

# Seawall Construction on Oura Bay: Internationalizing the Okinawa Struggle

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## The New Battle of Okinawa

On the morning of April 25, 2017, amidst continuing opposition, the Okinawa Defense Bureau began “construction of a seawall” in the area of Henoko-Oura Bay in Nago City, Okinawa.<sup>1</sup> Many saw this as the real beginning of land reclamation work to build a U.S. military base there to replace the U.S. Marine Corps Air Station Futenma in Ginowan City.

Unlike the Bureau’s previous “construction work,” which involved drilling surveys and setting up of floats and buoys in the water to mark the “restricted area,” this time the Bureau’s “construction work” meant dropping off land reclamation material, bagged stones, on the north beach of Camp Schwab, in what is referred to as the “K-9 area.” The Japanese government plans to complete land reclamation of this area in the next five years.

Hiyane Teruo, professor emeritus of the University of the Ryukyus, commented that: “Reclaiming land in the sea off Henoko and building a new base is not mere construction. It is burying the will of the people of Okinawa and the history of pain and suffering of Uchinanchu (the people of Okinawa).”<sup>2</sup>

Okinawa Governor Onaga Takeshi condemned the start of seawall construction as “unforgivable and outrageous.”<sup>3</sup> He insisted that “I will fight with all my power to keep my promise with the people of Okinawa to stop the base construction.” “I will use every means in a timely manner, including filing an injunction.”

In Tokyo, by contrast, Chief Cabinet Secretary

Suga Yoshihide claimed at a press conference that “the return of Futenma has been the wish of many people and the start of reclamation work today is the first step to achieve it.”<sup>4</sup>

It was a bitter day for Okinawa. The Japanese government showed, again, its blunt willingness to impose yet greater U.S. military burdens on Okinawa and its disregard for the voice of the people of Okinawa against base construction and for protection of the environment.



**Construction begins as protestors kayaks cry out “stop!” April 25, 2017 ©Tsuyoshi Kitaueda**

However, considered in the international and environmental context, the seawall construction poses complex issues. The Japanese government faces a severe dilemma, evident if one considers the seawall construction against the backdrop of two recent important developments: the “dugong lawsuit” proceeding in the U.S. Ninth Circuit Court of Appeal and the nomination of the

Northern Part of Okinawa Island for World Natural Heritage proceeding at UNESCO. The opposition to the construction of the base and the destruction of Henoko-Oura Bay needs to take these matters into careful consideration in recommending how Okinawa Governor Onaga and the prefectural government should act.

### **The Local Context: Seawall Construction as a Fait Accompli**

Seawall construction took place as the Japanese government and Governor Onaga and his prefectural government were testing and challenging each other, with the Japanese government moving aggressively to start seawall construction and the prefectural government launching administrative actions to prevent the construction and threatening to file suit against the Japanese government in court.



### **Okinawa Governor Onaga Takeshi declares he will revoke the land reclamation permit at a protest rally in Henoko, Nago, Okinawa.**

In a series of “inquiry letters” and “directives” to the Okinawa Defense Bureau, the Okinawa prefectural government demanded that the Bureau renew the coral reef-crushing permit and consult with the prefectural government

about further reclamation before proceeding.<sup>5</sup> The coral reef-crushing permit, necessary for dredging and placing reclamation material on the coral reefs in Oura Bay, granted by former Governor Nakaima Hirokazu in August 2014, had expired at the end of March 2017. The prefectural government warned that the Bureau’s ignoring the procedural requirements would constitute a breach of the agreements between the (previous) Okinawa prefectural government and the Japanese government. In other words, the prefectural government was preparing grounds for further legal battle.

In response, the Japanese government has moved to block administrative steps by the prefectural government and avoid any legal battle. Early in 2017, the Japanese government persuaded the Nago Fishermen’s Cooperative to renounce its fishing rights to the area of Henoko-Oura Bay.<sup>6</sup> It now claims that, for that reason, the Bureau does not need to renew the coral reef-crushing permit from Governor Onaga.<sup>7</sup>

Despite the balance of power being overwhelmingly in its favor, the Okinawa Defense Bureau has proceeded very carefully. So far (May 16), it has undertaken seawall construction only on the beach, not in the water. According to civil engineer Kitaueda Tsuyoshi, the stone bags deposited there are for construction of a temporary work road, not for a seawall, at least not yet.<sup>8</sup> As such, the Bureau can maintain that seawall construction work is not a breach of the agreements between the Okinawa prefectural government and the Japanese government or violation of the laws and regulations, and that no consultation with the Okinawa prefectural government is needed. It can also insist that any contention over the fishermen’s renunciation of their fishing rights is irrelevant.

This situation has made Governor Onaga and his prefectural government reluctant to file suit against the Okinawa Defense Bureau and the

Japanese government or to take stronger administrative actions including revocation of the land reclamation permit granted by former Okinawa Governor Nakaima Hirokazu (see below). While Governor Onaga and his prefectural government insist that it is carefully preparing for further administrative and judicial action, there is as yet no sign of such action. The “inaction” by Governor Onaga and the prefectural government creates frustration and even anger among the Okinawan opposition to base construction.<sup>9</sup>

By starting “seawall construction” in such a measured way, the Japanese government strives to create a *fait accompli* by demonstrating that “real” construction has started and the Henoko construction plan has passed the point of no return.<sup>10</sup> It sends the message that there is no point in Okinawans fighting any further against construction; they should give up the abortive struggle waged since 1996 when base construction plans were first announced. And with the “inaction” of Governor Onaga and his prefectural government, it sends the message that Okinawa’s Governor and the prefectural government have no real power to stop construction work.

