

**Joint CSOs shadow report on
Sexual and Reproductive Health and Rights in Japan**

**To the Committee on Elimination of Discrimination Against Women (CEDAW) for
consideration of at the 89th session**

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Submitted by

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Executive Summary

1. As stated within the article 12 of the Convention on the Elimination of all forms of Discrimination Against Women, as well as promised in the Cairo Program for Action (1994) and in the Beijing Platform for Action, Sexual and Reproductive Health and Rights (SRHR) is fundamental component of women's rights. Without upholding SRHR and the rights for bodily autonomy and self-determination of women, there is no way in achieving gender equality in a country. **Therefore, the reporting team requests that the issues surrounding SRHR and the rights to bodily autonomy and self-determination be made one of the five priority areas for the government of Japan (GOJ) review of the 89 session of CEDAW.**
2. This report intends to shed light on the ongoing violations of the rights for bodily autonomy and self-determination, as well as SRHR of women in all their diversity, including LBT Women, Nonbinary and Gender-Diverse People, in Japan. The report provides information requested by the CEDAW committee on the List of Issues and Questions Prior to Reporting (LoIPR) #10, 17, 20, 23, and Article 12 of the convention, General Recommendation 24, article 12 and 14.
3. First, the reporting team would like to draw attention to the now defunct [Eugenic Protection Act](#) (EPA, 1948 to 1996) which was modified and renamed as the Maternal Protection Law (MPL) in 1996. Under the repealed EPA, approximately 25,000 people were sterilised in Japan to prevent the birth of "inferior descendants" from a 'eugenic' point of view and to "protect the life and health of motherhood". The act enabled sterilisation and abortion on people who were considered to be "inferior", including persons with various forms of "disabilities". Such procedures were often conducted without consent or even by deception.
4. Since 1997, the survivors of these sterilisation surgeries have been demanding an official apology and compensation from the Government of Japan (GOJ). After a series of requests and lawsuits conducted by the survivors and after receiving several UN treaty bodies' recommendations, the GOJ reluctantly gestured a regret, and petty compensation was legislated at the Japanese Diet in 2019. Yet finally in July 2024, the Supreme Court ruled the EPA unconstitutional, even at the point of the act formulation in 1948. It is a remarkable win for the plaintiffs although the ruling came much too late for many of the survivors who passed away.

5. Second, there have been very few efforts made by the GOJ to protect human rights since the previous CEDAW review in March 2016. While the GOJ legislated [“Act for Eliminating Discrimination against Persons with Disabilities”](#), it is far from fully functional in prevention of discrimination as the act does not discuss indirect, related, and compound discrimination, nor harassment often faced by persons with disabilities. Furthermore, [“Act on the Promotion of Efforts to Eliminate Unfair Discriminatory Speech and Behavior against Persons with Countries of Origin other than Japan”](#) legislated in June 2016 is also faulty as it does not protect Ainu and LGBTQ+ people since their origin is within Japan. Fundamentally, there is no comprehensive anti-discrimination law or National Human Rights Institution in Japan to take measures to protect human rights in Japan. It is under such circumstances that the demand for legislation that prevents discrimination against LGBTQ+ persons is requested in this report.

6. The report details persistent patriarchal interference of the state to the rights for bodily autonomy and self-determination, and the SRHR of women and girls in all their diversity in Japan, in accordance with the LoIPRs order. Specifically, the report provides: detailed information on past violations in the form of forced sterilisations of women with disabilities (LoIPR Para10); inadequate measures taken to provide victims of forced sterilisation access to legal remedies, compensation and rehabilitative services (LoIPR Para.10); information on the measures taken to include mandatory age-appropriate school curricula on SRHR, including responsible sexual behaviour (LoIPR Para17); situation surrounding the Penal Code for abortion and the MPL (LoIPR Para20); forced sterilisation and genital surgery of transgender persons when they want to change their gender marker on the official documents, access barriers to gender affirming medical services such as hormone therapies, prohibition of providing necessary medical services such as hormone therapies to transgender persons in detention, the state’s negligence in deescalating hate speech towards trans people, especially trans women, the state’s negligence in providing safe learning environments for LGBTQ+ youth to guarantee their right to education, discrimination on the right of same-sex marriages, lack of effective law that prevents discrimination based on sexual orientation and gender identity (LoIPR-Para 23); and inaccessibility of contraceptives including emergency contraceptives (Article 12 of the convention, General Recommendation 24, article 12 and14).

