

**Challenging Heteronormativity:  
“Queering” and its Applications in Contemporary Japan**

by

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## **Dedication**

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## Abstract

Defining the act of “queering” as both an act of analyzing as well as challenging or subverting certain traditional systems of power which marginalize queer individuals, in this thesis I utilize this concept of queering as a lens to examine how the Japanese government enforces heteronormativity within society through the legal, political, and educational systems. I argue that through the incorporation of “queer power” (influence exerted by the LGBT community to ensure equal rights), queering these systems would provide viable solutions not only for problems with social inequality in Japan, but also their continual population and marriage decline.

Analyzing legal systems such as the *koseki*, the Japanese Constitution, and same-sex Partnership Certificates, I found that each works individually to keep same-sex couples in a pseudo state of equality – couples are recognized to some degree, yet they continue to lack the same rights and protections as heterosexual married couples possess. This enforcement of heteronormativity through legislation aims to keep marriage and childrearing only for traditional, male-female unions. However, granting same-sex couples equal rights and privileges, as I further explore, would significantly help combat societal issues of population and marriage decline.

In Japanese politics, homophobia continues to exist and most politicians who engage in this discrimination face little to no serious consequences. Replacing these politicians with LGBT-identifying lawmakers would address the issue of social inequality in terms of the lack of diversity among politicians, making Japanese politics more inclusive. Furthermore, this “queer power” would help secure same-sex marriage rights as well as granting access to artificial

reproductive technology (ART) – producing 123,227 marriages and 123,277 to 246,554 children.<sup>1</sup>

Since the beginning of the twentieth century, as I will later discuss, Japan’s government and Ministry of Education have attempted to use sex education to coerce citizens into having children at a young age as a means of combating population decline. Following an exclusively heteronormative agenda, the spreading of falsified information and purposeful absence of comprehensive sex education I believe will continue to hurt Japan as it leaves LGBT-identifying students lacking knowledge on sexuality, gender diversity, and how to procreate outside male-female intercourse. Incorporating LGBT-focused topics into the national curriculum would not only bring Japanese society one step closer to achieving social equality but also help produce children who otherwise would not be born.

By examining how heteronormativity is enforced through Japan’s legal, political, and educational systems, this thesis contributes to discussions of how employing queer power within Japan would benefit both the LGBT community and greater society, improve social inequality, and help reverse declining population and marriage rates.

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<sup>1</sup> Niji Bridge <https://nijibridge.jp/data/>.

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## Chapter 1: Introduction

Just as many Japan scholars have noted in their research, I too must first clarify my use of the term homosexuality in this thesis. As an act, homosexual relations have existed throughout the Japanese archipelago for as long as, or possibly longer than, Japanese writing or artwork can attest to. When using the term, I'm referring to what people today call homosexuality. Although the term does not distinguish between the male or female sexes, same-sex relations recorded throughout Japanese history have largely been between two males. This is due to the fact that female sexuality in Japan as a subject came into question only recently in the modern period.<sup>2</sup>

### **1.1 Homosexuality in Japanese History**

In his work *Cartographies of Desire*, historian Gregory Pflugfelder asks readers: how should we render the term homosexuality? It was not until Western science was introduced during the 19<sup>th</sup> century that the term was even used in Japan. At this time, homosexuality was translated as *dōseiai* (同性愛) literally meaning same-sex love. However, before this new vocabulary came to Japan, there were words already in use to describe sexual relations. Closely linked to Buddhist thought, the concepts *nanshoku* and *joshoku* were brought to Japan from China through Korea long before European scholars arrived. Made up of the characters for “male” and “color”, the word *nanshoku* (男色) refers to a love of males by males. *Nanshoku* relationships were typically between an older Buddhist monk or priest called the *nenja* (念者) and a younger acolyte called the *chigo* (稚児). On the other hand, *joshoku* (女色) is made up of the characters for “female” and “color”, referring to a love of women by males. This use of the character for “color” denoted

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<sup>2</sup> Makoto Furukawa and Angus Lockyer, “The Changing Nature of Sexuality: The Three Codes Framing Homosexuality in Modern Japan.” *U.S.-Japan Women's Journal* 7 (1994): 98.

the realm of erotic pleasure which hindered humans on the path to enlightenment.<sup>3</sup> This “love” was more akin to the Greek concept of *eros* containing equally physical and emotional elements, both posing a threat to the unenlightened soul.<sup>4</sup>

During the Edo Period (also known as the Tokugawa Period) from 1603-1867, most Japanese would have associated *nanshoku* with popular culture of the time, such as poetry, song, dance, drama, and woodblock prints. Another term which was used starting at the beginning of this period was *wakashudō* (若衆道). Literally meaning the “way of the youths”, *wakashudō* was used interchangeably with *nanshoku* and was frequently abbreviated into the two compounds *nyakudō/jakudō* (若道) and *shudō* (衆道) – the latter of which was most commonly used. This concept of *shudō* was not seen so much as meaning the “way of the youths” as it was the “way of loving youths”.<sup>5</sup> While the term *nyodō* (女道) denoting the pursuit of women by men existed, it was more closely related to male-female reproduction which was not seen as deserving the status of a “way” like *shudō*.

*Shudō* texts from this period rarely included boys under the age of seven since the status of *wakashu* (young male) held a certain degree of personhood which was not ascribed to those under this age. In fact, the borderline between childhood and youth was relatively vague. Writers of *shudō* literature, though, were far more interested in determining the prime of *wakashu*. For example, the author Shin’yūki wrote that the peak of youthful desirability was between the ages of fifteen and seventeen.<sup>6</sup> Following this period, Shin’yūki noted a phase which he called the “end of the way”. This corresponded to the years eighteen through twenty during which *wakashu*

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<sup>3</sup> Gregory M. Pflugfelder, “Authorizing Pleasure: Male-Male Sexuality in Edo-Period Popular Discourse,” in *Cartographies of Desire: Male-Male Sexuality in Japanese Discourse, 1600-1950* (Berkeley: University of California Press, 2007), 25.

<sup>4</sup> Ibid.

<sup>5</sup> Pflugfelder, “Authoring Pleasure,” 27.

<sup>6</sup> Pflugfelder, “Authoring Pleasure,” 31.



grew out of their prime. The beauty of these young men was further compared to flowers like the cherry blossom which lived short, fleeting lives.

Other bodily changes such as facial hair, enlarged genitals, taller stature, and a deeper voice were recognized as physically maturing, although not always denoting status as an adult. Hair on the head also bore a strong connection to one's manhood. More specifically, the removal of hair meant the diminishment of status as an object of erotic desire. Adult males were distinguished by a shaved pate whereas boys and youths were recognized by their unshorn forelocks. This was, at the time, considered to be a highly fetishized *shudō* esthetic.<sup>7</sup>

*Shudō* texts also compared *wakashu* youths and women, viewing them both as objects of appreciation and erotic desire. Though neither a woman nor yet a man, youths had shared traits with both while at the same time significant differences. Pflugfelder writes that to classify the *wakashu* as a “third gender” would be misleading since the designation as *wakashu* was only temporary.<sup>8</sup> As for the *wakashu*'s lover, the *nenja* did not always have to be an adult male. In fact, the *nenja* had to only be in a later stage of masculine development than the *wakashu*. This age-based hierarchy which gave the *nenja* seniority also gave him the penetrative role in sexual intercourse, leaving the receiving role to the *wakashu*. Those who expressed a distaste for *shudō* were given the title of *wakashugirai* (若衆嫌い) literally meaning “youth-hater” while at the other end of this spectrum was the *wakashuzuki* (若衆好き) or “youth-lover”.<sup>9</sup> Another term related to the “youth-lover” was the *onnagirai* (女嫌い) meaning “woman-hater”.<sup>10</sup> These males did not care for the sexual or social company of women.

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<sup>7</sup> Pflugfelder, “Authorizing Pleasure,” 32.

<sup>8</sup> Pflugfelder, “Authorizing Pleasure,” 36.

<sup>9</sup> Pflugfelder, “Authorizing Pleasure,” 39.

<sup>10</sup> Ibid.

Relationships between *wakashu* and *nenja* were not the same as what we could consider to be marriage. Instead, they were more a bond of brotherhood with the *nenja* and *wakashu* as young and older siblings. *Shudō* couples often chose to formalize their devotion to one another through oral and written vows called *keitei keiyaku* (兄弟契約). Some decided to go further, using self-mutilation - such as piercing the flesh of the thigh or arm, removing a fingernail, or even cutting off a finger.<sup>11</sup> *Shudō* oaths often spoke of “sharing life and death together” as the *nenja* offered protection, a role model, and aid to the *wakashu* who, in return, showed his appreciation through obedience, respect, and intimate relations.<sup>12</sup>

As previously mentioned, the hierarchal aspect of the *shudō* relationship was seen in the couples’ sexual practices – with the *nenja* as the inserter and the *wakashu* as the insertee. Popular discourse during this period marked the *nenja*’s inserter role of anal intercourse as pleasurable while deeming the *wakashu*’s insertee role as only an act of duty, affection, or even submission. It was rarely considered that the *nenja* gained any erotic enjoyment as writers often emphasized the pain that came with this act. For example, one *senryū* poem from 1825 spoke of young male sex workers known as *kagama* (蔭間). It read, “All too obvious a lie are the pleasurable moans of the *kagama*.”<sup>13</sup>

With the transition from the Edo Period to the Meiji Period in 1868, attitudes towards same-sex practices also began to change. Growing animosity towards *shudō*, however, did not deter males from continuing this practice as it became popular among the samurai. Now all but forgotten, there existed punishment of homosexual acts in Japan for a brief period. Drafted by

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<sup>11</sup> Pflugfelder, “Authorizing Pleasure,” 41.

<sup>12</sup> Ibid.

<sup>13</sup> Pflugfelder, “Authorizing Pleasure,” 43.

the Ministry of Justice in 1872, a sodomy ordinance called the *Keikan* (鵝姦) Code was passed in 1873 and remained in effect for nine years until 1891. It specified that:

“All sodomites will serve 90 days in prison; the nobility and ex-samurai, for their complete shamelessness, will be deprived of their samurai status. The sodomized youth, if under 15 years of age, will not be punished. Rapists will be imprisoned for ten years. In cases where the crime was only attempted, the sentence will be reduced by one degree.”<sup>14</sup>

In her 1946 work *The Chrysanthemum and the Sword*, anthropologist Ruth Benedict suggested that sodomy became criminalized during the modernization (or Westernization) of Japanese society.<sup>15</sup> This may well be fact considering that Japan continued to slowly shift away from tolerance of homosexuality and towards a more hostile stance on same-sex practices. Around this time, the field of sexology, which was also highly critical of homosexuality, also became popular in Japan as Meiji scholars who sought to create a more modern nation brought with them Western medicine and sexual science.

Medical discourse and the positions of health professionals on male-male sexual behavior during the Meiji Period varied drastically. As late as the 19<sup>th</sup> century, it was thought that medical specialists should aid individuals who pursued male-male relations to fulfill their desires or even encourage such desires for health-related reasons.<sup>16</sup> Such understandings began to change, and homosexual desires were soon considered to be pathological. During this period, it should be mentioned that Japanese sexologists should not be seen as “handmaids to what is sometimes nostalgically imagined as the corruption of pure and innocent native traditions merely through their act of introducing Western sexual science into Japan.”<sup>17</sup> Rather, Japanese sexologists were “engaging in an ongoing and creative dialogue with their non-Japanese colleagues” as “active

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<sup>14</sup> Furukawa and Lockyer, “The Changing Nature of Sexuality,” 108.

<sup>15</sup> Ibid.

<sup>16</sup> Gregory M. Pflugfelder, “Introduction,” in *Cartographies of Desire: Male-Male Sexuality in Japanese Discourse, 1600-1950* (Berkeley: University of California Press, 2007), 12.

<sup>17</sup> Pflugfelder, “Introduction,” 13.

participants in a global network of sexual knowledge in which they were not only tutees but mentors as well.”<sup>18</sup>

## **1.2 Use of the Acronym LGBT**

In this thesis, when referring to the community in Japan, I have chosen to utilize the acronym LGBT (lesbian, gay, bisexual, and transgender) instead of more inclusive Western variations such as LGBTQ, LGBTQIA, or LGBTQIA+. As there are individuals in Japan who identify as other than LGBT, my decision to not include the additions “QIA+” (queer, intersex, and asexual) is by no means meant to deny their existence. “LGBT” has only recently become a buzzword in Japanese society and as such, knowledge of other identities within the LGBTQIA+ community are not well understood by most Japanese. Therefore, in order to keep my writing up to date with the language currently used in Japan, any mention of LGBT strictly refers to Japan’s LGBT community and the people who belong to it. Any use of the longer variation of the acronym is in reference to the West, mainly the community in the United States and Europe.

## **1.3 LGBT Activism in Japan (1960s-Present)**

During the late 1960s, there was an emergence of both national (U.S.) and international alliances among homosexuals who sought to fight back against societal oppression. However, in Japan during this time, there was no police surveillance or harassment of sexual minorities as there was in the United States. Another aspect that makes Japan stand out was that there was no kind of powerful authority that designated homosexuality as an immoral or dangerous sin like the church was doing overseas. This does not mean that there was no countermovement in Japan. For example, the wave of feminism in 1960s Japan that was caused by feminist resistance movements around the world. In the 1970s, these women “sought out alliances with other

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<sup>18</sup> Pflugfelder, “Introduction,” 13.

repressed groups within Japanese society, such as resident Koreans, the indigenous Ainu minority and the hereditary subcaste of Burakumin.”<sup>19</sup>

By this time, various social groups of homosexual Japanese men and women had been established along with gay print media. One attempt which failed to bring these groups together was Tōgō Ken’s *Zatsumin no Kai* (Miscellaneous People’s Organization). It was not until the mid-1980s in Japan that homosexual men began to form organizations and employ modes of activism similar to those in the West. Despite their efforts, these groups “never amounted to a combined ‘movement,’ and many members of sexual minorities in Japan feel ambivalent about organizations that purport to speak on their behalf.”<sup>20</sup>

In 1994, Tokyo Lesbian & Gay Parade (TL&GP) became the first gay pride event organized in Japan. This was accomplished by the International Lesbian, Gay, Bi, Trans, and Intersex Association (ILGA) Japan which managed to attract over 3,000 attendees. Over the next couple of years, due to disputes among the organizers, events were hardly promoted. Between 2004 and 2006, the TL&GP was brought back, unfortunately facing accusations from certain sexual minorities that they were being ignored. In 2007, the event’s name was changed to Tokyo Pride Parade and the following year organization was once again suspended until 2010 when a third gap occurred in 2011.

