



Human Rights Now Stakeholder Submission for Japan's Implementation of the Convention on the Elimination of All Forms of Discrimination against Women (2020 - 2024)

I. Definition of Discrimination against Women and Legislative Framework: 2-4

1. Definition of Discrimination against Women

Japan ranked 118th among 146 countries in the 2024 Global Gender Gap Index, marking another year the country ranked last in gender equality among G7 countries.¹ Japan still lacks a clear definition of discrimination, has no law that comprehensively prohibits discrimination, and lacks an institutional framework to combat discrimination. Therefore, discrimination is deeply rooted in all sectors of society, including politics, economy, education, health, the judiciary, and the media. The Act on the Promotion of Gender Equality in the Political Field, enacted in May 2018, only imposes equal numbers of men and women from each party as a duty of effort, not of a sufficient outcome.

For progress on all the issues discussed below, Human Rights Now (HRN) recommends that Japan's government:

- Establish a national human rights institution based on the Paris Principles;
- Enact a comprehensive anti-discrimination law that clearly defines discrimination;
- Ratify CEDAW's Optional Protocol;
- Implement mandatory quotas in relevant economic and political spheres.

2. Right to Choose Surname

Article 750 of the Civil Code states that "husband and wife shall take the surname of husband or wife as determined at the time of marriage," thus forcing couples to use the same surname, violating CEDAW Article 16(g).

There have been several lawsuits filed by married couples claiming their right to use separate surnames, but Supreme Court decisions in 2015 and 2021 rejected them, ruling that Article 750 was constitutional over several judges' objections.²

In the Fifth Basic Plan for Gender Equality approved by the Cabinet in December 2020, the government only stated that it would "further consider the issue, taking into account the opinions of all levels of the public, the trend of discussions in the Diet, and judicial decisions."³

A 2022 survey found that 64.0% of respondents, employed men and women aged between 20 and 59 nationwide, supported married couples' right to have different surnames.⁴ In June, 2024,

¹ <https://mainichi.jp/english/articles/20240612/p2a/00m/0na/011000c>

² <https://www.nichibenren.or.jp/en/document/statements/210625.html>

³ <https://www.mofa.go.jp/files/100236491.pdf>

⁴ <https://www.nippon.com/en/japan-data/h01433/>

the Keidanren (Japan Business Federation) urged the government to promptly submit to the Diet a bill to revise the Civil Code to introduce a selective surname system.⁵

HRN urges Japan's government to:

- Amend Article 750 of the Civil Code to abolish the mandatory use of the same surname for married couples and introduce a selective surname system for married couples without further delay.

3. Discrimination against Sexual Minorities

On June 23, 2023, the Act on the Promotion of Public Understanding of Diversity in Sexual Orientation and Gender Identity was enacted. However, it does not comprehensively prohibit LGBTQ discrimination. It states that “there should be no unjust discrimination” and “pledges to take heed so that all citizens can live with peace of mind.”⁶ Same-sex marriage has also not yet been legalized.

In October 2023, the Supreme Court ruled unconstitutional a law requiring compulsory transgender surgery to legally change gender, removing one's reproductive functions, leading to a high court approval of a legal gender change without surgery in July 2024.⁷ However, activists noted the decision still “fell short of including those who cannot take hormones”, and the decision should be enacted into law.⁸

Further, transgender women face ongoing public discrimination. According to a 2019 survey, 90% of transgender job seekers face job search difficulties due to persistent gender-antagonistic practices, such as requiring gendered recruitment suits or indicating sex/gender on resumes.⁹ Moreover, hostile hate discourse against transgender women has spread in recent years, exposing them to prejudice and discrimination and excluding them from other women and society.

HRN urges Japan's government to:

- Enact laws prohibiting discrimination against sexual minorities and legalize same-sex marriage;
- Implement drastic legal reforms to fully protect transgender people's rights, including abolishing physically invasive requirements for gender reassignment;
- Conduct a fact-finding investigation and establish reasonable accommodation measures to combat prejudice and discrimination against transgender women and to eliminate barriers to trans women's access to various facilities

⁵ <https://mainichi.jp/english/articles/20240611/p2a/00m/Obu/017000c>

⁶ <https://www.min-iren.gr.jp/?p=48700>

⁷ <https://www.loc.gov/item/global-legal-monitor/2023-10-31/japan-supreme-court-rules-conditioning-change-of-legal-gender-on-surgical-removal-of-reproductive-organs-unconstitutional/?loclr=ealln>; <https://apnews.com/article/japan-court-ruling-transgender-gender-surgery-d0a15add68ed21cb33897bb5fc0128a1>

⁸ AP, id.