LoIPR Para.10 (1)

Detailed information on past violations in the form of forced sterilisations of women

7. Under the repealed [EPA \(1948 to 1996\)](#), about [25,000 people were sterilised in Japan](#). Aiming to prevent the birth of the so-called “inferior descendants” from a ‘eugenic’ point of view and to “protect the life and health of motherhood,” the act contained provisions that allowed sterilisation and abortion on people who were considered to be “inferior”, including persons with hereditary conditions including psychopathy, bodily disease and malformation, as well as mental illnesses and ‘mentally retardation’. The law authorised doctors to conduct sterilisations without such persons' consent. [Data shows that at least 16,477 people were subjected to forced sterilisation without consent, with women comprising an estimated 68% of those forcibly sterilised.](#)

LoIPR Para.10 (2)

Inadequate measures being taken to provide all victims of forced sterilisation with access to legal remedies, compensation and rehabilitative services.

8. In 1997, survivors of these sterilisation surgeries started advocating for an official apology and compensation from the State. After a series of requests and lawsuits carried out by the survivors and several recommendations issued by UN treaty bodies including CEDAW Committee,¹ the Japanese Diet (legislative body) passed legislation in 2019 to provide a lump sum payment to the people concerned (“the Payment Law”). However, survivors have expressed their dissatisfaction with this law for several reasons.
9. First, the GOJ failed to acknowledge the State's responsibility clearly in this matter. Although the law contains some words of apology, they are delivered in an obscure way, such as using the vague subject “we” instead of “State” or “Government”. Indeed, the Payment Law did not even use the word “compensation,” furthermore there was no mention of the state' accountability to the forced sterilizations. Instead, the reparation was just called a “payment.”

¹ CCPR/C/79/Add.102 (para.31), CCPR/C/JPN/CO/5, CCPR/C/JPN/CO/6, CEDAW/C/JPN/CO/7-8 (para. 24, 25)

Obviously, this law falls short of satisfying the survivors' earnest requests for an official apology and compensation by the State. In addition, the amount of the lump sum payment (JPY3.2 million, approx. \$25,000) was disproportionate to the unrestorable harm that the survivors endured. Therefore, it also falls short of providing satisfaction to the survivors.

10. Second, measures to prevent the repetition of human rights violations based on eugenics have been demonstrably inadequate. The fact-finding investigation, for instance, was insufficiently implemented: it was not conducted by an independent body with survivor participation, the initial scope excluded relevant institutions, and there was no follow-up research or interviews with survivors and related parties. This is partially because there is no National Human Rights Institution (NHRI) in Japan to properly mandate such an investigation. Other preventive measures, such as comprehensive anti-discrimination education for people with disabilities, were also insufficiently implemented. Given the EPA was in effect in Japan for nearly 50 years, it can be assumed that eugenics is still deeply embedded in Japanese society. Indeed, there was a mass murder of people living with disabilities as recently as 2016. [The perpetrator, citing eugenics as his motive, killed 19 people and injured 26 at a care home in Sagami-hara, near Tokyo.](#) Without a proper investigation and an appropriate education program implemented throughout the country, it is difficult to guarantee that human rights violations based in eugenics will not be repeated.
11. Third, the GOJ has not taken sufficient measures to implement the legislation, notably in locating and reaching out to the survivors, saying that it is difficult to identify them without exposing their privacy. Despite privacy concerns, not reaching out to survivors is not an option because some of them may not even know that they had been forcefully sterilised, and those who know that they had been subjected to this surgery may still hesitate to come out, fearing stigma and discrimination. In addition, the dissemination of information regarding the Payment Law was not sufficient. [Indeed, as of April 2024, the number of certified payments stands at only around 1,100. The number of survivors identified through the initial research was 5,400,](#) indicating clearly that the vast majority of survivors have not applied or received payment.
12. There are also several ongoing lawsuits holding the State accountable for the matter. As of June

2024, 39 plaintiffs have filed cases in courts across Japan. The majority of judgments at High Courts have found forced sterilisations unconstitutional and ordered compensation for survivors, with [the highest award being 16.5 million JPY](#) (approx. \$105,556 roughly 5.1 times more than the lump-sum payment).

13. On 3 July 2024, the Supreme Court ruled in five High Court decisions that the EPA had discriminated against people with disabilities since its enactment in 1948, that it is “unconstitutional” and that applying a 20-year [“statute of limitations”\(the right to seek compensation expires\) is an abuse of rights](#). The Supreme Court also pointed out that despite the 2016 CEDAW recommendations,² no compensation had been made. [In response, Prime Minister Kishida offered apologies to the plaintiffs and other concerned parties](#).

