant permission to reside is determined from a comprehensive perspective taking into account the situation that led to the divorce or bereavement including the reason for application, the history and situation of residence in Japan of the applicant, and family relationships. In particular, in cases where the applicant is a foreign national and parent of a child with Japanese nationality who requires care and protection and wishes to reside in Japan for the purpose of supporting the child, change of residential status to that of "Long-Term Resident" is permitted if the parent-child relationship and the fact that the applicant has parental authority over his/her own child and is actually bringing up and looking after the child are confirmed.

8. The provision of Item 7, Paragraph 1, Article 22-4 (Revocation of Status of Residence) of the Immigration Control and Refugee Recognition Act stipulates that if a foreign national residing

in Japan with a status of residence of spouse of a Japanese national or spouse of a permanent resident fails to continue to engage in the activities of a spouse while residing in Japan for more than six months, the current status of residence of such foreign nationals may be revoked except for cases in which he/she "has a justifiable reason." Regarding this provision, DV is considered as "a justifiable reason" and the status of residence is not revoked in cases involving DV.

9. Such treatment as described in the preceding paragraph is based on the recognition by the Government of Japan that DV is a serious infringement on human rights and includes acts that constitute a crime and that, as most DV victims are women, DV against some women who sometimes experience difficulty in being economically independent impairs the dignity of such individuals and impedes the realization of gender equality.

10. If a foreign DV victim is identified, the protection of the victim is ensured in cooperation with relevant organizations. At the same time, the application for an extension of the period of stay by a DV victim who has been obliged to live separately due to DV or who has difficulty in preparing documents to be submitted, or the application for a change of status of residence by a DV victim who needs to change her status of residence as a result of DV are appropriately treated from a humanitarian standpoint, giving due consideration to the individual situation of the applicants. In 2014, the permission for an extension of the period of stay or a change of status of residence was granted to 62 applicants (preliminary data).

11. In addition, with respect to DV victims who are overstaying or otherwise in breach of the Immigration Control and Refugee Recognition Act as a result of DV, humanitarian measures are taken with due consideration, depending on the situation of each case. In 2014, status of residence was granted to one such victim (preliminary data) through special permission for residence.

Paragraph 22

Bearing in mind its general recommendation No. 29 (2002) on descent, the Committee recalls that discrimination on grounds of descent is fully covered by the Convention. The Committee recommends that the State revise its position and adopt a clear definition of Burakumin in consultation with the Buraku people. The Committee also recommends that the State party provide information and indicators on the concrete measures taken upon the termination of the Dowa Special Measures in 2002, in particular on the living conditions of the Burakumin. The Committee further recommends that the State party effectively apply its legislation to protect the Burakumin from the illegal access to their family data which may expose them to discriminatory acts, investigate all incidents relating to illegal abuses of family registration and punish those

responsible.

12. As stated in the comments by the Government of Japan regarding the concluding observations of the Committee following the consideration of the combined first and second periodic reports of Japan, the term "descent" provided in Article 1(1) of the Convention indicates a concept focusing on the race or skin color of a past generation, or the national or ethnic origins of a past generation, and it is not understood as indicating a concept focusing on social origin.

13. At the same time, with regard to the Dowa issue (discrimination against the Burakumin), the Government of Japan believes that "Dowa people are not a different race or a different ethnic group, and they belong to the Japanese race and are Japanese nationals without question" as stated in the report of the Council on Dowa Measures (August 11, 1965).

14. As described above, the Government of Japan does not share the interpretation of "descent" with the Committee. At any rate, however, on the basis of the spirit declared in the preamble of the Convention, we take it for granted that no discrimination should be conducted including discrimination such as the Dowa issue. For those related to the Burakumin, the Constitution of Japan stipulates not only the guarantee of equality as Japanese nationals under the law but also the guarantee of equality in terms of all rights of Japanese nationals. Therefore, there is no discrimination at all for civil, political, economic and cultural rights under the legal system. The efforts of the Government of Japan to address the Dowa issue are as follows.

15. With the expiration of the Act on the Dowa Special Measures at the end of fiscal 2001 (March 31, 2002), the Ministry of Education, Culture, Sports, Science and Technology ended the High School Scholarship Subsidy Program that it had been implementing as part of the Dowa Special Measures up to the end of fiscal 2001.

16. Since fiscal 2002, the above-mentioned program has been integrated into general programs. Today, the scholarship program for high school students, including those from Dowa districts, is carried out by each prefectural government, and the scholarship program for university students, etc., is carried out by the Japan Student Services Organization.

