Legal rights for queer people in Japan
How the LGBT Understanding Promotion Bill was shelved in 2021

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Abstract

The fight for equal rights for LGBTQ+ people in Japan has in recent years led to efforts to enact a law to promote understanding. After intense debates and revisions in the spring of 2021, the bill was shelved just before the Olympics, despite pressure from national and international organizations such as the International Olympic Committee. In 2023 a revised and potentially ineffectual bill was passed. This thesis aims to analyze the main arguments for and against the bill during the 2021 revision. This is done through critical discourse analysis and Fairclough’s three-dimensional model. The analysis is conducted from the perspective of human rights and gender studies. Articles from two major Japanese newspapers, texts from the homepage of the ruling political party, and tweets by a key LGBTQ+ lobby group are examined. The results show that arguments belong roughly to three groups, 1) arguments for and against the general idea of protection for LGBTQ+ people, 2) arguments questioning the content of the bill, e.g., ambiguities in language, and 3) arguments concerning the political questions, such as not to pass this bill to not limit the chances of future more meaningful legislation. Many arguments highlight the patriarchal nature of Japanese society centered on the nuclear family. As the bill has recently been passed, its effect is yet to be seen, but it is probable that the only major impact is to stall future proper anti-discrimination legislation.
概要

日本におけるLGBTQ+の人々の平等な権利を求める闘いは、近年、理解を促進するための法律制定の取り組みにつながっている。2021年春の激しい議論と修正の後、この法案は国際オリンピック委員会など国内および国際機関からの圧力にもかかわらず、オリンピック直前に見送られた。2023年には、潜在的に効果のない修正法案が可決された。この論文は、2021年改正における法案の主な賛否両論を分析することを目的としている。これは、批判的言説分析とフェアクラウフの3次元モデルを通じて、人権とジェンダー研究の観点から分析が行われる。日本の主要新聞2紙の記事、与党のホームページの文章、主要なLGBTQ+ロビー団体のツイートが調査される。議論は大まかに3つのグループに属していて、1) LGBTQ+の人々の保護に関する一般的な考え方に対する賛否の議論、2) 法案の内容に疑問を呈する議論（言葉の曖昧さ等）、3) 将来のより意味のある法案の可能性を制限しないためには、この法案を可決しないほうがよいかなど、政治的問題に関する議論となっている。多くの議論は、核家族を中心とした日本社会の家父長制の性質を強調している。この法案は可決されたばかりなので、その効果はまだ見えていないが、将来の適切な差別禁止法制定の遅れに繋がる可能性が高いと考えられる。
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Translation and language conventions

This thesis adheres to the Western naming convention, that is, all names are referred to in the following order: ‘Given name Family name’ (e.g. Shinzō Abe). Japanese words are transliterated using modified Hepburn romanization, with long vowels indicated by macrons (e.g. ā, ĩ, ū, ē, ō). Throughout the thesis, Japanese words are italicized, except for those commonly used in British English (e.g. Osaka). All translations of Japanese language sources are provided by the author. Omissions are indicated using ([...]).

List of Abbreviations

CDA - Critical Discourse Analysis
CDP - Constitutional Democratic Party
IOC - International Olympic Committee
J-All - Japan Alliance for LGBT Legislation (Japan Alliance for Legislation to Remove Social Barriers based on Sexual Orientation and Gender Identity)
LDP - Liberal Democratic Party
LGBT Bill - LGBT Understanding Promotion Bill
LGBTQ+ - Lesbian Gay Bisexual transgender queer +
NGO - Non-Governmental Organizations
OECD - Organization for Economic Co-operation and Development
SCSOGI - Special Committee on Sexual Orientation and Gender Identity
SDGs - Sustainable Development Goals
SOGI - Sexual Orientation and Gender Identity
SOGIE - Sexual Orientation and Gender Identity/Expression
UDHR - Universal Declaration of Human Rights
WHO - World Health Organization
Reference system
This thesis employs the APA reference system for citation and referencing. In-text citations are used in the following format: (author, year: page number). Additional information is provided through footnotes. URLs are included in the reference list with author names, newspaper titles, or the abbreviation “Anon” for anonymous sources.

Keywords: Gender studies, queer studies, LGBTQ+ studies, human rights studies, critical discourse analysis, Norman Fairclough
1. Introduction

1.1 General overview

In 2015–2016, Japan saw an “LGBT boom,”1 and LGBTQ+2 rights became a highly debated topic (Wallace, 2018:2). In 2016, the ruling Liberal Democratic Party3 (hereafter LDP) set up a “Special Committee on Sexual Orientation and Gender Identity”4 (hereafter SCSOGI) which drafted the so-called LGBT Understanding Promotion Bill (hereafter the LGBT Bill) (Editorial, Asahi, June 21, 2021).5 The LDP also stated the following in their national pledge: “Prompt enactment of legislation for the purpose of promoting understanding” (Asahi Shimbun, 2021a). In the same year on May 27, four opposition parties, namely the Japanese Communist Party,6 the Democratic Party,7 the Social Democratic Party,8 and the People’s Life Party9 submitted a draft to an LGBT anti-discrimination bill10 (Shimbun Akahata, 2016).11 Because of strong opposition from conservative lawmakers both drafts were shelved (Editorial, Asahi, May 10, 2021; Editorial, Asahi, March 25, 2021).

Five years later in 2021, however, a slightly revised LGBT Bill draft was submitted by the LDP, this time in cooperation with the opposition parties (the Constitutional Democratic Party12 (hereafter CDP), Kōmeitō,13 the Communist Party, the Democratic Party for the People,14 the Japan Innovation Party,15 and the Social Democratic Party (Editorial, Asahi, June 21, 2021; Asahi Shimbun, 2021a; The Japan News, 2023). The reason for the

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1 The period from March 2015 to early 2016, known as the “LGBT boom,” witnessed a significant increase in media coverage and interest in LGBT issues in Japan. The term 'boom' refers to a sudden and widespread popularity of a specific topic, often accompanied by extensive media coverage. This surge was particularly evident after the passing of the Shibuya Ward Same-Sex Partnership Ordinances on March 31, 2015 (Wallace, 2018:2).

2 Although several different acronyms are used when referring to the LGBTQ+ community, the acronym used in this study is “the LGBTQ+ community.” One exception will be when mentioning the LGBT Understanding Promotion Bill since it is a fixed name.

3 自由民主党(自民党) [Jiyūminshutō (Jimintō)]

4 性的指向・性自認に関する特命委員会 [Seitekishō - Seijinin ni Kansuru Tokumei I’inkai]

5 The LGBT Understanding Promotion Bill is LGBT理解増進法案[LGBT Rikai Zōshin Hōan] or simply LGBT法案[LGBT Hōan] in Japanese. The bill is also called the awareness promotion bill. There might also be other names I do not recall seeing or that I have not come across yet.

6 日本共産党 [Nihonkōsantō]

7 民進党 [Minshintō]

8 社会民主党(社民党) [Shakaiminshutō (Shamintō)]

9 生活の党 [Seikatsu no Tō]

10 LGBT差別解消法案 [LGBT Sabetsu Kaishō Hōan]

11 Although there have been many small alterations to the bills, they remain roughly the same. The bill prohibited administrative organizations and businesses from discriminating against individuals based on their sexual orientation and gender identity (The Japan News, 2023).

12 立憲民主党(立憲) [Rikkenminshutō (Rikken)]

13 公明党 [Kōmeitō]

14 国民主党 [Kokuminminshutō]

15 振新の党 [Ishin no Tō]
joint submission of the bill was the hosting of the postponed Olympic and Paralympic Games later during the summer of that year, and the plan was to submit the bill to the Diet before the opening (Asahi Shimbun, 2021a). The plan was that the LGBT Bill would be written in accordance with the Olympic Charter, which states that “The enjoyment of the rights and freedoms set forth in this Olympic Charter shall be secured without discrimination of any kind” including sexual orientation (Human Rights Watch, 2021d). Moreover, one of the prominent visions of the Tokyo Olympics was “Unity in Diversity” (IOC, 2023; Human Rights Watch, 2021a). Thus, the revised version of the LGBT Bill contained the statement that “discrimination on the grounds of sexual orientation and gender identity is unacceptable”16 in its purpose and basic principle section (Asahi Shimbun, 2021a). After several revisions, a bipartisan coalition of lawmakers, including the LDP, agreed to the bill. It was at this stage that the amended bill could be submitted to the Diet with the permission of the LDP, and it was believed the bill would be enacted this time considering also the national and international pressure (GSN, 2020; Editorial, Asahi, June 21, 2021). However, in the end, the LDP’s Board of Governors shelved the submission of the LGBT Bill to the Diet during a parliamentary session on June 16, around two months before the Olympics (Takao, 2021; Editorial, Asahi, June 21, 2021; The Japan News, 2023). This, despite several aspects pointing to an opposite outcome. For instance, public opinion polls on a national scale found that 88% of respondents were in favor of introducing laws and ordinances banning bullying and discrimination in relation to sexual minorities and that the bill was strongly promoted by both national and international LGBTQ+ activist groups and human rights organizations (Human Rights Watch, 2021a). In addition, LDP lawmakers made several discriminatory remarks both during and after the meeting (Fujisawa, 2021).

Following that Masayoshi Arai, an aide to Prime Minister Fumio Kishida, made discriminatory remarks against LGBTQ+ couples by expressing reluctance to live next to them and suggesting people would leave Japan if same-sex marriage was allowed, the LGBT Bill gained momentum yet again in 2023 (Reuters in Tokyo, 2023). The new LGBT Bill was initially pledged to be passed before the G7 summit held in Hiroshima between May 19-21, but faced delays in drafting and submission and was finally passed on June 16, 2023 (Reuters, 2023). The legislation was quite similar to the draft laid forth in 2021 and too has faced criticism for lacking human rights guarantees.