14. The plaintiffs, their lawyers and others conveyed their requests to the GOJ and Parliament for settlement of the pending court cases and the development of a new law replacing the Payment Law. The GOJ should act to resolve the problems concerning the Payment Law and make a sincere effort to conduct investigations to uncover the full extent of damage, offer apologies, compensate victims, examine the cases, educate concerned parties and restore the victims’ honour. Also, forced and coerced abortion cases based on the eugenics clause require thorough examination and apologies for the victims from the SRHR perspective. The fact that six of the 39 people who were able to bring the case to court have died also calls for full resolution as soon as possible.

LoIPR Para.10 Proposed Recommendations

15. The GOJ should issue a formal apology to all victims of forced sterilization. Additionally, it should ensure victims have access to effective legal remedies, fair compensation, and appropriate rehabilitative services.

16. The GOJ should commission an independent and thorough fact-finding investigation into forced sterilization practices. This investigation should involve the participation of survivors. If

² CEDAW/C/JPN/CO/7-8, para 25

perpetrators are still alive and can be convicted, the GOJ should pursue appropriate legal action and punishment.

17. The GOJ should implement a comprehensive anti-discrimination education program focused on people with disabilities. This program should actively address and dismantle the harmful ideology of eugenics.

LoIPR Para.17

Information on the measures taken to include in mandatory age-appropriate school curricula on sexual and reproductive health and rights, including responsible sexual behaviour.

18. In Japan, sexuality education has faced conservative backlash for the last two decades after teachers at the Nanao Special School for Handicapped children who implemented sex and gender related education were publicly criticised by conservative politicians and media and forcibly moved to different schools as a punishment in 2003, known as the 'Nanao incident'. Although a court ruled that this was an unjustified intervention by the government, teachers at public schools are intimidated to teach sexuality education. As a result, [comprehensive Sexuality Education \(CSE\) has not been implemented](#) and basic sexuality knowledge is currently lacking among young people as well as the general public.

19. As a response to the LoIPs para 17, the GOJ states the following about sex education: "[The National Curriculum Standards for elementary, junior high and high schools cover contents pertaining to sexual and reproductive health and rights.](#) Schools provide guidance on sexuality through the entire school education activities such as physical education, health and physical education, and Tokkatsu (Student-Led Activities), according to the National Curriculum Standards, in order to ensure that students develop understandings on sexuality and take appropriate actions."

20. However, according to a domestic survey, [sex education in junior high schools averages only about 3 hours per year, which is not enough at all.](#) In addition, since 1998, the curriculum

guidelines for compulsory sex education in elementary and junior high schools have included restrictions on reproduction, sexual intercourse, contraception, and abortion, known as the [“restriction rule”](#).

21. In 2021, the GOJ introduced “Life Safety Education” aimed at preventing sexual violence. However, the focus is on restricting sexual behaviour, and gender binary and heterosexism-centeredness have not been changed.
22. Furthermore, in recent years, the GOJ, while opposing CSE, has been promoting [“preconception care”](#), a form of health management education which aims to equip people with knowledge to prepare for future pregnancies, as a part of the [GOJ policies](#) to [tackle the declining birthrate](#). The problem with promoting preconception care without having in place a science-based sexuality education is that it bolsters the gender norm that women automatically “want to have a child” while neglecting the life choice of “not having a child,” thereby undermining women's right to self-determination. It also ignores the fact that some women are unable to become pregnant due to infertility or sickness.
23. As a result, Japanese youth lack sufficient educational foundations on consent, healthy relationships, and sexual health, raising their risk of facing unplanned pregnancies, sexually transmitted diseases, and sexual violence.

LoIPR Para 17. Proposed Recommendations:

24. To ensure access to comprehensive sexuality education, the GOJ should consider the following reforms:
25. Ensure psychological and legal safety of teachers to implement CSE inside of schools by repealing the “restriction rule” that prevents pupils from learning about reproduction and sexual

intercourse³⁴.

