

Same-sex Marriage

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Many people think that America and Japanese culture are the opposite, so there are only differences. For example, Japanese culture is closed because Japan had been closed to the outside world for 215 years since 1639, until Matthew Perry came in the famous "black boat". Closure was the policy of banning Japanese from traveling abroad and restricting foreign ships for the purpose of prohibiting religion and controlling trade. This "closed mind" attitude to exclude strangers may be peculiar to island countries. On the other hand, America has a short history and is characterized by fluidity. It's also a multinational country. However, in practice, it is not completely different from Japan. Both countries have their own peculiar biases and prejudices. However, one area in which they are similar is in having problems with same-sex marriage.

This essay focuses on the difference of gender issues between America and Japan, especially same-sex marriage. This is because there are many problems regarding same-sex marriage in Japan, so I want to compare Japan with America. First, I will explain about the current situation of same-sex marriage in

both Japan and the United States. Second, I will explain about the history of same-sex marriage in Japan and the United States. Third, I will explain what prejudices Japan and America have against same-sex marriage. Fourth, I will discuss the effect it will have if same-sex marriage is not allowed in Japan and the United States.

In Japan, Same-sex marriage isn't allowed, and marriage is defined as being between a man and a woman according to article 24 of the Constitution of Japan, which states that marriage can be made only by mutual consent of both sexes which refers to one man and one woman. Other laws on family and social security also use binary words referring to gender, such as husbands and wives. Also, On the left side of the marriage registration form, there is a field "to be a husband" and "to be a wife" is on the right side, so only men can fill in the field on the family register "to be a husband" and only women can fill in the field "to be a wife". Furthermore, the Act on Special Cases in Handling Gender Status for Persons with Gender Identity Disorder stipulates that one of the conditions for gender change is "the targeted people cannot be currently married" ("Act on") .If people change the gender of their family register while they are married, they will legally be considered "a husband and wife" of the same sex, so it is stipulated for the purpose of avoiding this. The government and government offices also don't allow same-sex marriage. For example, since 2002, the Ministry of Justice has established a new column describing the person's gender in a certificate of eligibility for marriage to prevent

confusion between Japan and foreign companies which allow same-sex marriage. In addition, in the Immigration/Residence Examination Guidelines used in immigration, spouse visas are limited to married couples of the opposite sex. In other words, gay couples who have effectively married in foreign countries are excluded from the list ("The Constitution of Japan").

On the other hand, in 2015, same-sex marriages were legalized in all states in the United States. Specially, the U.S. Supreme Court ruled that freedom protected by the Fourteenth Amendment to the United States Constitution includes individual freedom to choose marriage partners, and that same-sex couples will not be deprived of the option of choosing in a same-sex marriage. There are four reasons why marriage has been considered fundamental under the U.S. Constitution. The first is that marriage choices are important for individual autonomy, the second is to support close ties, the third is to protect children and families, and the fourth is to maintain social order. In other words, equality of marriage was achieved in the U.S. Supreme Court decision. However, it took a long time for same-sex marriage to be recognized throughout the United States and at that time, there were many objections to same-sex marriage as in Japan today. Why was same-sex marriage allowed in United States and why isn't it allowed in Japan? Let's take a look at the history of same-sex marriage between Japan and United States.

In the United States, homosexuality was prohibited by the Sodomy law in 1969. If the police found out that a person was homosexual, he or she would face punishment. They were

frightened by the police but formed their communities in gay bars such as Stonewall. The Stonewall Rebellion broke out on June 28, 1969 at the Stonewall Inn while the police were investigating gay bars. At last, homosexual anger finally erupted in Stonewall and violent clashes between police and homosexuals were repeated. The year after the Stonewall rebellion, the first American pride parade (meaning a sexual minority parade) was held in Los Angeles, Chicago, San Francisco, and New York. This is the origin of the ongoing pride parade in New York, Tokyo, and cities in Europe. In 1977, Harvey Bernard Milk, who was the first openly gay candidate, was elected mayor of San Francisco. He received media attention and was a great activist in the history of American LGBT. However, he was assassinated in 1978 by another politician of the time. Even though he died, the LGBT people continued to do their action. Massachusetts was the first state to recognize same-sex marriage in 2004. The following year, Connecticut and the year after, New Jersey, recognized it.