⁹ <https://mainichi.jp/english/articles/20190414/p2a/00m/0na/012000c>

II. Gender-Based Violence against Women: 9

1. Persistent Issues Following the 2023 Amendment to the Penal Code's Sexual Offense Provision

a. Amendment of Sexual Offense Provisions in Japan's Penal Code

In June 2023, the Sexual Offense Provision of the Penal Code was amended to:

- Introduce the crime of non-consensual sexual intercourse;
- Raise the age of consent for sexual intercourse to 16;
- Specify that sexual crimes can be committed between married couples;
- Extend the statute of limitations for prosecution;
- Clarify that non-consensual sexual intercourse includes the insertion of objects;
- Establish the crime of non-consensual photographing sexual intercourse/sexual acts.

Despite the law's formal title defining the crime of "non-consensual intercourse", the amendment explicitly outlines eight scenarios punishable as the crime of rape that make "it difficult for the victim to form, express, or fulfill the intention not to consent;" all other scenarios are left to the subjective interpretations of Japanese courts.¹⁰

Given the precedent set by Japanese courts requiring that assault or intimidation be exerted by the perpetrator and that victim resistance be present,¹¹ the level of subjectivity still afforded to the judicial system to decide when a victim's non-consensual sexual intercourse should be considered rape continues to be problematic. It is necessary that Japan criminalizes all non-consensual sexual intercourse without any conditions attached to bring its rape legislation in line with international standards.

Japan's government should further amend the Penal Code to adopt an affirmative consent-based definition of rape, characteristic of a "Yes Means Yes" model, which requires all participants' free and genuine consent in the absence of coercive circumstances. Furthermore, the amended law problematically still requires perpetrators to be at least five years older than their victims, when 13 to 15 years old, to be criminally charged, and the statute of limitations for prosecution is extended from age 18 and is only five years longer than the pre-amendment law.

b. Practical Operational Issues Concerning the Penal Code's Sexual Offenses Provisions

The number of recognized cases and arrests for non-consensual obscenity and non-consensual sexual intercourse, etc., under the revised Penal Code has increased.¹² However, there have been numerous cases unprosecuted due to the new requirement of "difficulty" in constituting the crime and the obstacle of proving the suspect's willfulness. There is also an absence of

¹⁰ <https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1104&context=alr>

¹¹ Id.

¹² <https://www.e-stat.go.jp/stat-search/files?page=1&layout=datalist&toukei=00130001&tstat=000001220340&cycle=0&tclass1val=0>

appropriate punishments for sexual crimes against children and persons with disabilities.

The government's publicity efforts towards revision of the Penal Code's sexual offense provisions have also been insufficient, and public awareness that sexual intercourse requires the other party's consent remains low. To begin with, Japan lacks comprehensive sex education at the international level.

c. Crisis Situation of One-Stop Support Centers

Although one-stop support centers exist in each prefecture to support sexual violence victims, no underlying law requires them, and no legal provisions address the responsibilities of national and local governments and the support and coordination of one-stop support centers in each prefecture. The national government's budget is not commensurate with actual support needs, and the priority differences of prefectures have widened the gaps among one-stop support centers.

Although the policy establishing one-stop support centers in hospitals is widely supported, medical institutions lack financial support. As a result, SACHICO (Sexual Assault Crisis Healing Intervention Center Osaka), a one-stop support center in Osaka, is at risk of discontinuing its activities. Following the amendment of the Penal Code, the need for support for male victims and juveniles has also been increasing, requiring immediate action.

d. Cooperation and Information Sharing with Local Governments

It has been reported that information about sex crimes committed by U.S. military personnel in Okinawa has repeatedly not been shared with Okinawa Prefecture officials by the prefectural police, prefectural public prosecutor's office, or the government, leading to the establishment of a new information-sharing system in July 2024.¹³ Similar incidents of sexual crimes by U.S. military personnel have also been discovered in other prefectures. Japan's government must ensure that local governments, at the forefront of crime prevention and public awareness, are effectively informed of crimes occurring in their area in a timely and detailed manner.