26. Develop and introduce age-appropriate, evidence-based, scientifically accurate mandatory curricula into The National Curriculum Standards at all levels of education, covering comprehensive information not only on reproductive health but also SRHR, gender equality, social norms, diversity of SOGIESC, boundaries, (sexual) consent, and bodily autonomy.^{5 6}
27. Include CSE teaching methods in training courses for teachers in early childhood education, elementary, middle, and high schools.⁷

LoIPR Para.20 (1)

No steps have been taken to amend the Penal Code and Maternal Protection Act, contrary to the Committee's previous recommendations (para. 39 (a) and (b)):

28. At the 2023 Universal Periodic Review (UPR) adoption that took place during the 53rd HRC process, the GOJ did not accept recommendations regarding the decriminalisation of abortion and removal of the spousal consent requirement for the exemption from punishment. Their stated reason was that these issues "require careful consideration". So far, no changes have been made to the Penal Code or the MPA.⁸
29. Japan's current legal framework surrounding abortion can be explained as follows:

[Article 212 of the Penal Code criminalises abortion, potentially imprisoning pregnant women for up to a year. Articles 213 and 214](#) further penalise medical professionals who perform abortions with up to two years of imprisonment. The MPA offers exemptions from punishment under specific conditions outlined in Article 14: (i) continuation of pregnancy causing significant health damage or economic reasons; (ii) pregnancy due to rape. However, it is noteworthy that they

³ General recommendation No. 24 from CEDAW (1999) 31-b and C, para18

⁴ The General recommendation No. 28 on the core obligations of States parties under article 2 of the CEDAW list

⁵ General comment No. 22 of the CESCR (2016) on the right to sexual and reproductive health" 49-(f).

⁶ CEDAW General recommendation No. 36 (2017) on the right of girls and women to education".

⁷ General comment No. 22 of the CESCR (2016) on the right to sexual and reproductive health" 49-(f).

⁸ A/HRC/53/15/Add.1

all require spousal consent. [This legal framework presents several significant issues.](#)

30. Firstly, Article 212 of the Penal Code disproportionately targets women, criminalising their decision to exercise their bodily autonomy while not holding their partner accountable. Furthermore, criminalising abortion creates a climate of stigma and guilt, discouraging pregnant people from seeking safe and legal services. This can lead them to resort to unsafe procedures, jeopardising their health. Finally, as [international human rights bodies have recognized](#), restricted access to safe abortion can violate women's fundamental rights to health and privacy.
31. Compounding this problem is the requirement for spousal consent in the [MPA](#). While the Ministry of Health, Labor, and Welfare has acknowledged [exceptions for situations like rape or broken marriages, these exceptions are not widely known or consistently applied.](#)
32. This lack of clarity creates a significant barrier to access. Some doctors, fearing legal repercussions under Article 214 of the Penal Code, still require spousal consent even when exemptions may apply. This uncertainty can delay and hinder women's access to safe and legal abortion.
33. In fact, in 2020, a 20-year-old student was arrested for allegedly abandoning her newborn baby. She had attempted to have an abortion in early pregnancy and visited two clinics; there, she was requested to obtain spousal consent, but her partner abandoned her without giving it. According to her testimony, she contacted 5 to 6 more clinics without any success. [As a result, she gave birth alone in a toilet in a park.](#)
34. In addition, there is another issue concerning the MPA, raised by a group of women through a lawsuit. [The lawsuit challenges the MPA's restrictions on voluntary sterilisation of women.](#)
35. Currently, the MPA reportedly makes it difficult for women to undergo voluntary sterilisation by requiring them to have several children and obtain spousal consent beforehand. This requirement restricts women's bodily autonomy by placing limitations on their ability to make

personal decisions about their reproductive choices.

36. Furthermore, challenges remain in access to medical abortion and modern contraceptives including emergency contraceptives.

37. [Although oral abortion pills were finally approved in Japan in 2023, access is still challenging.](#)

Only about 3% of obstetricians and gynaecologists are able to provide the abortion pill, and in some prefectures, there are no institutions that offer them. In addition, oral abortion pills require hospitalization and cost about 100,000 yen (approx. \$640), which is equivalent to the cost of a surgical abortion. Although MVA is becoming gradually more accessible, curettage is still an option. Since national health insurance does not cover any methods of abortion, patients must pay the full amount out-of-pocket.⁹

38. Additionally, emergency contraceptives (EC) were first sold on a pilot basis in pharmacies in November 2023 as a part of the consideration of switching ECs to Over the Counter (OTC) medicine. Despite the fact that more than 2,000 people participated in the trial in the first two months, it remains uncertain as to when the trial will end and when and how [the consideration of OTC use](#) will be conducted. [The pharmacy pilot operation](#) does not cover persons 15 years of age or younger, and 16~17-year-olds must be accompanied by a parent or guardian and have permission. In addition to the lack of information, [EC is still not easily accessible](#).