In 2011, Tokyo Rainbow Pride (a separate organization) was established with a focus to celebrate the sexual diversity of the entire LGBT spectrum and spread the message that LGBT rights are human rights. In May 2011, Tokyo Rainbow Pride (TRP) organizers reached out to Tokyo Pride Parade (TPP), asking if they would be planning to hold an event in August 2012.

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<sup>19</sup> Mark J. McLelland, “Toward a Lesbian and Gay Consciousness,” in *Queer Japan from the Pacific War to the Internet Age* (Lanham: Rowman & Littlefield, 2005), 160.

<sup>20</sup> McLelland, “Toward a Lesbian and Gay Consciousness,” 161.

However, at that time, Tokyo Rainbow Pride organizers were unable to give a definite answer as to whether they'd be organizing an event in the summer of 2012.

Following Shibuya Ward's passing of Same-Sex Partnership Certification in 2015, thousands of lesbian, gay, bisexual, and transgender people paraded through Tokyo's Shibuya district. In total, around 3,000 participants were estimated to have participated in demonstrating their hope that Japanese society would continue to move forwards with recent pushes to embrace equality and diversity. The LGBT parade was the finale of Tokyo Rainbow Pride's festival with the theme of "Change". In 2022, Tokyo Rainbow Pride was sponsored by a record number of 190 companies and organizations like NTT Corp., Sony Corp., and Google Inc. as well as Spotify and even BuzzFeed.

In July and August of 2018, a series of large-scale protests by lesbian, gay, bisexual, and transgender (LGBT) activists and allies were held in Tokyo, Osaka, and other cities across Japan. These major protests were organized after Liberal Democratic Party (LDP) member Sugita Mio's comment that LGBT people were not "productive" and therefore should not receive support from the Japanese government. As a result of these protests, there was a substantial impact on later activism and perceptions of LGBT issues throughout the country. To many Japanese LGBT activists, these protests in the summer of 2018 represented "Japan's Stonewall", a reference to the Stonewall Riots (also known as the Stonewall Uprising, Stonewall Rebellion, or Stonewall) which took place in New York City in 1969 between the months of June and July.

#### **1.4 Utilizing Queer Theory**

Queer theory is a field of academics which emerged in the early 1990s out of both queer studies and women's studies. Depending upon its usage, the term can have various meanings but for the sake of this thesis, I am associating queer theory with the study of gender and sexuality

practices which exist outside of heterosexuality, and which ultimately challenge the idea that heterosexuality is the desirable norm. Originally, the word queer was broadly used to refer to what was odd, strange, abnormal, or sick. In the 1980s, “queer” was reclaimed by the LGBTQ community in the U.S. as an umbrella term to designate resistant and non-normative sexuality.<sup>21</sup> As philosopher Judith Butler notes, it is precisely queer’s links to “accusation, pathologization, insult” that gives “queer” its discursive power when re-used and repeated as a self-identifier.<sup>22</sup>

To some, the word “queer” is more a kind of *action* (or *doing*) rather than *being*. In this context, I am employing “queer” as a verb to challenge and resist the norms or expectations of society – in particular, Japanese society. Queer theory has also long been used to give voices to queer identities and shed light on problems of heteronormativity that often go overlooked. Similar to Judith Butler, my usage of queer is meant to demonstrate its potential for change and resistance rather than for one’s identity or description. This verb, “queering”, is central to my thesis and therefore must be properly defined.

Queering is a truncation of the phrase “queer reading” where queer is used to describe the method of looking at something as being strange or abnormal. Used to challenge instances of heteronormativity or gender binary within texts, this method of analyzing through queering can be applied not only to literature. Now, queering is used as an umbrella term to address places where gender, sexuality, masculinity, and femininity can be questioned within a range of systems of oppression and identity politics. For my thesis, I’m using queering to mean both: 1) “to take what is considered normal and look at it through a lens that makes it strange or troubles it in some way” and 2) “to incorporate queer methodologies and LGBT-identifying individuals into

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<sup>21</sup> Hannah McCann and Whitney Monaghan, “Defining Queer Theory,” in *Queer Theory Now: From Foundations to Futures* (London: Macmillan International Higher Education, 2020), 2.

<sup>22</sup> Ibid.

these largely heteronormative systems”. In other words, “challenging the dominance of heterosexual representation by making hidden desires visible, making inferred relations overt, and smuggling queerness into texts that were previously thought to deny it.”<sup>23</sup>

Another important term worth defining is the concept of heteronormativity, which assumes heterosexuality as the preferred sexual orientation and gender binary. Furthermore, marital and sexual relations are perceived as being most fitting between a man and a woman. However, heteronormativity is not equivalent to heterosexuality itself. “Heterosexuality, while depending on the exclusion or marginalization of other sexualities for its legitimacy, is not precisely coterminous with heterosexual sexuality.”<sup>24</sup> Although it is possible for one to be heterosexual without strictly adhering to the rules of heteronormativity, in Japan such rules not only define what is a normative sexual practice but also what is a normal way of life. In the following chapter, I will discuss how the Japanese legal system enforces heteronormative rules.

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<sup>23</sup> Hannah McCann and Whitney Monaghan, “Outing the Closet,” in *Queer Theory Now: From Foundations to Futures* (London: Macmillan International Higher Education, 2020), 145.

<sup>24</sup> McCann and Monaghan, “Defining Queer Theory,” 11.



## Chapter 2: Queering Japanese Legal Systems

Based largely on 19<sup>th</sup> century European legal systems, such as those of Germany and France, Japan's modern legal system was adopted after the Meiji Restoration (*meiji ishin* or 明治維新) in 1868 when imperial rule was restored. Known formally as the Constitution of the Empire of Japan (*dai-nippon teikoku kenpō* or 大日本帝国憲法), the Meiji Constitution (*meiji kenpō* or 明治憲法) was enacted in 1890 and remained in effect until 1945. During this period, Japan was established as constitutional monarchy where the Emperor was seen as the supreme leader and held considerable political and diplomatic power. Under the new Meiji Constitution, the Emperor became an idolized head of state while the Prime Minister became the head of government.

Concerning the private relationships of individuals, Japanese civil law is comprised of a multitude laws including the Civil Code (*minpō* or 民法) which was enacted in 1896 as a result of pushes for modernization during the Meiji Period (1868-1912). Divided into five books, the fourth book of the Civil Code deals with family relations including marriages and guardianship while the fifth book covers inheritance matters such as wills and succession. During the post-war period, reforming Japanese family law became such a priority that “preparations for amending the Civil Code started almost simultaneously with the drafting of the new Constitution.”<sup>25</sup>

In this chapter, I argue that by employing the technique of queering, certain legal systems can be challenged as enforcing heteronormativity. First, I analyze ways in which the *koseki* marginalizes same-sex couples through regulation of Japanese citizens' sexualities and relationships. Next, I explore possibilities for constitutional reconsiderations of Articles 13, 14, and 24 which have been put forth to include Japan's LGBT community who have long been

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<sup>25</sup> Hiroshi Oda, “Family Law and Inheritance,” in *Japanese Law* (Oxford: Oxford University Press, 2021), 212.

denied constitutional rights for marriage and family making. In addition, I include court cases arguing for constitutional recognition which have been significant to Japan's same-sex rights movement. Lastly, I focus on the Same-Sex Partnership Certification System established in 2015. Although some see these certificates as providing same-sex couples equal rights as heterosexual couples, I argue that they instead create a pseudo state of equality for couples as certificates are not legally binding nor are they recognized consistently across Japan. I support this stance by exploring problems concerning legal recognition which same-sex couples face in various spaces within society, such as with housing and medical care.

## 2.1 The *Koseki*

The Japanese *koseki* (戸籍) is a civil registration system that requires all households to record life events such as marriages, divorces, births, and deaths in their vital records. The basic purpose of the *koseki* system is to identify, categorize, and define the population of Japan.<sup>26</sup> The term *koseki* is comprised of two characters, *ko* (戸) which is the counter for “houses, households, and families,” and *seki* (籍) meaning “register”. Unlike regular citizens, the Japanese Imperial Family are not registered in a *koseki*.

According to the late sociologist Kenji Mori, the history of the *koseki* can be divided into three periods. First in 670 under the reign of Emperor Tenjin as the *Kōgo* Register (*kōgo-nen jaku* or 庚午年籍), second in 1664 as the Secretarian Census Inspection Records (*shūmon ninbetsu aratamechō* or 宗門人別改帳) under the Tokugawa *bakufu*, and third as the *Koseki*

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<sup>26</sup> David Chapman and Karl Jakob Krogness, “The *Koseki*,” in *Japan's Household Registration System and Citizenship: Koseki, Identification, and Documentation*, eds. David Chapman and Karl Jakob Krogness, (London: Routledge, 2016), 2.

Law (*koseki hō* or 戸籍法) of 1871 after which household registers began to be compiled nationwide starting in 1872.<sup>27</sup>

At this time, the Meiji Civil Code required all Japanese families to be organized in the *ie* (家) family structure and to record themselves in the *koseki* household registration system.<sup>28</sup> The *ie* system was a set of national legal regulations that required families to follow certain patterns of organization and hierarchy.<sup>29</sup> For example, each family was to be registered under a male head of household (*koshu* or 戸主). In other words, the *koseki* “determined who the governed were, identified each individual who constituted the governed, preserved the public order, and stabilized control.”<sup>30</sup>

In addition, the *koseki* is used to determine one’s legal identity within Japanese society. While Japanese citizenship can be differentiated between “national” (*kokumin* or 国民) and “resident” (*shimin* or 市民), these terms demonstrate how the *koseki* not only defines who is Japanese but also shapes the notion of Japanese citizenship itself.<sup>31</sup> On the other hand, the *Koseki* Law is intertwined with other Japanese laws such as the Nationality Law (*kokuseki hō* or 国籍法), creating a strong legal amalgamation that influences the lives of all Japanese. Although most Japanese would not think twice about the implications of this legal system, the *koseki* presents many challenges to nationals and foreigners alike who do not fit the traditional family image.

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<sup>27</sup> Kenji Mori, “The Development of the Modern *Koseki*.” in *Japan's Household Registration System and Citizenship: Koseki, Identification and Documentation*, eds. David Chapman and Karl Jakob Krogness, (London: Routledge, 2014), 59.

<sup>28</sup> Allison Alexy, “Constructing Mutuality,” in *Intimate Disconnections: Divorce and the Romance of Independence in Contemporary Japan* (Chicago: University of Chicago Press, 2020), 89.

<sup>29</sup> Allison Alexy, “Constructing Mutuality,” 90.

<sup>30</sup> Kenji Mori, “The Development of the Modern *Koseki*,” 60.

<sup>31</sup> Claire Maree, “Sexual Citizenship at the Intersections of Patriarchy and Heteronormativity: Same-Sex Partnerships and the *Koseki*.” in *Japan's Household Registration System and Citizenship: Koseki, Identification and Documentation*, eds. David Chapman and Karl Jakob Krogness (London: Routledge, 2016), 188.

The Japanese government's regulation of sexualities and relationships can be seen through the use of the *koseki*, which privileges heterosexual couples and marginalizes same-sex couples. Maintaining a heteronormative and reproductive population, the *koseki* system grants heterosexual couples the legal right to marriage and financial benefits as well as the ability to have children, carrying on a family's lineage. On the other hand, same-sex couples are denied these rights. Keeping the national body as one of strictly heterosexual marital relations, Japan's rigid *koseki* system forces same-sex couples to stay legally separated. Although some couples choose to seek marriage abroad (not recognized by the Japanese government) or even enter heterosexual marriages for the legal and financial benefits, adoption is one way in which the couple can be granted rights.

Entering another person's *koseki* through adoption has historically been a popular, albeit now less common, way to bypass these laws. Adoption (*yōshi engumi* or 養子縁組) between same-sex couples has been utilized to ensure that partners are not kept out of the decision-making process during medical emergencies or that their inheritance is not passed on to other immediate family members after death.<sup>32</sup> The process of adoption is relatively simple as long as both partners are consenting adults and they have two adult witnesses present at the municipal office when the adoption papers are stamped with their *hanko* seals.

From that point forward, the older of the two is considered the parent and the young their child – both sharing the same last name and recognized as family. The couple (although legally parent and child) now has access to the same rights as heterosexual married couples such as hospital visitations and inheritance. As such, adoption is the closest process to marriage a same-

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<sup>32</sup> Claire Maree, "Same-Sex Partnerships in Japan: Bypasses and Other Alternatives," *Women's Studies* 33, no. 4 (2004): 543. <https://doi.org/10.1080/00497870490464396>.

sex couple can have if they wish to share the same legal rights as heterosexual couple. However, even if a couple may join in union as an act of romantic love, now as parent and child there still exists the barrier of legal recognition. While they may have certain rights and share the same last name, they will never truly be considered married in the eyes of Japan's government or society.

## 2.2 The Japanese Constitution

While there are no laws in Japan that currently criminalize same-sex relations or being LGBT, same-sex marriage has not yet been legalized. One substantial impediment that prevents same-sex couples from getting married is the Japanese Constitution (*nihonkoku kenpō* or 日本国憲法). Replacing the Meiji Constitution of 1890 (*meiji kenpō* or 明治憲法), this document was written primarily by American civilian officials under the Supreme Commander for the Allied Powers (SCAP) General Douglas MacArthur after the Second World War and was enacted in 1947. Japan's Constitution states under Article 13 of *Chapter III: Rights and Duties of the People* that:

「すべて国民は、個人として尊重される。生命、自由及び幸福追求に対する国民の権利については、公共の福祉に反しない限り、立法その他の国政の上で、最大の尊重を必要とする。」<sup>33</sup>

“All of the people shall be respected as individuals. Their right to life, liberty, and the pursuit of happiness shall, to the extent that it does not interfere with public welfare, be the supreme consideration in legislation and in other governmental affairs.”<sup>34</sup>

Since Article 13 specifically mentions that “all of the people shall be respected as individuals” and is a general provision of fundamental human rights for citizens, some same-sex rights activists have argued that it should be interpreted together with Article 24 (which I will later examine).<sup>35</sup> They see their inability to legally marry and have children as an impediment to

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<sup>33</sup> 日本国憲法

<sup>34</sup> Japan Const. art. XIII § 3

<sup>35</sup> Yasuo Takao, “The Politics of LGBT Policy Adoption: Shibuya Ward’s Same-Sex Partnership Certificates in the Japanese Context.” *Pacific Affairs* 90, no. 1 (2017): 13.

their life, liberty, and pursuit of happiness. Furthermore, Article 13 states that each individual's rights shall be "the supreme consideration in legislation and in other governmental affairs". By not granting equal rights to the LGBT community, the Japanese government fails to fulfill their duty as specified in the Constitution.

