



Japan: Okinawa and the National Government – Redeployment of U.S. Troops

July 2006

LL File No. 2006-03135
LRA-D-PUB-000874

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JAPAN

OKINAWA AND THE NATIONAL GOVERNMENT: REDEPLOYMENT OF U.S. TROOPS

Executive Summary

The Japanese government legally is not required to negotiate with Okinawa about the issue of redeployment of American troops.

I. Local Autonomy Principle in Japan

Unlike the United States' federal system, Japan has a unitary system of government.¹ The Ministry of Internal Affairs and Communication (MIC) is the national government division that interacts with local governments.² The Constitution of Japan³ provides for the principles of local self-government. The Local Autonomy Law specifies the types and organizational framework of local governments and sets out the basic relationship between local governments and the national government.⁴ Local governments promote the welfare of their residents and carry out a wide range of tasks in the semi-autonomous and comprehensive performance of local public administration.⁵ The main roles of the State are to attend to matters relating to its position as a nation in the international community; matters concerning basic rules on national activities or local autonomy that should be standardized nationally; and matters concerning policies and programs to be implemented on a national level or from a national viewpoint.⁶

Japan is divided into forty-seven administrative divisions, known as prefectures. Each of the forty-seven prefectures has a governor⁷ and an assembly,⁸ both elected by popular vote.⁹ Under the prefecture - system, there are municipal governments that also have a mayor and an assembly, both elected by popular vote. Although the Local Autonomy Law dictates that the autonomy and independence of the local governments must be fully exercised, in fact the local governments' autonomy is limited. Local tax revenues are insufficient to support prefectural and municipal governments, so they depend on the national government for subsidies. The amount of revenues derived from local taxation is

¹ BLACK'S LAW DICTIONARY 1444 (8th ed. 2004) defines a unitary state as "a state that is not made up of territorial divisions that are states themselves."

² *Sōmushō secchi hō* [MIC Establishment Law], Law No. 91 of 1999, *as amended*, arts. 3 and 4.

³ *Nihonkoku Kenpō* [Constitution of Japan], 1946, Ch. 8.

⁴ *Chihō jichi hō* [Local Autonomy Law], Law No. 67 of 1947, *as amended*, art. 1. The Japan Center has provided an English translation of the Local Autonomy Law, at <http://nippon.zaidan.info/seikabutsu/1999/00168/mokuji.htm> (last visited July 24, 2006).

⁵ *Id.* art. 1-2, para. 1.

⁶ *Id.* art. 1-2, para. 2.

⁷ *Id.* art. 139, para. 1.

⁸ *Id.* art. 89.

⁹ *Id.* art. 17.

typically thirty percent.¹⁰ Although a package of decentralization-related law revisions was implemented in April 2000 that delegated a wide range of administrative operations from the national government to local governments, upon review of reference materials by the author, the sufficiency of local tax revenues has shown no significant improvement.

II. Regional Representatives in the Diet

Local residents can reflect their opinion through their representatives in the Diet (Japanese Parliament). Each prefecture has at least one seat for both the House of Representatives and the House of Councillors. For example, Okinawa has four seats out of 300 seats of the House of Representatives' small districts. Seven prefectures in the Kyūshū region and Okinawa share twenty-one seats among the 180 seats of the House of Representatives' regional districts. The total number of members of the House of Representatives is 480. Okinawa has two seats out of 146 seats of the House of Councillors' regional districts. Other members are elected by the nation-wide proportional representation system.¹¹ Currently, the total number of members of the House of Councillors is 247.

III. Redeployment of U.S. Bases in Japan

Regarding the redeployment of U.S. military bases in Japan, local governments do not have specific legal power to interfere with the national government's decision. The Local Autonomy Law states that national defense matters and foreign relations matters are within the jurisdiction of the national government.¹² For example, when Iwakuni City, in the Yamaguchi prefecture, expressed its opposition in a plebiscite on March 12, 2006 to the planned relocation to their city of carrier-borne U.S. airplanes from Atsugi, Kanagawa prefecture,¹³ the vote did not affect the national government plan. The relocation plan was finalized between the U.S. and Japanese governments on May 1, 2006.¹⁴ In a case where a matter concerning a U.S. military base in Japan also involves the use of a private person's or municipal government's asset, some locally-based legal issues may be involved because ownership of assets is protected by law. In 1996, private landowners in Okinawa refused to renew a lease contract with the national government. Their land was used by a U.S. military base.¹⁵ There is a special law, which was enacted when Japan was occupied by the Allied Powers' just after the Second World War, that provides for procedures to utilize privately-owned land for the Allied Powers' troops even if the owner did not agree to the use.¹⁶ A mayor or a governor could sign the lease contract instead of the landowner; however, in this case they refused to do so. The national government sued the governor under the law

¹⁰ MIC, Chihō zaisei no genjō (heisei 16 nendo kessan) no gaiyō [Summary of local financial status (fiscal year 2004)], at 4, available at http://www.soumu.go.jp/s-news/2006/pdf/060310_2_bs.pdf.