39. Furthermore, ECs, such as ulipristal acetate, which is effective for up to 120 hours, have not been approved in Japan. Moreover, when it comes to accessing modern contraceptives, various methods that are listed in the WHO Model Lists of Essential Medicines such as implants, injections, ring, and the progestogen-only pill are not approved in Japan. [The contraceptive oral pills and IUS that are approved are not covered by Japan's national health insurance, so oral pills](#)

⁹ Kaneda Y. Japan's approval of oral abortion pills: A new era of opportunities and challenges in aligning with global standards. *Women's Health*. 2023;19. doi:10.1177/17455057231216533

[cost JPY 2000-3500 \(approx. \\$13-24 as of September 2024\) per month and IUS costs JPY 50,000 \(approx. \\$450\).](#)

LoIPR Para.20 Proposed Recommendations

40. The Special Rapporteur on the Right to Health emphasised in 2011 that all abortions should be decriminalised, and safe abortion services should be accessible to women seeking them. Furthermore, in accordance to the CEDAW Article 12 (1), the General recommendation No. 24¹⁰, 33¹¹, and to the CESCR's General comment No. 22 (2016) on the right to sexual and reproductive health¹², the state must take steps to the full realisation of the right to sexual and reproductive health.

41. To achieve this, the Japanese government should implement the following reforms:
42. Decriminalization: Repeal Article 212 of the Penal Code, which criminalizes abortion for pregnant women. Additionally, remove Articles 213 and 214 that penalize medical professionals who perform abortions.

43. Improved Access to Safe Abortion: Consider abolishing the Maternal Protection Act (MPA) entirely and replacing it with legislation that prioritizes and promotes women's reproductive health and rights. This new legislation should ensure unfettered access to safe and legal abortion services.

44. Alternatively, if the Maternal Protection Act remains in place:
Remove Spousal Consent Requirement: Abolish the condition requiring a woman to obtain her partner's consent for an abortion. This is a significant barrier to women exercising their bodily autonomy. Avoid Disability Discrimination: Oppose any amendments to the MPA that introduce exemptions based solely on fetal abnormality. Such measures could lead to discriminatory practices against people with disabilities. Facilitate Voluntary Sterilization: Remove any existing restrictions in the MPA that make it difficult for women to access voluntary sterilization procedures. Make Oral Abortion Pills more accessible by enabling at-home usage of the pill,

¹⁰ CEDAW/C/GC/24

¹¹ CEDAW/C/GC/33

¹² E/C.12/GC/22

reducing the purchase price and increasing the number of hospitals that offer abortion pills. Make ECs readily available and affordable at pharmacies without medical prescription. Train pharmacists with SRHR knowledge and on how to support people in need.

45. Make modern contraceptives that are listed in the WHO Model Lists of Essential Medicines accessible, available, and affordable to people in need of them.

LoIPR Para.23

Rural women and disadvantaged groups of women- intersecting forms of discrimination faced by LBT Women, Nonbinary and Gender-Diverse People in areas of health, education, and participation in public life.

Discrimination faced by Trans Women, Nonbinary and Gender-Diverse People in areas of health, education, and participation in public life.

46. Japan's gender recognition act for transgender people required applicants to be permanently infertile to change their legally registered sex. [In 2023, the Supreme Court ruled that the requirement is unconstitutional as it violated the right to bodily integrity](#). However, the government so far has failed to amend the law in compliance with the court decision until now, and the provision has not yet been eliminated.
47. In addition, there is another requirement called "[appearance requirement](#)" in the same law that demands genital surgery to modify the appearance of the trans women's genitalia to resemble that of women. The requirement is also imposed on trans men, however they are exempted from the surgery since it is believed that hormone treatment alone is sufficient to make their external genital appearance masculine.
48. This requirement substantially affects only trans women who would have to go through genital mutilation while trans men are not affected since their genitalia will typically resemble male genitalia with hormone therapy. This requirement is a violation of reproductive rights and forces

genital surgery against one's will, which constitutes abuse and torture according to the report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment¹³ points out in para 49. In the meantime, in July 2024, [the Hiroshima High Court made a significant ruling allowing gender reassignment for a trans woman who had not undergone surgery, concluding that this requirement is highly suspicious of violating the Constitution insofar as it would be interpreted as forcing surgery](#). However, this decision was only an individual case, and the surgery requirement in the law remains.

49. The 2022 report of Independent Expert on Protection against Violence and Discrimination based on Sexual Orientation and Gender Identity (IE-SOGI) also points out that gender recognition that includes genital mutilation constitutes a form of gender-based violence and torture, and recognizes such a practice as being performed in Japan.¹⁴ Moreover, the aforesaid genital surgery required only for trans women falls under the category of laws that discriminate against women, which Article 2(f) of the CEDAW called to be eliminated.