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16 (性的指向及び性自認を理由とする差別は許されないものであるとの認識の下) [Seiteitoshiki Oyobi Seijinin o Riyū to Suru Sabetsu wa Yurusarenai mono de aru to no Ninshiki no Moto]
1.2 Study aim and research questions

The aim of this thesis was to investigate how – and why – the LGBT Bill was shelved in 2021. That is, tracing how it came to be shelved, and pondering reasons why with regard to human rights and gender studies. For example, considering factors such as shortcomings of the bill and external factors playing a part. Even though the bill has since passed, it is interesting to look back on the process from 2021 because understanding the processes, points of conflict, and key players in the passing of the bill is highly relevant for understanding further legislative efforts to secure LGBTQ+ rights. The sample material consists of publications and articles collected from three different sources: 1) the Twitter page of the Japan Alliance for LGBT Legislation (hereafter J-all),\(^\text{17}\) 2) articles from two of Japan’s largest newspapers, Asahi Shim bun and Yomiuri Shim bun, and finally 3) articles from the news section on the LDP’s website. The contents of the publications and articles are analyzed using critical discourse analysis, more specifically Norman Fairclough’s Three Dimensional Framework. When looking at common themes, as well as differences and commonalities among the main arguments found, modality is the main focus. Modality expresses the speaker’s commitment or opinion, providing both informative and deceptive purposes (more on this in the Analytical method section). The main arguments are divided into (a) anti-bill arguments (inside and outside the LDP) and (b) pro-bill arguments in, and associated with, the LGBTQ+ movement (including LDP representatives). Thus, this study aims at 1) raising awareness of the legal struggles the LGBTQ+ community faces in contemporary Japan in relation to discrimination, and 2) increasing understanding of the process of strengthening the legal rights of the LGBTQ+ community in Japan. The thesis focuses on legal rights for the LGBTQ+ community in Japan, specifically regarding legislation on anti-discrimination (e.g., the LGBT Bill and the anti-discrimination Bill). General facts relating to legal rights for the LGBTQ+ community (e.g., marriage equality) are briefly presented in the Background section but are not at the center of the study.

To guide this project the following research questions have been formulated.

(1) What were the key arguments given for and against the passing of the bill?

\(^{17}\) Full name: Japan Alliance for Legislation to Remove Social Barriers based on Sexual Orientation and Gender Identity.
(2) What is the background for these arguments, which positions, actors, and interests are behind them?

(3) Against this backdrop, what can be said about the future of an anti-discrimination law?

The thesis is divided into five main parts. Section 2 introduces the background and section 3 the frameworks of human rights and gender studies. Section 4 explains how Critical Discourse Analysis is applied to the three groups of materials mentioned above. Section 5 analyzes the materials with respect to the above-mentioned actors and the process that led to the shelving before discussing potential reasons for the shelving in Section 6.
2. Background

To tackle the issue at hand, it is especially important to look into the immediate context, that is to say, the current legal rights situation for the LGBTQ+ community, public opinion, patriarchal dynamics, and political and religious influences that together shape the landscape of LGBTQ+ rights in Japan.

2.1 The LGBTQ+ rights in Japan

The LGBTQ+ community is a disadvantaged group in Japan challenged by stigmatization, discrimination, invisibility, marginalization, lack of legal protection, and a high risk of mental health issues and suicide (Yamashita et al., 2017:65, 67; Sasayama et al., 2022:132; Zhang, 2021:355; Amnesty International, 2017:14). Close to 60% of the LGBTQ+ community members have been subjected to bullying in the educational environment and nearly 50% struggle in different ways in the workplace (JOICFP et al., 2023:9). Compared to their cisgender and heterosexual counterparts, “the attempted suicide rate is 6 times larger for gay and bisexual people, and 10 times larger among transgender people” (Equality Act Japan, 2022). Despite this, there are currently no laws to protect the LGBTQ+ community from discrimination in Japan (Sasayama et al., 2022:132). In June 2016, the LDP’s SCSOGI declared that “the promotion of equality of sexual orientation and gender identity” is part of Article 14 of the Constitution. The article states, “All of the people are equal under the law and there shall be no discrimination in political, economic or social relations because of race, creed, sex, social status or family origin” (Amnesty International, 2017:9; LDP, June 26, 2021). However, sexual orientation and gender identity are not explicitly mentioned and in case of discrimination, laws or mechanisms to back up legal compensation are close to nonexistent, and are not in accordance with the Paris principles (Amnesty International, 2017:9). Japan is also the only country part of the G7 not offering “comprehensive anti-discrimination legislation and explicit recognition of SOGIE” (Sexual Orientation and Gender Identity/Expression). Beyond the absence of anti-discrimination law, Japan is also the only nation part of the G7 not “legally recognizing same-sex marriage and civil unions at the national level” (JOICFP et al., 2023:9). During the G7 summit held in Cornwall from June 11-13, 2021, the G7 leaders agreed on a global agenda for collective action emphasizing the importance of shared beliefs and responsibilities as the foundation of leadership and prosperity. Part of the global agenda is working towards gender equality which is “at the
heart of an open, inclusive, and just society.” This includes specifically tackling discrimination against LGBTQ+ people (The White House, 2021). The agenda was agreed upon with the participation of then Prime Minister Yoshihide Suga, however, the LGBT Bill proposed by the LDP has not been developed to the same level as the other G7 countries, and even so, it was shelved. According to a survey conducted in 2019 by the Organization for Economic Co-operation and Development (henceforth OECD), “Japan ranked 34th out of 35 countries in terms of LGBTQ+ inclusion legislation, down from 22nd in 1999” (Iizuka, 2023; KYODO NEWS, 2023). In other words, in comparison to most other OECD countries, Japan’s improvement has been limited (OECD, 2020). Looking at Japan’s close neighbors, one finds South Korea in a similar situation and Taiwan which has made significant progress. In contrast to Japan, lawmakers in Taiwan passed a historic law legalizing same-sex marriage, making the island the first place in Asia to do so (Amnesty International, 2022). Taiwan is also the only country in Asia that effectively prohibits discrimination based on sexual orientation. Since 2017, article 7 of the Taiwanese Constitution prohibits discrimination based on sexual orientation. The following statement was made by the Taiwanese justice Yuan: “The five classifications of impermissible discrimination set forth in Article 7 of the Constitution are only exemplified, neither enumerated nor exhausted. Therefore, different treatments based on other classifications, such as disability or sexual orientation, shall also be governed by the right to equality under the said Article” (Hang, 2017).

Although sexual activity between people of the same sex was legalized in 1880 in Japan, the issue of stigmatization results in members of the LGBTQ+ community struggling to come out “even to their families” (Treisman, 2021). Since same-sex people cannot legally get married in Japan, same-sex couples face many obstacles in life, for instance, being refused to visit or not being informed about their partners’ condition in case of hospitalization or having no right to their partners’ inheritance (Dehars & Iskandar, 2020:3369; Yamashita et.al., 2017:69; Marriage for All Japan, 2023). Although there is an option of registering as a same-sex couple on a local level (as of January 10, 2023, 65.2% of local governments recognize same-sex partnerships) and their existence raises awareness, these partnership certificates are not to be compared with formal legal marriage validated by Japanese law nor civil unions as recognized in other countries (e.g. the West and Taiwan) (Marriage for All Japan, 2023). Following a pioneering lawsuit suing the Japanese government in five major

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18 South Korea for instance placed last in an OECD wage gap report (OECD, 2023).
cities for not recognizing same-sex marriage, district courts in Osaka, Sapporo, and Tokyo have delivered their verdicts (JOICFP et al., 2023:10). In a landmark decision on March 17, 2021, the Sapporo district court ruled it unconstitutional to ban same-sex marriage (Dooley & Ueno, 2021). The Sapporo District Court argued that “banning same-sex marriages violates Article 14 of the Japanese constitution, which prohibits discrimination due to “race, creed, sex, social status or family origin.” However, according to Article 24 of Japan’s constitution, marriage is based on the “mutual consent of both sexes.” This is currently understood as relating to heterosexual marriages, and the Sapporo court confirmed that “there was no violation of Article 24” (Treisman, 2021; The Asahi Shimbun Asia & Japan Watch, 2021).

According to Amnesty, “The suit was appealed by the Government and is pending at the high court” (JOICFP, 2023:10). Lawyers argued that “the text of Japan’s constitution was intended to prevent forced marriages, rather than explicitly prohibit same-sex marriage” (Treisman, 2021). Although the Sapporo district court ruled banning same-sex marriage unconstitutional it was followed by both the Osaka district court (June 20, 2022) and Tokyo district court (November 30, 2022) ruling it constitutional (Takahara, 2022; Reuters, 2022). Additionally, in February 2022, at the District Court in Tokyo, the Japanese government declared: “As a marriage requirement, it is crucial whether it is between a male/female couple who have the biological potential for reproduction” (JOICFP, 2023:10).

Moreover, transgender rights are especially revealing with respect to LGBTQ+ rights in general. Officially, changing one’s gender marker has been legal in Japan since 2004, however, the procedure “can result in human rights violations” (JOICFP, 2023:9; Amnesty International, 2017:14-15). That is because the required conditions are, among others, being diagnosed in line with the Gender Identity Disorder (GID) Act, being unmarried, and having gender confirmation surgery which amounts to sterilization surgeries (American Psychiatric Association, n.d.; Amnesty International, 2017:14-15; Japanese Law Translation, 2003).

According to the World Health Organization (WHO)’s interagency statements from 2014, requiring sterilization “is a violation of human rights and runs counter to respect for bodily integrity, self-determination, and human dignity” (World Health Organization, 2014; Nakatsuka, 2021).

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19 It was also found that there was no violation of Article 13 either. Article 13 reads: “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 the public welfare, be the supreme consideration in legislation and in other governmental affairs” (THE CONSTITUTION OF JAPAN, n.d.).

20 “In the upcoming fifth edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM-5), people whose gender at birth is contrary to the one they identify with will be diagnosed with gender dysphoria. This diagnosis is a revision of DSM-IV’s criteria for gender identity disorder and is intended to better characterize the experiences of affected children, adolescents, and adults” (Japanese Law Translation, 2003).
As evident through this section, the current legal rights situation for the LGBTQ+ community lacks in several areas. The following section delves into the public opinion on the matter.

### 2.2 Public opinion on LGBTQ+ rights in Japan

One in every 11 people in Japan is part of the LGBTQ+ community (this figure is equivalent to most developed countries) (Alexy & Cook, 2018). Advertising giant Dentsu Inc. found that 8.9% of respondents in a 2018 survey identified as LGBT (Treisman, 2021; The Japan Times, 2019). Looking at the opinions of the general population, Dentsu found an increase in approval of same-sex marriage, 78% in 2018 and 82% in 2020, and awareness of the term LGBT, 37.6% in 2015 and 80.1% in 2020 (Nikkei Asia, 2021; Dentsu, 2019; Dentsu, 2021). Both surveys showed greater support among young people and women in particular. Furthermore, in the survey from 2020, almost 90% of respondents answered that sexual diversity and LGBTQ+ rights should be taught in schools. Additionally, when answering whether they were taught about LGBT matters in school, only 6.1% of respondents in their 40s and 50s said yes, but there was a slight increase with 24.5% for respondents in their 20s. Finally, nationwide public opinion polls revealed that a significant 88% of respondents supported the implementation of laws and ordinances banning bullying and discrimination in relation to sexual minorities (Human Rights Watch, 2021b; Kunizaki & Tsuboike, 2020).

The presented data showcase a slow but gradual increase in awareness and understanding of the LGBTQ+ community.