The following provision in *Chapter III*, Article 14, presents same-sex couples with an additional case worth considering reinterpretation. It states:

「すべて国民は、法の下に平等であつて、人種、信条、性別、社会的身分又は門地により、政治的、経済的又は社会的関係において、差別されない。」<sup>36</sup>  
"All of the people under the law are equal and there shall be no discrimination in political, economic, or social relations because of race, creed, sex, or family origin."<sup>37</sup>

Although Article 14 of the Constitution does not specifically mention sexuality under examples of discrimination, the phrase "all of the people under the law are equal" has been interpreted to include same-sex couples and LGBT-identifying citizens. In practice, this is not the case. Members of Japan's LGBT community face discrimination in politics, education, at places of employment, with housing, healthcare, and other aspects of life. As LGBT people have few legal resources to turn to, these acts of discrimination are most often met with no consequences, going unnoticed by those who do not experience them firsthand.

Under Article 24 of *Chapter III: Rights and Duties of the People*, it is declared that,

「婚姻は、両性の合意のみに基いて成立し、夫婦が同等の権利を有することを基本として、相互の協力により、維持されなければならない。」<sup>38</sup>  
"Marriage shall be based only on the mutual consent of both sexes, and it shall be maintained through mutual cooperation with the equal rights of husband and wife as a basis."<sup>39</sup>

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<sup>36</sup> 日本国憲法

<sup>37</sup> Japan Const. art. XIV § 3

<sup>38</sup> 日本国憲法

<sup>39</sup> Japan Const. art. XXIV § 3

The original intent of Article 24 was to abolish the older, previous system of Japanese patriarchal households as well as to respect the freedom of two mutually consenting adults to marry, not to emphasize that marriage must exist solely between a man and a woman.<sup>40</sup> Defining marriage in the Japanese Constitution as a bond between both sexes (*ryōsei* or 両性), there has been a push to consider whether Article 24 should be reinterpreted to include same-sex couples. This wording is commonly understood as strictly referring to a man and a woman joining in union, further precluding same-sex couples from being able to get married.<sup>41</sup>

I believe that the phrase “husband and wife as basis” could be just that. However, the government must first acknowledge the heteronormative boundaries put in place with the language used in Articles 13, 14, and 24. From there, LGBT rights could be granted, and same-sex marriage could be legalized following the Articles already in place. Using these as a basis, the government can create legislation and the Constitution itself does not need to be amended.

### **2.3 Legal Action Taken for Same-Sex Marriage**

On February 14, 2022, the *Freedom to Marry for All* lawsuit was filed in the cities of Sapporo, Tokyo, Nagoya, and Osaka with an additional filing in Fukuoka the same year.<sup>42</sup> With the support of LGBT rights activist and lawyer Terahara Makiko, this was the first lawsuit in Japan that confronted assertions of constitutional violations regarding the lack of recognition of same-sex marriage. At the first ruling in Sapporo, which took place on March 17, 2022, the plaintiff argued that Articles 13, 14, and 24 of the Japanese Constitution do not recognize same-sex marriage. In their case, the plaintiff claimed that Articles 13 and 24 both guarantee the

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<sup>40</sup> Yasuo Takao, *The Politics of LGBT Policy Adoption*, 13.

<sup>41</sup> Claire Maree, *Sexual Citizenship*, 190-191.

<sup>42</sup> Lawyers for LGBT & Allies Network (LLAN), “Same-Sex Partnerships in Japan: Implications for Marriage Equality,” (Tokyo: Temple University Law School, February 24, 2022).

freedom of marriage, that Article 14 establishes the principle of equality, and that Article 24 also requires laws concerning marriage to be established based on the dignity of an individual.<sup>43</sup>

The defendant, who also remained anonymous, had three main arguments against the plaintiff's case. First, they argued that matters related to marriage should be left to the Japanese Diet and not be debated in court as they are vital to the very foundation of Japanese society. Second, while marriage is recognized regardless of a couple's reproductive potential, the scope of couples who can marry is defined on the basis of this reproductive practice. Third, same-sex couples in Japan do not have the same social recognition as married heterosexual couples.<sup>44</sup>

The Sapporo District Court's official ruling of the March 17 case deemed the Japanese government's failure to recognize same-sex marriage as unconstitutional. In this historical win for Japan's LGBT community, presiding Judge Tomoko Takebe described this failure to offer same-sex couples marital benefits as discriminatory, stating that "the protection of common life itself, regardless of a couple's reproductive abilities, is also an essential purpose of marriage."<sup>45</sup>

While Judge Takebe agreed with the government that there was no apparent violation of Article 24 of the Japanese Constitution, saying that it related to heterosexual marriage and does not mention same-sex marriage, this recognition of prohibiting same-sex couples to marry as unconstitutional was considered a victory to the plaintiffs and their lawyers, as well as same-sex rights activists.<sup>46</sup>

On June 20, 2022, the Osaka District Court was presented with a case filed by three same-sex couples (two male and one female), the second case to be heard in Japan. According to

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<sup>43</sup> LLAN, "Same-Sex Partnerships in Japan."

<sup>44</sup> Ibid.

<sup>45</sup> "Japan Court Rules Failure to Recognize Same-Sex Marriage Unconstitutional." The Japan Times, March 19, 2021. <https://www.japantimes.co.jp/news/2021/03/17/national/crime-legal/same-sex-marriage-landmark-ruling/>.

<sup>46</sup> Ibid.



the couples, they faced “unjust discrimination” because Japan’s current legal system prevents them from being able to get married.<sup>47</sup> This discrimination goes further than marriage since the current system prohibits the inheriting of a partner’s assets or holding any parental rights over their children.

The Osaka District Court asserted that the institution of marriage in Japan was to protect relationships between men and women to give birth and raise children. In the end, the court ruled that Japan’s ban on same-sex marriage was constitutional.<sup>48</sup> According to the Osaka District Court, it is not the court’s job to create those protections it is instead the job of the legislature. Additionally, they noted “there have not been enough discussions among people in Japan” on what sort of system is needed to grant benefits for same-sex couples who live together.<sup>49</sup> The court added, however, that it may be possible to create a new system.

In response to the court’s ruling, LGBT activist and president of Pride House Tokyo Gon Matsunaka expressed his disappointment towards the ruling, saying that “after the Sapporo hearing, we were hoping for the same ruling or something even better.”<sup>50</sup> One unnamed female plaintiff told NHK reporters outside the Osaka courthouse, “this is awful, just awful.”<sup>51</sup> As Japan’s first judicial decision on the unconstitutionality of not recognizing same-sex marriages, the Osaka ruling has had significant social and political impact. It will undoubtedly become a major driving force for the legalization of same-sex marriage.

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<sup>47</sup> “Japan's Disappointing Ruling on Same-Sex Marriage.” The Japan Times, June 24, 2022. <https://www.japantimes.co.jp/opinion/2022/06/24/editorials/japan-same-sex-marriage/>.

<sup>48</sup> Ibid.

<sup>49</sup> “In LGBTQ Rights Setback, Japan Court Says barring Same-Sex Marriage Not Unconstitutional.” The Japan Times, June 20, 2022. <https://www.japantimes.co.jp/news/2022/06/20/national/crime-legal/japan-court-same-sex-marriage-ruling/>.

<sup>50</sup> Ibid.

<sup>51</sup> Zubaidah Abdul Jalil. “Japan: Osaka Court Rules Ban on Same-Sex Marriage Constitutional.” BBC News, June 20, 2022. <https://www.bbc.com/news/world-asia-61670667>.

## 2.4 Same-Sex Partnership Certificates

On April 1, 2015, Shibuya Ward in Tokyo Prefecture became the first in Japan to offer same-sex couples “partnership certificates” (*pātonāshippu shōmeisho* or パートナーシップ証明書) through the then newly established “partnership certification system” (*pātonāshippu shōmei seido* or パートナーシップ証明制度). This came after Shibuya Ward passed the Ordinance for Promoting Respect of Gender Equality and Diversity (*Shibuya-ku danjo byōdō oyobi tayō-sei o sonchō suru shakai o suishin suru jōrei* or 渋谷区男女平等及び多様性を尊重する社会を推進する条例) one day prior on March 31.<sup>52</sup>

Under Article 4 of Shibuya Ward’s Ordinance, “the ward shall promote a society that respects human rights of sexual minorities so that the following are realized and maintained.”<sup>53</sup>

The following is a list of the specific measures addressed in Article 4:

(1) 性的少数者に対する社会的な偏見及び差別をなくし、性的少数者が、個人として尊重されること。

(2) 性的少数者が、社会的偏見及び差別意識にとらわれることなく、その個性と能力を十分に発揮し、自らの意思と責任により多様な生き方を選択できること。

(3) 学校教育、生涯学習その他の教育の場において、性的少数者に対する理解を深め、当事者に対する具体的な対応を行うなどの取組がされること。

(4) 国際社会及び国内における性的少数者に対する理解を深めるための取組を積極的に理解し、推進すること。<sup>54</sup>

(1) Eliminate social prejudices and discrimination against sexual minorities and respect sexual minorities as individuals.

(2) Sexual minorities must be able to fully demonstrate their individuality and abilities without being bound by social prejudice and discrimination, and to choose a variety of ways of life based on their own will and responsibility.

(3) Efforts should be made and concrete measures taken to deepen understanding of sexual minorities in school education, lifelong learning, and other educational settings.

(4) Actively understand and promote efforts to deepen understanding of sexual minorities in the international community and in Japan.<sup>55</sup>

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<sup>52</sup> Yasuo Takao, *The Politics of LGBT Policy Adoption*, 7.

<sup>53</sup> Translation by author.

<sup>54</sup> 渋谷区男女平等及び多様性を尊重する社会を推進する条例  
<https://www.city.shibuya.tokyo.jp/kusei/reikishu/reikishu/#e000000109>.

<sup>55</sup> Translation by author.

According to the organization Niji Bridge, which collects research data on sexual minorities in Japan, 96 same-sex couples had registered for partnership certificates when they began collecting data in June 2017.<sup>56</sup> As of December 31, 2022, the number of same-sex couples who have registered for certificates reached 4,186 and as of January 10, 2023, a total 255 local governments (covering roughly 65.2% of Japan’s population) have adopted the partnership certification system.<sup>57</sup> Currently, ten prefectures have the system throughout the entire area while most others have only some districts with the system and the rest have yet to introduce it at all.

By receiving a partnership certificate, Japanese same-sex couples can “benefit from some services and welfare programs that opposite-sex couples are eligible for.”<sup>58</sup> Moreover, as is typical with vagueness in the Japanese language, “it might simplify housing by making it easier for couples to apply for mortgages, or to move into public housing designated for families. It may allow a person to collect their partner’s life insurance, give consent for a medical procedure if their partner is ill or injured, or to visit their partner in government-run hospitals.”<sup>59</sup> However, what is important to note here is the use of “some”, “might”, and “may”. By using such vague language, there is no guarantee that obtaining a certificate will make issues regarding housing or medical care any easier. While a step in the right direction, the partnership system still falls short compared equal marriage rights.

## **2.5 Realities of Partnership Certificate Use**

Another issue that has triggered discussion among same-sex couples is the lack of legal support that is provided for them after obtaining their partnership certification. For example, if a

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<sup>56</sup> Niji Bridge <https://nijibridge.jp/#data1>.

<sup>57</sup> Ibid.

<sup>58</sup> Amy Gunia, “Same-Sex Couples Can Now Get Partnership Certificates in Tokyo,” Time, November 1, 2022. <https://time.com/6227055/tokyo-same-sex-partnership-certificates/>.

<sup>59</sup> Ibid.

couple in Tokyo wants to move, they may no longer be covered by these benefits if they relocate to an area that does not recognize their certificate. Since partnership certificates are not legally binding, there is no obligation for institutions, such as hospitals or apartments, to honor couples' certificates when presented. While these certificates have provided a sense of acceptance and protection for some, this has not been the reality for many others.

One notable example of these consequences occurred in 2021 between a man by the name of Yoshi and his partner Sato. Although the two had been granted a partnership certificate, when Sato unexpectedly collapsed one day and was rushed to the hospital, staff did not recognize Yoshi as his partner or family member despite presenting their certificate. Yoshi was asked to provide the hospital with contact information for Sato's blood relatives and it was not until he spoke to Sato's sister that Yoshi learned of his partner's condition. Unfortunately, Sato ended up passing away in the hospital soon after. When asked about this experience, Yoshi said "although he [Sato] is not here anymore, I don't want to waste his desire to get legally married one day, so I decided to continue as a plaintiff."<sup>60</sup>

A similar experience occurred between two women, Soyoka and Yoriko. When Yoriko called for an ambulance after Soyoka had a medical emergency at their home, Yoriko was told by medical staff to obtain consent from her partner's parents. In response, Soyoka said that "our goal is to use the certificate as a springboard for achieving a society where the rights of sexual minorities are protected."<sup>61</sup> In both situations, the respective hospitals chose to only disclose medical information to blood relatives and not the injured parties' long-term partners. This

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<sup>60</sup> LLAN, "Same-Sex Partnerships in Japan: Implications for Marriage Equality."

<sup>61</sup> "Tokyo Begins Recognizing Same-Sex Partnerships." NBC News, November 1, 2022.

<https://www.nbcnews.com/nbc-out/out-news/tokyo-begins-sex-partnership-recognition-rcna55041>.

refusal to recognize their certificates is an example of what I consider to be a “separate but equal” existence for Japanese same-sex couples.

In both cases, the same-sex couples were recognized in specific regions of Japan and given certificates to honor their union. Not only their union non-marital and non-legally binding, but it does also not grantee the same privileges as married heterosexual couples who must legally be recognized by law on the national level. Same-sex couples therefore exist in a state of being separate but equal – recognized as a legal couple in certain areas yet unprotected by law and seen as different in others. Nowhere in Japan are they truly equal to the constitutionally recognized married heterosexual couple.

## **2.6 Conclusion**

Analyzing various Japanese legal systems through a queer lens, I argue that these not only enforce heteronormativity over Japanese society but at the same time fail to recognize and grant space for same-sex couples within their rigid structures. The *koseki* system works to keep marital union strictly between men and women, only allowing for same-sex partners to join through adoption. For such couples, sharing a surname and access to rights may not be enough as they will exist as parent and child in the eyes of the Japanese government.