Human Rights Now urges Japan's government to:

- Further review the statute of limitations and the age of consent for sexual intercourse and promote studies investigating a "Yes Means Yes" model for future legal reform;
- Investigate reasons for non-prosecution of cases of non-consensual sexual intercourse after the implementation of the amended law to determine any gaps in enforcement;
- Compile separate statistics for each of the eight punishable scenarios defined in the revised Penal Code to ascertain whether the law is being properly implemented and continue to investigate the actual conditions of sexual crime victims;
- Raise public awareness of the revised law and the concept of consent for sexual acts at every possible opportunity, including at schools;
- Introduce comprehensive sexuality education in schools;

¹³ https://www3.nhk.or.jp/nhkworld/en/news/20240906_20/

- Drastically expand support for one-stop support centers and enact the Sexual Assault Victims Support Law as a legal basis;
- Enhance collaboration and prompt information-sharing with local governments, and make concrete efforts to prevent and effectively punish sexual violence committed by US military personnel to women in Okinawa and other prefectures with US military bases, while addressing root causes.

2. Exploitation of Women in the Media and Entertainment Industries

Japan's entertainment industry has long exploited and subjected performers to sexual and other power-related abuses. The #MeToo movement, which began in Hollywood in 2017, significantly heightened awareness of sexual harassment within Japan's entertainment industry.

The Johnny Kitagawa case is one of the most prominent examples of systemic failures in the entertainment industry to protect performers and media workers. More than 1,000 former juvenile victims have sought redress, but despite years of media reports and sexual assault accusations, the companies involved failed to eliminate and prevent the risk.¹⁴ Although only men were victims in this case, women also continue to be sexually victimized in this industry.

A 2023 survey revealed that 1 in 5 women in the entertainment industry have suffered from sexual harassment.¹⁵ A 2024 private sector survey of media and entertainment professionals found that 51.4% (131 people) experienced sexual harassment or sexual violence, 22.7% (58 people) experienced requests for sexual entertainment, and 27.5% (70 people) experienced physical violence, demonstrating how widespread sexual assault is in the industry.¹⁶

HRN calls on Japan's government to:

- Establish an independent investigation system in the entertainment industry to receive grievances, address sexual violence, and ensure accountability;
- Introduce a legal framework for the entertainment industry to prevent sexual violence and exploitation against performers, especially women and children, protect victims, and ensure redress.

III. Trafficking and Exploitation of Prostitution: 12

Non-Consensual Filming & Distribution of Pornographic Videos

A 2016 HRN investigation revealed numerous cases of young women, who never intended to appear in pornographic videos, being forced to participate in them after signing modeling contracts with production companies.¹⁷ Forced appearances in pornographic videos violate

¹⁴ <https://www.tokyohive.com/article/2024/07/smile-up-receives-over-1000-claims-in-johnny-kitagawas-sexual-abuse-case>

¹⁵ <https://www.asahi.com/ajw/articles/15005538>

¹⁶ <https://www.sra-chiki-lab.com/reaserch-result/>

¹⁷ <https://newsinfo.inquirer.net/821929/tricked-into-porn-japanese-actresses-step-out-of-the-shadows>

women's fundamental autonomy rights and cause serious physical and psychological damage to victims.

To address the problem the Adult Video Appearance Damage Prevention and Relief Bill was enacted in 2022.¹⁸ However, several challenges remain unaddressed by the law. Transnational cases, where foreign platforms publish Japanese-produced videos featuring forced pornographic appearances, are particularly difficult to address. Additionally, women victims in Japan face obstacles to removing non-consensual explicit images and videos of them online. They must go through various governmental bureaus, which often lack effective legal authority and only advise them to request site operators stop publication.¹⁹

Another problem is prevailing exploitation of children by child pornography and sexualized images of children. Due to the law's extremely narrow definition of "child pornography", production of sexualized images of children cannot be prosecuted unless the children's sexual body parts are exhibited or children conduct explicit sexual activities.

HRN urges Japan's government to:

- Strictly enforce the new laws on pornographic videos and hold all business actors, including platforms and service providers, accountable for nonconsensual pornography;
- Establish one-stop victim support centers that provide resources for removing harmful content, legal and psychological support, and coordination with law enforcement for victim protection and justice;
- Revise the child pornography act by amending the definition of child pornography in accordance with international standards.

IV. Education: 16

Discrimination and Violence in Higher Education

Discrimination against women in higher education continues in Japan, such as fewer women progressing on academic tracks and as university presidents, and in 2018, a number of Japanese medical universities were found to explicitly discriminate against female applicants in pass/fail decisions.²⁰ Several courts found that several private medical schools adjusted women's admissions test scores to decrease female admissions, but the compensation awarded to victims was extremely low.

Due to the lack of regulations prohibiting sexual harassment and sexual violence at universities and corresponding special provisions, sufficient relief has not been provided to victims.