17. In addition, education to enhance awareness of respect for human rights is promoted through school education and social education. The roadmap for the resolution of the Dowa issue is now being implemented, in line with "the Basic Plan for Promotion of Human Rights

Education and Encouragement" approved by the Cabinet in March 2002, by promoting measures for human rights education and awareness-raising, comprehensively and systematically.

18. The Ministry of Health, Labor and Welfare is making various efforts to encourage each business establishment to open their doors widely to applicants for employment and to conduct a fair recruitment and selection process based on the aptitude and ability of the applicants. Specifically, business establishments above a certain size are required to assign a "Fair Recruitment and Human Rights Awareness Promoter" who assumes responsibility for the administrative affairs of each establishment in order to ensure a fair worker recruitment and selection process at the establishment. Since the termination of the Dowa Special Measures in 2002, the Ministry has been making efforts to further promote the assignment of persons in the position of Fair Recruitment and Human Rights Awareness Promoter.

19. From the viewpoint of respecting the basic human rights of applicants in the recruitment and selection process of businesses and preventing discrimination in employment based on the place of birth or family-related or other matters for which the applicant is not responsible, or for any situation that each applicant should be free to choose (those related to thoughts or beliefs), the Government of Japan provides various guidance and encourages employers to conduct fair recruitment and selection.
Concrete measures include:

- Ensuring the use of an application form that does not contain any question that might lead to discrimination in employment in the recruitment of new junior and senior high school graduates;
- Preparing and distributing a brochure to promote fair recruitment and selection; and
- Publishing the "matters that require thoughtful consideration in the recruitment and selection process," which is a list of matters that might lead to discrimination in employment if asked about in an interview, including the place of birth of the applicant, etc., on the website of the Ministry of Health, Labor and Welfare or in brochures

If any event that might lead to discrimination in employment is reported, a verification of the report is conducted, and if it is determined to be true, the staff of the Public Employment Security Office provide guidance to the business owner.

20. The *Rimpokan* (settlement house) has been engaging in various services, including consultation services, with the aim of contributing to the resolution of the Dowa issue and thus helping to improve the livelihood of the people of the community and enhancing human rights

awareness. After the termination of the Dowa Special Measures in accordance with the Cabinet decision in July 1996, etc., as part of general measures, the *Rimpokan* has been established and operated as an open community center that provides residents with a place of exchange concerning welfare improvement and the enhancement of human rights awareness for the whole community, including the surrounding area.

21. To be specific, the *Rimpokan* provides various services in a comprehensive manner, including various consultation services concerning daily life in the community and awareness-raising and information dissemination services concerning human rights protection as well as regional exchange promotion services and day services that are conducted depending on the actual situation of the community.

22. In order to eliminate a sense of discrimination related to Dowa issues, the Human Rights Organs of the Ministry of Justice hold lecture meetings and training workshops, distribute promotional pamphlets, and carry out promotional activities at various events under the slogan of "Eliminate Prejudice and Discrimination against Dowa issues" as one of annual priority matters of promotional activities.

23. Although not intended to address the Dowa issue directly, the "principle of the openness of the family register" was reconsidered from the viewpoint of preventing false requests for certificates of matters recorded in the family register and protecting personal information. The amended Family Register Act in effect from May 1, 2008 contains measures to prevent false requests for information, such as setting stricter conditions for third-party requests for information, requiring the identification of the person making the request, and strengthening penal provisions applied to any person who has obtained family data by wrongful means.

24. Regarding the details of the handling of these measures, a directive was issued by the Director General of the Civil Affairs Bureau, Ministry of Justice, and efforts are being made to make them known to municipalities that issue certificates concerning family registers.

Paragraph 19

The Committee encourages the State party to revise its position and to allow Korean schools to benefit, as appropriate, from the High School Tuition Support Fund and to invite local governments to resume or maintain the provision of subsidies to Korean schools.

25. In response to the concern raised by the Committee, the Government of Japan hereby

explains once again that the decision not to designate Korean schools (chosen-gakko/chosen-hakkyo in Japanese) for eligibility into the High School Tuition Support Fund System is not an act of discrimination.

26. The High School Tuition Support Fund System is a system by which high schools receive support funds on behalf of their students and then cover their tuition with those funds. Accordingly, high schools are required to have in place a system that will appropriately manage these tuition support funds so that the funds will be surely used to cover the tuition.

27. To ensure this, Article 13 of Designated criteria for designation regarding the system, which stipulates the regulations on the criteria for examining whether schools for foreign nationals in Japan are eligible for the system, clearly requires that appropriate school management must be carried out in accordance with the relevant regulations; specifically, schools are required to strictly observe all relevant regulations stipulated in the Basic Act on Education, the School Education Act, and the Private School Act, etc.