Although the Constitution states it Article 13 that all people shall be respected and have the right to life, liberty, and the pursuit of happiness, this is not the case for LGBT-identifying citizens. In Article 14, it says there shall be no discrimination as all people are equal under the law when sexual minorities in Japan live their day-to-day lives being discriminated against in various social settings with no protection. As for Article 24, there has been no consideration to include same-sex couples. With little chance for amendments to be made, the wording used in Japan’s Constitution fails to provide the rights and protections to all its citizens as promised.

While the number of same-sex couples registering for partnership certificates continues to grow each day, the promise of legal recognition and rights by prefectural governments will no longer be able to fulfill the needs of same-sex couples who wish to be treated as equal to married couples. In terms of granting legal recognition and rights on the national level, these certificates fail to deliver what they were created to do. Existing in a separate but equal space within society, same-sex couples will only be seen as separate (the “other”) until they are granted equal rights.

In this chapter, I presented various legal systems in Japan which are embedded with strict or even vague heteronormative language. Until there is new legislation specifically put in place, these legal systems will continue to marginalize same-sex couples and inhibit their granting of equal rights and opportunities as heterosexual couples. As I will discuss in more detail in the next chapter, there is further potential for the Japanese government to allow LGBT couples to marry and have children in order to help reverse population decline.

### **Chapter 3: Queering Japanese Politics**

Developed by the World Economic Forum (WEF), the Global Gender Gap Index (GGGI) is used to measure gender parity across various countries. In their 2021 report, Japan ranked 120<sup>th</sup> out of 155 countries.<sup>62</sup> The same report noted that in terms of political empowerment, Japan ranked 147<sup>th</sup> out of 155.<sup>63</sup> In 2022, Japan placed even lower on both scales, coming in as 116<sup>th</sup> and 139<sup>th</sup> out of 146 countries.<sup>64</sup> As Japan has seen a slight decrease in their ranking in the past few years, the nation continues to face significant challenges towards achieving gender equality, particularly in the area of political empowerment.

Considering Japan's ranking for gender equality, it would be no surprise to see them in a similarly inferior ranking in political empowerment for LGBT representation when compared to other G7 nations such as Germany, the U.K., and the U.S. In July 2021, Kyodo News more or less addressed this topic, reporting that a record number of women and LGBT candidates were running in the House of Councilors election in Japan. Out of 545 candidates, there were 181 women campaigning for one of the 125 available seats.<sup>65</sup> With women making up 33.2% of candidates that year, it pales in comparison that there were only a mere four LGBT candidates (0.7%) in the running.<sup>66</sup> Whereas in the U.S., there were a total of 410 LGBT candidates running for office in elections across the country in 2021.<sup>67</sup>

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<sup>62</sup> "Global Gender Gap Report 2021." World Economic Forum, March 30, 2021. <https://www.weforum.org/reports/global-gender-gap-report-2021/>.

<sup>63</sup> Ibid.

<sup>64</sup> "Global Gender Gap Report 2022." World Economic Forum, July 13, 2022. <https://www.weforum.org/reports/global-gender-gap-report-2022/>.

<sup>65</sup> Martinez, Eduardo, and Mariko Tamura. "FOCUS: Record Women, LGBTQ Election Hopefuls Run to Shake up Japan Politics." Kyodo News+, July 7, 2022. <https://english.kyodonews.net/news/2022/07/1415d868fd6f-focus-record-women-lgbtq-election-hopefuls-run-to-shake-up-japan-politics.html>.

<sup>66</sup> Ibid.

<sup>67</sup> "Out on the Trail 2021." LGBTQ+ Victory Fund, October 2021. <https://victoryfund.org/out-on-the-trail-2021/>.

This depiction of Japan's political landscape as being one of gradual progress towards the creation of an LGBT inclusive space is reinforced by the relationships between certain right-wing politicians and the LGBT community. In recent years, several Liberal Democratic Party (LDP) politicians have come under scrutiny for expressing homophobic sentiments publicly and privately. As a result, some LDP members were asked to resign while others stepped down by choice. However, within Japan's political sphere, acts of discrimination are rarely often met with such severe consequences. Instead, some choose to decline to comment on past remarks while most others simply go overlooked.

This refusal to address seriously and put an end to homophobia within Japanese politics further hinders the nation's progress towards social equality. Allowing politicians who contribute to the stigmatization and marginalization of Japan's LGBT community to remain in positions of power not only sends a message to the public that it is acceptable to discriminate against sexual minorities, but it also gives politicians the ability to block any future legislature aimed at legalizing same-sex marriage or protecting LGBT rights.

In the field of queer theory, there is a focus on the deconstruction and destabilization of what is considered "normal" through the application of various queer methodologies. In other words, it is about "troubling the subject, employing a queer reading approach, and drawing from multiple perspectives and traditions, all in order to challenge 'dominant logics'."<sup>68</sup> Defining the act of queering here as a means of challenging and subverting traditional systems of power which marginalize sexual minorities (compared to my previous definition), I argue that queering the Japanese political landscape through the application of queer methodologies and election of

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<sup>68</sup> McCann, Hannah, and Whitney Monaghan. "Outing the Closet." In *Queer Theory Now: From Foundations to Futures*, 118–52. London: Bloomsbury Publishing, 2020.



LGBT officials could have beneficial effects not only on Japan’s LGBT community but Japanese society as a whole. First, by opening Japanese politics up to more diversity and representation, this could create opportunities to incorporate queer power into such a largely heteronormative system. Originating during the Gay Liberation Movement (GLM) from the late 1960s through the mid-1980s, the notion of queer power in this context refers to political and social influence exerted by members of the LGBT community. Second, by queering certain assertions made by politicians against LGBT people, this could produce solutions for larger problems of social inequality as well as the declining rates of marriages and childbirths in Japan.

Starting with Sugita Mio in 2018, in this chapter I present five of the most recent cases in which Japanese politicians have publicly and privately exhibited homophobia. Here, I not merely argue against their validity but present statistical research which supports my claim that adopting queer methodologies and more LGBT politicians could help significantly reduce Japan’s long-term decline in marriages and population rates.

### 3.1 Sugita Mio

In July 2018, current LDP and House of Representatives member Sugita Mio faced severe criticism after she authored an article titled *Too Much Support for “LGBT”* (“LGBT” *shien no do ga sugiru* or 『LGBT』支援の度が過ぎる) for Shinchosha Publishing Co.’s conservative monthly magazine *Shincho 45*.<sup>69</sup> In the article, she wrote that:

「彼ら彼女らは子供を作らない、つまり『生産性』がない。そこに税金を投入することが果たしていいのかどうか。」<sup>70</sup>  
“[LGBT] men and women don’t have children. In other words, they are ‘unproductive’. Is it really worth investing taxpayer money?”<sup>71</sup>

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<sup>69</sup> Maki Nakajima and Yukako Ono, “History of Sexist, Anti-LGBTQ Remarks by Japanese Vice-Minister Mio Sugita.” *The Mainichi*, August 24, 2022. <https://mainichi.jp/english/articles/20220823/p2a/00m/0na/026000c>.

<sup>70</sup> 二階堂 友紀. “同性カップルは「生産性なし」 杉田水脈氏の寄稿に批判.” *朝日新聞デジタル*, July 23, 2018. <https://www.asahi.com/articles/ASL7R4SB9L7RUTFK00L.html>.

<sup>71</sup> Translation by author.

Sugita not only argued that taxpayer money should not be invested into policies that support same-sex couples but claimed:

「様々な性的指向を認めれば、兄弟婚を認めろ、親子婚を認めろ、それどころかペット婚や機械と結婚させろという声も出てくるかもしれない。」<sup>72</sup>  
“If we recognize various sexual orientations, some people may argue that we should allow marriage between siblings, marriage between parents and children, even marriage to pets and machines.”<sup>73</sup>

She concluded her article with a warning to readers:

「『常識』や『普通』であることを見失っていく社会は、『秩序』がなくなり、いずれ崩壊していくことにもなりかねません。私は日本をそうした社会にたくありません。」<sup>74</sup>  
“A society that loses sight of ‘common sense’ and what is ‘normal’ is destined to lose ‘order’ and eventually collapse. I do not want Japan to become such a society.”<sup>75</sup>

Taking an impartial stance on Sugita’s article, LDP politician Nikai Toshihiro did not support nor criticize her comments. Although Nikai stressed the importance of a society where diversity is accepted, he instead said, “everybody has their own political stance and philosophy of life. The LDP is made up of members from different fields, representing the entire political spectrum from the left to the right.”<sup>76</sup> LDP House of Councilors member Hashimoto Seiko stated that Sugita’s comments were “very regrettable” and that the LDP “should have taken appropriate measures.”<sup>77</sup> Former Prime Minister Abe Shinzo even spoke out, declaring that her remarks “hurt his feelings because he himself is childless and that she should be more mindful of her

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<sup>72</sup> “LGBT「生産性ない」杉田議員寄稿に批判 優生思想だ／単なるヘイト。”毎日新聞, July 23, 2018. <https://mainichi.jp/articles/20180724/ddm/041/040/183000c>.

<sup>73</sup> Translation by author.

<sup>74</sup> “【声明】衆議院議員杉田水脈氏の論考「『LGBT』支援の度が過ぎる」に対する抗議声明。”LGBT法連合会, July 23, 2018. <https://lgbtetc.jp/news/1255/>.

<sup>75</sup> Translation by author.

<sup>76</sup> Sapra, Bani. “Japanese Politician Under Fire for Calling LGBT Community 'Unproductive'.” CNN, July 26, 2018. <https://www.cnn.com/2018/07/25/asia/japanese-politician-criticism-intl/index.html>.

<sup>77</sup> “LDP’s Mio Sugita Admits Saying 'Women Lie' About Sexual Assaults,” The Japan Times, October 2, 2020. <https://www.japantimes.co.jp/news/2020/10/02/national/politics-diplomacy/ldp-lawmaker-mio-sugita-sexual-assaults/>.

words as a politician.”<sup>78</sup> However, the Former Prime Minister did not ask Sugita to step down from her seat in the LDP, noting that she was still young.

Later that year, thousands of people took to the streets, protesting in front of the LDP’s headquarters, calling for Sugita’s resignation. Participants held up rainbow flags and signs while pleading “don’t discriminate” and “we don’t need a Diet member who ignores human rights.”<sup>79</sup> The *Japan Alliance for LGBT Legislation* (J-ALL) claimed that Sugita’s statement was a direct contradiction to the LDP’s previous acknowledgment that “many sexual minorities suffer from being forced into the ‘norm’ imposed by society.”<sup>80</sup> In addition, Ishikawa Taiga, a member of the Constitutional Democratic Party of Japan (CDP) and one of Japan’s first openly gay politicians, responded that Sugita’s remarks as a member of the nation’s leading party “significantly tarnish Japan’s reputation.”<sup>81</sup> Following this incident, Shinchosha Publishing Co. announced on September 25, 2018 that the publication of *Shincho 45* would be suspended. The reason for this, according to company president Takanobu Sato, is because the magazine contained “aberrant expressions full of prejudice and lacking understanding.”<sup>82</sup>

Measuring value with reproductive ability, Sugita fails to acknowledge the considerable number of heterosexual couples who experience infertility. By her definition, these couples would also be considered unproductive and therefore do not deserve to be supported by taxpayer money. According to recent research, 18.2% of couples in Japan have undergone (or are

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<sup>78</sup> Tomohiro Osaki, “‘Outrageous Prejudice’: Publisher Suspends Publication of Shincho 45 Following Furor in LGBT Community.” *The Japan Times*, September 26, 2018. <https://www.japantimes.co.jp/news/2018/09/26/national/publisher-suspends-publication-shincho-45-following-furor-lgbt-community/>.

<sup>79</sup> “LGBT：差別やめて 杉田議員寄稿、自民に抗議。” *毎日新聞*, July 28, 2018. <https://mainichi.jp/articles/20180728/ddm/041/040/127000c>.

<sup>80</sup> Osaki, “Publisher Suspends Publication.”

<sup>81</sup> *Ibid.*

<sup>82</sup> “Shincho 45’ Folds without Publisher Explanation of Discriminatory Content.” *The Mainichi*, September 26, 2018. <https://mainichi.jp/english/articles/20180926/p2a/00m/0na/006000c>.

currently undergoing) infertility treatment: 1 in 5.5 of all couples.<sup>83</sup> In 2017, around 450,000 treatments were administered, ranking Japan one of the top nations for administering fertility treatments.<sup>84</sup> This led to 56,617 childbirths (about 6% of the 946,065 total across Japan) through assisted reproductive technologies.<sup>85</sup>

However, same-sex couples in Japan are not allowed to have children through in vitro fertilization (IVF) or artificial insemination. In December 2022, a bill that would only allow heterosexual married women access to IVF treatment was proposed which, if passed, would discriminate against lesbian couples and single women.<sup>86</sup> Having these legal barriers in place, there is little chance for Japanese same-sex couples to be able to have children anytime soon. By queering this legislation and granting same-sex couples access to the same fertility treatments as heterosexual couples, this could benefit Japan's declining rate in childbirths.

While granting same-sex couples the ability to have children will not completely fix this issue, it would certainly have a positive impact. As of December 2022, there were 4,186 same-sex couples officially registered in Japan through the same-sex partnership certification system.<sup>87</sup> If each couple were given the necessary resources to have one or two children, this could mean an additional 4,186 to 8,372 births. Further assuming, based on the number of unmarried people in the 2020 National Census, that 2.1% of Japan's population (roughly 246,455 people) were

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<sup>83</sup> Rie Yokota et al. "Development of the Japanese Version of the Infertility Stigma Scale: Examination of Its Reliability and Validity." *Healthcare* 10, no. 3 (March 9, 2022): 505. <https://doi.org/https://doi.org/10.3390/healthcare10030505>.

<sup>84</sup> Ibid.

<sup>85</sup> Ibid.

<sup>86</sup> Kilbride, Erin. "Proposed Japanese Fertility Law Discriminates against Lesbians, Single Women." Human Rights Watch, December 6, 2022. <https://www.hrw.org/news/2022/12/06/proposed-japanese-fertility-law-discriminates-against-lesbians-single-women>.

<sup>87</sup> Niji Bridge <https://nijibridge.jp/data/>.

