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Calls grow to abolish Japan's surgery requirement for gender change

Surgery can be costly and risky amid lack of state support



Kanata Kimoto had his womb and ovaries removed in Thailand when he was 24, so he could have his legal gender status changed. Now he questions whether such an invasive and costly procedure was necessary. | TOMOKO OTAKE

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In 2015, at the age of 24, Kanata Kimoto had the uterus and ovaries he was born with removed at a Thai hospital.

Back then, the Osaka Prefecture native didn't even question his move, despite the huge cost and potential health risks involved. Sterilization is one of several conditions that all transgender individuals are required to meet if they want to have their gender changed on official papers in Japan. Living with a gender that didn't match his identity was unbearable for Kimoto.

"It was a choice between undergoing surgery so I could change my gender, and dying," Kimoto, 31, recalled. "Even if the surgery failed and if I died as a result, I didn't care. I was that desperate."

Kimoto, however, now wonders whether such an invasive and costly procedure was necessary, given all the sacrifices he had to make. Kimoto and a growing number of human rights advocates in Japan are campaigning for the abolition of a clause in a special law on gender dysphoria enacted in 2003 that requires transgender individuals to undergo sterilization surgery to change their official gender status.

The law sets out five requirements for the status change through family court proceedings — in addition to a diagnosis of gender dysphoria by at least two specialist doctors. The requirements include the person needing to be age 18 or older, unmarried and with no underage children. The age of adulthood in Japan is 18.

Currently at issue are the remaining two conditions, which say the individual should "have no reproductive glands" or their reproductive glands should have "permanently" lost their function, and that they should have "a body that resembles the genitals of those of the opposite gender." Between 2004 and 2022, a total of 11,919 people had their gender changed through the law.

The advocates' campaign comes amid heightened attention and tensions over LGBTQ issues.



Kimoto joins the Tokyo Rainbow Pride parade in April. | REUTERS

On the one hand, Japanese courts appear to be pivoting toward invalidating the surgery requirement as unconstitutional, on the back of recent moves by United Nations agencies and international medical groups to regard unwanted gender-affirming surgery as cruel and inhumane. Earlier this month, the Hamamatsu branch of the Shizuoka Family Court approved a request by Gen Suzuki, a 48-year-old transgender man, to be listed as male in his family registry. Suzuki has undergone hormone therapy and surgically removed his breast tissue, but has not had his reproductive organs removed for fear of physical and mental health risks.

In a first in Japan, the family court said that forcing such “grave and irreversible” operations on people violates their human rights guaranteed under the Constitution.

The Supreme Court may also rule in favor of a transgender woman who has appealed lower court decisions that denied her gender status change. The woman has not had her penis surgically removed but argues that she has been rendered infertile due to years of hormonal treatment. The 15-member Grand Bench held an oral hearing last month, and a decision on the case is expected on Wednesday. The fact that the Grand Bench convened is seen as a sign that the nation’s top court could reverse its own precedent set in 2019, when it deemed the surgery clause constitutional.

On the other hand, some conservative corners of parliament are turning more vocal in their opposition to the clause's abolition. A lawmakers' group, whose goal is to "protect all women's safety and security and fairness of women's sports," was formed in June following the enactment of a new law to promote LGBTQ understanding, and now counts over 100 members.

Headed by three veteran female members of the ruling Liberal Democratic Party — Eriko Yamatani, Satsuki Katayama and Seiko Hashimoto — the group recently submitted a petition calling on the government to maintain the surgery clause.

Then on Tuesday, another group made up of transgender individuals and others submitted a petition requesting the Supreme Court maintain the requirement, arguing that its abandonment would lead to women feeling threatened in women-only spaces.

Many other trans activists, however, say most transgender people are extremely discreet when it comes to the use of public baths or toilets, going out of their way to avoid trouble with other users.

Anguish over gender identity

Switching gender is a time-consuming process and a decision many make only after years of anguish over their identity. Kimoto said he had felt incompatible with his sex assigned at birth since he was a toddler. At day care, he resisted wearing skirts and things colored pink.

Throughout his childhood and adolescence, he was unable to confide in anyone about his gender incongruence as there was nobody around him who had come out as a sexual minority, and LGBTQ issues were never taught in school. As menstruation began and his breasts grew, he slouched forward so as not to emphasize his breasts. He also joined the softball club in an effort to be forgiven for looking and acting boyish.



Transgender man Gen Suzuki (right) speaks to reporters after receiving court approval for a legal gender change on Oct. 13. | KYODO

In high school, he heard the term gender identity disorder, now called gender incongruence, for the first time. One of the characters in a popular TV drama at that time was depicted as having it.

