

A JOINT POSITION PAPER FROM THE

AINU ASSOCIATION of RERA

*Yuuki Hasegawa*

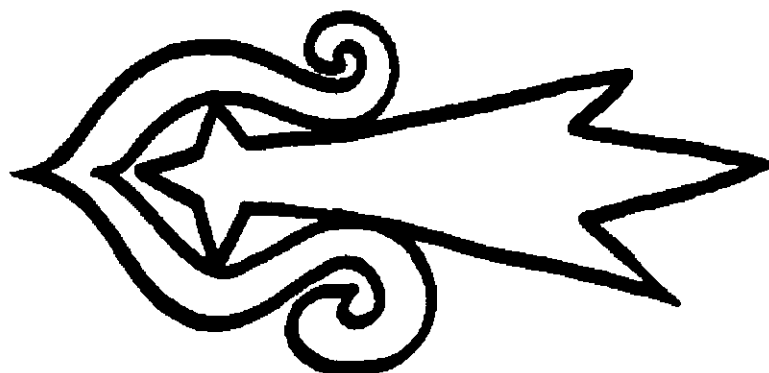
and the

AINU INTERNATIONAL NETWORK

*Okii Kano*

*Kanako Uzawa*

SUBMITTED TO  
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AINU ASSOCIATION OF RERA

YUUKI HASEGAWA  
#2 11-1 OYAMA-CHO  
SHIBUYA-KU  
TOKYO JAPAN 151-0051  
TEL/FAX (81) 3 3469 9019  
E-MAIL: [yuuki\\_asung@hotmail.com](mailto:yuuki_asung@hotmail.com)

AINU INTERNATIONAL NETWORK

KANAKO UZAWA  
2-15-8 HIGASHIDAIMON  
UWARA-SHI  
SAITAMA, JAPAN 337-0964  
TEL/FAX (81) 48 878 4586  
E-MAIL: [kanako\\_77@hotmail.com](mailto:kanako_77@hotmail.com)

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Seventeenth Session of the Working Group on Indigenous Populations  
Geneva, Switzerland  
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Statement by the AINU ASSOCIATION of RERA (Tokyo)  
Yuuki Hasegawa  
Item 5

Thank you, Madame Daes.

At present, Madame Chairperson, the Japanese government does not recognize the right of the Ainu people to manage our own land, not even the right to administer certain areas, such as sacred sites and those places which hold historical significance for us. These historically significant lands naturally include the sacred places where our ancestors prayed and the lakes and mountains that are the stage for our Ainu legends. They also include *chashi*, which are the sites that were used as forts during the invasion of the Japanese into our territory, as well as the sites commemorating the forced relocation of Ainu children for assimilationist education.

As an Ainu living in Tokyo, I feel it is important to point out that these historically meaningful sites are not limited to the island of Hokkaido. For example, there is a memorial site in Tokyo, which commemorates the forced relocation of Ainu to a boarding school in the distant capital, where they were subjected to assimilationist education. In 1872, the Colonial Development Agency established in Tokyo the first of its many schools aimed at assimilating the Ainu into the Japanese way of life. Built in the Shiba -Zojoji area of Tokyo, this school housed 26 males and 9 females (aged thirteen to thirty-eight) in the first year. There the young Ainu were forced to study the Japanese language, learn Japanese agricultural and animal husbandry practices, and Japanese customs.

Over 1000 kilometers from home, these Ainu were forced to study in an utterly different environment and live according to a foreign lifestyle and customs, while the value of their own culture and language was rejected. As a result, many became ill and several ran away from the boarding school. Only 5 out of the 35 students remained at the end of that first year. It is said that those who stayed in Tokyo were often put on display, and faced many other humiliating and frightening hardships.

We cannot forget the experiences of these young Ainu whom the Japanese government forcibly took to Tokyo. We want to honor them at the Tokyo site in the Ainu way, with a prayer ceremony we call *kamuynomi*. We demand of the Japanese government free access and the right to administer the Tokyo site ourselves. We want to be able to build a *nusa* (an altar) and freely hold monthly *kamuynomi* and *icharpa* (a memorial service).

We also want to establish a cemetery for those Ainu who fled to Tokyo to escape the poverty and discrimination of Hokkaido. We need a place to honor them according to our way, in order to create a spiritual link to future generations of Ainu living in and around Tokyo.

Thank you.

**Seventeenth Session of the Working Group on Indigenous Populations  
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Geneva, Switzerland**

**Statement by the Ainu International Network (AIN)  
Kanao Uzawa  
Item 7**

Thank you, Madame Chairperson.