LGBT, this could result in 123,227 marriages.<sup>88</sup> Knowing this, the number of future children produced by these couples could be between 123,277 and 246,554.

For Sugita Mio, the act of legalizing same-sex marriage would open the possibility for incestual and unusual marriages. While it may be common sense that this line of thinking is highly irrational, Sugita’s decision to equate same-sex unions to such outrageous examples hardly begs the question of what her aim was – further suggesting that she is not alone in holding this view. Sugita’s baseless claims made against same-sex marriage were intended to strike fear in the hearts of the Japanese public. This tactic of fearmongering is also a promotion of heteronormativity by positioning homosexual unions as an unnatural “other”. Therefore, if the Japanese government does not take action to replace politicians who discriminate against sexual minorities with LGBT officials, hate speech will continue to be viewed as acceptable behavior by politicians and citizens.

### 3.2 Yana Kazuo

In May 2021, fellow LDP and House of Representatives member Yana Kazuo reportedly said at an LDP meeting that being LGBT:

「生物学上、種の保存に背く。生物学の根幹にあらがう。」<sup>89</sup>  
“From the standpoint of biology, goes against the preservation of the species. They [LGBT] resist the basis of biology.”<sup>90</sup>

When asked about his statements from the party meeting, Yana replied:

「会議は非公開のため、内容や発言について答えるのは差し控える。」<sup>91</sup>  
“Since it was a closed meeting, I will refrain from commenting on the content and remarks.”<sup>92</sup>

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<sup>88</sup> Niji Bridge <https://nijibridge.jp/data/>.

<sup>89</sup> “LGBT「種の保存に背く」築議員が自民会合で発言。”東京新聞 TOKYO Web, May 22, 2021. <https://www.tokyo-np.co.jp/article/105856>.

<sup>90</sup> Translation by author.

<sup>91</sup> 東京新聞 TOKYO Web, “LGBT「種の保存に背く」.”

<sup>92</sup> Translation by author.

Among those who chose to speak out against such discrimination, LGBT rights activist and writer Soshi Matsuoka criticized Yana, saying:

「首相は何を評価してこの2人を起用したのか。差別を容認する政権だと思わざるを得ない。両氏の登用を撤回し、根強く残る性的マイノリティーへの差別や偏見と真摯に向き合ってほしい。」<sup>93</sup>

“What did the Prime Minister evaluate to appoint these two people? I can’t help but think that he approves of discrimination. I would like them to withdraw from their appointments and sincerely confront the deep-rooted discrimination and prejudice that remains against sexual minorities.”<sup>94</sup>

Just as Sugita Mio was not required to step down, Yana too was not asked to withdraw from his position by Former Prime Minister Abe Shinzo. Without taking any formal actions against politicians who spread homophobia, Japan’s political landscape will remain inaccessible to LGBT-identifying individuals. Yana’s claim that being LGBT is an act against the obligation of bearing children – similar to Sugita’s – incorporates this notion of normalcy. To Sugita, allowing same-sex marriage would mean losing sense of what is deemed normal according to Japanese society. Here, Yana argues that being LGBT goes against the basic functions of human biology.

Relying on unfounded scientific reasoning, Yana fails to acknowledge that the reason for Japan’s lack of “preservation” is heterosexuals choosing not to reproduce. Queering his assertion that LGBT people resist biology to instead consider how Japan’s decades-long decline in population could benefit from allowing same-sex couples to have children, Yana’s remarks are reduced to nothing more than spouts of homophobia. In this case, biology plays no role in the inability for Japanese LGBT couples to bear offspring. It is instead the government’s refusal to grant same-sex couples the legal right to access alternative reproductive methods which prevents

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<sup>93</sup> “「首相は何を評価して…」 杉田水脈氏、築和生氏の起用に抗議の声 LGBT 差別発言の過去も「意図はない」.” 東京新聞 TOKYO Web, August 19, 2022. <https://www.tokyo-np.co.jp/article/196805>.

<sup>94</sup> Translation by author.

them from having children. As long as these resources remain unavailable to same-sex couples and politicians like Yana are in power, Japanese society will continue to suffer from a declining birthrate.

### 3.3 Shiraishi Masateru

LDP member of the Adachi Ward Assembly Shiraishi Masateru came under fire for remarks he made against the LGBT community at a meeting on September 25, 2020. Shiraishi claimed that:

「LだってGだって法律に守られているという話になったのでは、足立区は滅んでしまう。」<sup>95</sup>

“Adachi Ward will cease to exist if the rights of sexual minorities are protected by law.”<sup>96</sup>

He also blamed the LGBT community for Japan’s declining birthrate, inquiring:

「日本人が全部L、全部Gで、次の世代は生まれますか。次の世代を担う子どもたちが1人も生まれない。本当にこんなことでいいのだろうか。」<sup>97</sup>

“If all Japanese [people] are lesbian and gay, will the next generation be born? No children will be born to lead the next generation. Is this really okay?”<sup>98</sup>

When questioned by the Japanese media, Shiraishi asserted that:

「レズビアンやゲイは本人の生き方の問題であり、干渉する気はないが、法律で保護しようという動きには反対。（その生き方を）認めようと思わない。」<sup>99</sup>

“Being lesbian and gay is a problem of how one lives their life, and I have no intention of interfering with them, but I oppose the movement to protect them by law. I don’t think I can accept (that way of life).”<sup>100</sup>

J-ALL member Shimodaira Takeru spoke out against Shiraishi, saying, “I would like Shiraishi to correct his remark which was based on discrimination and prejudice as LGBT people

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<sup>95</sup> “同性愛広がれば「足立区滅びる」白石正輝・自民区議が議会で発言。”東京新聞 TOKYO Web, October 3, 2021. <https://www.tokyo-np.co.jp/article/59502>.

<sup>96</sup> Translation by author.

<sup>97</sup> “東京 足立区議 性的マイノリティー 傷つける発言で嚴重注意。”NHK 政治マガジン, October 7, 2020. <https://www.nhk.or.jp/politics/articles/statement/45978.html>.

<sup>98</sup> Translation by author.

<sup>99</sup> 東京新聞 TOKYO Web, “同性愛広がれば.”

<sup>100</sup> Translation by author.

are not responsible for Japan's decreasing birthrate."<sup>101</sup> Here, Shimodaira is the first politician to publicly condemn such claims by acknowledging that LGBT people are not the cause of Japan's low birthrate. As was the case with Sugita Mio and Yana Kazuo, Shiraishi refuses to consider the actual reasons behind this threat to society. Instead, he utilizes the same fallacious belief that the Japanese LGBT community will cause harm because of an inability to reproduce.

Queering Shiraishi's claim that he has no intention of interfering with the lives of LGBT people, he is in fact directly interfering with them through his opposition to protect the LGBT community by law. Moreover, he is hurting the external political efficacy (i.e., their belief that the government will respond to their demands) of Japan's LGBT people. As a possible solution, incorporating queer power through the banning of hate speech and electing of LGBT-identifying politicians to replace officials like Shiraishi would boost the external political efficacy of Japan's LGBT community as well as create greater diversity within Japan's heterosexually dominated political landscape.

### **3.4 LDP Booklet Incident**

On June 13, 2022, a 90-page booklet was distributed to LPD Diet members at a meeting hosted by the Shinto Association of Spiritual Leadership (*Shintō seiji renmei* or 神道政治連盟) in Tokyo which claimed that "homosexuality is a mental disease or addiction."<sup>102</sup> The booklet, which allegedly included material from a lecture titled *Know the Truth About Homosexuality and Same-Sex Marriage* (*Dōseiai to dōseikon no shinsō o shiru* or 同性愛と同性婚の真相を知る)

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<sup>101</sup> "Tokyo Ward Assemblyman Under Fire Over Remarks Against LGBT Rights." Kyodo News+, October 6, 2020. <https://english.kyodonews.net/news/2020/10/def896d60d3b-tokyo-ward-assemblyman-under-fire-over-remarks-against-lgbt-rights.html?phrase=Car%20Rams&words=>.

<sup>102</sup> "LDP Panel Booklet Calling Homosexuality a 'Mental Disease' Sparks Backlash in Japan." The Mainichi, July 7, 2022. <https://mainichi.jp/english/articles/20220707/p2a/00m/0na/019000c>.



given by Dr. Yang Sang-jin, professor of Christian pedagogy at Hirosaki Gakuin University,<sup>103</sup>  
was full of false information:

「同性愛は心の中の問題であり、先天的なものではなく後天的な精神の障害、または依存症です。」  
“Homosexuality is a problem from within, not something congenital but an acquired mental illness or addiction.”

「世界には同性愛や性同一性障害から脱した多くの元 LGBT の人たちがいる。」  
“There are many former LGBT people in the world who escaped from homosexuality and gender identity dysphoria.”

「LGBT の自殺率が高いのは、社会の差別が原因ではなく、LGBT の人自身の悩みが自殺につながる。」  
“The high suicide rate among LGBT people is not caused by discrimination in society, but by the worries of LGBT people themselves.”

「性的少数者のライフスタイルが正当化されるべきでないのは、家庭と社会を崩壊させる社会問題だから。」<sup>104</sup>  
“The LGBT lifestyle should not be justified because it is a social issue that destroys families and society.”<sup>105</sup>

On July 4, 2022, a rally was held by LGBT rights activists and supporters outside the LDP’s headquarters in Tokyo’s Chiyoda Ward.<sup>106</sup> Those who participated spoke out against the party’s actions over a microphone, forming a line along the sidewalk with rainbow flags and protest signs in hand.<sup>107</sup> Matsuoka Soshi, who first reported on the LDP’s booklet, spoke to his fellow protestors, asking, “how long do we have to be discriminated against based on such an illogical argument? All we’re asking is to stop this discrimination and protect human rights.”<sup>108</sup>

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<sup>103</sup> 松岡宗嗣, “「同性愛は依存症」 「LGBT の自殺は本人のせい」 自民党議連で配布。” Yahoo!ニュース, June 29, 2022. <https://news.yahoo.co.jp/byline/matsuokasoshi/20220629-00303189>.

<sup>104</sup> Ibid.

<sup>105</sup> Translations by author.

<sup>106</sup> Mainichi, “LDP Panel Booklet.”

<sup>107</sup> Ibid.

<sup>108</sup> Ibid.

Taking the first point (that homosexuality is a mental illness or addiction) and looking at it through a queer lens, we find ourselves asking if this was true, how come there are little to no resources available for those who need it? In Japan, people are often discouraged or hesitant to seek out treatment for their mental health due to stigma. Specifically, there are three types of reasons for this: low perceived need (e.g., not feeling a need to seek help), structural barriers (e.g., unavailable or inaccessible treatments), and attitudinal barriers (e.g., perceived stigma, the desire to handle the problem on one's own.)<sup>109</sup> Here, Dr. Yang Sang-jin and the LDP booklet's writers put forward a problem to which they offer no viable solution.

Regarding the high suicide rate among LGBT people in Japan, a 2022 survey reported that nearly half of LGBT teens in Japan have considered suicide and that in the past year, one in seven LGBT youths between the ages of 12 and 19 attempted suicide.<sup>110</sup> On the topic of seeking help at home, 91.6% of respondents said they could not talk to their parents about their sexuality with 89.1% experiencing negative remarks or behaviors made by their parents towards LGBT people.<sup>111</sup> At school, 70.7% of junior high, senior high, and university students reported having experiences with other students making fun of LGBT people with 33.6% going through similar situations cause by school staff and teachers.<sup>112</sup>

What these results illustrate is the actual impetus behind such a high suicide rate: the feeling of isolation and inability of Japan's LGBT community to consult with others about their sexuality. Not only does the problem exist at home with family members but with peers and

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<sup>109</sup> Akiko Kanchara, Maki Umeda, and Norito Kawakami. "Barriers to Mental Health Care in Japan: Results from the World Mental Health Japan Survey." *Psychiatry and Clinical Neurosciences* 69, no. 9 (September 2015): 523–533. <https://doi.org/10.1111/pcn.12267>.

<sup>110</sup> "Nearly Half of LGBTQ Teens in Japan Thought about Suicide in Past Year: Survey." *The Mainichi*, October 24, 2022. <https://mainichi.jp/english/articles/20221021/p2a/00m/0na/019000c>.

<sup>111</sup> *Mainichi*, "Nearly Half of LGBT Teens."

<sup>112</sup> *Ibid.*

educators at school. Having no one to turn to and no place to go, these young people turn to self-harm and suicide as the only available option.

Queering the misinformation written in the LDP booklet reveals that it is in fact not LGBT people who cause their depression and suicidal thoughts but Japanese society and its people who are unwilling to aid them. With the LDP as the ruling party almost continuously since its 1955 foundation, attitudes towards LGBT people in Japan will not change. Electing LGBT-identifying officials who will work to educate the public about LGBT issues and fight against discrimination would not only benefit the LGBT community, but it would help make Japan a more inclusive, accepting space for all minorities.

### **3.5 Prime Minister Kishida Fumio and his Aide**

At a parliamentary meeting on January 26, 2023, Prime Minister Kishida Fumio spoke on the topic of legally recognizing same-sex marriage in Japan, which is currently the only nation in the Group of Seven (G7) that has not adopted such practice. Many members of the LDP, led by Kishida, have publicly opposed the concept of same-sex marriage in Japan, often emphasizing the nation's traditional values such as family, reproduction, and childrearing. At this meeting, Kishida cautioned that:

「極めて慎重に検討すべき課題だ。」<sup>113</sup>  
“[Same-sex marriage] is an issue that should be considered very carefully.”<sup>114</sup>

When asked by an opposition lawmaker at the Upper House meeting regarding a legal revision to allow married couples to have different surnames, Kishida avoided the question and did not respond. Conservative lawmakers and citizens alike are opposed to this proposal, fearing that using separate surnames will have a negative impact on families and their children.

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<sup>113</sup> 古賀伸明, “岸田首相の人権感覚「多様性」掲げるだけでなく、法制化で示せ。” 毎日新聞, February 15, 2023. <https://mainichi.jp/premier/politics/articles/20230214/pol/00m/010/004000c>.

<sup>114</sup> Translation by author.