### **Seawall Construction and the Future of Oura Bay**

Of course, the start of seawall construction or the creation of a *fait accompli* does not eliminate the possibility that the Okinawa prefectural government might yet launch a battle in the courts. The Okinawa prefectural government has declared that it will file a suit against the Bureau if and when “it finds out that the Okinawa Defense Bureau has begun dredging and placing land reclamation materials on the reef.”<sup>11</sup>

Governor Onaga and the Okinawa prefectural government still have two important assets. First, changes in reclamation plans appear

inevitable as indicated by the fact that the Okinawa Defense Bureau is still conducting additional drilling surveys despite completing all the drilling surveys originally planned. The seafloor at the construction site has been shown to be fragile,<sup>12</sup> and the recent discovery of limestone caves on a small low island adjacent to the construction site may indicate further technological challenges for construction work.<sup>13</sup> The Bureau needs approval from Governor Onaga for any changes in the reclamation and construction plans, and Governor Onaga can refuse to give it.

Second, the Governor can revoke (*tekkai*) the land reclamation permit granted in December 2013 by former Governor Nakaima Hirokazu. He can revoke it if evidence obtained since former Governor Nakaima’s granting of the permit, substantiates the illegality of his granting of the permit.<sup>14</sup> Some have also argued that the Okinawa Governor can revoke the permit more than once in the event that new evidence emerges to warrant revocation.<sup>15</sup> Governor Onaga has declared that he will revoke the permit at the appropriate time and his prefectural government and lawyers are preparing to do battle in the courts against the Japanese government at that time.<sup>16</sup>

Governor Onaga’s refusal to approve changes in the reclamation and construction plans and his revocation of the land reclamation permit will certainly halt construction.

However, as indicated by the Japanese Supreme Court’s ruling in December 2016 and by other cases,<sup>17</sup> the Japanese government has the upper hand in most administrative and legal battles against the Okinawa prefectural government. Such actions by Governor Onaga would be immediately challenged and court proceedings would likely be quickly resolved in favor of the Japanese government. Ultimately, the Japanese government can resort to “execution by proxy.”

In this situation, one has to wonder why the Okinawa Defense Bureau started seawall construction when it did and why the Japanese government needed to employ tactics designed to create a sense of *fait accompli* at this point<sup>18</sup> or, alternatively, why the Japanese government did not take the issue of base construction to the courts to be settled there once and for all.

Answers to these questions can be found in two recent external developments, the hearing of the Okinawa dugong case in the Ninth Circuit Court of Appeals in the United States and the Japanese environmental ministry's nomination of the "Northern Part of Okinawa Island" along with three other islands for UNESCO's World Natural Heritage Status.

### **Dugong Case in the U.S. Appeals Court**

The "dugong lawsuit," filed in 2003 by Okinawan residents and Okinawan, Japanese and U.S. environmental groups against the U.S. Department of Defense (DoD), is the most innovative strategy directly challenging the DoD over base construction.<sup>19</sup> Under the U.S. National Historical Preservation Act (NHPA), it aims to protect the Okinawa dugong, an endangered marine mammal species which is Japan's Natural Monument, and Okinawa's cultural icon, from the construction of a U.S. military base at Henoko-Oura Bay.<sup>20</sup>



### **Okinawa dugong ©Japanese Ministry of the Environment**

The hearing of the case on March 15 in the Ninth Circuit Court of Appeals gave some reasons, however slim, to think that the court could rule in favor of the plaintiffs.<sup>21</sup> Judge Paul Watford told government attorneys at the hearing that the Center for Biological Diversity and other U.S. and Japanese environmental groups have standing to seek a ruling that the Department of Defense failed to adequately consider whether the base would harm the dugongs. This would overturn the Pentagon's findings that it would not, and could lead to a new order.<sup>22</sup>

Judge Paul Watford told the DoD lawyers that "What I'm inclined to think is your position on standing is completely wrong" and "How in the world do they not have standing to seek that relief?"<sup>23</sup> Such a ruling would undercut the DoD situation.

The DoD's findings, released in 2014 to comply with the 2008 federal district court order, explained that the area of Henoko-Oura Bay is rarely used by Okinawa dugong and conservation measures planned for the dugong by the Japanese government are appropriate and sufficient. It thus concluded that the construction and operation of the base will not have adverse impacts on them.<sup>24</sup> These findings served as the DoD's legal basis for allowing base construction to proceed.