HRN urges Japan's government to:

¹⁸ <https://mainichi.jp/english/articles/20220616/p2a/00m/0na/034000c>

¹⁹ <https://hrn.or.jp/eng/news/2023/03/17/event-report-emergency-rally-to-call-for-a-bill-on-forced-appearance-in-pornography-2-2-2-2/>

²⁰ <https://www.asahi.com/ajw/articles/15067896>; https://www.u-tokyo.ac.jp/focus/en/features/z0405_00015.html; <https://www.bbc.com/news/world-asia-46568975>

- Introduce a legal framework that prohibits, prevents, redresses, and sanctions discrimination in the field of education;
- Implement a law modeled off of Title IX in the United States which includes policies and mandates that specifically address sexual harassment and sexual violence issues unique to educational institutions.

V. Employment: 18

Gender Discrimination in the Workplace

Numerous initiatives have been introduced to enhance equal pay for equal work and gender parity in Japan, though the reality remains unchanged. Wages of full-time employed women in Japan is still only 75.7% that of men.²¹ Further, many women are forced to work as temporary or part-time workers, and the percentage of women in non-regular employment continues to increase.²²

According to a 2022 survey, women are more disproportionately irregular employees compared to men (12.72 million (42.0%) women in Japan are regular employees, while 14.47 million (47.8%) are irregular employees),²³ which negatively affects women because irregular employees are only paid 67.5% the wages of regular employees (for men and women combined), a significant wage gap.²⁴ Further, the average monthly income of women in non-regular employment is less than 200,000 yen (about \$1,400 USD), about 73% of average income in Japan. Wage disparities are particularly significant for minority women in Japan, including those with disabilities and foreigners.²⁵

The COVID-19 pandemic further marginalized women, with married Japanese women with children suffering significant job losses still remaining measurably below pre-pandemic levels years later, while married men with children did not lose work.²⁶

One 2016 survey found that about 30% of women in Japan between the ages of 22 and 45 experienced workplace sexual harassment, but 63% of them remained silent.²⁷ Another survey found that over 30% of students who experienced job hunting or internships experienced sexual harassment.²⁸ Foreign technical interns and those in the media and entertainment industry have been victims of more serious sexual harassment.²⁹

²¹ <https://www.mhlw.go.jp/toukei/itiran/roudou/chingin/kouzou/z2022/dl/12.pdf>

²² <https://www.stat.go.jp/data/shugyou/2022/pdf/kgaiyou.pdf>

²³ <https://www.stat.go.jp/english/data/shugyou/2022/sum2022.pdf>

²⁴ <https://www.mhlw.go.jp/toukei/itiran/roudou/chingin/kouzou/z2022/dl/06.pdf>

²⁵ <https://documents.un.org/doc/undoc/gen/g24/068/47/pdf/g2406847.pdf>

²⁶ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9995392/>

²⁷ <https://www.theguardian.com/world/2016/mar/02/japan-women-sexually-harassed-at-work-report-finds>

²⁸ <https://asia.nikkei.com/Spotlight/Work/30-of-Japan-s-job-seekers-face-sexual-harassment-survey-shows>

²⁹ <https://www.nationthailand.com/world/asean/40023448>

The Equal Employment Opportunity Law was amended in 2019, but the government has not prohibited sexual harassment nor regulated sexual harassment outside the workplace; nor has it ratified ILO Convention 190.

HRN urges Japan's government to:

- Implement comprehensive measures to tackle gender inequality, including enforcing equal pay legislation and promoting salary transparency;
- Ratify ILO Convention 190, strictly prohibit sexual harassment, and widen women's protection in accordance with international standards;
- Impose company human rights due diligence obligations in accordance with the UN Guiding Principles on Business and Human Rights.

VI. Health: 20

Violation of Reproductive Rights

Despite six states during Japan's fourth UPR cycle recommending Japan decriminalize and provide women access to safe abortions,³⁰ Japan's Maternal Protection Law and the Penal Code have not been revised, and women's sexual and reproductive rights continue to be severely violated.

On April 28, 2023, oral abortion pills were first approved in Japan. While a less burdensome method than surgery, few clinics are licensed to provide oral abortion pills, and prices match surgical abortions, continuing the inaccessibility of abortions to women.