- Designated criteria for designation

  Article 13

  In addition to regulations specified in the preceding Article, designated educational institutions must carry out appropriate school management in accordance with regulations, including ensuring that funds provided through the High School Tuition Support Fund are appropriated to cover equivalent tuition costs.

28. In regards to the applicability of the High School Tuition Support Fund System to Korean schools, as a result of an examination to determine whether Korean schools satisfy the requirements for eligibility to the system, it became clear that Korean schools have a close relationship with Chongryon (Chosen Soren in Japanese) and that these schools are under the influence of Chongryon in regards to educational content, personnel affairs, and finance. Since we were unable to obtain adequate evidence that these schools were not under "improper control," which is proscribed by Article 16, Clause 1 of the Basic Act on Education, and were unable to confirm that these schools conform with one of the criteria for designation, as stipulated in the above-mentioned Article 13, in terms of "appropriate school management in accordance with regulations," they could not be designated for eligibility to the High School Tuition Support Fund System.

- Clause 1, Article 16, Basic Act on Education

  Education shall not be subject to improper control and shall be carried out in accordance with this and other acts; education administration shall be carried out in a fair and proper manner

through appropriate role sharing and cooperation between the national and local governments.

29. The autonomy of Korean schools is not violated even when the High School Tuition Support Fund System is not applied. Should Korean schools obtain the approval of the relevant prefectural governor and become high schools conforming with the requirements stipulated in Article 1 of the School Education Act, those schools may be eligible for the current High School Tuition Support Fund System. At present, many Korean residents of Japan are studying at high schools conforming with the requirements stipulated in Article 1 of the School Education Act or at schools for foreign nationals that are already covered by the High School Tuition Support Fund System, and, in these cases, these students are receiving support funds through the system. Therefore, since Korean schools are not excluded from the system by reason that students are Korean residents of Japan, Korean schools and students of those schools are not subjected to discrimination or violations of rights to education.

Subsidies from local governments

30. Children of foreign nationals, including Koreans, can receive education for free at public schools of compulsory education in the same manner as Japanese students, and thus opportunities for education are ensured. Therefore, if a local government does not provide subsidies to a Korean school, it should not be considered as hindering the right to education of children because of the fact that they are Korean residents of Japan.

31. We understand that subsidies from local governments to Korean schools are provided by each prefecture or municipality at their own discretion on their own responsibility, taking into account fiscal conditions and the need for subsidies from the viewpoint of public interest and education promotion. Therefore, it is considered inappropriate for the national government to directly request local governments to resume or maintain the provision of subsidies without regard to the situation of each local government.

Paragraph 21

The Committee recommends that the State party review its position and consider recognizing the Ryukyu as indigenous peoples and take concrete steps to protect their rights. The Committee also recommends that the State party enhance its consultations with Ryukyu representatives on matters related to the promotion and protection of Ryukyu rights. The Committee further recommends that the State party speed up the implementation of measures adopted to protect the Ryukyuan languages from risk of disappearance, facilitate the education of the Ryukyu people in their own language and include their history and culture in textbooks used in school curricula.

32. We understand that people in Okinawa have inherited a unique culture and tradition over their long history. However, the Government of Japan recognizes only the Ainu people as indigenous people in Japan.

33. It cannot be said that there is a widespread understanding in Japan that the people from Okinawa are "indigenous people". For example, in December 2015, the City Council of Tomigusuku, Okinawa Prefecture, adopted an opinion statement (see the attached) stating that "most people of Okinawa do not consider themselves to be indigenous people," and that the recommendations by the UN treaty bodies which regard the people of Okinawa as "indigenous people" are regrettable and that they should be retracted. In June 2016, the City Council of Ishigaki, Okinawa Prefecture also adopted an opinion statement against the UN recommendations (see attached) which states that the "the comment that the people of Okinawa are indigenous people is incorrect," requesting that such recommendation be retracted.

34. In any case, Japanese nationals both resident in and from Okinawa are equally Japanese nationals, and are equally vested with all the rights reserved for Japanese nationals.