By 2013, 17 states and boroughs had allowed same-sex marriages. In Connecticut and Iowa, same-sex marriages were approved by the state Supreme Court. Meanwhile, in Minnesota, Maryland and Washington, same-sex marriage was approved by congressional votes or resident cards ("Factbox: List"). This means that a congress with democratic legitimacy elected by the electorate, or the electorate itself has allowed it. According to a Gallup survey, public opinion, which had been at odds with each other since 2000, exceeded the majority with 53% supporting

same-sex marriage for the first time in 2011 ("Record-High"). The number of states that allow same-sex marriages is increasing, however, same-sex couple still cannot live comfortably. For example, the Marriage Defense Law makes same-sex marriage illegal. Section 2 of it stipulates those homosexual marriages recognized in one state are less legally protected than in other states, and Section 3 defines marriage as legal connection between men and women under federal law. In a state, a person who is gay is treated as unmarried under federal law and has to pay more taxes than a heterosexual couple ("Defense of"). If that continues for ten years, the difference between the two people will be considerable. In addition, according to family jurist Lin Wardle, there were five federal court rulings in 2004-2010 that ruled the marriage defense law unconstitutional. Moreover, there are many Christians in United States, and as the trend toward lifting the ban on same-sex marriage grew stronger, opposition to the lifting of ban has intensified, especially among them. That's why California, which had allowed same-sex marriage, banned it again in 2008. In this way, while public opinion influenced views on same-sex marriage, it also made a disturbing move. However, the situation changed after the Democratic Obama administration took office in 2009. He has been opposed to the Marriage Defense Law since the presidential election and has been clearly defending the rights of homosexuals. Thanks to Obama, the number of states that admit same-sex marriage is increasing little by little. And finally, on June 26, 2015, the Supreme Court ruled that same-sex marriage was a legal

agreement, and same-sex marriage was allowed throughout the United States ("A Brief").

In Japan, there was a tendency to be tolerant of homosexuality until the Edo period. There are data recorded that show there were multiple gay and bisexual warlords ("Being LGBT"). Furthermore, they were all quite famous warlords such as Oda Nobunaga, Takeda Shingen, and Date Masamune. However, in the mid-Edo period, public morals began to deteriorate, such as caring more about male mistresses than their lords and causing troubles over beautiful boys. As a result, strict regulations on male love changed the trend toward homosexuality which has been tolerated ("Being LGBT"). In the early Meiji period, homosexuals became more vulnerable. It is because Japan adopted Western ideas and spread western influence, and in Western Europe, values which belittled homosexuals and ideas which categorized homosexuals as abnormalities were the mainstream at that time. That gradually gave people the impression that homosexuals were bad. In 1872, first and only ordinance banning homosexuals was established following Western culture ("Homosexuality In"). However, the criminal law that eliminated the ban on homosexual sex was enacted in 1880. Since then, no law has been enacted to criminalize homosexuality. In 1950, by recognizing freedom of speech, gay towns were created and gay bars were born. Mainly, Shinjuku, Ikebukuro, Minami, and Dojo became gay centers. In addition, homosexuality was gradually recognized as a common form of love by actions, such as celebrities announcing their homosexuality.

In the 1970s, gay magazines became popular and homosexual information became more widely available than before. In 1971, a gay politician named Ken Togo finally ran for the House of Councilors in Japan ("Oikawa Kenji"). Unfortunately, he lost the election, but it was quite encouraging for homosexuals. In 1976, the first gay group in Japan, Japan Homosexual Liberation Union, was formed. This led to the emergence of a number of gay groups. As recognition of homosexuality gradually spread, a major turning point occurred. A gay group won a case when it went to a trial because of being harassed by another group. The court's official recognition of homosexual rights had a great impact on Japanese citizens. In 2003, Miyagi Prefecture implemented the country's first ordinance on gay human rights ("Japan: Keep"). In 2015, Shibuya, Tokyo Prefecture introduced a partnership system in which local governments said that same-sex couples have the same relationship as marriage in their family registers ("Shibuya Ward's"). Now, more than 110 organizations implement the system. In other words, same-sex marriage has not yet been officially recognized, but this system means that the government recognized the existence of same-sex couples. I think the day when same -sex marriage will be accepted is nearby. What kind of opinions do people have about same-sex marriage in Japan and United States? Let's take a look at what prejudices there are against same-sex marriage based on various surveys or Case law. According to the gender poll of Japan Broadcasting Corporation (commonly called NHK and is Japan's National Public Broadcasting Station) conducted at the

end of March 2021 in Japan, fifty-seven percent of the respondents said they were in favor of allowing same-sex marriage, accounting for 60 percent of the total. The percentage of people who disagree is 37%. When people asked why they supported same-sex marriage, 76% of people answered that everyone had the right to marry equally. The second most common opinion is that it will be better if we love each other.

On the other hand, 36% of the respondents opposed same-sex marriage because people who married with a same-sex partner can't give birth and the birthrate is declining, so marriage should be for men and women. The second most common reason is that traditional families will collapse. In addition, when people asked if they would accept if their family members wanted to marry a same sex partner, 45% of people answered yes. However, 49% of the respondents said they would not accept their family members if they wanted to marry the same sex people. Moreover, according to poll on same-sex marriage by Asahi Shinbun, which was conducted on May 20 21 2021, 65 % of people agree to same-sex marriage. The survey was conducted in 2015, and the number of people in favor of same-sex marriage rose 16 % from 2015 ("The Impact"). It can be said that understanding and acceptance of same-sex marriage has spread. While there are still many people who hold the stereotype of traditional marriage between men and women.