### 2.3 Patriarchy and LGBTQ+ rights in Japan

This section explores the relationship between patriarchy and LGBTQ+ rights in Japan. It discusses the complexity of gender, sexual orientation, and identity in Japanese society, highlighting historical shifts and recent changes in attitudes. The *koseki* system’s influence on legal sex definitions is explained, including its impact on same-sex marriage and transgender rights. The declining birth rate is addressed, linking conservative statements against LGBTQ+ rights to concerns about population decline. The political role of the LDP and its associations with religious groups (e.g. the Unification Church) are examined.
2.3.1 Hetero- and homosexuality in Japan

Since around 2000, the academic field of Japanese studies has seen a rise in research on gender, sexual orientation, and Japan’s patriarchy (McLelland, 2004:5). According to sociologist Mark McLelland, Japan is viewed as a homogenous society, where the elite, heterosexually married, white-collar salaryman is the embodiment of Japanese masculinity (McLelland, 2004:3). However, there are, in fact, multiple masculinities and femininities in Japan as well as a range of transgender identities; Japanese sexualities, too, are similarly diverse (McLelland, 2005:4). For instance, “X gender” was a term that introduced non-binary gender identity into the popular discourse and gained growing recognition over the years (Frühstück, 2020:80). Until recently many gay Japanese men who have worked as salarymen were prepared to suppress their sexual identities and live as kakure homo (or hidden homosexuals) in the workplace (McLelland, 2005:8). This could be attributed to the fact that “male homosexuality undoubtedly challenges heterosexual masculinity” in Japan (Zhang, 2019:361). However, factors such as Japan’s economic stagnation and the growing reality of job insecurity that faces most workers have recently led to dissatisfaction with the suppression of more personal, individual traits in favor of workplace harmony (McLelland, 2005:8-9). Young men are increasingly challenging the myth that their lives lived in the workplace should be devoid of “personal” input or that their private selves should be sacrificed in favor of saving public face (McLelland, 2005:9). Although attitudes may be changing in Japan, the existing discourse linking masculinity with being a husband, father, and provider, continues to exert power (McLelland, 2005:10). The heteronormative nuclear family system is still most influential and used by conservative actors in a judgemental way (Nonoyama, 2000:28). However, while the LGBTQIA+ community in Japan is stigmatized and discriminated against currently, during the Edo period (1603-1867), for instance, the so-called wakashu (transl. a young man, a third gender) “were the junior partners in male homosexual relationships, which had a long tradition in the warrior class” (Halley, 2023; Morinaga, 2002:246; Mostow, 2016). Moreover, Japanese narratives of non-normative gender identity and expression such as han’in’yō (“Hermaphrodites”) and hannannya (“half male, half female) have been documented (Frühstück, 2020:78). The knowledge of the past may imply a power to change the conception of genders and the possibility for social

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21 The “gender roles in Edo Japan went beyond the dichotomy of male and female to include what is often referred to as a “third gender:” the Wakashu” (Mostow, 2016).
institutions such as the government to change them. With another discourse prevailing, a
more open-minded and welcoming society could prosper.

2.3.2 Koseki - the Japanese family registry

*Koseki* is the Japanese system for registering family relations and major events in life, such as
birth, marriage, and death (Ministry of Foreign Affairs of Japan, n.d.-b). The system is
centered around the household and individuals are categorized with labels such as husband,
wife, son, or daughter. The system also forms the basis for the legal definition of sex. The
*koseki* system “facilitates a patriarchal, moralistic, and heteronormative approach in defining
what constitutes a legitimate family” (Chapman, 2019:83). In the case of same-sex marriage
in Japan, for instance, there is no law that prevents it, however, the system requests “the
name of the person who will become the wife”\textsuperscript{22} and “the one who will become
the husband.”\textsuperscript{23} This is, as mentioned, generally interpreted as a marriage between a man and a
woman. Marriage is an important right since it provides legitimacy to the relationship and
important rights such as the right to inheritance and recognition of family ties (Chapman,
2019:87). With regard to transgender individuals, couples that satisfy the requirements of
having successfully changed gender/sex are allowed to marry someone who is the same
gender/sex as they were previously. However, to change one’s legal sex the individual has to
be presently single, without children of minor age, and have genitalia similar in appearance to
that of the opposite gender/sex among others (Chapman, 2019:88). Although there is a
legislative change in response to the challenges of diversity, it occurs at a slow pace and is
often rejected by conservative policy makers intent on protecting the status quo (Chapman,
2019:89).

2.3.3 Birth-rate decline

Marking the 1990s, the rapidly declining birth rate turned Japan into “a demographically
stagnating and hyper-aging society” which is currently one of the main issues in Japan
(Chiavacci and Hommerich, 2016:6; McCurry, 2023; JOICFP, 2023:3; Chiavacci &
Hommerich, 2016:6). Although the fertility rate necessary to keep a stable population is 2.1,
the number in Japan has fallen to 1.3 (Yeung & Maruyama, 2023; Ministry of Health,
Labour, and Welfare, 2021). As a result, this demographic trend is highlighted in many

\textsuperscript{22} 妻になる人 [Tsuma ni Naru Hito]

\textsuperscript{23} 夫になる人 [Otto ni Naru Hito]
different contexts including discourses on LGBTQ+ rights. For instance, Japanese LDP lawmaker Kazuo Yana reportedly said during a closed meeting that “LGBT rights go against the preservation of the species” (Zhao, 2021). Furthermore, in 2020, a local LDP politician, Masateru Shiraishi, claimed that if LGBTQ+ people would be legally protected his ward, Tokyo ward, would “cease to exist” (The Japan Times, 2020). Lower house member of the LDP, Mio Sugita, infamously said that LGBT people are not “productive” and so taxpayer's money should not be used to support them (McCurry, 2018). In objection to such statements, Takeru Shimodaira of the Japan Alliance for LGBT Legislation claimed the statement was “based on discrimination and prejudice, as LGBT people are not responsible for Japan’s decreasing birthrate” (Aggarwal, 2020). Shimodaira’s claim is also backed by empirical evidence (Reuters, 2013).

2.3.4 The LDP and “traditional family values”

Many conservative LDP members champion so-called “traditional family values” in which men assume the role of the primary breadwinners while women are primarily responsible for raising children. As pointed out by Hitoshi Komiya, a political historian from Aoyama Gakuin University, the LDP garners its support from individuals who prioritize these traditional family values (Iizuka, 2023). And some supporters do more than vote. There are conservative supporter organizations/associations that fund and collaborate with LDP politicians, potentially influencing politics that way. Former Prime Minister Shinzō Abe, for instance, was the former chairman of the “Nippon Kaigi Diet Member Roundtable,” which is a reportedly highly influential bipartisan federation of Japanese parliamentarians established to support Japan’s largest right-wing conservative group, Nippon Kaigi (Guthmann, 2017; Mag2, 2015). The Nippon Kaigi is an ultranationalistic and ultraconservative group reportedly opposed to feminism and LGBT rights (Robertson, 2013:66; Reischauer Institute of Japanese Studies, n.d.; Guthmann, 2017). Another example is the Shintō Seiji Renmei (the Shinto Association of Spiritual Leadership, Shinseiren for short, which also has a group of lawmakers who align with Shinseiren’s principles, the Shintō Seiji Renmei Kokkai Gi'in Kondankai and has recommended and supported multiple candidates in national elections who hold similar views (Reischauer Institute of Japanes
A pamphlet distributed at a gathering of LDP lawmakers on June 13, 2022, described homosexuality as an “acquired psychological disorder.” The pamphlet contained excerpts from speeches given during study sessions organized by Shinseiren, discussing topics like same-sex marriage (Sugihara, 2022; Weiss, 2018). Finally, many members of the LDP have been tied to the Unification Church (The Holy Spirit Association for the Unification of World Christianity29), a religious association which greatly values the traditional nuclear family and views homosexuality as a “sin” and “sexual perversion” (Melton, 2023; Ontario Consultants on Religious Tolerance, n.d.). The relationship between Japanese politicians (especially the LDP) and the Unification Church30 is frequently highlighted in Japanese news (TBS NEWS DIG, 2023; Inagaki et al., 2022). The Church aligns with conservative family values and concerns about Japan’s demographic challenges. While former Prime Minister Abe was not a member, his family established a political alliance with the Church. This collaboration has been utilized by Abe and the LDP to rally volunteers and voters, forming a significant support bloc. The extent of the Church’s influence over the LDP and Japanese governance remains uncertain (Khalil, 2022). However, with a reported voter base of 50,000 to 80,000, the Unification Church is a big power in elections (TBS NEWS DIG, 2023).

This Background section introduced legal complications confronting the LGBTQ+ community in Japan today, followed by the voice of the population of Japan, and finally the influence of patriarchy on norms and LGBTQ+ rights in Japanese society. The subsequent section introduces the theoretical framework which consists of the field of gender studies, queer studies, LGBTQ+ studies, and human rights studies.
3. Theoretical framework

This thesis locates its case study in the field of gender studies/queer studies/LGBTQ+ studies and human rights studies. The first section introduces central notions of LGBTQ+, gender, and queerness. The second section presents central concepts and institutions of human rights studies, e.g. cultural relativism vs. ethnocentrism. Finally, the third section delves into human rights and LGBTQ+ rights, looking at Universal Periodic Reviews (UPRs), Sustainable Development Goals (SDGs), and LGBTQ+ anti-discrimination laws and ordinances.

There are many different perspectives one could apply to the topic of this thesis, e.g. policy studies, legal studies, civil movement studies, etc. Here the perspectives of human rights and gender/queer/LGBTQ+ studies are used. Adopting a human rights perspective, allows us to analyze the arguments in alignment with international human rights standards while keeping the implications for the LGBTQ+ community in mind. This perspective facilitates an evaluation of the LGBT Bill’s effectiveness in protecting as well as promoting human rights principles. The gender/queer/LGBTQ+ studies perspective is essential for a comprehension of the social and cultural aspects of LGBTQ+ issues. It enables an exploration of power dynamics and societal positions on discourses surrounding gender and sexuality, e.g. heteronormativity. These fields of study help reveal underlying systemic factors that potentially contribute to the marginalization of LGBTQ+ individuals and elucidate a broader context in which the bill was considered and eventually shelved.

Generally, there is not yet much research done regarding the LGBT Bill itself in Japan. The Japanese master’s student Ryō Usukubo wrote about the LGBT Bill in 2021/2022, but while the research orientation is similar to this study, his approach and methodology are different (Usukubo, 2022). Usukubo interviewed activists, analyzed articles using content analysis, and focused primarily on the pro-bill civil rights movement, whereas this thesis applies a wider perspective, considering different arguments (pro and anti) in relation to human rights and gender studies as well as analyzing Twitter posts, newspaper articles, and posts on the LDP website.
3.1 Gender studies/queer studies/LGBTQ+ studies

3.1.1 General overview

Gender studies, queer studies, and LGBTQ+ studies emerged from activism, and overlap in many ways (Dutoya, 2022:35). However, since there are also certain differences between them, each field is also presented separately.