However, mounting evidence suggests that dugong do inhabit the area of Henoko-Oura Bay,<sup>25</sup> although the Okinawa Defense Bureau's construction activities, the drilling surveys and setting up of floats in the water, may have driven them away.<sup>26</sup>

The DoD must try to avoid re-examination of the effects of base construction and operation on the dugong. Probably the best scenario for it would be that the Appeals Court follows the

District Court's reasoning and ruling,<sup>27</sup> in other words, the Ninth Circuit judges accept their claims presented in the District Court that "all necessary additional approvals have been obtained, and construction of the FRF (Futenma Replacement Facility) has begun" (italics added), and that the approvals included "Governor [Nakaima's] approval of landfill permit" described as the "most tangible, significant achievement of the 20 year effort between the U.S. and Japan to build the FRF."<sup>28</sup>

Thereupon, the Appeals Court might rule that "[the Appeals Court] does not have the power to enjoin or otherwise alter" the decisions by the U.S. and Japanese governments' to proceed with base construction and that "an order requiring the compliance with a purely procedural statute (NHPA) will any way redress their claimed injuries... Thus, the plaintiffs' entire lawsuit is hereby dismissed with prejudice."

However, it has now become clear that the DoD's claims were not correct. The land reclamation permit was cancelled by Governor Onaga in October 2015 and construction was halted for 10 months in 2016. It was only through the Japanese government's filing lawsuits against Governor Onaga and the ensuing Japanese Court ruling against the Governor Onaga that the land reclamation permit was restored.<sup>29</sup>

More importantly, as discussed above, the land reclamation permit and some other "necessary approvals" could be revoked by Governor Onaga at any time, and that would likely halt construction for a certain period of time. Of course, such actions by Governor Onaga and his prefectural government would be challenged immediately by the Japanese government. But even in such a case, the Okinawa prefectural government could seize on the opportunity to bring into the open environmental arguments including the question of the dugong.<sup>30</sup> That could draw the

attention of the Ninth Circuit Court.

Given this situation, it can be argued, the DoD would want the Ninth Circuit judges to make their ruling before Governor Onaga revokes the land reclamation permit or any of the "necessary approvals" and before he challenges the Japanese government in court. For the Ninth Circuit judges to be convinced of the DoD's stance that the plaintiffs do not have "standing," the current situation, where "all necessary approvals have been obtained" and the base "construction has begun" crossing the point of no return, has to remain so. However, it is only the Japanese government, not the DoD, that is able to create and keep this situation.

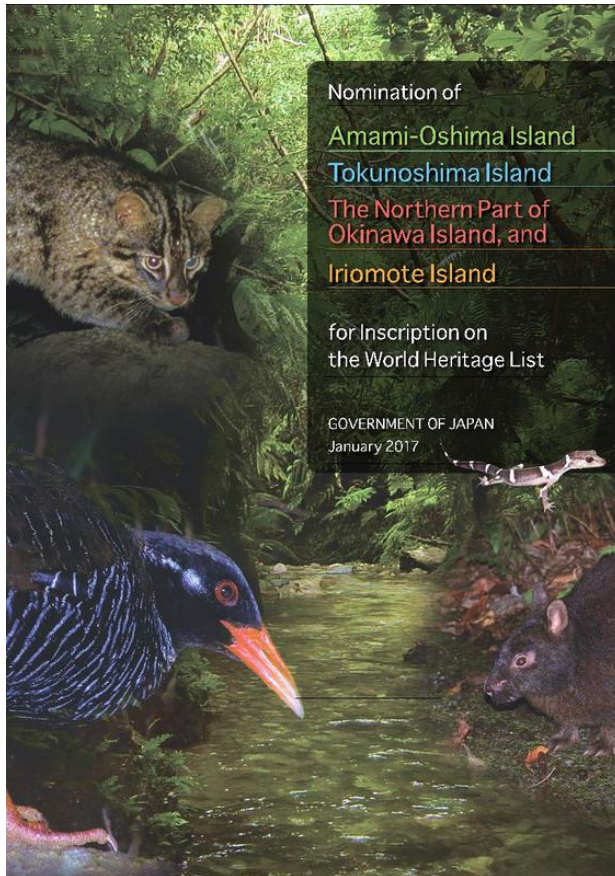
Seen in this way, although the Japanese government maintains that it has no comments on a legal case taking place in another country,<sup>31</sup> the timing of the start of seawall construction and the way it has been conducted (as fait accompli) make good sense. The Japanese government has carefully crafted procedural and legal grounds for the Okinawa Defense Bureau to start "seawall construction" and to dissuade Governor Onaga and the Okinawa prefectural government from revoking "necessary approvals" and taking legal action.

### **UNESCO's World Natural Heritage Nomination**

While the dugong lawsuit in the U.S. Ninth Circuit Court of Appeal appears to be playing a role in triggering the start of seawall construction, creating a fait accompli, the Japanese environment ministry's recent nomination of the northern part of Okinawa Island exposes the dilemma faced by the Japanese government.