(Attached)

(Provisional translation by the Ministry of Foreign Affairs)

Opinion statement requesting the UN Human Rights Treaty Bodies to revise their understanding that the "people of Okinawa are indigenous people of Japan" and to retract such recommendations

On September 22nd, 2015 Mr. Takeshi Onaga, Governor of Okinawa, made a speech at the UN Human Rights Council, held in Geneva, Switzerland from September 14th to October 2nd, 2015. The speech was arranged by Shimagurumi-kaigi ("Island-Wide Council for Leading to the Future and Realizing the Okinawa Statement") in coordination with The International Movement Against All Forms of Discrimination and Racism (IMADR) and Shimin Gaiko Center (SGC) which are UN NGOs *(sic)*. These two UN NGOs have lobbied the UN that the "people of Okinawa are indigenous people," and Governor Onaga's speech, which was made using SGC's speech slot, sent out the erroneous perception that the "people of Okinawa are indigenous people," to the world, regardless of the content of the Governor's speech or his intent.

This is due to the fact that, as early as 2008, following appeals made by Mr. Yasukatsu Matsushima (The Association of Comprehensive Studies for Independence of the Lew Chewans) who was advised by the SGC, the UN issued a recommendation to the Government of Japan that the people of Okinawa are indigenous people and are not Japanese.

The recommendation reads: "32. The Committee notes with concern that the State party has not officially recognized the Ainu and the Ryukyu/Okinawa as indigenous peoples entitled to special rights and protection (art. 27). The State party should expressly recognize the Ainu and Ryukyu/Okinawa as indigenous peoples in domestic legislation, adopt special measures to protect, preserve and promote their cultural heritage, adopt special measures to protect, preserve and promote their cultural heritage and traditional way of life, and recognize their land rights. It should also provide adequate opportunities for Ainu and Ryukyu/Okinawa children to receive instruction in or of their language and about their culture, and include education on Ainu and Ryukyu/Okinawa culture and history in the regular curriculum." Although the Government of Japan has not accepted the recommendation, the UN repeated the recommendation in 2010 and 2014.

Most people of Okinawa do not consider themselves to be indigenous

people, and it is extremely regrettable that such recommendations are being made without the awareness of the people of Okinawa.

Even during the period of US military administration, we the people of Okinawa had always considered ourselves to be Japanese, continued strongly to hope the return to our homeland, and on May 15th, 1972, we achieved the return. Since then, we have continued to enjoy peace and happiness as Japanese citizens, exactly in the same way as citizens of other Prefectures.

Nonetheless, if the people of Okinawa were to claim their rights as indigenous people, we will be seen as non-Japanese minority by the rest of the Japanese, thus promoting reverse discrimination.

We shall never forget the thoughts of our ancestors who sacrificed their lives to protect our homeland Japan and Okinawa in the Battle of Okinawa. The people of Okinawa are Japanese, and are definitely not indigenous peoples. Therefore, we request the UN Human Rights Treaty Bodies to immediately revise their perception that the “people of Okinawa are indigenous people,” and to retract their recommendations. We also request the Government of Japan and the administrative agencies of Okinawa to reach out to the UN Human Rights Treaty Bodies so that the Treaty Bodies revise their perception that the “people of Okinawa are indigenous people,” and retract their recommendations.

We submit this opinion statement in accordance with Article 99 of the Local Autonomy Act.

December 22nd, 2015

City Council of Tomigusuku, Okinawa Prefecture

(Attached)

(Provisional translation by the Ministry of Foreign Affairs)

Opinion statement requesting the UN to retract their recommendations that "the people of Okinawa are indigenous people"

The Human Rights Committee and the Committee on the Elimination of Racial Discrimination have made recommendations to the Government of Japan on four occasions, in 2008 and 2014 for the former and in 2010 and 2014 for the latter, requesting the Government of Japan to recognize the people of Ryukyu/Okinawa as indigenous people, and to protect their rights, traditional culture and language.

In the Okinawan dialect, there still remain several words of the ancient Japanese language; the lifestyle is the same as mainland Japan, and (the people of Okinawa are) of the same ethnic group. Therefore, the claim that the people of Okinawa are indigenous people is incorrect.

At the same time, traditional arts and culture that remain in the respective regions of Okinawa are being passed down voluntarily and actively, and an issue concerning protection of the rights should be solved by domestic politics and in accordance with domestic laws, and thus should not be subject to recommendations from the UN.

The people of Okinawa, as is the case with citizens of other Prefectures of Japan, enjoy the highest level of human rights and receive high quality social welfare, health care and education.

Although the recommendations by the UN that "the people of Okinawa are indigenous peoples" are not legally binding, they are potentially dangerous since they may cast doubts as to the attribution of territories including the Senkaku Islands, which is a part of Okinawa Prefecture, territorial waters, and natural and marine resources. For that reason, the Council of Ishigaki urges the Government of Japan to call on the UN to retract those recommendations.

We submit this opinion statement in accordance with Article 99 of the Local Autonomy Act.

June 20th, 2016

City Council of Ishigaki