I would like to share one experience of my people to highlight the importance of standards for government and corporate activities on indigenous lands. In 1971, the Japanese government announced its plan to construct a world-standard industrial park in Hokkaido. It also announced it would build a dam, specifically to supply water and electricity to the industrial park, on land sacred to the Ainu. The government's appropriation of Ainu land for the dam progressed throughout the 1980s. However, work on the industrial park never began. Although the very purpose of the Nibutani dam disappeared, construction on our sacred land continued. The dam was completed in 1997.

Because it offered a means of escaping grave financial hardship, many Ainu felt compelled to sell their land to the government. Two Ainu, who refused to sell their land, instead filed a lawsuit in the Sapporo District Court against the Japanese government. They charged that construction of the dam, and the appropriation of Ainu land violated their indigenous rights. In its landmark decision in 1997, the court recognized the indigenous identity of the Ainu, despite the denial of this fact by the Japanese government. The court also declared the land appropriation unconstitutional. Unfortunately, the dam looms large on the Nibutani landscape, and the sacred land of the Ainu rests at the bottom of the reservoir.

Based on this experience, we would like to make the following proposals :

- 1) We suggest that if the original purpose for a project, which should be made explicit at the outset, is cancelled before or at any time during construction, construction should be immediately suspended. Additionally, governments and private corporations must be responsible for returning a site to its original state.
- 2) Reviews should be mandatory to ensure that the rights of indigenous peoples take precedence over claims of public welfare. This should be strictly monitored in instances of projects that are promoted as 'beneficial' to the public welfare, as was the case in Nibutani.
- 3) Governments and corporations must be obliged to compensate indigenous communities for the environmental degradation they cause. We demand that the Japanese government acknowledge its responsibility with regard to Nibutani.

Kamuy ko iyayraikere. I thank the spirit of water, and I thank you for your attention, Madame Chairperson.

**Seventeenth Session of the Working Group on Indigenous Populations  
Geneva, Switzerland  
July 26-30, 1999**

**Statement by the Ainu Association of Rera  
Yuuki Hasegawa  
Item 10**

Thank you, Madame Daes. I am very happy to be here with all of you again.

The working group offers us such a good opportunity to learn from all of our indigenous brothers and sisters, to reflect on our own situation, and it empowers us to take action in our own communities.

During last year's working group, with its theme of education and language, it became clear that a common goal of all indigenous peoples is to pass our languages, on to future generations. For the Ainu people, the continuation of our language remains precarious.

There is no government support for incorporating Ainu education into the public education system. It is often said that, rather than promoting Ainu education *for the Ainu*, the 1997 law heralded by the Japanese government as the 'Act for the Promotion of Ainu Culture' does quite the opposite. In Article 2 of the new law, the government actually imposes its own definition of Ainu culture on us. Moreover, our means of transmitting our language and traditions are not taken into consideration. While the stated purpose of the new law is, and I quote, 'to support the promotion and development of Ainu culture,' in actuality, it does not recognize any rights of the Ainu people to do so. With few exceptions, the Japanese government informs this working group every year of the large budget it sets aside for the Ainu. We sincerely question, however, the way in which it uses this grand budget.

Because nearly 150 years of assimilationist policies kept the Ainu from practicing Ainu customs and traditions, our culture was not passed down to successive generations. The sad result of this is that Ainu culture remained a focus for only a small fraction of Ainu, and of course for Japanese scholars of Ainu culture. Those of us who are now struggling to revive our culture face many problems because the Japanese government does not recognize our rights to Ainu education and to promote our culture in our own way. Despite this obstacle, however, we want to continue to resist, *and expose*, the efforts of the Japanese government to control how we embrace our own culture. For this reason, the WGIP is a crucial forum for us.

This working group also provides the much needed opportunity for us indigenous peoples to strengthen our relationship with other UN special agencies, such as the World Health Organization and UNESCO. We see a need, however, for the UN to hold a conference where more indigenous peoples from the Asian and African regions can more easily participate and inform the international community about their circumstances. We would also like to suggest to this forum that a conference focusing on indigenous education and language be held within the International Decade of Indigenous Peoples, so that we can meet together with UN agencies, NGOs and other interested parties in order to develop ideas and recommendations which would ultimately facilitate the progress of this working group.

Thank you, Madame Chairperson.

Seventeenth Session of the Working Group on Indigenous Populations  
Geneva, Switzerland  
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Statement by the *Ainu International Network* (AIN)  
Oki Kano  
Item 12

Thank you, Madame Daes.