Since the early 2000s, the Japanese Ministry of the Environment, along with the prefectures of Okinawa and Kagoshima, has been making efforts to have the islands of the Ryukyu and Amami archipelago inscribed on UNESCO's

World Natural Heritage List. On February 1, 2017, the environmental ministry officially nominated the Northern Part of Okinawa Island along with Amami-Oshima Island, Tokunoshima Island, and Iriomote Island for World Natural Heritage status.<sup>32</sup>



**Front Page of the World Heritage Nomination Document submitted by Japanese Government to UNESCO**

Despite many difficulties the environmental ministry has to deal with, due in part to the fact that the nominated area in northern Okinawa Island is adjacent to the U.S. military's Northern Training Area (NTA),<sup>33</sup> the environment ministry decided to keep northern Okinawa Island on its nomination list. This is because the environment of the area expresses "Outstanding Universal Values" and is

"complementary" to the other nomination areas. The environment ministry states that "If any of the four regions were to be omitted, it would be impossible to understand the whole picture of the ongoing evolutionary and ecological processes of the Ryukyu Chain or conserve the biodiversity of the area."<sup>34</sup>

Field inspection by the International Union for Conservation of Nature (IUCN), the expert advisory body to UNESCO tasked with evaluation of World Natural Heritage nominations, is expected to take place in Okinawa and Kagoshima in the summer or fall of 2017. UNESCO is expected to make a decision on the inscription of the nominated sites in the summer of 2018. This IUCN/UNESCO evaluation process has the potential to draw international attention not only to the nominated sites but also to the base construction in Henoko-Oura Bay.

Despite the stance of the Japanese environmental ministry that the nomination of the "Northern Part of Okinawa Island" and the base construction in Henoko-Oura Bay are separate issues,<sup>35</sup> the linkage between the two is undeniable. The construction site at Henoko-Oura Bay is less than 20 km away from the World Natural Heritage nominated site of northern Okinawa Island, and scientists and environmental NGOs regard the area of Henoko-Oura Bay as integral parts of the ecosystem of northern Okinawa Island.<sup>36</sup>

U.S. military aircraft would be stationed at and dispatched from the new base in Henoko-Oura Bay to the Northern Training Area (NTA), also in northern Okinawa Island, for flight training. Whether and how the U.S. military protects the environment of Henoko-Oura Bay will provide a significant pointer to whether and how it would likely operate the NTA and collaborate with the Japanese and local governments to assist in having the nominated area inscribed as a World Natural Heritage site.<sup>37</sup>

Also, the IUCN itself has adopted resolutions and recommendations on four occasions regarding the impact of base construction in Henoko-Oura Bay on the environment and its endangered species. The most recent resolution, adopted in Hawaii in 2016, noted the Japanese government's plan to have the northern part of Okinawa Island given World Natural Heritage status, and urged the Japanese government to address the issues of introduction of alien species to Okinawa Island through landfill materials brought from outside Okinawa.<sup>38</sup>

Moreover, responding to IUCN resolutions and recommendations, Governor Onaga, Nago City Mayor Susumu Inamine, and Nago City Assembly have sent the IUCN letters of concern and request regarding the issues of the base construction in Henoko-Oura Bay in relation to the nomination of the northern part of Okinawa Island for World Natural Heritage. They all plead with the IUCN for help in addressing their "situation/plight."<sup>39</sup>

Governor Onaga's letter reads:

"We are truly proud that the northern area of the main Island and Iriomote Island are recommended as world heritage sites, as many indigenous species including Okinawa rails and Iriomote wildcats inhabit the area. We are actively working towards registration in the World Heritage List." "However, the Government of Japan is going ahead with land reclamation work without any inhibition, even going so far as to sue the prefectural government and me personally for damages. This miraculous ocean, with its rich biodiversity, is on the verge of disappearing from our planet." "On behalf of the people of Okinawa, I implore you to understand the

significance of conserving biodiversity in Henoko's Oura Bay, and to urge the Japanese and the U.S. governments to abandon construction of this new base at Henoko. Please help tell the world about our plight."

It is apparent that the issue of construction of a military base at Henoko-Oura Bay and the evaluation process of the northern part of Okinawa Island for World Natural Heritage status are on collision course, with the IUCN inevitably placed in the center.

This places the Abe government's environment, defense, and foreign affairs ministries in contentious positions. The environment ministry, as the ministry in direct charge of the World Natural Heritage nomination, has perhaps the most difficult task to perform while the foreign affairs ministry has to perform a balancing act required by its responsibilities for and obligations to both the U.S.-Japan Status of Forces Agreement and the World Heritage Convention.<sup>40</sup>

For its part, the defense ministry appears indifferent to the relationship between the base construction at Henoko-Oura Bay and the nomination of the northern part of Okinawa Island for World Natural Heritage status. The U.S. military has not made public its stance regarding the World Heritage nomination of an area adjacent to its NTA.

In this situation, the Okinawa Defense Bureau's start of seawall construction, triggered in part by the hearing of the Dugong case in the U.S. Ninth Circuit Court, can be seen as intended to convey the message that base construction work has crossed the point of no return. The message carries different points of emphasis to the people of Okinawa, the IUCN and UNESCO, and the U.S. military.

To the people of Okinawa including Governor Onaga, it delivers the message that it is futile

to carry on their fight. It intends to make the point that nobody would benefit from rallies in front of the gates of Camp Schwab, or on the waters of Henoko-Oura Bay, or along the fences of the NTA, calling for environmental justice for Okinawa during the IUCN inspectors' visit to Okinawa. It contends that Okinawa should be content with the nomination of their islands for World Natural Heritage and should collaborate with the Japanese government for that end, and for that end only.