According to English and Women’s Studies scholar Imelda Whelehan and sociologist Jane Pilcher, gender studies emerged in the late 1960s, influenced by second-wave feminism, which critiqued gender inequalities and the exclusion of women’s experiences from academic disciplines (Pilcher & Whelehan, 2004:iix). The term “gender studies” opened up the field beyond women’s studies and men’s studies by including non-heterosexual and non-binary persons in the form of Queer studies (queer theory) and LGBTQ+ studies (Pilcher & Whelehan, 2004:xii; Dutoya, 2022:36-37). All three fields share postmodernist and post-structuralist approaches acknowledging the constructed nature of gender categories, emphasizing diversity, and difference within and between genders (Pilcher & Whelehan, 2004:xii). These three fields of study all emerged in the West, and thus applying the concepts in just any context has been heavily disputed. For example, in exploring the dynamics of knowledge production in gender studies, particularly in the context of the global South, in this case, India, political science research fellow Virginie Dutoya emphasizes the challenges of applying Western terminology or identity categories such as “LGBT” and “queer” without considering local understandings and languages (Dutoya, 2022:29, 38–39). In other words, the act of naming and labeling for academic purposes is recognized as executing power with ethical and political implications (Dutoya, 2022:40). Although brought up in the context of the Global South, India, this perspective on gender studies applies to Japan as well (more on this in section 3.1.2).

As mentioned, the term “gender studies” opened up additional perspectives from Queer Studies among others (Dutoya, 2022:36-37; Pilcher & Whelehan, 2004:xii). Queer studies is grounded in queer theory, a theoretical framework drawing from feminist theory, LGBTQ+ studies, and post-structuralism similar to gender studies, closely associated with scholars like Michel Foucault, Judith Butler, and Eve Sedgwick (Crenshaw, 2016 cited in Amory et.al., 2022:6). According to Calafell and Nakayama, Queer theory emerged in the 1990s aiming to “better understand both how we conceptualize sexualities and how to change them” (Calafell & Nakayama, 2016:1; Queer Theory and Queer Studies, 2023:para.1).
Normativity is central to queer theory, that is, the presumption of a gender binary and sexual and marital relationships between these two genders as most suitable or appropriate (Calafell & Nakayama, 2016:1). The shift from “gay liberation” and “lesbian feminist” movements in the 1960s and 1970s to the “lesbian/gay” movement during the 1980s and later to “queer” reflected important changes in the understanding and organizing around issues of sexuality and gender (Queer Theory and Queer Studies, 2023:para.6). The term “queer” as defined by Sedgwick, “the open mesh of possibilities, gaps, overlaps, dissonances and resonances, lapses and excesses of meaning when the constituent elements of anyone’s gender, of anyone’s sexuality aren't made (or can't be made) to signify monolithically”, provided a definition for a social movement that helped including diverse experiences (e.g., intersex, questioning, and allies) and challenging the dominance of middle-class, white, gay men (Sedgwick, 1993:8; Stonewall, 2023; Calafell & Nakayama, 2016:1; Dutoy, 2022:39-40; Queer Theory and Queer Studies, 2023:para.6). Although the term “queer” has historically had a negative connotation, queer theorists intend to alter this (the acronym “LGBT” is still largely preferred however) (Queer Theory and Queer Studies, 2023:para.10; Calafell & Nakayama, 2016:1). Critics also point out the term’s inaccessibility to non-academic audiences due to its jargon-ridden language (this also applies to non-Western languages such as Japanese (e.g. the word “queer” is not understandable to most).

Finally, according to cultural anthropologist Deborah P. Amory et al., LGBTQ+ studies have gone through different names, starting as gay and lesbian studies, then evolving into queer theory in the 1990s, and now being referred to as LGBTQ+ studies. The field focuses on sexual orientation and gender identity, particularly lesbian (L), gay (G), bisexual (B), trans (T), and queer/questioning (Q) individuals, and their histories and cultures (Amory et al., 2022). Over time, it has expanded to include questioning, intersex, and various other genders and sexualities explaining the added plus sign in the acronym. The field employs interdisciplinary methods and is closely connected to political activism. LGBTQ+ studies advocate the belief that discrimination against sexual and gender diversity is unjust (Amory et al., 2022:5). An integral aspect of these fields of studies is the application of intersectionality, which “emerged in the 1980s as Black lesbians critiqued racism within the

31 “A term used to describe a person who may have the biological attributes of both sexes or whose biological attributes do not fit with societal assumptions about what constitutes male or female” (Stonewall, 2023).
32 “The process of exploring your own sexual orientation and/or gender identity” (Stonewall, 2023).
33 “A (typically) straight and/or cis person who supports members of the LGBT community” (Stonewall, 2023).
34 The word “queer” in this case is different from the umbrella term that encompasses all LGBTQ+ individuals, but rather refers to “a term used by those wanting to reject specific labels of romantic orientation, sexual orientation and/or gender identity” (Stonewall, 2023).
white women’s movement (and women’s studies) and sexism and homophobia among Black activists (and in Black studies)” (The Combahee River Collective, 1983, cited in Amory et al., 2022:6; Dutoya, 2022:34; Pilcher & Whelehan, 2004:xii). Intersectionality can be defined as a “complex, cumulative way in which the effects of multiple forms of discrimination (such as racism, sexism, and classism) combine, overlap, or intersect especially in the experiences of marginalized individuals or groups” (Merriam-Webster, n.d.-d).

Although LGBTQ+ and queer studies/theory are often used interchangeably, there are differences in genealogies and approaches. LGBTQ+ studies “grounded their arguments for the construction of LGBTQ+ identities more in Marxist or Marxist-feminist frameworks” and empirical historical research, while queer theorists, influenced by Michel Foucault, “emphasize the disciplinary and productive aspects of discourses about sexuality and gender” (Queer Theory and Queer Studies, 2023:para.12). LGBTQ+ studies focus on structural forces shaping identities, while queer theory explores the poststructural aspects of how discursive practices connect structures and individual experiences. However, “the best work in each field tends to elide the distinction between them” recognizing the overlap of material and discursive elements (Queer Theory and Queer Studies, 2023:para.12).

3.1.2 Gender studies/queer studies/LGBTQ+ studies in Japan

In “From Women’s Studies to Queer Studies: bending epistemology” social and historical anthropologist Aline Henninger explains the emergence and development of gender studies, lesbian and gay studies and queer studies in Japan, shedding light on the epistemological shifts that occurred within these fields (Hennigner, 2021:1-2).

The transformation of the Japanese family began in the Meiji period during the 1870s with social and legal changes (Hennigner, 2021:3). Despite the “good wife, wise mother” ideal, some women engaged in public activities and criticized limited freedoms in the 1880s. During the late Meiji and Taishō period (early 20th century) intellectuals and socialists advocated for women’s liberation and the “woman question” (fujin mondai in Japanese) discussions gained traction, e.g., women’s status and rights. Literary circles emerged in the late 1900s and 1910s, with Bluestocking magazine being a prominent platform linking politics and literature in the early women’s movement. The socialist movement significantly influenced this discourse, drawing parallels with debates in Europe during the late 1800s (Hennigner, 2021:3). The term “research on the woman question” emerged in the 1920s, spanning topics from suffrage to work conditions, largely from a Marxist perspective.
This research, however, lacked an interdisciplinary approach focusing on issues echoed in first-wave feminism, e.g. women’s right to vote and run for office eventually achieved in 1946 (Hennigner, 2021:4).

The achievement of women's civil rights in 1946 marked a turning point in Japan’s legal framework, presenting gender equality as attainable. The new Constitution contained principles of gender equality, prompting changes in marital definitions, divorce norms, and coeducational institutions (Hennigner, 2021:4). The “second wave of feminism” emerged in the late 1960s, focusing on work, independence, and sexual fulfillment, echoing the Western Women's Liberation Movement (Hennigner, 2021:5). This movement led to the establishment of women’s studies in the 1970s, which focused on gender relations from a feminist perspective that investigated the underlying causes of gender inequality (Hennigner, 2021:5-6). The second wave of feminism in Japan challenged the limitations of left-wing ideology in achieving women’s liberation. Marxist perspectives nonetheless persisted in women’s studies until the 1980s, highlighting unpaid women’s work in the private sphere. Women's studies in this period embraced diverse feminist ideologies, generating literature on women’s history and empowering female scholars to establish autonomy in knowledge creation (Hennigner, 2021:6).

In the 1980s and 1990s, Japan transitioned from women’s studies to gender studies (Hennigner, 2021:6). Gender studies challenged Marxist approaches, highlighting power dynamics and deconstructing the notion of “woman” as a social construct contrasting with a naturalist view (Hennigner, 2021:6-7). It gained importance as a tool to analyze class, race, and societal structures (Hennigner, 2021:7). Despite initial skepticism and debates, gender studies became institutionalized in Japan during the 1990s and extended its influence beyond academia into social, political, and media spheres (Hennigner, 2021:7-8). Japan also faced media coverage of evolving family dynamics due to declining birth rates and the idea of “non-marriage,” while economic difficulties in the “lost decade” prompted a reconsideration of conventional male roles. This shift prompted a reevaluation of gender equality, leading to government actions and impacting public policy, marking the institutionalization of feminism and its influence on societal norms (Hennigner, 2021:8).

Gender studies in Japan gave rise to “lesbian and gay studies” in the late 1990s, challenging traditional views on sexuality, e.g., homosexuality as a pathology (Hennigner, 2021:8-9). This field emerged through collaboration between scholars and LGBTQ+ activists, exploring various non-heterosexual practices and influencing feminist and LGBTQ+ movements (Hennigner, 2021:9-10). In Japan, significant LGBTQ+ groups emerged,
bringing more visibility than earlier gay and lesbian circles. However, media representation of LGBTQ+ individuals remained limited despite a “gay boom.” Concerns over the HIV epidemic in the 1990s led to an “AIDS panic” with a lasting stigma, prompting certain LGBTQ+ groups to focus on AIDS prevention partly funded by the Ministry of Health, Labour, and Welfare (MHLW) (Hennigner, 2021:10). In the 2000s, the focus expanded to include sexual norms, and terms like LGBT, LGBTQ, and LGBTQ+ studies gained prominence. Militant feminist and LGBTQ+ movements adopted the term “sexual minority” to encompass diverse non-heteronormative sexualities. They pursued legal recognition to combat discrimination, leading to changes like pride parades, condemning homophobia, and allowing sex-change operations. In the 2010s, same-sex parenting and partnerships gained attention, with growing media use of “LGBT” indicating increased societal visibility. Japanese lesbian and gay studies emerged, influencing local politics and advancing support for sexual minority rights. Collaborations between scholars and activists emerged despite differences, and although influenced by English-language research, this field’s growth is deeply rooted in Japanese history and society, uncovering unexplored topics for gender and LGBTQ+ studies (Hennigner, 2021:11).