His friends were fascinated by the drama series and talked about it week after week. One day, a classmate casually asked if he had the same issue as the drama's character and said "it would be scary" if he did. Kimoto remembers vehemently denying it, to avoid being "outed" in front of all his other classmates.

In college, where he studied video production, he felt free for the first time in his life, as his friends had no prejudice against sexual minorities. But as graduation loomed, he started agonizing over having to apply for jobs as his officially registered gender.

"Although I received a job offer and was about to start my career, I felt like I would have a mental breakdown," he recalled. "That's when I decided to undergo surgery, forgoing a career."

After graduating from college, he devoted all of his time to juggling odd jobs to save the ¥2 million needed for a course of medical treatment including surgery. He also started receiving hormone injections at a clinic.

The male hormones brought some desired effects, such as lowering his voice, making him hairier and making it easier for him to gain muscles, but he struggled with sudden breakouts of acne on his face and his back. During this transition phase, it was a huge pain for him to visit a doctor, because his appearance was male but his health insurance card still listed him as female.

“Receptionists at clinics would always return my insurance card, asking me to submit ‘mine’ instead,” he said. “Every time I had to disclose my gender identity and explain that I was going through hormone therapy.”

Experiences like these make many transgender individuals avoid seeking health care in general, as a 2019 survey by Yasuharu Hidaka, a professor at Takarazuka University's School of Nursing, found. The survey, commissioned by Lifenet Insurance and covering 10,000 transgender individuals in Japan, found that 51.2% of trans women and 38.8% of trans men had avoided a hospital visit even when they felt ill.

Then, after getting a diagnosis of gender dysphoria from a doctor in Tokyo, Kimoto checked into a Bangkok hospital for about a week to get his womb and ovaries removed. Many trans people in Japan get such surgery in Thailand due to the long wait at Japanese hospitals, he said, noting that at that time, he was told he would have to wait for four years for surgery in Japan.

When he finally got a letter from a family court approving his family registry change, which is something he had fought so hard for, he was struck by a sense of futility, he says.

“I had thought I would feel happier,” Kimoto said. “But when I got the notice, which was just two sheets of paper, I felt so empty. I wondered, ‘Is this what I strove and sacrificed so much for?’”

Quality of care

Mikiya Nakatsuka, a professor at Okayama University's Graduate School of Health Sciences who runs a gender clinic there, says that many transgender individuals visiting the clinic have mental health issues. A survey of some 1,150 people visiting the university clinic between its opening in 1999 and 2009 found that 60% had experienced suicidal thoughts and 30% had actually attempted suicide. Nearly 30% were truant from school.

The quality of transgender health care is another concern. The Japanese Society of Gender Identity Disorder, for which Nakatsuka serves as president, has accredited eight institutions offering specialized care. But that's far from enough to keep up with demand, which means many people must wait for months or even years before surgery. At present, around 80% of people seeking surgery in Japan look overseas, where there is little wait, Nakatsuka says.



Kimoto (third from left) and transgender scholars and activists hold a news conference in Tokyo on Sept. 26. | TOMOKO OTAKE

“Of course, some complete the procedure overseas and return with no trouble,” he said. “But there are also others who rush to our clinic saying that they can’t stop their urine from leaking out, or worse, who have their bladder fully swollen because they cannot urinate, and who are denied follow-up care (abroad).”

Furthermore, gender-affirmation treatment is out of reach for many due to its cost, which is not covered by national health insurance and can easily top ¥1 million. While Nakatsuka and other specialist doctors successfully lobbied for surgery to be insured, hormonal treatments remain uninsured. Due to the Japanese government policy of not allowing people to mix insured and uninsured treatments, transgender health care, including surgical operations, remains uninsured in most cases.

While many are eager to undergo surgery and are happy to have done so, others feel compelled to do so because of the legal requirement, Nakatsuka said.

“The important thing is that people are given the options,” he said.

Kimoto currently runs a popular YouTube channel, where he answers questions about his life as a trans man and shares exchanges with friends and family. He says there’s a world of difference between choosing to undergo surgery and being forced to do so in order to gain legal recognition for the gender people identify with.

“Had there been no sterilization requirement and had I been able to change my family registry without it, I would not have gone through surgery, because my life was at stake,” he said. “I don’t want to see the future of younger people ruined by the lack of choices.”

KEYWORDS

JAPANESE COURTS, LGBTQ, FAMILY REGISTRY, TRANSGENDER, HUMAN RIGHTS, SUPREME COURT