To the IUCN and UNESCO, the Bureau's start of seawall construction signals that in Okinawa the political-military boundaries shaped by the U.S.-Japan security relationship prevail over "environmental integrity" and that they should not step into the political realm. It reminds them that these two issues should be treated separately.

To the U.S. military, it carries the message that the Japanese government is determined to do the otherwise inconceivable: place a U.S. military base and its training area adjacent to a World Natural Heritage site.

However, the legitimacy of these messages hinges both upon the (*fait accompli*) claim that the "real" construction has started, crossing the point of no return, and upon the fact that, as the situation stands at present, "all necessary approvals have been obtained" for the base construction, making the construction legal and valid.

This has important implications for strategies to prevent the construction plan.

### **Strategic Implications for Okinawa's fight**

The Japanese government through Chief Secretary Suga maintains that the construction of a military base in Henoko-Oura Bay is proceeding in accordance with the laws and regulations of the country.

Opponents of the construction plan including

Governor Onaga can point to many flaws in the Okinawa Defense Bureau's Environmental Impact Assessment and the Japanese government's abuse or manipulation of the administrative and legal systems. They can insist that the "democratic will" of the people of Okinawa is opposed to the construction plan because the people of Okinawa replaced former Governor Nakaima, who had granted those "necessary approvals," with Governor Onaga who opposed them in the election of November 2014

However, the fact of the matter is that at present nothing is illegal about the base construction since "all necessary approvals" (with the probable exception of the coral reef crushing permit) provided by former Governor Nakaima for base construction remain intact. Governor Onaga canceled the land reclamation permit in October 2015; but the Japanese Supreme Court ruled in December 2016 that his cancellation was illegal. Upon the ruling, Governor Onaga himself withdrew his cancellation. So, "all necessary approvals" were put back on the table.

The U.S. DoD also follows the Japanese government's logic. The DoD waited until the land reclamation permit and "all necessary approvals" had been obtained" before starting to issue entrance permits in July 2014 to the Okinawa Defense Bureau to proceed with the construction. The U.S. Federal District Court also ruled in favor of the DoD in February 2015 because all the "necessary approvals had been obtained."

Against this reality, Governor Onaga and the Okinawa prefectural government appear rather hesitant (even timid) about whether to take substantial administrative and legal actions. Their hesitation is understandable as the Japanese court system is weighted against them. It is possible that Governor Onaga is keeping his option to revoke the land reclamation permit as an option of last resort.



However, three points need be emphasized. First, despite the fact that the Japanese legal system is disposed to favor the national government against the prefecture, and thus to the disadvantage of Okinawa, one of the best venues for Governor Onaga and his prefectural government to challenge the Japanese government still appears to be the court system. After “all necessary approvals had been obtained” for base construction, the only time that construction was actually halted was when he used his administrative power to cancel (torikeshi) the land reclamation permit and took the issue to the court. One should not lose the sight of the fact that although Okinawa cannot rely upon the Japanese judicial system, it can still take advantage of it.

Second, as described above, Okinawa now has an extremely rare opportunity to challenge the construction of the base in Henoko-Oura Bay. The prospect of favorable outcomes of the dugong case in the U.S. Ninth Circuit Court of Appeals, however slim, and the nomination process of the northern part of Okinawa Island for World Heritage status together provide grounds for Governor Onaga and his prefectural government and the people of Okinawa to carry on their fight. Importantly, they can pose environmental issues, probably the most clear-cut case Okinawa can offer, in the international arena to challenge both the Japanese government and the U.S. military.

However, for these external developments to have any chance to evolve into a strategic force able to derail base construction, Governor Onaga has to take immediate and decisive action. He must revoke the land reclamation permit and other approvals before the U.S. Ninth Circuit Court of Appeals makes its

decision, which might come in one or a few months. Only by doing so can he can show the Appeals Court that base construction has lost its legal basis in Japan and convince the IUCN and UNESCO that he is acting on political and legal fronts on these complicated issues so that they can exert their influence on the environment and conservation front.

Governor Onaga needs to look beyond the confines of the Japanese administrative and judicial systems in which he struggles. The issue of base construction in Henoko-Oura Bay has been internationalized by raising environmental issues. Governor Onaga should recognize that the people of Okinawa have gathered significant international support in their fight against base construction and that he has the means to activate that support. But time is critical. Now is the moment to revoke the land reclamation permit and other “approvals.

### Related articles

- Gavan McCormack and Sandi Aritza, *The Japanese State versus the People of Okinawa. Rolling Arrests and Prolonged and Punitive Detention* (<https://apjff.org/2017/02/McCormack.html>)
- Hideki Yoshikawa and Gavan McCormack, *Okinawa: NGO Appeal to the United Nations and the to US Military and Government Over Base Matters*, December 2015 and December 2016 (<https://apjff.org/2016/24/Yoshikawa.html>)
- Hideki Yoshikawa, *Okinawa Update: Opposition to a New U.S. Base at Henoko and the Responsibility of the U.S.* (<https://apjff.org/2016/12/Yoshikawa.html>)

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on this site.

