

We welcome supreme court decision recognizing forced surgery for gender change as unconstitutional
Diet should revise law to protect human rights

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The Grand Bench of the Supreme Court unanimously ruled on October 25: A law requiring people to undergo surgery to remove reproductive glands if they want to legally change their gender is unconstitutional as Article 13 of the Japanese Constitution guarantees the freedom of people to receive no invasion into their bodies against their will. The ruling referred to the legal requirement of having “no reproductive glands or whose reproductive glands have permanently lost function” (sterility requirement) in Article 3, Item 4 of the Act on Special Cases in Handling Gender Status for Persons with Gender Identity Disorder.

Since this law was established in 2004, transgender people/ people experiencing gender dysphoria have had to endure physical risks and high cost of surgery in order to align their gender identity with the sex they were registered with at birth. Others wanted surgery but were not able to afford it.

Japan’s policy has been condemned internationally. A joint statement published by WHO and other UN organizations on May 30, 2014, “Eliminating forced, coercive and otherwise involuntary sterilization,” says, “[A]s reflected in recent legal changes in several countries, these sterilization requirements run counter to respect for bodily integrity, self-determination and human dignity, and can cause and perpetuate discrimination against transgender and intersex persons.”

The Supreme Court’s decision has paved the way for a society in which people can live in their desired gender without physical harm. Calling for the protection of the human rights of sexual minorities, the Japan Federation of Democratic Medical Institutions welcomes the latest court decision. At the same time, regarding a legal requirement of having “a body which appears to have parts that resemble the genital organs of those of the opposite gender” (appearance requirement) in Article 3, Item 5 of the Act of Special Cases, the Supreme Court stopped short of making a decision and sent the case back to a high court, saying that the lower court had not examined this requirement. As three judges stated, we believe that keeping invasive surgery mandatory is to deny the freedom of people to receive no invasion into their bodies.

Many issues regarding the situation of sexual minorities are still unsolved. The Diet should swiftly revise the Act of Special Cases, legalize same-sex marriage, and develop other related laws in order to protect human rights.

Standing on the position that human rights of all people should be equally respected, we are determined to continue to learn and work for the elimination of discrimination.