50. The GOJ received recommendations from five countries to amend these gender change requirements at the UPR review in January 2023¹⁵, in addition to the regular review by the UN Committee on Civil Liberties in October 2022¹⁶. The inaction of the GOJ cannot be overlooked.

51. Also, the GOJ is continuing to neglect calls for public health insurance coverage of hormone therapy that transgender people need for gender-affirmative medical care. Although public health insurance coverage for gender reassignment surgery began in 2018, in practice, such coverage is not implemented. The problem is that the current Japanese healthcare system does not allow simultaneous use of insured medical procedures and uninsured medical procedures. As such, when a trans-individual seeks to undergo gender reassignment surgery and also receive hormone therapy, the surgery will no longer be covered by national health insurance. As such, most transgender individuals are made to pay the full cost of gender reassignment surgery. This

¹³ A/HRC/31/57

¹⁴ A/HRC/50/27 para 29, 50

¹⁵ A/HRC/53/15/Add.1 - Para.3 (recommendations from Uruguay, Mexico, Iceland, Ireland, New Zealand)

¹⁶ CCPR/C/JPN/CO/7 para11-c

scheme imposes a huge financial burden on trans people, as well as puts them in danger of deteriorating health.

52. The GOJ also prohibits nonbinary and trans people in detention centres, prisons, juvenile training schools, and immigrant detention centres from receiving hormone therapy, resulting in enormous damage to their health. This is the very situation that the Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (SR-torture) prohibits as a discriminatory denial of medical treatment for LGBTI+ persons.¹⁷
53. In this way, the GOJ continues to withhold necessary medical care from trans women and girls, non-binary, and gender-diverse individuals, perpetuating healthcare discrimination against women, which Article 12 of the CEDAW urges to be eliminated.
54. In addition, [according to a survey by a national NPO, 80% of transgender people experience difficulties in accessing healthcare services](#). This demonstrates that people of diverse genders, including transgender and nonbinary people, experience discriminatory treatment in healthcare settings. Although this is also a clear violation of the CEDAW article 12 as well as the [General Recommendation No.24](#) Para31- b,d,e,f, the GOJ has made no concrete actions to address discrimination in these healthcare areas.
55. On discrimination in public life, in recent years, hate speech against transgender people, especially trans women, has increased drastically in Japan. Some politicians belonging to the ruling Liberal Democratic Party have used the trans-hate rhetoric as a tool of politics which further contributed to the spread of such hate speech. Such hate speech denies the right of transgender people to be respected for their gender identity and frames trans women as a threat to society, thereby promoting discrimination that puts trans lives in danger. Harassment against trans women is now a regular phenomenon not only in the digital space but also in the physical space in their everyday lives. This is due to the GOJ's negligence in formulating adequate and effective legislation to prevent discrimination and harassment against minority

¹⁷ A/HRC/31/57 para72-(j)

group women, as recommended by the LoIPR Para 2. This situation indicates that the government's response to the preliminary question, "the GOJ has been working on awareness-raising activities on human rights and improvement of consultation systems, from the perspective that discrimination against women and girls, including those belonging to minority groups, is unacceptable" (2021.9 "Ninth Report on the Status of Implementation of the CEDAW, para. 18), is indeed empty words.

56. As for education, the GOJ has not achieved the conditions demanded by General Recommendation No. 36 (2017) on the right of girls and women to education¹⁸. For example, according to [a survey published by a Japanese NPO in 2022, LGBTQ youth in Japan are more than five times likely to experience non-attendance in middle school and 10 times more likely to experience non-attendance in high school than their counterparts.](#) This is the result of the GOJ's failure to enact policies that guarantee the educational rights of LBT women and other gender-diverse people.

Marriage between same-sex couples

57. In response to the question from the CEDAW "to indicate the specific measures taken for lesbian, bisexual and transgender women's access to social and other services"¹⁹, the GOJ responded that "The GOJ has been working on awareness-raising activities on human rights and improvement of consultation systems from the perspective that discrimination is unacceptable"²⁰ (para.18) in the "Ninth Periodic Report on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women" dated September 2021.

58. However, marriage between couples of the same legal sex (same-sex couples) is not recognized in Japan, which violates the human rights of sexual minorities, including lesbians, bisexuals, and transgender women. Therefore, as a "specific measure" to enable sexual minorities to access the institution of marriage, the government is required to amend the law to recognize marriage

¹⁸ CEDAW/C/GC/36

¹⁹ CEDAW/C/JPN/QPR/9 para.23

²⁰ Ninth Periodic Report on the Implementation of the CEDAW, the GOJ (2021) para18

between same-sex couples.