The introduction of “queer studies” in Japan, which emerged from feminism and LGBTQ+ studies, was also influenced by US queer theory. It challenges fixed identity politics and rejects static categories like heterosexuality and homosexuality. Originating from a 1990 conference and popularized by Judith Butler’s book “Gender Trouble,” queer theory’s impact in Japan was aided by translations of these key texts (Hennigner, 2021:12-13). The movement gained momentum in the early 2000s with the publication of the book “Kuia Sutadīzu” by Kazuya Kawaguchi. The Japan Association for Queer Studies was established in 2007, marking the institutionalization of queer theories in Japan. However, despite its influence, queer theory remains relatively unknown in broader academia (Hennigner, 2021:13). Its interdisciplinary approach has expanded the understanding of sexuality and identity in various fields, like men’s studies, biology, history, and sociology, enhancing gender and LGBTQ+ studies in Japan (Hennigner, 2021:13-14).

3.2 Human rights studies

This section presents central concepts and institutions of human rights studies (e.g. cultural relativism vs. ethnocentrism) in general and zooming in on Japan.
3.2.1 General overview

In this section, a summary of human rights according to the academically substantiated encyclopedia Stanford Encyclopedia of Philosophy (last revised 2019) is presented because they represent the most widely shared notions (Nickel, 2019:section 1-4). The summary focuses on 1) the concept of human rights, 2) which rights are human rights, and 3) universal human rights in a world of diverse beliefs and practices. Topics such as environmental rights were left out of this summary since it does not relate to this study’s objective.

Human rights are principles aimed at protecting all individuals from political, legal, and social abuses. There are four defining features to the concept of human rights.

1) **Human rights are rights.** Human rights are primarily “claim rights that impose duties” on individuals or institutions. They aim to protect and provide freedom, status, and benefits (Nickel, 2019:section 1). While some may argue that “goal-like rights are not real rights”, it is more constructive to acknowledge them as a weaker but still valuable concept of rights. Human rights norms can exist as 1) shared norms of human moralities, 2) morally justified norms supported by compelling reasons, 3) legal rights at the national level (referred to as “civil” or “constitutional” rights), or 4) legal rights within international law.

2) **Human rights are plural.** While some argue that “there is one abstract underlying right that generates a list of specific rights”, the prevailing understanding is that human rights encompass a range of specific issues and challenges. Some philosophers propose shorter lists of human rights but still accept plurality (Nickel, 2019:section 1).

3) **Human rights are universal.** Human rights are applicable to all living individuals, regardless of nationality, religion, or any other specific criteria. The concept of universality implies that human rights exist independently of a person’s country or culture. However, certain rights like the right to vote are limited to adult citizens or residents and are specific to one’s own country.

4) **Human rights have high-priority.** Maurice Cranston emphasized the significant importance of human rights and considered violations a serious injustice (Nickel, 2019:section 1). Although human rights are not absolute, they are granted a high priority, allowing them to compete with other influential considerations (e.g., national stability and security). According to James Griffin, human rights should be resistant to trade-offs but not excessively so (Nickel, 2019:section 1). Additionally, there may be variations in priority among different human rights (e.g., in cases of conflict, the right to life often takes precedence over the right to privacy).
Determining which rights are human rights is a complex task, and there is ongoing pressure to expand the scope of human rights to cover new areas of concern (Nickel, 2019:section 3). The 1948 Universal Declaration of Human Rights (hereafter UDHR) can be regarded as the main document in activism for human rights (Roth, 2007:43). It consists of six main categories: security rights, due process rights, liberty rights, political rights, equality rights, and social rights. Additionally, subsequent treaties have introduced a seventh category of minority and group rights, which protect the rights of “women, racial and ethnic minorities, indigenous peoples, children, migrant workers, and the disabled.” UDHR includes social rights, which pertain to matters such as non-discrimination, equality for women, health services, and education. Social rights are addressed in a separate treaty, the International Covenant on Economic, Social, and Cultural Rights (ICESCR) adopted in 1966 (Nickel, 2019:section 3.2).

Ethical and philosophical discussions bring complexities to the discourse on human rights (Roth, 2007:33). In a world of diverse beliefs and practices two common concerns appear: cultural relativism and ethnocentrism (Nickel, 2019:section 4). Cultural relativism argues that ethical, political, and legal standards are shaped by the traditions, beliefs, and conditions of a particular country or region, leading to diverse practices and norms. Relativists accuse human rights advocates of ethnocentrism and cultural imperialism, asserting that universal human rights fail to accommodate the diversity of cultures (Nickel, 2003:section 4; Oxford reference, n.d.). This can be compared to how the issue of gender theory created in western countries is applied to the global south as mentioned in section 3.1.1. Relativists often view morality as socially constructed, while human rights advocates tend to assume “cognitivism, moral realism, and intuitionism” (Merriam-Webster, n.d.-a; Merriam-Webster, n.d.-b; Merriam-Webster, n.d.-c; Hale, 2020, para 1-17).

The debate on cultural relativism and universalism in relation to human rights has been extensively discussed. But is there an approach that would go beyond the existing frameworks of universalism and relativism? Neary suggests a compromise between the two extremes. This stance sees human rights as “relatively universal.” It acknowledges some

35 “Belief, often unconscious, in the superiority of one's own ethnic group or the universality of one's own culture-bound practices and preferences” (Oxford reference, n.d.).
36 Cognitivism is “the ethical theory of a cognitivist”, that is, “an ethicist who holds that genuine ethical judgments are cognitive or empirically confirmable” (Merriam-Webster, n.d.-a; Merriam-Webster, n.d.-b). In accordance with Moral realism “statements about what actions are morally required or permissible and statements about what dispositions or character traits are morally virtuous or vicious (and so on) are not mere expressions of subjective preferences but are objectively true or false according as they correspond with the facts of morality—just as historical or geographic statements are true or false according as they fit the historical or geographic facts” (Hale, 2020, para 1-17). Intuitionism is “a doctrine that right or wrong or fundamental principles about what is right and wrong can be intuited” (Merriam-Webster, n.d.-c).
degree of universal applicability while also respecting cultural contexts and variations (Neary, 2003:5).

3.2.2 Human Rights in Japan

Although published twenty years ago, the chapter “Human Rights in Japan” in the book “Human Rights in Japan, South Korea and Taiwan” by Ian Neary provides a background significant for this study (Neary, 2003).

The defeat of Japan by the Allies in World War II led to the rejection of nationalist authoritarian ideas that had been promoted by the civil and military bureaucracy (Neary, 2003:15). In the Potsdam Declaration, the Allies aimed to demilitarize and democratize Japan to prevent future threats to international peace, and the USA took on the main responsibility for governing Japan during the occupation period from 1945 to 1952 (Neary, 2003:15). Liberal democratic principles were introduced, but the bureaucracy largely remained unaffected by the reforms (Neary, 2003:16). The Japanese constitution was revised to one emphasizing pacifism, human rights, and the authority of the people rather than the Emperor (Neary, 2003:17-18). Some critics argue that the constitution’s universalistic approach to human rights could be seen as a form of cultural imperialism since it was mainly written by the US Army (Neary, 2003:18). On the other hand, public opinion largely supported the new constitution, and its continuity was driven by Japanese society’s energy, even though American influence played a role initially during the occupation (Neary, 2003:20).

In the late 1980s and early 1990s, Japan faced criticism for its hesitance to ratify international human rights conventions, but its attitude changed due to factors such as the pursuit of a permanent seat on the UN Security Council (Neary, 2003:50). Consequently, Japan ratified human rights treaties, provided more extensive reports to the UN, and saw increased cooperation between Non-Governmental Organizations (hereafter NGOs) and the government (Neary, 2003:50-51). Various laws were passed, including the Law for the Promotion of Human Rights Protection in 1996, and initiatives were taken at both central and local government levels to promote human rights education and address discrimination (Neary, 2003:63-64). Human rights NGOs became more active in critiquing government reports and fostering dialogue, leading to diverse perspectives on human rights issues in Japan (Neary, 2003:52). Amnesty International among others played an active role in advocating for human rights and monitoring policy implementation (Neary, 2003:64).
One specifically interesting point mentioned by Neary is that Japan took a universalist view in opposition to some Asian countries (e.g., China, Singapore, and Malaysia) emphasis on “Asian Values” (Neary, 2003:1, 50). These values refer to a set of cultural beliefs and practices emphasizing the importance of families and communities, prioritizing social harmony over individual freedoms, respect for political leaders and institutions, and promoting responsibility, hard work, and thriftiness as pathways to societal advancement (Nickel, 2019:section 4). In the 1990s, figures like Mahathir Mohamad, Lee Kuan Yew, and Ishihara Shintaro promoted the concept of “Asian values” (Avenell, 2014:1603). They highlighted traits like collective community, order, and harmony, as well as an emphasis on hard work and respect for political leadership (Avenell, 2014:1603). Also, to prioritize the needs of the larger community over personal desires (Neary, 2003:5). The discourse asserted that these values were responsible for East Asia’s economic success and marked a shift in influence from the West to the East (Avenell, 2014:1603). However, this concept faced challenges and criticism, especially after the Asian Financial Crisis of 1997 (Avenell, 2014:1603). Critics challenged the Asian values thesis, noting the diversity of beliefs within Asia and the universality of certain cultural approaches to individuality and society (Neary, 2003:5). Western countries often view these positions as justifications for repression and human rights have gained widespread acceptance globally, and globalization has led to a convergence of practices and influences among different cultures (Nickel, 2019:section 4).

### 3.3 Human rights and LGBTQ+ rights

This section delves into the relationship between human rights and LGBTQ+ rights, introducing the Yogyakarta Principles as a global guide, the prohibition of discrimination based on SOGI in international law, and the UN’s stance on protecting LGBTQ+ individuals. It highlights Japan’s progress, including its participation in the Universal Periodic Review (UPR) and commitment to Sustainable Development Goals (SDGs). Finally, anti-discrimination laws and ordinances are mentioned with a focus on the current situation in Japan.