Later at a House of Representatives Budget Committee meeting on February 1, 2023, co-deputy leader of the CDP Nishimura Chinami took a stance and argued for legalizing same-sex marriage. In response, the Prime Minister said:

「すべての国民にとって家族観や価値観や社会が変わってしまう課題だ。」<sup>115</sup>  
“[Same-sex marriage] is an issue that changes family values, sense of values, and society for all citizens.”<sup>116</sup>

In response, co-leader of the Tokyo-based group “Marriage for All Japan” Uesugi Takako said that the Prime Minister’s comments hurt the Japanese LGBT community. “A comment that would stir ambiguous uneasiness is the same as approval of discrimination.”<sup>117</sup>

Prime Minister Kishida’s unwillingness to take a firm stance for or against legalizing same-sex marriage appears to reflect the views of the greater LDP party. According to a 2021 survey conducted by the Asahi Shimbun and a team led by University of Tokyo professor of political science Taniguchi Masagi, 43% of LDP candidates were in favor of a bill that would support LGBT understanding and allow couples to have separate surnames.<sup>118</sup> While 11% of LDP candidates were against this legislation, the majority of party candidates (46%) responded that they were undecided.<sup>119</sup> Since no consensus was reached by the party, the bill was never formally submitted to the Diet. In contrast, 94% of candidates from the LDP's main opposition (the Constitutional Democratic Party of Japan or CDP) were in favor of the proposed legislation.<sup>120</sup>

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<sup>115</sup> 古賀伸明, “岸田首相.”

<sup>116</sup> Translation by author.

<sup>117</sup> “Kishida Cautious on Gay Marriage Because It Would ‘Change Society’.” The Asahi Shimbun, February 3, 2023. <https://www.asahi.com/ajw/articles/14830834>.

<sup>118</sup> “Survey: LDP Support Rises for LGBT Bill, Dual Surnames.” The Asahi Shimbun, October 21, 2021. <https://www.asahi.com/ajw/articles/14465374>.

<sup>119</sup> Ibid.

<sup>120</sup> Asahi Shimbun, “Survey: LDP Support.”

With the inauguration of the Kishida administration in October 2021, Masayoshi Arai was appointed secretary in charge of media relations for the Prime Minister. On February 4, 2023, Prime Minister Kishida fired Arai over discriminatory remarks that he made against sexual minorities:

「僕だって見るのも嫌だ。隣に住んでいるのもちょっと嫌だ。」<sup>121</sup>  
“I would hate to see [them]. I would hate to live next door [to them].”<sup>122</sup>

During the same conversation at the Prime Minister’s office, Arai reportedly said that:

「社会に与える影響が大きい。マイナスだ。秘書官室もみんな反対する。」  
“[Same-sex marriage] will have a large impact on society. A negative impact. Everyone in the Prime Minister’s secretary’s office also opposes it.”

「人権や価値観は尊重するが、同性婚を認めたら国を捨てる人が出てくる。」<sup>123</sup>  
“I respect human rights and values, but if same-sex marriage is recognized, some people will abandon the country.”<sup>124</sup>

Arai retracted his comments shortly after they were made public and apologized:

「先ほどやや誤解を与えるような表現をして大変申し訳なかった。撤回させていただく。」<sup>125</sup>  
“I am very sorry that I made a somewhat misleading comment earlier. I will

withdraw.”<sup>126</sup>

On behalf of the Prime Minister, Arai made sure to set the record straight:

「ちょっと首相には申し訳ない。僕個人の意見として言って迷惑を掛けている。首相自身がそういうことを言っているわけでも、考えているわけでもない。」<sup>127</sup>  
“I’m sorry to the Prime Minister. It was my personal opinion that is causing trouble. It is not the case that the Prime Minister himself said or thought those things.”<sup>128</sup>

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<sup>121</sup> “岸田首相、LGBTQ 差別発言の荒井秘書官更迭へ「言語道断」。”毎日新聞, February 4, 2023. <https://mainichi.jp/articles/20230204/k00/00m/010/030000c>.

<sup>122</sup> Translation by author.

<sup>123</sup> 毎日新聞, “LGBT 差別発言.”

<sup>124</sup> Translations by author.

<sup>125</sup> 毎日新聞, “LGBT 差別発言.”

<sup>126</sup> Translation by author.

<sup>127</sup> 毎日新聞, “LGBT 差別発言.”

<sup>128</sup> Translation by author.

In response, Kishida said that he took the issue “very seriously,” further commenting:

「岸田政権は、持続可能で多様性を認め合う、包摂的な社会を目指すと申し上げてきた。荒井秘書官の発言はそうした政権の方針とは全く相いれないものであり、言語道断だ。厳しく対応せざるを得ない。」<sup>129</sup>

“The Kishida administration has stated that it aims for a sustainable, inclusive society that recognizes diversity. Secretary Arai’s remarks are completely incompatible with such policies of the administration and are outrageous. We have no choice but to deal with it severely.”<sup>130</sup>

Urging the Japanese government to ban discrimination against sexual minorities, J-ALL secretary general Kamiya Yuichi professed, “I am horrified by the fact that a person involved in making rules that affect all citizens thinks that way.”<sup>131</sup> Prime Minister Kishida expressed his apologies to the nation at a government and ruling party liaison conference:

「国民に誤解を生じさせたことは遺憾であり、不快な思いをさせてしまった方々におわびを申し上げる。」<sup>132</sup>

“It is regrettable that misunderstanding has been caused among the public, and I apologize to those who have been offended.”<sup>133</sup>

Attempting to combat the growing criticism of his government’s stance towards sexual minorities, Kishida replaced Arai with former Justice Minister Mori Masako, now his special advisor on women’s empowerment.<sup>134</sup> With plans to hold the 49th G7 summit in Hiroshima in May 2023, pressure has been put on the Kishida administration to act. Matsuoka Soshi expressed his opinion that, “a country where the government itself is leading the spread of discrimination is

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<sup>129</sup> 毎日新聞, “LGBT 差別発言.”

<sup>130</sup> Translation by author.

<sup>131</sup> “Public Expresses Anger, Concern at Japan PM Aide’s Anti-LGBT Remarks.” Kyodo News+, February 4, 2023. <https://english.kyodonews.net/news/2023/02/fa092d1f8512-update-1-public-expresses-anger-concern-at-japan-pm-aides-anti-lgbt-remarks.html>.

<sup>132</sup> “岸田首相「不快な思いをさせおわび」同性婚発言の秘書官更迭で。” NHK ニュース, February 6, 2023. <https://www3.nhk.or.jp/news/html/20230206/k10013972171000.html>.

<sup>133</sup> Ibid.

<sup>134</sup> “Japan’s PM Steps up Efforts to Quell Criticism over LGBT Rights.” Kyodo News+, February 17, 2023. <https://english.kyodonews.net/news/2023/02/b2c3f682677a-japans-pm-steps-up-efforts-to-quell-criticism-over-lgbt-rights.html>.

not qualified to host the G-7 summit.”<sup>135</sup> He further warned that if attention moves to another issue, then “the government will surely repeat the same thing over and over again.”<sup>136</sup>

Looking at the bigger picture, it’s undeniable that Uesugi, Kamiya, and Matsuoka all made valid points. Despite Prime Minister Kishida taking steps to remove officials like his aide, there is a vaguely negative tone to his comments that legalizing same-sex marriage should be considered “very carefully” and that it would change Japanese families, values, and society. As Uesugi noted, this ambiguousness shows us Kishida still approves of LGBT discrimination and that he is not in favor of legalizing same-sex marriage as he has yet to take further legal action on either.

When Arai spoke out against legalizing same-sex marriage, he not only stated that it would have a negative impact on Japan, but that people would flee the country. In making this statement, what Arai fails to consider is the reality that some LGBT people and same-sex couples have long been leaving Japan in search of more inclusive lives abroad. Arai’s claim that he respects human rights and values is further contradicted by him mentioning that the Prime Minister’s secretary’s office all agrees with him on the matter. Choosing to work alongside officials who harbor homophobic views, Arai is only harming the rights and values of Japan’s LGBT community. As Kamiya said, it is these kinds of people in office whose discriminatory actions affect everybody.

Having to apologize on behalf of Prime Minister Kishida, Arai’s actions were met by his replacement with Masako Mori. Instead of also apologizing for making remarks which could have a detrimental impact, the Prime Minister’s hiring of a female official to advise him on

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<sup>135</sup> Bryan Pietsch and Julia Mio Inuma. “Japanese Official’s Homophobic Remarks Highlight Lagging LGBTQ Rights.” The Washington Post, February 6, 2023. <https://www.washingtonpost.com/world/2023/02/06/japan-pm-aide-same-sex-marriage/>.

<sup>136</sup> Ibid.

women's empowerment missed the mark of creating the so-called sustainable, inclusive society that recognizes diversity that his administration is striving for. While the hiring of a female in place of a male is beneficial for closing the gender gap in terms of political empowerment, what would have helped prove the Kishida Administration's devotion to inclusivity would be the hiring of an LGBT-identifying official.

As Matsuoka pointed out, if this issue is not properly addressed then the government and its officials will likely repeat these discriminatory behaviors again and again. Moreover, who's to say that the Prime Minister's new aid Mori will not also act in the same way as Arai did. In order to bring about change within the Japanese political landscape, it's clear that apologies are simply not enough. Queering the political system by electing LGBT officials to positions of power would be a step in the right direction towards fighting social inequality in Japan. However, this solution remains to be explored by the LDP party whose decisions could help reverse such issues.

In 1989, Japan's national fertility rate dropped to 1.57 – the first time it had ever fallen below the replacement level. Anthropologist Allison Alexy notes that since then, “politicians, academics, and policymakers have been attempting to figure out why people are less inclined or able to have children and what incentives might be used to change their minds.”<sup>137</sup> At a news conference held on March 17, 2023, Prime Minister Fumio Kishida introduced his newest plan to deal with Japan's falling birthrate. During the 2021 fiscal year, only 14% of male workers took childcare leave.<sup>138</sup> By 2025, the Prime Minister hopes to have 50% of the male workforce taking leave with up to 85% of men by 2030.

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<sup>137</sup> Allison Alexy, “Introduction: The Stakes of Intimacy in Contemporary Japan.” In *Intimate Japan: Ethnographies of Closeness and Conflict*, eds. Allison Alexy and Emma E. Cook, 3. Honolulu: University of Hawaii Press, 2018.

<sup>138</sup> “Kishida: 85% of Male Employees on Child Care Leave in 2030.” *The Asahi Shimbun*, March 18, 2023. <https://www.asahi.com/ajw/articles/14864339>.



To accomplish this, Kishida laid out a three-step plan: increase the income of those in the child-rearing generation, change the structure and consciousness of the entire society, and provide support to all households raising children. If both parents take childcare leave, for example, their allowances would be raised so that the couple's take-home pay would not decrease simply because they are both on leave from work. The Prime Minister announced two additional programs which would provide support to businesses that pay a special allowance to employees who assume the work of coworkers taking childcare leave as well as extend allowances to irregular, freelance, and self-employed workers.

While there is no doubt that the Prime Minister's ambitious goal of getting more male workers to take childcare leave would have a lasting change on the familial role of Japanese men, these plans focus more on the modifying of existing childcare programs than the larger issue at hand. It instead addresses a different societal problem: the expectations of male white-collar workers (also known as salarymen) to be loyal and committed to their jobs. In Japanese culture, as anthropologist Emma Cook explains, "there is a continued focus on male productivity, labor, breadwinning, and specific types of responsibility."<sup>139</sup> Allowing men who previously were unable to take time off to now take paid childcare leave would produce effective birthrate results only after decades more than Prime Minister Kishida's lofty projections as large-scale changes such as this within Japanese society tend to move slowly. To "change the overall consciousness and structure of society" as the Prime Minister aims to do, his plans must include an overlooked group of people who are unable to marry and have children.

Exhausting all heterosexual options, queering the political system by including LGBT officials in these lawmaking processes would expand the range of possibilities on how to deal

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<sup>139</sup> Emma E. Cook, "Masculinity Studies in Japan." In *Routledge Companion to Gender and Japanese Culture*, eds. Jennifer Coates, Lucy Fraser, and Mark Pendleton, 51. London: Routledge, 2019.

with Japan's falling birthrate. Prime Minister Kishida's policy proposal fails to acknowledge the potential benefits of allowing same-sex couples to have children. As previously mentioned, doing this could result in 123,277 to 246,554 children if each couple was married and has access to reproductive resources. In this situation, to see the overall consciousness and structure of Japanese society changed, politicians must acknowledge and work with the entire population.

### **3.6 Conclusion**

In this chapter, I argued that the queering of Japan's political landscape would benefit not just the Japanese LGBT community but the entire society. Specifically, incorporating what is known as queer power into a rigid system which has long been dominated by heteronormativity could help create solutions for three major problems that Japan currently faces: social inequality, declining rates in marriages, and population decline.

Successfully replacing politicians who spread homophobia and disinformation through the appointment of LGBT-identifying individuals would address the issue of social inequality in terms of the lack of diversity among politicians by making Japanese politics more inclusive. Replacing these officials would prove to the public that Japan's government no longer tolerates discrimination against sexual minorities and that there is a place for them within Japanese politics. However, allowing those who harbor homophobic beliefs to be reelected prevents this possibility from ever happening.

The election of LGBT politicians would also bring Japan one step closer to legalizing same-sex marriage as the ruling political party has yet to take a firm stance on the matter. Recent claims made by LDP members that same-sex marriage is unproductive, unnatural, and would destroy Japan do not reflect Prime Minister Kishida's goal of creating an inclusive society that recognizes diversity. Although there have been calls to remove politicians like Mio Sugita and

Kazuo Yana, the Kishida administration has allowed them to remain in positions of power. If they were replaced by LGBT officials who would work to legalize same-sex marriage, this could result in 123,227 marriages between the couples who are currently recognized under same-sex partnership systems across the nation.

Lastly, having LGBT politicians in office who would support legislation granting same-sex couples access to alternative reproductive technology would help reverse Japan's population decline by potentially producing between 123,277 and 246,554 new children. If the bill to only allow heterosexual married women access to IVF treatment gets passed, this would negatively impact the declining birthrate by preventing lesbian couples and single women from also having children.

Giving Japan's LGBT community not just a political voice to be heard but also the ability to create political change from within would undoubtedly impact Japan as we know it today. However, it is the heteronormative environment of Japanese politics which continues to hinder this progress through the discrimination and marginalization of sexual minorities. Thus, only until Japan's political landscape is challenged and queer power is integrated will the goal of creating an inclusive Japanese society which recognizes diversity become a reality.

## **Chapter 4: Queering Japanese Sex Education**

Since the early 1990s, sex education in Japan has seen significant change as the Japanese government has recognized the need to address issues such as declining birth rates, an aging population, and concerns about sexually transmitted diseases (STDs). Today, sex education in Japan typically begins in middle school and continues through high school, although the content and approach can vary depending on the school and region.