¹¹ *Id.* art. 4, para. 2.

¹² Local Autonomy Law, Law No. 67 of 1947, as amended, art. 1-2, para. 2.

¹³ *Ruling bloc downplays Iwakuni's opposition to air wing relocation*, Kyodo News, Mar. 12, 2006, available at <http://asia.news.yahoo.com/060312/kyodo/d8ga1f1gc.html>.

¹⁴ United States-Japan Roadmap for Realignment Implementation, May 1, 2006, available at <http://www.mofa.go.jp/region/n-america/us/security/scc/doc0605.html>.

¹⁵ Heisei 7 (Gyo ke) 3, 47 GYŌSEI JIKEN SAIBANREI SHŪ 3, 192 (Fukuoka High Ct., Naha Div. Mar. 25, 1996).

¹⁶ Nihon koku to amerika gasshūkoku tonō aida no sōgo kyōryoku oyobi anzen hoshō jōyaku dai 6 jō ni motodoku shisetsu oyobi kuiki narabini nihonkoku ni okeru gasshūkoku guntai no chii ni kansuru kyōtei no jisshi ni tomonau tochi tō no shiyō tō ni kansuru tokubetsu sochi hō [Specials Measures Law Concerning Use of Land, etc. as a Consequence of Implementation of Agreement Under Article VI of the Treaty of Mutual Cooperation and Security Between the United States of America and Japan, Regarding Facilities and Areas and the Status of United States Armed Forces in Japan], Law No. 140 of 1952, as amended, art. 14; and Tochi shūyō hō [Eminent Domain Law], Law No. 219 of 1951, as amended, art. 36, para. 5.

and won the case.¹⁷ Later, the Diet amended the law, so that a governor can no longer delay the procedure.¹⁸

There is no specific law that obligates the national government to discuss or to negotiate the redeployment of U.S. military bases with local governments or local residents. However, following the 1972 discussion between Prime Minister Eisaku Sato and President Richard Nixon concerning the reversion of Okinawa to Japan, the Japanese government has asked the United States government to minimize and reduce the U.S. military presence in Okinawa.¹⁹ Japan's national policy is specifically to ease the burden on Okinawa's hosting U.S. military bases. The general public in Japan has been interested in issues in Okinawa, especially after the gang rape of a girl by U.S. Marines in Okinawa in 1995, as well as the governor's refusal to sign the document in 1996, as stated in the previous paragraph.²⁰ Therefore, the Japanese government has been pressured to listen to the opinion of people in Okinawa. There are various meetings to improve the situation, and attention given to creating opportunities for communication between the federal government and the people of Okinawa. The U.S. and Japanese governments established the Joint Committee under the Status of Forces Agreement, in which they consult each other, especially in regard to the location of the facilities and areas of U.S. bases.²¹ In November 1995, a Special Action Committee on Okinawa (SACO) was established by the U.S. and Japanese governments to reduce the hosting burden on the people of Okinawa and thereby strengthen the U.S.-Japan alliance.²² The SACO Final Report was released in December 1996. The U.S. and Japan agreed on terms to return approximately twenty-one percent (12,000 acres) of all land used by U.S. bases on Okinawa.²³ Also, in 1995, the Japanese government and the Okinawa prefecture government established the Okinawa-U.S. Bases Problems Committee. In regard to the redeployment of U.S. military forces, the government had meetings with local governments and tried to obtain agreements and cooperation, but the efforts to date have not been very successful.²⁴

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July 2006

¹⁷ Heisei 7 (Gyo ke) 3, *supra* note 15.

¹⁸ Law No. 39 of 1997. This law amended the Special Measures Law.

¹⁹ Heisei 7 (Gyo ke) 3, *supra* note 15, at 205.

²⁰ Defense Facilities Administration Agency, SACO saishū hōkoku no shinchoku jōkyō [Progress of Drafting SACO Final Report], <http://www.dfaa.go.jp/okinawa/sacosaisyuhoukoku/kei.html> (last visited July 26, 2006).

²¹ Agreement Under Article VI of the Treaty of Mutual Cooperation and Security Between the United States of America and Japan Regarding Facilities and Areas and the Status of United States Armed Forces in Japan, art. 25, U.S.-Jp., Jan. 19, 1960, 11 U.S.T. 1652; U.N.T.S. 247.

²² GlobalSecurity.Org, *U.S. Forces, Japan*, <http://www.globalsecurity.org/military/agency/dod/usfj.htm> (last visited July 26, 2006).

²³ SACO Final Report, Dec. 2, 1996, available at http://www.jda.go.jp/e/defense_policy/saco/final.htm.

²⁴ HOUSE OF COUNCILLORS, MINUTES OF BUDGET COMMITTEE, HOUSE OF COUNCILLORS, 40-41 (Feb. 1, 2006).