**Yogyakarta Principles**

In response to the discrimination and abuse directed at specifically the LGBTQ+ community, a group of international human rights experts convened in 2006 in Yogyakarta, Indonesia. The purpose of the gathering was “to outline a set of international principles relating to
sexual orientation and gender identity” and so the Yogyakarta Principles were created. The Yogyakarta Principles is “a universal guide to human rights which affirm binding international legal standards with which all States must comply.” The hope is that these principles will lead to a future where all people can be “born free and equal in dignity” which will be achieved by the implementation of legal rights. In short, “the Yogyakarta Principles address a broad range of international human rights standards and their application to SOGI issues” (ARC International, n.d.). A few years later on November 10, 2017, experts added “Additional Principles and State Obligations on the Application of International Human Rights Law in Relation to Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics” to the Yogyakarta Principles. It was named the YP plus 10 document, and it reflected “developments in international human rights law and practice since the 2006 Principles.” That is, more specifically, “the emerging understanding of violations suffered by persons on grounds of sexual orientation and gender identity and the recognition of the distinct and intersectional grounds of gender expression and sex characteristics.” The YP plus 10 document also includes “111 ‘additional state obligations’, related to areas such as torture, asylum, privacy, health and the protection of human rights defenders” (Yogyakartaprinciples, 2016).

**Anti-discrimination laws and the LGBTQ+ community**

In accordance with international law, discrimination on the basis of sexual orientation or gender identity is prohibited. Under Article 26 of the UDHR, “everyone is equal before the law and is entitled without discrimination to the equal protection of the law” (Amnesty International, 2017:8). Moreover, Article 2 of the UDHR, as well as the International Covenants on Civil and Political Rights (ICCPR), and International Covenants of Economic, Social and Cultural Rights (ICESCR), clearly states that discrimination based on “race, sex, language, religion, political or other opinion, national or social origin, birth or other status” is against the Human Rights (Amnesty International, 2017:8). Although not mentioned explicitly, sexual orientation and gender identity falls under the category of “other status” and has, for instance, been interpreted in that way by the Human Rights Committee on two occasions (UN Human Rights Committee, 1989; Amnesty International, 2017:8).

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37 Discrimination is defined by International law as follows: “Any distinction, exclusion, restriction or preference or other differential treatment that is directly or indirectly based on a prohibited ground of discrimination and that has the intention or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of rights guaranteed under international law” (Amnesty International, 2017:9).
Since the early 1990s, the United Nations’ human rights mechanisms have brought attention to discrimination, specifically regarding LGBTQ+ people. The mechanisms that are used to inform the UN are “the treaty bodies established to monitor States’ compliance with international human rights treaties, Special Rapporteurs, and other Independent Experts appointed by the Human Rights Council. For decades, several High Commissioners for Human Rights, UN Secretaries-General and other senior UN officials have expressed similar concerns” (OHCHR, n.d.).

According to the UN, “protecting LBTGI people from violence and discrimination does not require a new set of human rights laws or standards” since states are legally obliged to according to international human rights law. That is, obliged to adhere to the UDHR and “other international human rights treaties” (OHCHR, n.d.).

In line with the UN statement, “the core legal obligations of States with respect to protecting the human rights of LGBT people include obligations to” (OHCHR, n.d.):

- Protect individuals from homophobic and transphobic violence
- Prevent torture and cruel, inhuman and degrading treatment
- Repeal laws criminalizing same sex relations and transgender people
- Prohibit discrimination based on sexual orientation and gender identity
- Safeguard freedoms of expression, association and peaceful assembly for LBTGI people

As made clear in the UN statement, in accordance with International human rights standards, states are expected to prohibit discrimination based on SOGI. In other words, the fact that there is no such law in Japan is clearly against human rights.

3.3.1 Human rights and LGBTQ+ rights in Japan

3.3.1.1 Universal Periodic Review (UPR)

For the 42nd Session of the UPR review this year (2023), nine “national, regional, and international civil organizations made a joint stakeholder report submission on Sexual and Reproductive Health and Rights in Japan” (JOICFP et al., 2023:9). As part of the introduction it is stated that “SRHR issues gain little spotlight because of women’s underrepresentation in decision-making, especially in legislative bodies. This is strongly reflected by the absence of a comprehensive anti-discrimination law and a national human rights institution (equality body) in Japan.” In the cycle of 2017, Japan received several recommendations on eliminating discrimination based on SOGIE. The Japanese government responded by stating
that “human rights violations based on sexual orientation and gender identity should not be tolerated” (JOICFP et al., 2023:10). However, the Japanese government has not realized any of the recommendations and the response has reportedly been “unclear” or “partially accepted” (JOICFP et al., 2023:9). In other words, Japan has a long way to go before reaching human rights for all.

3.3.1.2 Sustainable Development Goals (SDGs)

The Ministry of Foreign Affairs states on its website that “Japan makes utmost efforts to implement the 2030 Agenda with international community based on the concept of human security” [sic] (Ministry of Foreign Affairs of Japan, n.d.-a).

The 2030 Agenda contains the SDGs, 17 goals to “eradicate poverty and realize a sustainable world” (Ministry of Foreign Affairs of Japan, n.d.-a). Since 2018, the SDGs logo and goals have been increasingly featured in advertisements and promotions, including large corporations such as Sumitomo Group and Mitsubishi (Sumitomo Group Public Affairs Committee, n.d.; Mitsubishi Electric Sustainability, n.d.). In the progress report, goal 5, Gender equality, is marked with red (Major challenges remain), and goal 10, Reduced inequalities, are marked with orange (Significant challenges remain) (Think MIRAI, n.d.; Sachs, Lafortune, & Kroll, 2022:21).

3.3.2 LGBTQ+ anti-discrimination laws and ordinances

As stated on the official website of the UN, “All States are obligated under International human rights law to promote and protect the human rights of all persons without discrimination” (OHCHR, n.d.). Since Japan committed to the above-mentioned human rights treaties, the nation is bound by duty to “ensure that the right to be free from discrimination is enjoyed by everyone within its jurisdiction.” That is, each state is obligated to 1) “tackle both direct and indirect discrimination against all persons, including LGBT and intersex persons,” 2) “ensure that laws, policies and programs executed by State authorities do not discriminate against individuals,” 3) “address discriminatory practices, including by private actors,” and 4) “take action to prevent, diminish and eliminate the conditions and attitudes that contribute to substantive or de facto discrimination” (Amnesty International, 2017:9). However, as

38 In Japanese: ジェンダー平等を実現しよう（ジェンダーの平等を達成し、すべての女性と女児のエンパワーメントを図る）[Jendā Byōdō o Jitsugenshiyō (Jendā no Byōdō o Tasseishi, Subete no Josei to Jōji no Empawamento o Hakaru]

39 In Japanese: 人や国の不平等をなくそう（国内および国家間の格差を是正する）[Hito ya Kuni no Fubyōdō o Nakusō (Kokunai Oyobi Kokkakan no Kakusa o Zeseisuru]
mentioned, there are currently no laws to protect the LGBTQ+ community from
discrimination in Japan (Sasayama et.al., 2022:132; Iizuka, 2023). The absence of a law that
protects LGBTQ+ people has contributed to a lack of policies dealing with problems facing
sexual minorities (Asahi, 10/5-2021).

3.3.2.1 Anti-discrimination Laws in Japan

Several laws have already been enacted that prohibit discriminatory treatment: 1) the Gender
Equality In Employment Act\textsuperscript{40} which prohibits discriminatory treatment based on gender in
the employment field, 2) the Act on the Promotion of Ainu Culture\textsuperscript{41} which prohibits
discrimination on the grounds of being Ainu, and 3) the Basic Act for Persons with
Disabilities\textsuperscript{42} and Disability Discrimination act\textsuperscript{43} which prohibits discriminatory treatment on
the grounds of disability. Similarly to the LGBT Bill, the Basic Act for Persons with
Disabilities can be defined as a “principle law,”\textsuperscript{44} but contrary to the LGBT Bill, “prohibition
of discrimination” is clearly stated (Matsuoka, 2023).

2.3.2.2 LGBTQ+ anti-discrimination ordinances in Japan

Although there is no law prohibiting discrimination against LGBTQ+ people in Japan, some
prefectures have issued ordinances banning discrimination (Osumi, 2018). The first ordinance
was enacted on October 5, 2018 by the Tokyo metropolitan government. The ordinance
entails conducting public education related to LGBTQ+ rights, upholding “the goal of the
Tokyo Metropolitan Government to make Tokyo a city that upholds the human rights values
of banning any sort of discrimination as stated in the Olympic Charter” (Human Rights
Watch, 2023). Following Tokyo’s lead were Ibaraki (March 25th 2019) (The Sankei News,

Other examples are: 1) The Ministry of Health, Labor and Welfare added
discrimination based on SOGI in its “Model Rules of Employment (Nijiiro, 2019),” 2) The
Education Ministry added sexual orientation and gender identity to its national bullying
policy in 2017 (Human Rights Watch, 2020a), 3) The Tokyo Metropolitan government’s
policy from 2000 which “pledge to protect and promote human rights, including the rights of
transgender people and homosexuals” (Human Rights Watch, 2020b), and 4) MHLW and the

\textsuperscript{40} \textit{男女雇用機会均等法} [Danjo Koyō Kikai Kintō Hō]
\textsuperscript{41} \textit{アイヌ施策推進法} [Ainu Shisaku Suishin Hō]
\textsuperscript{42} \textit{障害者基本法} [Shōgaisha Kihon Hō]
\textsuperscript{43} \textit{障害者差別解消法} [Shōgaisha Sabetsu Kaishō Hō]
\textsuperscript{44} \textit{理念法} [Rinen Hō]
Ministry of Education, Culture, Sports, Science and Technology (MEXT) “issued ministerial regulations and formal notices requiring for the first time that corporations, local governments, and schools take actions to prevent sexual orientation and gender identity harassment and publicly outing a person as LGBT” in May 2019 (Human Rights Watch, 2021c).
4. Material and Analytical method

4.1 Material

The materials were selected with the aim of the thesis in mind, namely, how – and why – the LGBT Bill was shelved in 2021. That is, tracing how it came to be shelved, and pondering reasons why with regard to human rights and gender studies. To capture the different facts, opinions, and perspectives surrounding the shelving, anti-bill arguments within and outside the LDP, and pro-bill arguments in, and associated with, the LGBTQ+ movement including the LDP are investigated. Consequently, the materials are collected from three different sources representing both sides: 1) posts from the Twitter page of the LGBTQ+ activist organization J-All, 2) articles from two of Japan’s largest newspaper distributors *Asahi Shimbun* and *Yomiuri Shimbun*, and 3) articles from the news section on LDP’s website. The materials were published between January 26 and July 23. The date January 26 was chosen because Humans Rights Watch published an official letter to then Prime Minister Suga pleading to have him enact an LGBT Equality Law before Japan hosts the Olympic and Paralympic Games that day. Moreover, although the bill was shelved in late May since protests, arguments, and hope remained until July the time frame chosen was until July 23, the start date of the Olympic and Paralympic Games.