I would like to bring to the attention of this forum the recognition by UNESCO, in conjunction with its 1972 Convention Concerning the Protection of the World Cultural and Natural Heritage, of the importance of what it terms 'cultural landscape.' UNESCO defines 'cultural landscape' as that which shows 'religious, artistic or cultural associations with the natural element rather than material cultural evidence.' Unfortunately, I must also report that the Ainu, along with so many of our indigenous brothers and sisters, without the right to administer our own lands, cannot protect our cultural landscape. Our land, of course, includes the forests, the rivers, the lakes, and the coastal waters. All of it must be protected and available to us if we are to continue to transmit and develop our Ainu culture.

Thanks to the efforts of a number of determined Ainu, who faced considerable negotiations with the Hokkaido government, we were able to revive some of our traditional Ainu ceremonies. But we still face many restrictions imposed by the Japanese government. In 1982, for example, the *ashiri chep nomi*, which we hold in the autumn to welcome the first salmon returning to our rivers, was revived after many years. However, in order to catch the salmon that we offer in thanks to the spirits, a special permit was required from the governor of Hokkaido. Moreover, the number of salmon we can catch for the *ashiri chep nomi* is strictly limited. A sad implication of this is that we Ainu cannot freely access the natural resources found in our rivers and on our mountains in order to maintain and enjoy many Ainu traditions *as part of our daily lives*.

Beginning two years ago, Ainu living in Hokkaido at last have more opportunity to learn the Ainu language, Ainu wood carving and embroidery. While the Act for the Promotion of Ainu Culture has in fact provided some of these opportunities, they are not in the form that we Ainu ourselves want and need. The Japanese government's new law only provides for lessons in Ainu culture held in classrooms, and we cannot go to the mountains to gather our own materials. The new law does not encourage any actual experiences in nature.

In order for us to maintain and develop our cultural heritage we demand our rights to our land and resources within Hokkaido, and our right to access land outside of Hokkaido for special uses, such as hunting, fishing, and gathering natural materials. It is for this reason that we appeal to the member states to recognize and respect the important link between the maintenance and development of our indigenous cultures, and the protection of our cultural landscapes.

Thank you, Madame Daes.

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The supplementary Resolution to The Act for the Promotion of Ainu Culture,  
the Spread of Knowledge relevant to Ainu Traditions, and the Educational  
Campaign (#52/1997)

(The resolution of the Cabinet Committee of the House of Councilors, April  
4th, 1997)

(The resolution of the Cabinet Committee of the House of Representatives,  
May 7th, 1997)

Referring to the historical and social circumstance into which the Ainu people  
have been put, the Government should take appropriate measures for the  
following matters, in order to find further national consensus regarding the  
promotion of Ainu Culture.

To make efforts to respect the autonomous spirit and the will of the Ainu  
people will be put into account sufficiently in the measures for the promotion  
of Ainu Culture, in order to contribute to the realization of a society in which  
the ethnic pride of the Ainu people is well respected

To provide further support to the promotion of Ainu Culture, for the respect of  
the ethnic pride of the Ainu people and for the development of diverse cultures  
in our country

To make efforts to take necessary measures regarding to the protection of the  
human rights of the Ainu people and an educational campaign, respecting the  
spirit of the ratification of "The Convention for the Abolition of Racial  
Discrimination" and the U.N. Decade for Human Rights Education"

To make efforts for the spread of knowledge and an educational campaign related to Ainu Tradition, as the indigenous nature of the Ainu people is historically obvious

To provide further support for existing Hokkaido Utari Welfare Measures

**Note:** This is a private translation done by Ainu Association of Hokkaido in 1997.

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**An Act for the Promotion of Ainu Culture, the Spread of Knowledge relevant to Ainu Traditions, and an Education Campaign (#52/1997)**

[REDACTED]

**Article 1 (purpose)**

This act 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, by the implementation of the measures for the promotion of Ainu culture (hereafter called "Ainu Traditions"), the spread of knowledge related to Ainu Traditions, and the education of the nation, referring to the situation of Ainu traditions and culture from which the Ainu people find their ethnic pride.

**Article 2 (definition)**

"The Ainu Culture" in this act means the Ainu language and cultural properties such as music, dance, crafts, and other cultural properties which have been inherited by the Ainu people, and other cultural properties developed from these.

**Article 3 (duties of the national and local governments)**

The national government should make efforts to promote measures for the nurture of those who will inherit Ainu culture, the fruitfulness of educational activities concerning Ainu Tradition, the promotion of the monitor and study of the Ainu culture, which will contribute to its promotion and other measures to promote Ainu culture, as well as providing advise and support to the local governments necessary for measures to promote Ainu culture.

2. The local governments should make an effort to implement measures to promote the Ainu culture in accordance with the social situations of their areas.