## Notes

<sup>1</sup> On the start of seawall construction, see “Japan begins construction work for controversial new U.S. base in Okinawa

(<http://www.japantimes.co.jp/news/2017/04/25/national/japan-begins-construction-work-contr-versial-new-u-s-base-okinawa/#.WQu-roXyelg>),” The Japan Times, April 25, 2017.

<sup>2</sup> “Gov’t crosses line with launch of landfill work for Okinawa base relocation

([https://mainichi.jp/english/articles/20170426/p2a/00m/0na/009000c#cxrecs\\_s#csidxb95521d579f0637b35ed37b6998bc37](https://mainichi.jp/english/articles/20170426/p2a/00m/0na/009000c#cxrecs_s#csidxb95521d579f0637b35ed37b6998bc37)),” The Mainichi, April 26, 2017.

<sup>3</sup> “Henoko gogan koji chakushu Onaga chiji ‘yurushi gatai, bokyo’ to hihan shonin tekkai no jiki genkyu sezu [Seawall construction launched, Governor Onaga condemns it as ‘unforgivable and outrageous’ but does not state when he will revoke the land reclamation permit ] (<http://www.okinawatimes.co.jp/articles/-/94828>),” Okinawa taimusu, April 25, 2017.

<sup>4</sup> See the Cabinet Press conference by Chief Cabinet Secretary Suga Yoshihide ([http://japan.kantei.go.jp/tyoukanpress/201704/25\\_a.html](http://japan.kantei.go.jp/tyoukanpress/201704/25_a.html)), April 25, 2017.

<sup>5</sup> “Hasai kyokagire saishinnsei o gyoseishido boeikyoku ni okinawaken [Crushing permit expired Okinawa prefecture sent directive to Okinawa Defense Bureau] (<https://mainichi.jp/articles/20170406/ddp/012/010/015000c>),” Mainichi shimbun, April 6, 2017.)

<sup>6</sup> “Okinawa governor threatens to file injunction against Henoko base construction work (<https://mainichi.jp/english/articles/20170316/p2a/00m/0na/011000c>),” The Mainichi. March 16, 2017. Also see Press Conference by Defense Minister Inada Tomomi (<http://www.mod.go.jp/e/press/conference/2017/04/07.html>) Also for the Nago Fishing Cooperative’s General Meeting, 11 March 2013, see Urashima Etsuko, “A Nago Citizen’s Opinion on the Henoko Marine Base Construction Project (<http://apjif.org/2013/11/47/Urashima-Etsuko/4035/article.html/>),” The Asia-Pacific Journal, Vol. 11, Issue 47, No. 2, November 25, 2013.

<sup>7</sup> The prefectural government has contended that the government’s intervention with the Nago Fishermen’s Cooperative was “threatening the stability of laws;” but the national government remains aloof to the prefectural government’s contention. See “Okinawa governor threatens to file injunction against Henoko base construction work (<https://mainichi.jp/english/articles/20170316/p2a/00m/0na/011000c>),” The Mainichi, March 16, 2017. See also “Gov’t works on new U.S. base site at Henoko for 1st time since permission expired (<https://mainichi.jp/english/articles/20170404/p2a/00m/0na/006000c>),” The Mainichi, April 4, 2017.

<sup>8</sup> Kitaueda Tsuyoshi writes Choi-san no Okinawa nikki [Choi-san’ Okinawa Diary], a blog providing up-to-date information in Japanese on the construction of the base and other base related issues in Okinawa. He is a retired governmental official who participates in protest at Henoko-Oura Bay. See his blog at: here (<http://blog.goo.ne.jp/chuy/e/9c014a6f8f8d1c084371f41edfd87d85>).

<sup>9</sup> See “Shasetsu: ‘umetate shonin tekkai e’ omoi ketsudan ga jyokyo o kaeru [Decisive decision

changes the situation] (<http://www.okinawatimes.co.jp/articles/-/90229>),” Okinawa taimusu, March 26, 2017. For discussion urging Governor Onaga to revoke the land reclamation permit, see Satoko Norimatsu, “Henoko tadachini shonin tekkai o jyo ge [Immediate revocation is needed for Henoko first and second],” Okinawa taimusu, March 8, 2017. First: Here (<http://www.okinawatimes.co.jp/articles/-/87606>) Second: Here (<http://www.okinawatimes.co.jp/articles/-/87608>)

<sup>10</sup> Governor Onaga uses the expression “kisei jijitsu” or fait accompli to describe the Okinawa Defense Bureau’s start of seawall construction. See “Governor Onaga to seek injunction to block seawall construction for new base off Henoko, (<http://english.ryukyushimpo.jp/2017/04/29/26910/>)” Ryukyu Shimpo, April 26, 2017.

<sup>11</sup> Ibid.

<sup>12</sup> The 1966 survey report Master Plan of Navy Facilities on the island of Okinawa, Ryukyu Islands, submitted to the U.S. Department of the Navy by a U.S. contractor, indicated the fragile nature of the seafloor at the construction site.