Any post or publication not mentioning the LGBT Bill or anti-discrimination bill was excluded from the sample. The first intention was also to analyze material reaching back to 2020 when J-All, HRW, All Out, and Athlete Ally created the campaign Equality Act Japan in Japanese and English to support a law prohibiting discrimination on the basis of sexual orientation and gender identity (Human Rights Watch, 2021b). However, because of the limited time frame, the choice was made to refrain from it.

Hereinafter follows information on how the sources were found and accessed: 1) The Twitter account of J-All was found when googling Japan Alliance for LGBT Legislation and was accessed through my own personal Twitter account. 2) The articles from the newspaper distributors *Asahi* and *Yomiuri Shimbun* were both found and accessed using the Asiaportal database offered by Stockholm University. Both Japanese articles and English articles from *Asahi Shimbun* specifically were found through the *Asahi Shimbun* Cross-search and *Yomiuri Shimbun* articles were found at ヨミダス歴史館 [Yomidasu Rekishikan] Yomiuri database service. 3) The articles from the news section of the LDP were found on LDP’s website and
were easily accessible by clicking on the news section and then pressing the button to search. Hereinafter follows an introduction of each source and reasons for why the source itself was chosen.

### 4.1.1 Twitter page of J-all

The main reason the Twitter page of J-All was selected as a main source for collecting material was that they were one of the prominent activist actors engaging in the process surrounding the shelving of the LGBT Bill. J-All is an umbrella organization representing 97 other LGBTQ+ rights groups and was also one of the four organizations behind the Equality Act Japan (EqualityActJapan, 2022). The other three groups were also considered but since J-All is the only fully Japanese organization, J-All was chosen. Moreover, they frequently retweeted about the circumstances concerning the LGBT Bill and shared their own views on the issue. Although they have other forms of media outlets, their Twitter page was chosen since it is their main information outlet and the platform is the third most popular in Japan second only to Youtube and LINE (Joyce, 2022). Their account name is the following: LGBT法連合会 [LGBT Hō Rengōkai] (Japan Alliance for LGBT Legislation, @lgbthourengokai).

The table below shows the number of posts relating to the LGBT Bill or the shelving per month between January 26 and July 23.

<table>
<thead>
<tr>
<th>J-All Twitter</th>
<th>Posts related to the LGBT Bill</th>
</tr>
</thead>
<tbody>
<tr>
<td>January</td>
<td>2</td>
</tr>
<tr>
<td>February</td>
<td>2</td>
</tr>
<tr>
<td>March</td>
<td>19</td>
</tr>
<tr>
<td>April</td>
<td>12</td>
</tr>
<tr>
<td>May</td>
<td>21</td>
</tr>
<tr>
<td>June</td>
<td>42</td>
</tr>
<tr>
<td>July</td>
<td>3</td>
</tr>
</tbody>
</table>

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45 **ニュース** [Nyūsu]
46 **検索** [Kensaku]
4.1.2 Articles from Asahi Shimbun and Yomiuri Shimbun

Articles from the newspaper distributors Asahi and Yomiuri Shimbun were chosen as they are two of the five leading national daily newspapers in Japan, and since they represent two different perspectives of the media, the center-left (Asahi Shimbun) and conservative (Yomiuri Shimbun) (Hollstein, 2008:99). Both material from Japanese and English news were included to find both more conservative and progressive perspectives in the news reports. The search words were LGBT Bill and LGBT法案 [LGBT Hōan] (the LGBT Bill). The results show that there were significantly fewer English articles in comparison to Japanese and that the center-left Asahi Shimbun had ca. 67% more Japanese articles about the LGBT Bill than Yomiuri Shimbun (27 vs 8). Regarding English articles in Yomiuri Shimbun, no articles were found when searching for the “LGBT Bill” in comparison to the four found in the Asahi archives. When using “LGBT” one article was found (Editorial, Yomiuri, March 20, 2021). It was about proposals for local communities made by high school students from Japan which included a diverse employment system for LGBTQ+ people. The lower number of articles published by Yomiuri in comparison to Asahi may indicate a lower interest in the subject.

<table>
<thead>
<tr>
<th>Newspaper (26/1-23/7 2021)</th>
<th>Asahi Shimbun</th>
<th>Yomiuri Shimbun</th>
</tr>
</thead>
<tbody>
<tr>
<td>English (LGBT Bill)</td>
<td>4</td>
<td>0</td>
</tr>
<tr>
<td>Japanese (LGBT法案)</td>
<td>27</td>
<td>8</td>
</tr>
</tbody>
</table>

4.1.3 Articles from the news section on LDP’s website

Articles from the news section on LDP’s website became part of the sample selection as it is the political party in power and the party which brought forth the LGBT Bill (LDP, n.d.). The words chosen as search words were, LGBT Bill and LGBT法案 [LGBT Hōan] (the LGBT Bill). Searching using the keywords “LGBT法案” and “LGBT Bill” gave no results thus the search was extended by using only the keyword “LGBT” to which 5 results appeared. Two of the results entailed the composition “LGBTの法案” [LGBT no Hōan]. The English version of the site offered no articles on LGBT at all.
4.2 Analytical method

The method used in this study is one form of discourse analysis, namely, Critical Discourse Analysis (hereafter CDA) as outlined by Norman Fairclough. Critical Discourse Analysis is not a single approach but rather encompasses various critical approaches. The most prominent scholars contributing to the different perspectives and ideas of CDA have been Norman Fairclough, Ruth Wodak, and Teun van Dijk. Although there are many different angles displayed by authors of CDA theory, most authors agree on one important aspect, namely, “the view of language as a means of social construction: language both shapes and is shaped by society” (Machin & Mayr, 2012:4). The focal point of CDA is not the “language use itself,” but rather “the linguistic character of social and cultural processes and structures” which is in line with the queer studies approaches introduced above. In CDA power relations are considered discursive. That is “power is transmitted and practiced through discourse.” This enables us to investigate “how power relations are exercised and negotiated in discourse” (Machin & Mayr, 2012:4). Moreover, several authors also “emphasize the need for analysis to draw on a range of (linguistic) methods to research things like the production and reception of texts” (Machin & Mayr, 2012:4). Overall, CDA seeks to critically analyze language use, expose power dynamics, and contribute to social change by promoting more equitable communication and power relations.

4.2.1 Fairclough’s Critical Discourse Analysis

The approach taken in this study is the one of Fairclough. Fairclough’s approach to discourse analysis combines three traditions: detailed textual analysis within linguistics, the micro-sociological interpretative tradition within sociology, and macro-sociological analysis of social practice (including Foucault’s theory) (Fairclough, 2006:72). By integrating textual and social analysis, Fairclough aims to understand how discursive processes operate in
specific texts and their links to societal and cultural processes and structures (Fairclough, 2006:71-72). “Structures”, however, is a contested word and leads us to post-structuralist criticism directed towards Fairclough’s CDA, or more specifically the structuralist approach it entails. Structuralism suppose that by examining numerous instances of a phenomenon one can identify “general laws and principles” that can be applied to all cases of that phenomenon. In contrast, post-structuralism stresses the “uncertainty of knowledge (particularly knowledge in language)” and proposes that “truth” is not static, but rather “constantly changes based on your cultural, political, social, and economic position in the world” (Quiogue Andrews, n.d.). Post-structuralism maintains “individual meaning and values” are derived from the environment they originate in, as well as from the “common meanings of a group of individuals.” As a result, “their reality is contextualised and socially constructed, and mediated by language and discourse” (Myburgh & Tammaro, 2013). In structuralism, however, the system is regarded as absolute, “with no grounding in subjectivity.” Post-structuralist criticism on this matter often relates to questioning the idea that “systems are self-sufficient structures” and “the possibility of the precise definitions on which systems of knowledge must be based” (Gutting, 1998).

However, ultimately, the choice to use Fairclough’s framework can be justified by its comprehensive nature, its focus on power relations and social context, and its practical applicability. Fairclough’s methodology was developed at a different point in time, and as demonstrated in the analysis, the three-dimensional model is still relevant and useful to guide the focus. Fairclough also encourages a large set of texts which goes well with this study since the number of articles I collected was 145. However, the analysis will only entail selected segments pertaining to the main themes found.

4.2.2 Fairclough’s three-dimensional model

Fairclough’s three-dimensional model provides an analytical framework for understanding the relationship between language use and social practice (Jorgensen & Phillips, 2002:66). The model highlights three key functions of discourse: identity, relational, and ideational functions. That is, it emphasizes that discourse contributes to the construction of social identities, social relations, and systems of knowledge and meaning (Jorgensen & Phillips, 2002:67).

The model consists of two dimensions: the communicative event and the order of discourse. The communicative event refers to a specific instance of language use (e.g.
newspaper article or a political speech) (Jorgensen & Phillips, 2002:67). Communicative events can both reproduce and change the order of discourse through creative language use (Jorgensen & Phillips, 2002:71). The order of discourse refers to the configuration of discourse types used within a social institution or field (Jorgensen & Phillips, 2002:67). The order of discourse is seen as a system that “shapes and is shaped by specific instances of language use” (Jorgensen & Phillips, 2002:72). It constitutes the resources (discourses and genres) available for communication and delimits what can be said. However, language users can also “change the order of discourse by using discourses and genres in new ways or by importing discourses and genres from other orders of discourse” (Jorgensen & Phillips, 2002:72).

**Figure:** Schematic drawing showing the structure of Fairclough’s three dimensional framework (adapted from Ahmed et.al. (2017)).

In analyzing a communicative event, the following three dimensions should be considered (Jorgensen & Phillips, 2002:68; Fairclough, 1993:136).

In the first dimension, the linguistic features of the text are analyzed, namely the ‘description’ or text analysis (Fairclough, 2006:73; Jorgensen & Phillips, 2002:68). In this case, how different arguments (anti-bill and pro-bill arguments) help advance certain agendas and construct the issue of the LGBT Bill by strategies of persuasion, such as framing the issue in a certain way. Although there are many linguistic features that can be explored (e.g. personification, metaphors, and vocabulary) it is not possible to cover all, and as will be demonstrated later, for my analysis modality takes center stage. According to Fairclough
(1992, 2003), modality refers to language elements expressing the speaker’s commitment or opinion and can be used to conceal or reveal information and facilitate deception or informative purposes (Machin & Mayr, 2012:186). Modality is characterized in many ways, and the one discovered most in this thesis is Deontic modality used specifically to influence people through compelling and instructing. For example, high-modality words like “you will/must” show a greater influence than “you may”(Machin & Mayr, 2012:187). According to Fairclough (2003:166), modality plays a significant role in shaping identities and revealing the speaker’s power over others and over knowledge (Machin & Mayr, 2012:189-190). For example, high-modality words like “it is,” “you will,” “you should,” and “I think that we should” indicate descending levels of authority. Certain modals also serve the purpose of concealing power relations, allowing the speaker to build a sense of power while denying it if necessary (e.g. “she may speak”) (Machin & Mayr, 2012:190). Finally, ambiguous temporality in modals allows for addressing issues without clear commitments (Machin & Mayr, 2012:191).