59. The reasons why the lack of recognition of marriages between same-sex couples violates the human rights of sexual minorities are as follows.

60. First, marriage entails numerous legal benefits, such as legal inheritance rights, joint custody, spousal deductions in taxes, protection as dependents in the social security system, and spousal visas. Same-sex couples who cannot marry are not entitled to any such legal benefits. While there exist some same-sex couples raising children, the fact that marriages between same-sex couples are not recognized means that the legal status of their children is also unstable. In Japan, the number of local governments that have introduced partnership or family-ship systems has increased dramatically. However, since these systems are not laws, registration under these systems does not have the legal effect of marriage and cannot be a substitute for marriage.

61. Second, not being a legal spouse or legal family member leads to a situation where one is not treated as a formal spouse or family member in society. For example, in medical institutions, same-sex couples are often not allowed to receive medical information or consent to treatment because they are not legal spouses or family members. The same is true when a child in the care of a same-sex couple seeks medical care, and the same-sex partner that is not recognized as the legal parent of the child is often not allowed to be formally involved in the child's medical care.

62. Thirdly, the exclusion of sexual minorities from the institution of marriage, which is an important and well-established institution in Japan, is synonymous with the GOJ continuing to send a false message to society that sexual minorities are unworthy of the same legal protection as the heterosexual majority, which in turn promotes prejudice against sexual minorities. It cannot be denied that there are sexual minorities who feel that their existence is not recognized by society and are so distressed by this that they contemplate suicide. [Although exclusion from the institution of marriage is not the only reason, statistics show that the rate of suicidal ideation](#)

[and attempted suicide among sexual minorities is several times higher than that of the heterosexual majority.](#)

63. Excluding same-sex couples from the institution of marriage simply because they are of the same legal sex is a violation of their freedom to marry, their right to equality, and their individual dignity.

64. Several [public opinion polls](#) in Japan show that 70-80% of respondents [are in](#) favour of marriage between same-sex couples, more than 500 companies and organizations support marriage between same-sex couples, and the [Japan Federation of Bar Associations published the opinion stating that failing to recognize same-sex marriage is a violation of the Constitution](#). In addition, in a series of lawsuits seeking marriage between same-sex couples beginning in 2019, in addition to several district court judgments, [the Sapporo High Court judgement on March 14, 2024 ruled that not recognizing marriages between same-sex couples violates the Constitution](#). Globally, nearly 40 countries and regions recognize marriage between same-sex couples, and Japan is the only G7 member country that does not provide legal guarantees to same-sex couples. The Human Rights Committee recommended in 2022 that Japan introduce marriage between same-sex couples.²¹

65. In spite of the above, the GOJ and ruling Liberal Democratic Party simply repeat the excuse that ["this is an issue that affects the very foundations of society and requires national debate,"](#) and leaves without discussion [the Marriage Equality Bill \(a bill to amend the Civil Code to allow marriages between same-sex couples\)](#) submitted by the opposition parties. At the same time, in June 2023, Japan enacted the ["Law Concerning the Promotion of Public Understanding of Diversity in Sexual Orientation and Gender Identity \(SOGI\),"](#) which states the basic principle that ["all citizens, regardless of their SOGI, shall be respected as irreplaceable individuals who equally enjoy fundamental human rights,"](#) and that ["there shall be no unjust discrimination on the basis of SOGI" \(Article 3\)](#). The refusal to recognize marriages between same-sex couples is contrary to

²¹ CCPR/C/JPN/CO/7 (para.11) 2022/11/30

such basic principles.

Legislation of anti-discrimination law based on sexual orientation and gender identity (SOGI)

66. In response to the question posed within the LoIPR, the GOJ responded that they have been working on the promotion of education and awareness-raising activities on human rights. However, these activities are not effective enough to tackle discrimination and therefore it is necessary to legislate comprehensive anti-discrimination law on the grounds of SOGI.
67. The GoJ has been repeatedly urged by UN agencies to enact anti-discrimination laws. For example, in a letter from OHCHR to Japanese Foreign Minister Yoko Kamikawa in October 2023, based on the UN Human Rights Council's Fourth Universal and Periodic Review of the GoJ which took place from January to February 2023, it encouraged the GoJ “to enhance the legislative and policy framework to eliminate any discrimination based on SOGI.”
68. In response to calls for domestic and international legislation, the GoJ passed a law in 2023 to promote understanding of the diversity of SOGI. Based on the lack of public understanding regarding the diversity of SOGI, this law aims to foster a society tolerant towards diversity of SOGI by promoting necessary measures to increase understanding and by defining the roles of national/local government, schools, and companies to support this mission.
69. However, although it states that “unfair discrimination based on SOGI shouldn’t be tolerated” within its guiding principle (Article 3), this article is not an anti-discrimination clause. In other words, this law is not an anti-discrimination law which prohibits discrimination and has effective power to prevent it. Additionally, local government, companies, and schools are only “encouraged” to implement measures for the promotion of understanding. Furthermore, there are only 4 mandates that the national government should implement: 1) to create a basic implementation plan and operational guidelines; 2) to publish an annual white paper to monitor progress; 3) to conduct academic research; and 4) to establish a liaison council to coordinate policy implementation. Lastly, there is a concern about Article 12, which was added at the end