<sup>13</sup> See Mariko Abe (Nature Conservation Society of Japan) et al, “Henoko kankyo asesu go ni hanmeishita aratana jujitsu o happyo [New facts on Henoko after Environmental Impact Assessment]

([http://www.nacsj.or.jp/archive/files/katsudo/henoko/pdf/20140709henokopresrelease\\_0903kaitei.pdf/](http://www.nacsj.or.jp/archive/files/katsudo/henoko/pdf/20140709henokopresrelease_0903kaitei.pdf/)),” website of the Nature Conservation Society of Japan.

<sup>14</sup> In October 2015, Governor Onaga revoked (torikeshi) the land reclamation permit, claiming that the grounds on which former Governor Nakaima granted the permit were questionable. In December 2016, the Japanese supreme court ruled Governor Onaga’s torikeshi illegal. For details of Governor Onaga’s claims, see Sakurai Kunitoshi and Gavan McCormack, “To Whom Does the Sea Belong? Questions Posed by the Henoko Assessment (<http://apjif.org/2015/13/29/Sakurai-Kunitoshi/4346.html>),” The Asia-Pacific Journal, Vol. 13, Issue 29, No. 4, July 20, 2015.

<sup>15</sup> Sakurai Kunitoshi, “Rondan: Kankyo hakai torimodosenu: tadachini tekkai o [Environment once destroyed can not be recovered: Do immediate revocation],” Ryukyu Shimpo, April 16, 2017.

<sup>16</sup> “Onaga chiji ‘umetate shonin o tekkai’ kougai shukai de hyomei [Governor Onaga declares at protest rally to revoke land reclamation permit] (<http://www.asahi.com/articles/ASK3T42NFK3TTIPE00B.html>),” Asahi shimbun digital, March 25, 2017.

<sup>17</sup> “Okinawa in tight spot as top court sides with gov’t in Henoko reclamation case (<http://mainichi.jp/english/articles/20161221/p2a/00m/0na/012000c>),” The Mainichi, December 21, 2016. For accounts and analysis of the court battles between Okinawa Governor Onaga and the Japanese government and former Governor Ota Masahide and the Japanese government, see Gavan McCormack, “Japan’s Problematic Prefecture- Okinawa and the US-Japan Relationship,” The Asia Pacific Journal, Vol. 14, Issue 17, No 2, September 1, 2016.

<sup>18</sup> Some have argued that the defeat of candidates who Governor Onaga supported in three recent mayoral elections, a sign of Onaga losing his political clout, prompted the Japanese government to start seawall construction. See the cabinet press conference video starting at 7:25 at: here ([http://japan.kantei.go.jp/tyoukanpress/201704/24\\_a.html](http://japan.kantei.go.jp/tyoukanpress/201704/24_a.html)).

<sup>19</sup> See Hideki Yoshikawa, “An Appeal from Okinawa to the US Congress. Futenma Marine Base Relocation and its Environmental Impact: U.S. Responsibility (<http://apjjf.org/2014/12/39/Hideki-YOSHIKAWA/4194/article.html>)” *The Asia-Pacific Journal*, Vol. 12, Issue 39, No. 4, September 28, 2014.

<sup>20</sup> For details of the “dugong lawsuit” and legal documents, see the website of Earthjustice, the U.S. environmental law firm representing the plaintiffs, at: here ([http://earthjustice.org/our\\_work/cases/2003/okinawa-dugong-proposed-airbase](http://earthjustice.org/our_work/cases/2003/okinawa-dugong-proposed-airbase)).

<sup>21</sup> See the video recording of the hearing of the Case 15-15695 Center for Biological Diversity vs. Ashton Carter at: here ([http://www.ca9.uscourts.gov/media/view\\_video.php?pk\\_vid=0000011215](http://www.ca9.uscourts.gov/media/view_video.php?pk_vid=0000011215)).

<sup>22</sup> Helen Christophi, “Court Signals Bend of U.S. Marine Base for Okinawa Dugong (<https://www.courthousenews.com/ninth-circuit-leery-plans-okinawa-marine-b>),” *Courthouse News Service*, March 16, 2017.

<sup>23</sup> See the video recording of the hearing of the Case 15-15695 Center for Biological Diversity vs. Ashton Carte starting at 27:35 at: here ([http://www.ca9.uscourts.gov/media/view\\_video.php?pk\\_vid=0000011215](http://www.ca9.uscourts.gov/media/view_video.php?pk_vid=0000011215)).

<sup>24</sup> See U.S. Marine Corps Recommended Findings April 2014 as Exhibit 1 for the plaintiffs’ Supplementary Complaint at: here ([http://earthjustice.org/sites/default/files/files/Final\\_Supplemental\\_Complaint\\_with\\_Exhibits.pdf](http://earthjustice.org/sites/default/files/files/Final_Supplemental_Complaint_with_Exhibits.pdf)).

<sup>25</sup> See Mariko Abe (Nature Conservation Society of Japan) et al, “Henoko kankyo asesu go ni hanmeishita aratana jujitsu o happyo [New facts on Henoko after Environmental Impact Assessment] ([http://www.nacsj.or.jp/archive/files/katsudo/henoko/pdf/20140709henokopresrelease\\_0903kaitei.pdf](http://www.nacsj.or.jp/archive/files/katsudo/henoko/pdf/20140709henokopresrelease_0903kaitei.pdf)),” Website of the Nature Conservation Society of Japan.