The provision of scientifically correct information on safe abortion methods also remains inadequate. A 2023 survey of curriculum materials in Japan found that most key reproductive health information was only partially or not covered in schools.³¹ The Japan Society of Obstetricians and Gynecologists reports that ignorance about pregnancy and about abortion not being available after 22 weeks contribute to unexpected pregnancies and abortions among young people.³²

HRN urges Japan's government to:

- Abolish the requirement of spousal consent for abortion services;
- Decriminalize self-abortions;
- Remove requirements limiting eligibility for abortion procedures (to only those whose health may seriously be harmed for physical or financial reasons, or those who became pregnant due to assault or threats);
- Provide insurance coverage for abortion;

³⁰ <https://documents.un.org/doc/undoc/gen/g23/036/60/pdf/g2303660.pdf>

³¹ <https://www.tandfonline.com/doi/epdf/10.1080/14681811.2024.2320399?needAccess=true> at 7.

³² https://www.tsh.ncqm.go.jp/en/social_responses/Why_do_we_need_it.html

- Increase the number of certified abortion providers to ensure equitable access to abortion for all women, including in rural and underserved areas, migrant workers, and technical interns;
- Ensure that abortion pills are available at all pharmacies or by mail;
- Ensure practical school education on sexuality and reproduction that meets international standards.

VII. Health: 21

Violation of the Rights of Women Affected by the Fukushima Nuclear Disaster

The Fukushima Daiichi nuclear disaster in March 2011 displaced 160,000 people, and about 30,000 are still designated as internally displaced persons (IDPs).

Many mothers chose to seek safety with their children and evacuate, with husbands remaining in affected areas for work.³³ Even now, many families continue to be separated. High rates of evacuees have committed suicide or divorced due to financial and psychological hardship.³⁴

Job options are often limited for women, so female IDPs struggle financially, made worse by Japan's gender gap, leading to poverty for many women and single mothers.³⁵

Official housing support for IDPs in Japan was terminated in 2017, and many were forced to leave their accommodation. However, some IDPs had to stay in their accommodations because of serious illness. Local authorities then evicted them. Some IDPs were even fined millions of yen in compensation.

Evicting IDPs from public housing without support to prevent their involuntary return to risky places due to radiation violates their rights, including the rights to adequate housing and health.³⁶

The government also maintains a 20 mSv/year radiation dose standard for acceptable public exposure and decontamination targets, 20 times higher than the international standard and not accounting for women's, girls', and infants' tolerances.³⁷

The fifth Fukushima prefectural survey reported that the total number of the children with malignant or suspected malignant thyroid cancer is 338, a rate of childhood thyroid cancer dozens of times higher than normal.³⁸ Many children need multiple operations and lifelong

³³ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5121974/>

³⁴ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6263751/>;

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8208296/>;

<https://www.theguardian.com/environment/2013/feb/24/divorce-after-fukushima-nuclear-disaster>

³⁵ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7662503/>

³⁶ A/HRC/53/35/Add.1, para. 69.

³⁷ [https://www.icrp.org/publication.asp?id=ICRP+Publication+103](https://www.icrp.org/publication.asp?id=ICRP+Publication+103;);

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5941150/>

³⁸ <https://cnic.jp/english/?p=6551>

medication, disrupting their lives and ability to work and calling for financial and mental support and protection from prejudice.³⁹

Many women IDPs suffer ongoing health and psychological problems, including high levels of anxiety, stress, and PTSD,⁴⁰ and women are typically excluded from decision-making bodies and processes for recovery measures in Fukushima.⁴¹

HRN urges Japan's government to:

- Increase female IDPs' participation in official decision-making, including state support systems that help IDPs find jobs and child care, in accordance with the Guiding Principles on IDPs;
- Cease reducing or abolishing medical support for mandatory evacuees and ensure that all evacuees, including voluntary, benefit from the same health services, taking into consideration that women and girls are more sensitive to radiation, as indicated in the previous CEDAW concluding observations (2016);⁴²
- Cease the filing of lawsuits and eviction of IDPs, and resume housing support necessary for continued voluntary evacuations;
- Implement without delay the recommendations of the Special Rapporteur on the right to health (2013)⁴³ and the Special Rapporteur on the human rights of IDPs (2023)⁴⁴ following their respective visits to Japan.

³⁹ https://www.thyroid.org/wp-content/uploads/publications/ctfp/volume9/issue6/ct_public_v96_3_4.pdf

⁴⁰ https://www.radioprotection.org/articles/radiopro/full_html/2020/06/radiopro200078/radiopro200078.html

⁴¹ <https://www.gender.go.jp/kaigi/renkei/ikenkoukan/52/pdf/siryo7.pdf>

⁴² CEDAW/C/JPN/CO/7-8, para. 36.

⁴³ A/HRC/23/41/Add.3.

⁴⁴ A/HRC/53/35/Add.1.