One approach to sex education has been to focus on building healthy relationships and communication skills. Many schools emphasize the importance of consent, respect, and understanding in sexual relationships. Students are taught to communicate openly and honestly with their partners, and to understand the concept of mutual consent. This approach aims to foster positive attitudes towards sex and relationships, and to empower young people to make informed choices about their sexual health.

However, recent scandal involving the Japanese Ministry of Education came to light as they were knowingly teaching young schoolgirls incorrect information about when they should be conceiving children in order to combat Japan's declining population rate. Not only is the Ministry sharing incorrect information about when females should be conceiving children, but they are leaving out important topics related to non-normative sexualities and gender diversity. As recognition towards LGBT identities gradually grows within Japanese society, the country's lack of education on these topics has come under scrutiny by educators and politicians.

Queering Japanese sex education, I argue that the Ministry of Education's past and recent actions to push young women to get pregnant early, along with their refusal to incorporate LGBT topics into sex education classes, demonstrates a heteronormative agenda meant to maintain the

national body as one of young, heterosexual reproduction without any consideration of the need for same-sex education.

#### 4.1 Sexology in Modern Japan

According to historian Sabine Frühstück, “the colonization of sex in Japan involved complicated power relations marked by two distinct technologies, those of bodily discipline and mass regulation.”<sup>140</sup> Citing the work of French philosopher Michel Foucault, she introduces the topic of power and power relations. In the words of Foucault, “a power relationship can only be articulated on the basis of two elements which are each indispensable if it is really to be a power relationship: that ‘the other’ (the one over whom power is exercised) be thoroughly recognized and maintained to the very end as a person who acts; and that, faced with a relationship of power, a whole field of responses, reactions, results, and possible inventions may open up.”<sup>141</sup> In other words, power itself always involves actions being performed over another’s actions, as well as responses and reactions.

Various institutions wielded power during this period, such as government agencies, scholars, and social reformers who all shared a common desire to “understand, document, and guide the sexual practices and attitudes of the Japanese population.”<sup>142</sup> In this sense, power was less concerned with physical control as opposed to the control of knowledge. What became a prominent topic of discussion, both proponents and opponents of sex education were “convinced that accurate knowledge would lead to ‘correct’ behavior, and that the correctness of the latter could be measured by its social consequences.”<sup>143</sup> These measurable consequences included the

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<sup>140</sup> Sabine Frühstück, “Introduction,” in *Colonizing Sex: Sexology and Social Control in Modern Japan* (Berkeley: University of California Press, 2003), 2.

<sup>141</sup> Michel Foucault, “The Subject and Power.” *Critical Inquiry* 8, no. 4 (1982): 789.  
<https://doi.org/10.1086/448181>.

<sup>142</sup> Frühstück, “Introduction,” 3.

<sup>143</sup> Frühstück, “Introduction,” 6.

improved health of the Japanese people and, most importantly, the Japanese population's growth. Hence, Japan's future population growth relied heavily on the creation, nurturing, and education of the "child".

Now, children were identified from the twentieth century onward as vital to the health and future of the Japanese body politic. As children's sex education moved to the center stage in the discourse on the improvement of the national body, academics and doctors alike shared their opinions on not only whether but how Japanese children ought to be educated about sexual desire. Of the many topics discussed, this included masturbation, normalcy and deviance, the responsibility of teachers and parents, and the authority of sexological experts. In particular, sexologists of this time set out to create and popularize sexual knowledge, educate citizens about normal and correct sexual behavior, and establish sexology as a serious field.

However, during the 1930s and 1940s, Japanese militarism created little to no space for individual sexuality and was best illustrated by the slogan "procreate and multiply".<sup>144</sup> It was at this point that the efforts of Japanese sexologists to both create and spread knowledge about sex were crushed by the nation-state's desire for population growth. Furthermore, concepts of the Japanese national body (*kokutai* or 国体) were closely tied to the idea that the Japanese populace needed to be "regulated, protected, nurtured, and improved."<sup>145</sup> This mentality stemmed from the goal of establishing a modern health regime in Japan. Put simply, this modern health regime tied individual bodies to the larger, social body. The overall condition of the "Japanese nation's body and soul" (*nippon kokumin no nikutaimen to seishinmen* or 日本国民の肉体面と精神面) was vital in not only Japan's self-defense against the Western nations but also Japan's control over

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<sup>144</sup> Frühstück, "Introduction," 12.

<sup>145</sup> Sabine Frühstück, "Chapter 1: Erecting a Modern Health Regime," in *Colonizing Sex: Sexology and Social Control in Modern Japan* (Berkeley: University of California Press, 2003), 17.

East Asia. While some theorists saw social reform as a means to improve the national body, others sought more direct means for the improvement of the “Japanese race”.

In 1872, philosopher Fukuzawa Yukichi made a case in his work *Encouragement of Learning* (*gakumon no susume* or 学問のすすめ) for education “as an effective means of achieving national progress.”<sup>146</sup> Fukuzawa later proclaimed in his 1896 work *The Improvement of the Race* (*jinrui no kairyō* or 人類の改良) that “good fathers and good mothers were crucial for the production of good children.”<sup>147</sup> Thus, the success and prosperity of the Japanese nation-state rested on not just the child but also on parents who were responsible for proper (re)production.

Between September 1 and October 13, 1908, the *Yomiuri Shimbun* published a series of articles where the views of academics and doctors on what was deemed the “sexual problem” (*seiyoku mondai/seimondai* or 性欲問題/性問題) were discussed. These sexual problem debates “both represented and contributed to an increasing interest in children’s sexual desire and its proper guidance by continuously broadening the new arena of discourse on sex.”<sup>148</sup> Such academic and medical contributions were rooted in this shared idea that providing correct knowledge on sex and sexuality would improve the *kokutai*. Additionally, in the public sphere, associations between sexual practices, mental and physical ailments, and challenges to the social order of the nation became commonplace. Over time, the family came to be viewed as “the core unit of social stability and progress.”<sup>149</sup>

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<sup>146</sup> Frühstück, “Chapter 1,” 18.

<sup>147</sup> Ibid.

<sup>148</sup> Sabine Frühstück, “Chapter 2: Debating Sex Education,” in *Colonizing Sex: Sexology and Social Control in Modern Japan* (Berkeley: University of California Press, 2003), 59.

<sup>149</sup> Frühstück, “Chapter 2,” 75.

By the early 1930s, the population of Japan's mainland had reached 67 million where "the rapid population growth of 15 in 1,000 per year was perceived to be a national problem."<sup>150</sup> This population growth was subsequently deemed as stemming from various issues concerning sexual knowledge and practice. However, there was a positive on the other side of this coin where "population increase was proof of a prosperous empire, potent and willing to fight future ward not only thanks to healthy and well-trained male subjects, but also to a supply of offspring provided by unlimitedly fertile women."<sup>151</sup> To deal with this overpopulation problem, the government pushed for people to emigrate to Japan's colonies (such as Taiwan or Korea) and other neighboring countries. While solving the mainland's population problem, this push to move abroad also furthered the Japanese empire's imperialistic and colonization goals.

In 1930, the Japanese Association for Racial Hygiene (*nihon minzoku eisei kyōkai* or 日本民族衛生協会) was founded by physiologist Nagai Hisomu. As previously mentioned, sexologists had been concerned with the education of the public. They assumed that correct sexual knowledge would lead to correct sexual behavior. Despite their efforts, the Japanese administration, with support from the Home Department and the Ministry of Health and Welfare, "pushed for state-controlled pronatalist population policies at the onset of what promised to be a long war that would demand enormous manpower."<sup>152</sup> Established near the end of the 1930s, these policies "came to include elements of both negative and positive eugenics under the name 'racial hygiene' (*minzoku eisei* or 民族衛生)."<sup>153</sup>

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<sup>150</sup> Sabine Frühstück, "Chapter 4: Claiming the Fetus," in *Colonizing Sex: Sexology and Social Control in Modern Japan* (Berkeley: University of California Press, 2003), 118.

<sup>151</sup> Frühstück, "Chapter 4," 118-119.

<sup>152</sup> Sabine Frühstück, "Chapter 5: Breeding the Japanese 'Race'," in *Colonizing Sex: Sexology and Social Control in Modern Japan* (Berkeley: University of California Press, 2003), 162.

<sup>153</sup> Ibid.



To differentiate the association's goals from previous eugenic thought in order to improve the *kokutai*, Nagai and other members of the group chose to abandon the term eugenics (*yūseigaku* or 優生学) and created a new name, racial hygiene (*minzoku eiseigaku* or 民族衛生学) – an adaptation of the German *Rassenhygiene*.<sup>154</sup> In addition, the association promoted eugenic marriages (*yūsei kekkon* or 優生結婚) through the use of marriage consultation offices “in order to advance the proper ‘breeding of the Japanese race’ (*nihon minzoku no zōshoku* or 日本民族の増殖) under the control of eugenicists.”<sup>155</sup> Later in 1938, the Ministry of Health and Welfare's Eugenics Section established a Racial Hygiene Study Group (*minzoku eisei kenkyūkai* or 民族衛生研究会) in order to debate policies to increase reproduction of “superior healthy” (*yūryō kenzen* or 優良健全) people and prevent the reproduction of people classified as inferior (*retsuakusha/rettōsha* or 劣悪者劣等者).<sup>156</sup> Under the leadership of the association's vice president and professor of medicine, Koya Yoshino, the Association of Racial Hygiene developed a close relationship with the Ministry of Health and Welfare.

The state-sponsored consultation offices (*yūsei kekkon sōdansho* or 優生結婚相談所) created in the 1930s also encouraged young people to marry a partner with a sound genetic makeup as early as possible. Another policy, enacted in 1939, granted awards to families with more than ten children – this was similar, Frühstück notes, to the German Reich “*Mutterkreuz*” decoration.<sup>157</sup> Despite these efforts to increase the number of both marriages and childbirths, the population increase in Japan fell from 1.07 million in 1940 to 504,000 in 1944.”<sup>158</sup>

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<sup>154</sup> Frühstück, “Chapter 5,” 162.

<sup>155</sup> Frühstück, “Chapter 5,” 163.

<sup>156</sup> Frühstück, “Chapter 5,” 165.

<sup>157</sup> Frühstück, “Chapter 5,” 167.

<sup>158</sup> Frühstück, “Chapter 5,” 168.

## 4.2 Sex Education Reform in Japan

During the early years of Japan's postwar period, the total fertility rate (TFR) was 4.01 percent in 1950. Since then, the Japanese TFR has continued to gradually decline each year: 2.17 (1960), 2.04 (1970), 1.83 (1980), 1.65 (1990), 1.37 (2000), and 1.34 (2010).<sup>159</sup> In 2020, there was a small increase back to 1.37 (likely due to quarantine orders during the Covid-19 pandemic) after which it decreased to 1.30 in 2022.<sup>160</sup> This decrease in fertility, which could be ascribed to various reasons, has been attributed by the Ministry of Health and Welfare to "the increasing number of single women who delay marriage."<sup>161</sup> With this, the Japanese government fears that a continuously low birth rate will "lead to a shortage of labor and the aging of the population which will threaten national economic growth and place severe stress on the national medical care and social security systems."<sup>162</sup> For those reasons, various agencies within the government have worked together to deploy a pro-natalist family policy in order "to create an environment favorable for bearing and nurturing sound children."<sup>163</sup>

The Ministry of Education then expanded its guidelines, publishing a guidebook in 1986 and revising the national curriculum in 1989. This was followed by the implementation of the new curriculum in elementary schools in 1992, junior high schools in 1993, and high schools in 1994. The pro-natal family agenda of the new sex education program declared that "human society is supported by constantly reproducing the next generation. Therefore, one should not consider sex as self-centered. One should realize that each person plays an important role in

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<sup>159</sup> Aaron O'Neill, "Japan: Fertility Rate 1800-2020." Statista, June 21, 2022. <https://www.statista.com/statistics/1033777/fertility-rate-japan-1800-2020/>.

<sup>160</sup> Claire Parker, "Japan Records Its Largest Natural Population Decline as Births Fall." The Washington Post, June 3, 2022. <https://www.washingtonpost.com/world/2022/06/03/japan-low-births-population-decline-2021/>.

<sup>161</sup> Yukari Kawahara, "Diverse Strategies in Classroom Instruction: Sex Education in Japanese Secondary Schools." *Japanese Studies* 20, no. 3 (2000): 295. <https://doi.org/10.1080/713683792>.

<sup>162</sup> Kawahara, "Diverse Strategies," 295.

<sup>163</sup> Ibid.

continuing each generation from the past, through the present, to the future.”<sup>164</sup> In other words, the purpose of sexual relations was the fulfillment of one’s responsibility to produce children who would become the future generation.

As married heterosexuality was considered the norm, reproduction was to occur within one’s marriage and family. The Japanese Ministry of Education taught students that “you must establish your own role and observe appropriate behavior when you become a husband, a wife, a father, or a mother in the future.”<sup>165</sup> Premarital sex was discouraged by the Ministry, as was having multiple sexual partners, while on the other hand, sexual abstinence was emphasized.

### **4.3 Sex Education Scandal of 2015**

In the summer of 2015, around 1.3 million copies of sex education materials were distributed by the Ministry of Education under the direction of the Cabinet Office to high school students across the country. These materials contained a falsified, misleading chart about the relation between a girl’s age and the ability to have children. Aimed at encouraging female students to “live a healthy life”, the materials stated that “after the age of 22, a woman’s ability to have children declines precipitously.”<sup>166</sup> It was discovered that the original chart, which has been taken from foreign research, was changed to make it appear that 22 was the peak age for childbearing. Specifically, the educational material added “a dotted, vertical line not in the original graph and reworked the curve of the graph to give an incorrect representation of the studies’ results.”<sup>167</sup>

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<sup>164</sup> Kawahara, “Diverse Strategies,” 296.

<sup>165</sup> Ibid.

<sup>166</sup> “Sex Education or Propaganda?” The Japan Times, October 10, 2015.  
<https://www.japantimes.co.jp/opinion/2015/10/10/editorials/sex-education-propaganda/>.

<sup>167</sup> Ibid.

In the original graph, it showed that there was no specific peak or right age for birthing children. Instead, it showed that there were peak years between one's 20s to the early 30s when "women tend to be more fecund."<sup>168</sup> According to experts, determining a peak age for women's childbearing ability is dependent on various social and cultural factors, such as the average age of marriage, personal decisions regarding conception delay, and accurate reporting on the use of contraceptives. It should be no surprise that this spread of misinformation to young students was subterfuge from Japan's Ministry of Education to do something about the nation's continuously low birthrates.