<sup>26</sup> “Dugong not seen since 2015, probably due to impact of Oura Bay construction (<http://english.ryukyushimpo.jp/2016/11/03/25964/>),” *Ryukyu Shimpo*, November 03, 2016. See also minutes of the House of Representatives Environment Committee meeting ([http://www.shugiin.go.jp/internet/itdb\\_kaigiroku.nsf/html/kaigiroku/001719320170324006.htm](http://www.shugiin.go.jp/internet/itdb_kaigiroku.nsf/html/kaigiroku/001719320170324006.htm)), March 24, 2017.

<sup>27</sup> For a summary of the District Court’s ruling, see Rebekah Kearn “No Help for the Endangered Dugong. (<http://www.courthousenews.com/no-help-for-the-endangered-dugong/>)” *Courthouse News Service*, February 18, 2015.

<sup>28</sup> See the District Court’s ruling for the case of Okinawa Dugong (<http://cases.justia.com/federal/district-courts/california/candce/3:2003cv04350/15010/188/0.pdf?ts=1428877604>) (Dugong Dugon( et al V. Rumsfeld et al.

<sup>29</sup> For a summary of the lawsuits between the Japanese government and Governor Onaga, see “Editorial: Resumption of reclamation work off Henoko too hasty (<http://mainichi.jp/english/articles/20161228/p2a/00m/0na/010000c>),” *The Mainichi*, December 28, 2016.

<sup>30</sup> The Okinawa prefectural government could not present its arguments on environmental issues in the hearings of the previous court cases regarding Governor Onaga’s cancellation of the land reclamation permit. According to the prefectural government, “The High Court handed down its ruling without conducting sufficient proceedings as it neither called a single

environmental expert or other witness as requested by the Okinawa Prefectural Government nor did it afford Okinawa Prefectural Government any opportunity of rebuttal.” See “Current Situation and Future Prospects for Relocation of Marine Corps Air Station Futenma (<http://dc-office.org/post/640>),” the Website of the Okinawa Prefectural Government Washington D.C. Office.

<sup>31</sup> The environment, defense, and foreign affairs ministries all maintained this stance during the meetings with NGOs on April 14, 2017.

<sup>32</sup> Akimichi Matsunaga, “Aiming for the Fifth World Natural Heritage Site in Japan (<http://www.env.go.jp/en/focus/jeq/issue/vol17/feature.html>),” Japan Environmental Quarterly, Vol. 17, March 17, 2017

<sup>33</sup> See NGOs’ letter to the U.S. military and government titled “Letter of Concern and Request: Inscription of Yanbaru Forest as a World Natural Heritage Site December 1, 2016 (<http://okinawaejp.blogspot.jp/>)”

<sup>34</sup> The Government of Japan (2017), Nomination of Amami-Oshima Island, Tokunoshima Island, the Northern Part of Okinawa Island and Iriomote Island for Inscription on the World Heritage List. (<http://kyushu.env.go.jp/naha/ehonbun.pdf>)

<sup>35</sup> NGO’s meeting with the Ministry of the Environment on April 14, 2017.

<sup>36</sup> See NGOs letter to IUCN titled “Request Concerning the IUCN field mission of proposed World Heritage sites in Amami-Oshima Island, Tokunoshima Island, the northern part of Okinawa Island, and Iriomote Island (March 17, 2017)” at: here (<http://www.nacsj.or.jp/archive/wp-content/uploads/2017/04/201703IUCNrequestJapanese-NGOs.pdf>).

<sup>37</sup> See Hideki Yoshikawa, “U.S. military must not jeopardize Okinawan forest’s bid for World Heritage status (<http://www.japantimes.co.jp/community/2017/02/01/voices/u-s-military-must-not-jeopardize-okinawan-forests-bid-world-heritage-status/#.WRWLO4Xyelg>),” The Japan Times, February 01, 2017.

<sup>38</sup> See IUCN Resolution “Strengthening pathway management of alien species in island ecosystems (2016-WCC-Res-020-EN)” at: here ([https://portals.iucn.org/library/sites/library/files/resrecfiles/WCC\\_2016\\_RES\\_020\\_EN.pdf](https://portals.iucn.org/library/sites/library/files/resrecfiles/WCC_2016_RES_020_EN.pdf)).

<sup>39</sup> See Governor Onaga’s Letter to IUCN Director General, Ms. Inger Anderson (<http://www.pref.okinawa.lg.jp/site/chijiko/henoko/documents/syokan1eibun.pdf>) See also Nago City Mayor Susumu Inamine’s letter to IUCN ([http://www.city.nago.okinawa.jp/DAT/LIB/WEB/1/Letter\\_of\\_Concern\\_and\\_Request.pdf](http://www.city.nago.okinawa.jp/DAT/LIB/WEB/1/Letter_of_Concern_and_Request.pdf))

<sup>40</sup> The environment and foreign affairs ministries expressed these stances on the relationship between the World Natural Heritage nomination and U.S. military bases and training areas in Okinawa during meetings with NGOs on April 14, 2017.