**Article 4 (respect to be taken into account in the implementation of this act)**

The national and local governments should respect the autonomous spirit and ethnic pride of the Ainu people in the implementation of the measures to promote Ainu culture.

**Article 5 (fundamental policy)**

The Prime Minister is required to establish the fundamental policy for the measures to promote Ainu culture (hereafter called "the Fundamental Policy").

**2. The followings should be established in the Fundamental Policy.**

- a. The fundamental matters for the promotion of Ainu culture
- b. Matters related to measures for the promotion of Ainu culture
- c. Matters related to measures for the spread of knowledge relevant to Ainu Traditions, and the education campaign for the nation
- d. Matters related to the monitor and study of Ainu culture which contribute to its promotion
- e. Matters related to the respect which should be put into account in the implementation of the measures for the promotion of Ainu culture

**3. The Prime Minister is required to consult with the Secretary of the Hokkaido Development Bureau, the Minister of Education, and the local administrative bodies concerned, and to listen to the comments of the local administrative bodies concerned provided in the 1st provision of the following article.**

**4. The Prime Minister is required to announce the Fundamental Policy and/or the amendment with no delay when established/amended, as well as despatch them to the local administrative bodies provided in the 1st provision of the following article.**

## **Article 6 (fundamental program)**

The local administrative bodies, appointed by national government ordinance, are recognized as responsible for the comprehensive implementation of measures to promote Ainu culture referring to the local social situations in the regions (hereafter called "the Regions Concerned") and should establish the fundamental program for measures to promote Ainu culture in the Regions Concerned.

**2. In the fundamental program, the following should be determined.**

- a. Fundamental Policy for the promotion of Ainu culture
- b. Matters on the content of the measures to promote Ainu culture
- c. Matters on the content of the measures to spread the knowledge relevant to Ainu Tradition to residents
- d. Significant matters which should be taken into account of in the implementation of the measures to promote Ainu culture

**3. The Regions Concerned are required to publicly announce and submit their fundamental program to the Secretary of the Hokkaido Development Bureau and the Minister of Education immediately when established/amended.**

**4. The Secretary of the Hokkaido Development Bureau and the Minister of Education should make effort to provide necessary advise, recommendations, and information to the Regions Concerned in order to facilitate the establishment of the fundamental programs and the smooth implementation of the programs.**

## **Article 7 (appointment)**

Following the acceptance of applications from corporations which had been previously established to promote Ainu culture under the civil law (act #89/1896) Article #34, the Secretary of the Hokkaido Development Bureau and the Minister of Education will appoint only one corporation in the country, and recognize this corporation as proper to carry out fairly and surely the duties provided in the following article.

**2. The Secretary of the Hokkaido Development Bureau and the Minister of Education are required to announce the name, address of the office of the corporation (hereafter called "Appointed Corporation"), after the appointment according to previous provisions.**

3. The Appointed Corporation is required to notify any plan to change its name and address to the Secretary of the Hokkaido Development Bureau and the Minister of Education.
4. The Secretary of the Hokkaido Development Bureau and the Minister of Education are required to announce the changed matter provided by the previous provision when they receive notice.

#### **Article 8 (duties)**

The Appointed Corporation is required to implement the following duties.

1. Duties for the nurture of those who will inherit Ainu culture and other duties relevant to the promotion of Ainu culture
2. Publishing activities related to Ainu Tradition and other campaigns
3. Research and monitoring activities which contribute to the promotion of Ainu culture
4. Providing support such as advice, subsidies, and other support to those who conduct the promotion of Ainu culture, the campaign activities related to Ainu Tradition, and research and monitoring activities.
5. Other duties which are necessary for the promotion of Ainu Culture not listed in the previous provisions.

#### **Article 9 (implementation plan)**

The Appointed Corporation is required to make an implementation plan and a budget, and submit them to the Secretary of the Hokkaido Development Bureau and the Minister of Education every year, according to the statutes of the Ministry of General Affairs and the Ministry of Education. In case of amendments, the same procedure should be taken.

2. The implementation plan should be made in accordance with the content of the Fundamental Policy.

3. The Appointed Corporation is required to make a report on the measures and a settlement of accounts, and submit them to the Secretary of the Hokkaido Development Bureau and the Minister of Education every year, according to the statutes of the Ministry of General Affairs and the Ministry of Education.

#### **Article 10 (the requisition of reports and inspection)**

The Secretary of the Hokkaido Development Bureau and the Minister of Education may require a report of the duties of the Person-in-law Appointed, despatch their officials to the office of the Person-in-law Appointed to inspect the conduct of duties under the act, notes of account and documents, and question persons concerned, as far as necessary to implement this act.