#### **4.4 Political Aversion to Sex Education**

Regarding the scandal of 2015, the Ministry of Education said that the purpose of the chart was to "convey scientifically correct data' to students."<sup>169</sup> While current research shows that a woman's ability to conceive does not significantly change until around 35 years of age, according to sociologist and Hyogo University professor Nagata Natsuki, such findings must be "qualified through the filter of cultural and individual circumstances."<sup>170</sup> What appears to be at the center of this sexual problem is the government's inability to handle sex education in schools. In 2002, the Ministry of Education reportedly told elementary and junior high school health class teachers to not discuss the process that leads to conception.

The Japanese government's official position has been linked to LDP member Yamatani Eriko's mission to oppose sex education in schools. In a Diet debate during Prime Minister Koizumi Junichiro's administration (2001-2006), Yamatani criticized educational materials which included mentions of male and female genitalia, calling this methodology radical.

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<sup>168</sup> The Japan Times, "Sex Education or Propaganda?"

<sup>169</sup> Philip Brasor, "No Sex Talk Please, We're Japanese." The Japan Times, October 18, 2015.

<https://www.japantimes.co.jp/news/2015/10/17/national/media-national/no-sex-talk-please-japanese/>.

<sup>170</sup> Ibid.

Following this, Prime Minister Koizumi agreed with Yamatani that these materials were inappropriate, stating they were “unnecessary since you ‘tend to learn about these things naturally’.”<sup>171</sup> In 2013, Yamatani told broadcasting station Chukyo TV in an interview that schools can teach children about life through things like butterflies, insects, and flowers. When she was further asked about whether children needed to understand the details, Yamatani replied that children can learn when they get married.

#### **4.5 Let’s Talk About Sex... Or Not?**

In December 2016, urologist Dr. Onoe Yasuhiko was a featured guest on the TBS Radio show *Session-22* where he discussed the “alarming rise in sexually transmitted diseases (STDs) in Japan.”<sup>172</sup> During the broadcast, however, Dr. Onoe referred to the penis with the Japanese children’s word *ochinchin* (おちんちん) instead of using the medical term *inkei* (陰茎) or the more commonly used word *penisu* (ペニス) in Katakana. This apparent reluctance to use more serious, adult vocabulary when discussing sex is reportedly common in Japanese media.

In March 2018, Tokyo Metropolitan Assembly and LDP member Koga Toshiaki voiced complaints about a particular sex education class taught at a public junior high school in Adachi Ward. In this class, students were given a survey and asked whether or not it was alright for high schoolers to have sex, to which 44 percent reported “yes”. Furthermore, the unnamed school projected that the number of abortions would rise among students after they entered high school. In response to this, the school created a special class for students to learn about various topics, such as condom use.

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<sup>171</sup> Brasor, “No Sex Talk Please.”

<sup>172</sup> Philip Brasor, “In Japan No One Wants to Talk about Sex Education.” The Japan Times, April 7, 2018. <https://www.japantimes.co.jp/news/2018/04/07/national/media-national/japan-no-one-wants-talk-sex-education/>.

The Tokyo Metropolitan Board of Education, which was alerted by Koga, said “junior high school was too early for students to expose children to these matters”<sup>173</sup>, condemning the use of terms like ‘sexual intercourse’ (*seikō* or 性交) and ‘contraception’ (*hinin* or 避妊) in schools. The Tokyo Metropolitan Board of Education further added that it was permitted to discuss STD prevention, but not intercourse, birth control, or abortion. In response, the Adachi City Board of Education said that “there was nothing improper about the class or its content, and that the purpose was to help students avoid pregnancies, not encourage sexual activity.”<sup>174</sup>

The Tokyo Metropolitan Board of Education replied, declaring that if students are suspected of having sex or if they become pregnant, the correct action is to provide them guidance on an individual basis and not in a classroom setting. This educational conflict arose around the same time when a survey conducted by the Ministry of Education between 2015 and 2016 found that there were 2,098 pregnancies among high school girls nationwide. Of these students, 642 had dropped out of school on their own and 32 quit “on the advice of their schools.” Since then, the Ministry of Education has asked schools not to press their female students into dropping out. The Ministry said nothing on the role of sex education in this matter, only noting that “girls and boys who are not taught the details of intercourse and childbirth before adolescence are going to be unprepared to face sexual situations when they arise.”<sup>175</sup>

In January 2018, the Okayama edition of the *Mainichi Shimbun* featured an article about a group of local pregnant high school girls where it was reported that their reason for dropping out of school was that there is no support available for them. Whether this lack of support is familial or educational was not mentioned. A forum held in February of the same year on teen

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<sup>173</sup> Brasor, “No One Wants to Talk.”

<sup>174</sup> Ibid.

<sup>175</sup> Ibid.

pregnancy and dropouts concluded that schools should not just persuade these girls to stay in school but also prepare them for such circumstances. The tendency for schools, it said, was to “avoid the issues, thus passing the buck to parents who are notoriously nervous about discussing sex with their kids.”<sup>176</sup>

#### 4.6 Recent Push for Comprehensive Sex Education

In October 2022, six members of the Constitutional Democratic Party of Japan (CDP) proposed to the Ministry of Education, Culture, Sports, Science, and Technology (MEXT) that comprehensive sexual education (or the international standards for sex education curriculums) be taught at schools. The CDP members mentioned that the process of pregnancy as well as topics on sexual acts and contraception are not taught in compulsory Japanese education, suggesting that “comprehensive sex education should be promoted while preparing a proper environment for it, such as securing class time on the subject and easing burdens on teachers.”<sup>177</sup>

In human rights-based comprehensive sex education, students would learn not only about human anatomy and the reproductive system, but also about relationships, sexual diversity, and gender equality. The CDP members also proposed that the provision (of not teaching topics like pregnancy, sexual acts, and contraception) be removed, with CDP acting leader Nishimura Chinami telling reporters that “while it’s no secret that sex education in Japan is lagging far behind other countries, it has not been treated as a main issue.”<sup>178</sup>

One article, published in December 2022 by the Mainichi Shimbun, states that:

「義務教育で性交や避妊を学びやすくするための学習指導要領の見直しを求める約4万3000筆の署名を文部科学省に提出した。」<sup>179</sup>

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<sup>176</sup> Brasor, “No One Wants to Talk.”

<sup>177</sup> “Lawmakers Propose Rights-Based Comprehensive Sex Ed Be Promoted at Japanese Schools.” The Mainichi, October 25, 2022. <https://mainichi.jp/english/articles/20221025/p2a/00m/0na/019000c>.

<sup>178</sup> Ibid.

<sup>179</sup> “性教育「10代の実態に合わず」NPOが文科省に見直し求める署名。”毎日新聞, December 3, 2022. <https://mainichi.jp/articles/20221203/k00/00m/040/047000c>.

“A petition of about 43,000 signatures was submitted to the Ministry of Education, Culture, Sports, Science, and Education (MEXT) which requested a review of the government curriculum guidelines in order to make it easier to learn about sexual intercourse and contraception in compulsory education.”<sup>180</sup>

These signatures were submitted on behalf of PILCON (ピルコン), a Japanese non-profit organization (NPO) focusing on sexual health education in Japan. According to their website, PILCON strives to “include information on reproductive health and rights (STIs, fertility, equal relationships, etc.) that tend to be left out of public discussion, in an effort to enable youth to make informed decisions.”<sup>181</sup> Comprehensive sex education (*hōkatsuteki seikyōiku* or 包括的性教育), according to *Yahoo! News Japan*, has a relatively recent creation. It says that:

「2009年に国連教育科学文化機関（ユネスコ）などがまとめた包括的性教育のガイダンスでは、性交や避妊法は9～12歳の学習内容に位置づけている。」<sup>182</sup>  
“In 2009, the United Nations Educational, Scientific and Cultural Organization (UNESCO) compiled guidance on comprehensive sex education, placing sexual intercourse and contraception as learning content for children ages 9 to 12.”<sup>183</sup>

At the end of the article, it notes how PILCON’s signature collecting began:

「署名は2018年3月、東京都足立区内の公立中で行われた性教育の授業を一部の都議が問題視したことを受け、同年4月から募った。」<sup>184</sup>  
“The petition began collecting signatures in April 2018 after some Tokyo Metropolitan Assemblymen viewed sex education classes held at a public school in Tokyo’s Adachi Ward in March 2018 as problematic.”<sup>185</sup>

#### 4.7 Conclusion

In comparing modern and contemporary Japan, it is by no means a surprise that history often repeats itself. Since the start of the twentieth century up through the Second World War, sex education in Japan was focused on four things in particular: accurate knowledge, correct

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<sup>180</sup> Translation by author.

<sup>181</sup> PILCON. <https://pilcon.org/>.

<sup>182</sup> 毎日新聞, “性教育.”

<sup>183</sup> Translation by author.

<sup>184</sup> 毎日新聞, “性教育.”

<sup>185</sup> Translation by author.



behavior, population growth, and family stability. We can compare these directly with topics which have been the focus of sex education since the late 1980s: education, sexual relations, population decline, and the role of families. Although there were two distinct fears during these periods – the ongoing war versus the possible collapse of Japanese society – what links these two periods is the common goal that they share: birthing of more children.

While accurate knowledge and correct behavior meant more children for the Japanese Imperial Army, sex education and sexual relations today are aimed to produce future workers to combat labor shortages and economic ruin. Fears of overpopulation in the Japanese mainland during the early 1900s have seen a complete shift to Japan's ongoing population decline a mere hundred years later. As for family stability and its role, I argue that the ideal family during both periods was one of productive, heterosexual marriage that did not question its societal function.

In both pre-war and contemporary times, the Japanese government and Ministry of Education's attempts to push heterosexual couples to reproduce have been unsuccessful and current efforts could cause irreversible population damage to Japanese society. Striving to teach the public what was deemed as correct sexual knowledge, recent and past actions to push women to get pregnant as soon as possible have presented more problems than solution. Furthermore, refusal to educate students on LGBT topics and following a heteronormative agenda will leave them lacking knowledge and experience in these areas once they reach adulthood.

Queering Japan's sex education by incorporating topics about sexual health and alternative reproduction for LGBT students would, I contend, not only help educate the next generation on how they can be safe sexually but also that heterosexual intercourse is not the only way to have children. As mentioned in previous chapters, granting same-sex couples access to alternative reproduction technology could result in 123,277 to 246,554 children being born.

These numbers, however, are only current projections. Teaching students about these important topics would surely have a significant impact on both understandings of the LGBT community and Japan's population decline for generations to come.

## Conclusion

Japan's *koseki* system, with its impenetrable structure, denies same-sex partners the opportunity to enter each other's family registry as a couple unless they join into a heterosexual union. Adoption has since become an effective way to bypass these rules, although partners will not be recognized as a legitimate couple. While being granted the rights and protections only reserved for family members, couples lack the recognition which they long for once they legally become parent and child.

Similarly, vague language used in Articles 13, 14, and 24 of the Japanese Constitution grants heterosexuals the ability to pursue their happiness while same-sex couples are denied the same rights which they are promised and left unprotected from discrimination. Until there is reinterpretation of the articles' language and amendments are made, the Constitution will continue to be utilized by the government as an instrument for enforcing heteronormative sexualities and relationships within society.

In the words of sociolinguist Claire Maree, "through marriage individuals gain entry into a social world of privileges and responsibilities not available to those outside the system."<sup>186</sup> For Japan's LGBT community, these words could not be truer. Despite eight years having passed since partnership certificates were first introduced in 2015, same-sex couples are forced to live with this stark reality every day. Giving these certificates a closer look, it becomes clear that it does not matter how many areas recognize certificates if they are not legally binding. Falling short of what they were created for, the granting of partnership certificates keeps same-sex couples separate and unequal from the (hetero) norm.

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<sup>186</sup> Claire Maree, "Sexual Citizenship at the Intersections of Patriarchy and Heteronormativity: Same-Sex Partnerships and the *Koseki*," in *Japan's Household Registration System and Citizenship: Koseki, Identification and Documentation*, eds. David Chapman and Karl Jakob Krogness (London: Routledge, 2014), 192-193.

Labeling same-sex couples as unproductive and unnatural, among other things, many homophobic Japanese politicians have faced minimal consequences for spreading discrimination. As long as lawmakers who use their platform for hate remain, the Japanese political landscape will remain inaccessible to LGBT candidates. Removing these individuals from office and electing LGBT politicians would allow for queer power to be incorporated and could provide positive results for both the LGBT community and greater Japanese society. The inclusion of same-sex lawmakers would not only bring Japan one step closer to legalizing same-sex marriage but also provide assisted reproductive technology to LGBT couples as well as single women, helping bring more children into the world to combat the declining population.

Denying students access to inclusive sex education, the government and Ministry of Education have long spread heteronormative ideas and practices to try and prevent the imminent danger of Japan's population dropping too low. However, their attempts during the Second World War and recently to encourage reproduction among young couples have failed. Instead, they've chosen to falsify data and lie to female students, telling them that they will soon be out of their prime to have children. What they have failed to consider is the benefits that would come from a comprehensive sex education. By teaching youth about LGBT topics where they can understand their emotions and lead healthy lives, this could mean more marriages and more children being born.

Moving forward, granting more certificates to same-sex couples will not provide the same level of rights, recognition, or respect that Japan's LGBT community has been fighting for. There is only so much being nominally granted acknowledgement can offer for these couples who exist in a slow changing society built upon heteronormative legislature and controlled by those who choose to marginalize their very existence.

While the scope of my research was limited to only the legal, political, and educational systems, this opens up the opportunity to analyze other aspects of Japanese society through the lens of queer theory, such as Japanese working culture or religious institutions. Additionally, I must acknowledge the limitations I faced while writing my thesis over the past two years. Due to the Covid-19 pandemic and Japan's strict border control, I was unable to go abroad to undertake any in-person research. Despite having plans to speak with LGBT activists, local politicians, educators, and partnership certificate providers, my resources became limited to digital and print media.

In conclusion, I argue that the Japanese government's enforcement of heteronormativity within society through the legal, political, and educational systems will only cause more harm unless the incorporation of "queer power", which would provide solutions to Japan's social inequality, population decline, and marriage shortage, is implemented. As long as the LGBT community continues to live with these hardships of inequality, they will never have the chance to live up to their potential to change Japan for the better. This is no longer a matter of tradition or rules and regulations – this is about people and their right to live as they choose.

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