In a U.S. Supreme Court trial that recognized gay marriage as a constitutional right, four judges opposed the ruling in the United States. One of the reasons was that the ruling ignored

what had been the reason for marriage since ancient times. In other words, marriage is the union of one man and one woman, where children are created. Another reason was that marriage isn't important for the happiness of everyone, but to people of the opposite sex, which is closely related to the birth of children and the ruling threatened the constitutional right of religious freedom ("Obergefell v. Hodges").

According to the polling of the Pew Research Center, the younger generation has a higher approval rating for gay rights than the older generation. In addition, according to the survey, religion is the No. 1 reason for opposition to same-sex marriage. Opponents of same-sex marriage feel that homosexuality contradicts religious belief. In particular, evangelical Protestants are vehemently opposed to same-sex marriage ("Majority of Public").

Finally, what will happen if same-sex marriage is not allowed in Japan? What changes have happened since same-sex marriage was legalized in the United States? As I wrote in the section on Japan history, there is a partnership system. However, it's not recognized by law, so people who have a same-sex marriage sometimes feel inconvenience. For example, when a partner dies, no matter how long the couple has lived together, he or she cannot inherit the partner's property unless the partner leaves a will. If a couple who has a same-sex marriage live together at an address in the name of the dead homosexual partner, he or she may be kicked out of the house by the bereaved family. Also, if partners are foreign people, the partner won't be able to obtain

a spouse visa. If foreign partners work in Japan, the partner may be qualified to be in Japan. However, if one of the partners is a Japanese citizen, and the other partner works in a different country, the partner won't be qualified to stay in Japan. They sometimes can't be together even though they love each other.

Furthermore, people who marry the same-sex cannot have joint custody of their children, so even if they raise their partner's children as parents, they cannot become parents themselves. If their child is taken care of at the hospital, they may be told to bring their legal parents. If a legal parent dies without designating a guardian of a minor in his or her will, a partner who isn't a legal parent may not be involved with the child he or she raised for a long time because he or she has no legal relationship with the child. In real life, it seems to have a big impact in an emergency. Same-sex partners aren't considered legal spouses if one of them becomes unconscious or dies suddenly. Therefore, the other partner may not be able to make critical life-and-death decisions and be with one's partners with they pass away ("Seeking Equality"). In some cases, homosexual partners were unable to attend the funeral of partners because homosexual partners didn't introduce each other to their families. In the United States, the legalization of same-sex marriage has brought about many changes. Homosexual partners can inherit their partner's inheritance, get custody of their children, protect their citizenship under the Marriage Defense Law, and stay with their partner in case of emergency ("Same-Sex Marriage").

It's also becoming easier to live openly as a gay couple, and

more and more people are supporting same-sex marriage. Thus, it is becoming a more comfortable society for same-sex couples to live in. In addition, the number of same-sex marriages is dramatically increasing, and the marriage industry has flourished. In other words, not only same-sex couples but also business is affected. Furthermore, same-sex marriage affects homosexual mental health. Same-sex marriage recognition by the state isn't limited to the realization of legal rights. It means that states recognize homosexuals' existence in society as individuals with dignity. In other words, the legal recognition of homosexual marriages also leads to the improvement of homosexual happiness and self-affirmation. This is because sexual minorities, including adolescents, experience greater discomfort and pain due to difference in their own gender identity and physical gender. There are many cases where they become isolated when they realize their sexual orientation.

It also said that suicide and attempted suicide by sexual minority children is four times higher than those who aren't sexual minorities ("Gay and Bisexual"). According to a Johns Hopkins 's University study, the attempted suicide rate dropped by 7% after gay marriage legalization. Attempted suicide of adolescent homosexuals decreased by 14% ("Legalization"). On the other hand, same-sex marriage discrimination hasn't disappeared. For example, there are still cases in which people are fired for having a same-sex marriage. There are no federal government regulations that provide protection against discrimination against gender-based employment, housing, and use of public facilities.

In terms of the legalization of same-sex marriage, it can be said that American understanding of same-sex marriage is more advanced than in Japan. However, both the United States and Japan still have problems with same-sex marriage. In this respect, I think both Japan and America are similar.

In conclusion, I think same-sex marriage should be allowed in order for homosexuals to live safely and comfortably in Japan. However, it is necessary to enact a law in the Diet that allows same-sex marriage by law in order to achieve same-sex marriage in Japan. In addition, if the court ruled that the same-sex marriage system was unconstitutional, it would make the establishment of same-sex marriage system illegal. I think there are two main things we can do to achieve same-sex marriage in Japan. First, we can encourage and support legal challenges from local communities that argue in favor of same-sex marriage. Second, we can educate people that there are those who want to have a same-sex marriage and it is unequal to deny them this right.

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