2. The officials who inspect the office under the previous provision have to carry official identification, and show this identification when requested by persons concerned.

3. The implementation of the inspection shall not be interpreted as a criminal investigation.

#### **Article 11 (the order to improve)**

The Secretary of the Hokkaido Development Bureau and the Minister of Education may order to the Person-in-law Appointed to implement measures necessary for improvement, when recognized as necessary to improve the conduct of duties provided in Article 8.

#### **Article 12 (dismissal of the appointed body)**

The Secretary of the Hokkaido Development Bureau and the Minister of Education may dismiss the appointment when the Person-in-law Appointed violates the order provided by the previous provisions.

2. The Secretary of the Hokkaido Development Bureau and the Minister of Education are required to publicly announce the dismissal of the appointed body.

### **Article 13 (the penalty)**

Any person who refuses to make a report or makes a false report as required by the first provision of Article 10, or who refuses or interrupts the inspection provided by the same provision, or who does not answer or gives false answers to questions, may be imposed a penalty of less than 200,000 Yen.

2. Not only the person who commits a violation under the previous provision, but also the same penalty may be imposed upon the person-in-law, when its representative, deputy, or employee commits a violation under the previous provision related to the duties of the Person-in-Law.

### **Supplementary Rules**

### **Article 1 (date of validity)**

This act will be enforced from a date which shall be provided by government ordinance within 3 months from its promulgation.

### **Article 2 (abolishment of the Hokkaido Ex-Aborigines Protection Act)**

The following acts will be abolished.

1. The Hokkaido Ex-Aborigines Protection Act (#27/1899)
2. The Asahikawa Ex-Aborigines Protection Land Disposition Act (#9/1934)

Article 3 (temporary measures for the abolishment of the Hokkaido Ex-Aborigines Protection Act)

The Governor of Hokkaido should put it under its control the Hokkaido Ex-Aborigines Common Properties (called "the Common Property" in the next provision) which have been controlled under the 1st provision of Article 10 of the Hokkaido Ex-Aborigines Protection Act (hereafter called "the Ex-Protection Act") until the return of the properties to the owners as provided by from the following to the 4th provision, or the reversion to the Person-in-law Appointed or the Government of Hokkaido as provided in the 6th provision

2. The Governor of Hokkaido has to publicly announce matters in the official gazette provided by the ordinance of the Ministry of Welfare for each property appointed by the 3rd provision of the Article 10 of the Ex-Protection Act.

3. The owners of the common properties may request the return of the properties from the Governor of Hokkaido within 1 year from the announcement as provided by the ordinance of the Ministry of Welfare.

4 The Governor of Hokkaido may not return the properties to the owners after the term, except a case in which all of the owners make a request as required by the provision.

5. In the case that the owners of the common properties do not request the return within the term provided in the 3rd provision, the common properties will revert to the Person-in-law Appointed (in case that the appointment provided by the 1st provision of the Article 7 has not been carried out at the time of passage of the term, to Hokkaido).

6. In the case that the common properties revert to the Person-in-law Appointed, the Person-in-Law should apply the properties to expenses related to the duties for the promotion of Ainu culture.

Article 4 (partial amendment of the Local Autonomy Act)

The Local Autonomy Act (#67/1947) is amended partially as follows;

The annex figure #3-1(49) is deleted.

**Article 5 (partial amendment of the Hokkaido Development Act)**

The Hokkaido Development Act (#126/1950) is amended partially as follows;

The following provision should be added to the 1st provision of the Article 5.

7. To transact the administrative activities related to the implementation of The Act for the Promotion of Ainu Culture, the Spread of Knowledge relevant to Ainu Traditions, and the Educational Campaign (#52/1997) with the exception of matters which should be under the control of the Prime Minister)

**Article 6 (partial amendment of the Ministry of Education Establishment Act)**

The Ministry of Education Establishment Act shall be amended partially as follows;

The 103rd provision of Article 5 shall be numbered as the 104th, the 100th shall be the 101st, the 101st shall be the 102nd, the 102nd shall be 103rd, and the following provision shall be added to the 99th.

100. To transact the administrative activities assigned to it regarding the implementation of The Act for the Promotion of Ainu Culture, the Spread of Knowledge relevant to Ainu Traditions, and the Educational Campaign (#52/1997)

"up to the 103rd provision" in Article 13 should be amended to "up to the

The reason to submit this draft of the Act

Referring to the situation of Ainu Tradition and Ainu culture which are the source of the pride of Ainu people, it is necessary to promote measures for the promotion of Ainu culture, the spread of knowledge relevant to Ainu Traditions, and the educational campaign. This is the reason to submit this draft of the act.