

Okinawan Experts Commission Reports Flaws in Authorization Process for New Military Base at Henoko

Okinawan Experts Commission

Part 2 of a 3 part series

Henoko: The Experts Report and the Future of Okinawa

[1. Gavan McCormack, Introduction: The Experts Report and the Future of Okinawa](#)

[2. The Okinawa Third Party \(Experts\) Committee, Report of Okinawa Prefecture's "Third Party Investigation into the Reclamation of Oura Bay" \(Main Points\), translated by Sandi Aritza](#)

[3. Sakurai Kunitoshi, translated by Gavan McCormack, "To Whom does the Sea Belong? Questions Posed by the Henoko Assessment"](#)

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Translated by Sandi Aritza

1. On December 27, 2013, former Governor Nakaima approved the request by the Okinawa Defense Bureau for reclamation and construction of a new military base at Henoko. After six months of deliberation, on July 16, 2015, a Third Party (Experts) Commission submitted to Governor Onaga the report of its investigation into the question of whether there were legal flaws in the former governor's authorization. The following is a summary of the report's main points. The complete report is available [here](#).

2. The Commission concluded that there were legal flaws in former governor Nakaima's licensing of the reclamation in terms of "necessity for reclamation" and on clauses 1, 2, and 3 of the permit prohibition criteria (article 4, section 1) of the Public Waters Reclamation Law.

3. So far as "necessity of reclamation" is concerned, the Okinawa Defense Bureau's request for reclamation authorization only stressed the necessity of relocating Marine Corps Air Station (MCAS) Futenma, which has been called the most dangerous air base in the world. It made absolutely no response to the doubts long raised by Okinawa Prefecture as to whether the replacement facility could not be built somewhere other than Okinawa Prefecture, specifically Henoko. Okinawa prefecture's review of the reclamation application was inadequate on this point.

4. Morimoto Satoshi, the first civilian to become Defense Minister, and "an expert on national security," stated at a press conference upon retiring from his post in December 2012 that "from a military standpoint, MCAS Futenma does not have to be relocated within Okinawa, but from a political standpoint, Okinawa is the most appropriate location." He thus eloquently dismissed the idea that, because of military considerations, a replacement facility had to be constructed within Okinawa. Therefore, it is impossible to determine that the land reclamation authorization request fulfilled the requirement to provide grounds in terms of "necessity of land reclamation," and this constitutes a legal flaw in former governor Nakaima's reclamation authorization.

5. Clause 1 [of article 4, section 1 of the Public Waters Reclamation Law] requires that reclamation constitute "appropriate and rational use of national land." This calls for proof that in balancing the advantages stemming from the project against the

disadvantages, the advantages outweigh the disadvantages. However, the 17-item checklist made for the review leading up to the reclamation authorization was insufficient to establish this. The advantage to be gained from this reclamation is in terms of national security, but as we observed in our review of the “necessity of land reclamation,” there is no proof that Henoko was the only possible relocation site. Meanwhile, the richly biodiverse natural environment of Henoko’s Oura Bay is a precious resource that Okinawa should protect for the future, whose loss would be an irrevocable loss. Therefore, taking all things into account, it is impossible to say that this land reclamation would be “appropriate and rational use of national land.” It does not meet the requirements of Clause 1, and is legally flawed.

6. Clause 2 requires that “land reclamation sufficiently take into account environmental preservation and disaster prevention.” However, the environmental conservation measures proposed by the project proponents are a thoroughly inadequate response to the governor’s report regarding the environmental impact assessment, and run counter to the provisions of Article 33 Section 3 of the Environmental Impact Assessment Law. Furthermore, these environmental preservation measures are not based on the kind of quantitative assessment required by Japan’s environmental assessment system. In particular, assessment of the ecosystem is inadequate and lacking in specificity. No serious response was given to the opinion of the head of the Environment and Community Affairs Department concerning the documents on environmental preservation.

7. The new Henoko base will be constructed by the Okinawa Defense Bureau, and is planned to be used by the U.S. Marine Corps. However, when handing it over for use, the Okinawa Defense Bureau will only request that the U.S. military be considerate toward the

environment. It will be unable to do anything more because of obstacles posed by the U.S.-Japan Status of Forces Agreement (SOFA). It has already been shown at both MCAS Futenma and Kadena Air Base that the U.S. military does not adhere to U.S.-Japan agreements regarding the environment. In the end, no environmental preservation measures have been proposed that could effectively make the U.S. military operate with consideration towards the environment. Therefore, it is impossible to say that the “land reclamation [will] sufficiently take into account environmental preservation and disaster prevention.” This constitutes a legal flaw.

8. Clause 3 requires that “use of reclaimed land not violate legally based plans by the national government or local public organizations regarding land use or environmental conservation.” However, upon investigating what sort of review was conducted by the Okinawa prefectural government on this point, it was discovered that there is a high likelihood that it determined this requirement to be satisfied without conducting an adequate review. In particular, the “National Biodiversity Strategy 2012-2020” and the “Okinawa Biodiversity Strategy” are based on the Basic Law for Biodiversity [2008], and are decisively important strategies for having Yambaru (the northern area of Okinawa Island) registered as a Natural World Heritage Site. Despite the fact that it was emphasized in a statement by the mayor of Nago, the Okinawa prefectural government’s investigation of this point was utterly inadequate.

9. Furthermore, Okinawa Prefecture has a Basic Plan to Preserve Ryukyu Archipelago Coasts based on the Sea Coast Act [1956]. A section of this plan designates Okinawa’s northeast, part of which is designated for reclamation, as “an area in which the coastal environment is to be actively preserved.” There is a regulation designating this as “an area in which, as a general rule, seawalls and other

coastal protection installations are not to be built.” The request for authorization of the reclamation in question is in violation of this regulation. The fact that permission was granted for reclamation nonetheless, with no investigation whatever into this matter, indicates a clear legal flaw in the process.

Note: This "Main Points" (Yoten) document was provided to The Asia-Pacific Journal by a member of the Commission. A different document has since been published as "Resume" (Yoyaku) on the Okinawa prefecture

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