of the bill's deliberations in the Diet in the context of “consideration for the majority”. It states that in implementing the measures each actor shall pay attention to ensure that all citizens can live with ‘peace of mind’ regardless of SOGI. Regarding this sentence, there is a concern that it may be used by anti-LGBTQ+ groups intentionally to deter measures for promoting understanding.

70. The Working Group on Business and Human Rights from the OHCHR mentioned in the report published in May 2024 that “the law lacks a clause prohibiting discrimination against LGBTQI+ individuals and lacks a clear definition of discrimination”.²²

71. Based on the facts above, we believe that it is necessary to legislate anti-discrimination law on the grounds of SOGI to combat discrimination towards Lesbian, Bisexual, and Transgender women.

The LoIPR 23-Proposed Recommendations

72. Eliminate the forced sterilisation requirement under the GID Act's article 3, which was ruled unconstitutional by the Supreme Court in 2023.

73. Eliminate the genital surgery requirement from the GID Act's article 3 in accordance with the CEDAW recommendation to Switzerland in 2022²³, the 2022 report of the IE-SOGI²⁴, and the report of SR- torture²⁵.

74. Cover all the gender-affirming health care that transgender people require in order to maintain their health within national health insurance including hormone therapy in accordance with the [CEDAW general recommendation No.24](#).

75. Provide quality health services and make facilities available, accessible, affordable, culturally

²² A/HRC/56/55/Add.1, para34

²³ CEDAW/C/CHE/CO/4-5, para. 39 (d).

²⁴ A/HRC/50/27 para50

²⁵ A/HRC/31/57 para 72 (h), (i)

appropriate, and acceptable for LBT women and girls as well as gender-diverse people to maintain their health²⁶.

76. Provide hormone therapy immediately to nonbinary and transgender persons who require so in detention centres, prisons, juvenile training schools, and immigrant detention centres in accordance with the SR-Torture's report.²⁷

77. Take measures to guarantee a safe, enabling, equal, just, quality learning environment where all children including LGBTQ+ children can thrive and study free from discrimination and stigmatisation in accordance with the Convention on the Rights of the Child.²⁸

78. Enact legislation that prohibits discrimination by public actors and private parties and individuals, including hate crime laws that sanction homophobic and transphobic violence; ensure that appropriate laws apply to all persons equally, regardless of real or perceived SOGI; and implement effective complaint and enforcement procedures and systems for quantifying prohibited acts.²⁹

79. Amend the Civil Law to recognize marriage between same-sex couples while ensuring the couple and their children receive the same benefits traditionally accorded to married couples including those related to benefits, pensions, taxation, and inheritance.^{30 31 32}

80. Also take measures to guarantee that such marriages receive the same treatment as a formal spouse or family member in society as heterosexual couples, thereby promoting non-discrimination and anti-prejudice against sexual minorities in society.^{33 34}

81. Legislate anti-discrimination law on the grounds of SOGI which 1) prevents and prohibits direct discrimination (incl. discrimination on the basis of association or perception) as well as

²⁶ CEDAW/C/GC/39 para 52 (a)

²⁷ A/HRC/31/57 para 72-(j)).

²⁸ CRC/GC/2003/4 para 6

²⁹ A/HRC/31/57 para 73 (d)

³⁰ A/HRC/50/27 para. 46

³¹ A/HRC/29/23 para. 79(h)

³² A/HRC/31/37 para. 76

³³ A/78/227 para. 65(g)

³⁴ A/HRC/31/37 para. 26

harassment, 2) mandates all entities to make reasonable accommodations, and 3) prohibits retaliation in order to resolve discrimination against LBT women and girls and gender diverse persons.^{35 36}

82. Establish the National Human Rights Institution in accordance with the Paris Principle and develop expertise on human rights both in government officials and civil society.

³⁵ A/HRC/35/36 para. 66(c), (d)

³⁶ A/HRC/47/27