In the second dimension, the discursive practices (e.g. the production and consumption of the text) are analyzed, that is, the ‘interpretation’ (Fairclough, 2006:73; Jorgensen & Phillips, 2002:68). Here we examine how discursive practices are constituted and reproduced within the selected material (Akbar, Agasi, & Yowata, 2019:107). We look at actors and the context surrounding the argument and look for patterns, recurring themes, and discursive strategies. Consideration is also put on the social context, institutional constraints, and discursive conventions that shape the production and circulation of the texts. The study of discourse practice focuses on how people produce and interpret texts, considering the social and cognitive aspects involved (Fairclough, 1993:136). It involves analyzing the specific actions and techniques participants use to create and understand texts, as well as identifying the various discursive practices and combinations they employ (Fairclough, 1993:136-137).

Finally, in the third dimension, considerations about whether the discursive practice reproduces or restructures the existing order of discourse and its consequences for the broader social practice are taken into account, that is the ‘explanation’ (Fairclough, 2006:73; Jorgensen & Phillips, 2002:68). Here we zoom out further and place the analyzed material within its broader socio-cultural context, in this case, the human rights and gender studies perspective (Akbar, Agasi, & Yowata, 2019:107). We explore the social, political, economic, and historical factors that shape the production and reception of the texts. Moreover,
consideration is put on the broader power relations, social inequalities, and cultural ideologies at play (Fairclough, 1993:136).

The relationship between text and social practice is influenced by discourse practice. On one hand, how texts are created and understood is influenced by the nature of social practices, and in turn, these processes also contribute to shaping social practice. On the other hand, the way texts are produced leaves identifiable marks in the text, while the process of interpretation relies on cues found within the text (Fairclough, 1993:136).
5. Analysis

The aim of this thesis was to investigate how – and why – the LGBT Bill was shelved in 2021. In reviewing the material, it became evident that the revision of the bill was the focal point of the conversation. That is, the addition of “discrimination on the grounds of sexual orientation and gender identity is unacceptable” in the basic principles of the LGBT Bill. Pro-bill and anti-bill main arguments for the necessary inclusion or exclusion of the statement are unpacked in this section. The form in how these arguments were put forward was predominated by the use of high modality words so in this analysis, the focus is explicitly on modality. The Analysis section introduces the analysis of the first and second dimensions of Fairclough’s framework. The third dimension is introduced in the Discussion section.

5.1 Pro-bill arguments in, and associated with, the LGBTQ+ movement

Pro-bill arguments for the necessary inclusion of the statement that “discrimination on the grounds of sexual orientation and gender identity is unacceptable” are listed as follows:

<table>
<thead>
<tr>
<th>Pro-bill arguments in, and associated with, the LGBTQ+ movement</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Because it is in line with the Olympic charter</td>
</tr>
<tr>
<td>2. Because the prohibition of discrimination is important</td>
</tr>
<tr>
<td>3. Because protection of Human rights in the universal sense is important</td>
</tr>
</tbody>
</table>

5.1.1 Because it is in line with the Olympic charter

Several arguments mentioned the upcoming Olympic games as a reason to include the statement since the Olympic Charter clearly states that “The enjoyment of the rights and freedoms set forth in this Olympic Charter shall be secured without discrimination of any kind” including sexual orientation (Asahi, 2021b).

Argument 1. The following quote was said in response to a question of whether the LGBT Bill should be enacted into law since Japan was about to host the Olympic and Paralympic
games: “There should be no unfair discrimination based on sexual orientation or gender identity” (Twitter, J-All, March 25, 2021).

**First dimension:** In this quote, deontic modality is used to express a commitment or obligation. The phrase implies a moral stance and a strong assertion that discrimination on these grounds is not acceptable. The use of “should” in the statement conveys a sense of moral obligation or duty to prevent unfair discrimination. However, mentioning unfair discrimination implies there is fair discrimination. In other words, in this quote, one is able to convey commitment and obligation but in an ambiguous way.

**Second dimension:** The person behind the quote was then Prime Minister Suga who reportedly was “in no position to deny the bill” mainly because of the upcoming Olympic Games. Since former Prime Minister Abe had the majority of the LDP lawmakers supporting him and Suga had no faction at all it might be of interest that Abe said the exact same sentence but prior to Suga. Thus one could argue that Suga was influenced by Abe even in the position of prime minister because of Abe’s political power. Moreover, a statement criticized for indirectly condoning bigotry, namely, “There should be no unfair discrimination based on sexual orientation or gender identity” was added to the new LGBT Bill passed in June this year. Reflecting on the statement made by Suga and Abe, changing that part of the draft might have been their intention. Suga did not mention what unfair discrimination would refer to, however, Lower House member Kazuo Yana stated that the revision would ensure that statements such as sexual minorities “resisting the preservation of the species that occur naturally in biological terms” would not be allowed in the future. It would seem that certain politicians of the LDP are nervous that their discriminatory remarks would be prohibited (further discussed in section 5.2.1).

**Argument 2.** The following quote was mentioned in relation to the LDP stopping the process of the bill: “Recognizing diversity is part of the spirit of the Tokyo Olympics and Paralympics. It’s hard to understand why a political party that should have understood the debate in the Diet just before, stopped (the process) at the last minute” (Editorial, Yomiuri, June 2, 2021).

**First dimension:** In this quote, we see the use of the high modality word “should” which delivers expectations on the recipient. The language emphasizes the importance of recognizing diversity, particularly in the context of the Tokyo Olympics and Paralympics. The statement also expresses confusion and criticism toward the political party that halted the process of the bill at the last moment, questioning their understanding and motivations.
Second dimension: The actor behind the quote was the leader of Kōmeitō, Natsuo Yamaguchi. Kōmeitō is the coalition party of the LDP and by making this statement, Yamaguchi positions Kōmeitō as a party that values inclusivity by pushing for the passage of the LGBT Bill. This action can be seen as an attempt to exert pressure on their coalition partner, the LDP, by publicly highlighting their disagreement over the halt in the legislative process. Kōmeitō’s stance on promoting the importance of passing the bill aligns with their core ideologies of “centralism that respects humanity” and “humanistic socialism,” as its main ideology (Fujii & Igarashi, n.d.). These ideologies suggest that Kōmeitō is committed to policies that prioritize the well-being and rights of individuals, and they might view the bill as a way to uphold these values, especially in the advent of an international event like the Tokyo Olympics and Paralympics. While presenting a positive image to the international community could be a part of their agenda, it is also essential to consider their domestic audience. Kōmeitō’s divergence from the LDP on certain matters, such as their opposition to significant changes to Japan’s pacifist constitution, indicates that they have a distinct identity within the coalition (Fujii & Igarashi, n.d.; Hayat, 2023). By advocating for diversity and pressing for the passage of the bill, Kōmeitō could be aiming to appeal to their voter base, which traditionally values social harmony and inclusivity.

Argument 3. The following quote was mentioned after it became known that the bill would be shelved although prior to the final session: “The bill must not be put on hold. With the Olympic Games just around the corner, the country can make timely decisions to defend equality and inclusion for all” (Editorial, Asahi, June 5, 2021a).

First dimension: In this quote, the high modality word “must” or in this case “must not” is utilized. It can be used to persuade the receiver through a strong sense of obligation, in this case expressing the urgency and importance of shelving the bill. It is also mentioned that “the country can make timely decisions.” In this context, “The country” is a personification which means that human qualities or abilities are assigned to abstractions or inanimate objects obscuring “actual agents and processes.” By personifying “the country” as an agent, one can conceal the actors addressed, in this case, most surely the LDP, making the statement less direct and thus possibly more digestible. Furthermore, equality and inclusion for all are portrayed as something to “defend” putting the LDP in a position as a protector which might further encourage or pressure them to commit.

Second dimension: The actor or rather organization behind this argument was Amnesty International. Their discourse practice is shaped by their mission as a human rights
organization that advocates for equality and inclusion. They are urging immediate action to safeguard these principles, drawing attention to the relevance of the Olympic Games as an opportunity for Japan to take a stand on these issues. Since the bill at this point included “not accepting discrimination,” Amnesty International might have thought of the revised bill as good enough as a start since anti-discrimination aligns with their view on human rights. Moreover, not directly confronting the government but merely using indirect pressure might be a strategy to gently convey their message.

**Argument 4.** The following quote too was mentioned after it became known that the bill would be shelved although prior to the final session: “Practising sport, without discrimination of any kind, is a human right and a Fundamental Principle of the Olympic Movement” (Twitter, IOC Media, June 2, 2021; Yasuda, 2021).

**First dimension:** In this quote, the high modality word “is” declares and emphasizes the principle of practicing sport without any form of discrimination. The statement asserts that this principle is a human right and a fundamental aspect of the Olympic Movement. The addressee might be intentionally excluded to make the statement less confrontative.

**Second dimension:** The actor behind the official statement was the International Olympic Committee (IOC) and the addressee was presumably the LDP. The IOC’s discourse practice is shaped by the role of the governing body of the Olympic Movement, which aims to promote fair play, inclusivity, and respect for human rights in sports. By making this statement, the IOC is reaffirming its commitment to these principles and advocating for their application in the context of the shelved bill.

**5.1.2 Because the prohibition of discrimination is important**

Several arguments mentioned the importance of explicitly stating in the law how discrimination is prohibited since otherwise it would be difficult to implement it in practice, and it would be ineffective.

**Argument 1.** It was emphasized during a press conference that: “if there is no anti-discrimination provision, we cannot protect the people concerned” (Editorial, Asahi, May 7, 2021).

**First dimension:** In this quote, the moderate modality word “can” or in this case “cannot” indicates possibility or capability rather than certainty or strong obligation.
However, in this specific sentence, I would rather interpret the wording as an expression of certainty or a condition, asserting that the presence of an anti-discrimination provision is essential for the protection of LGBTQ+ individuals.

**Second dimension:** The actor behind the statement was Sōshi Matsuoka, representative director of the Japanese LGBTQ+ rights group Fair. Matsuoka’s discourse practice is shaped by their role as an activist advocating for LGBTQ+ rights and equality. By making this statement during a press conference, the activist aims to officially draw attention to the significance of legal protections against discrimination for the marginalized communities they represent.

**Argument 2.** Several newspapers across Japan ran editorials to support LGBTQ+ people stating that “it is natural that discrimination should be prohibited by law,” and “it is the ruling party’s responsibility to enact a bill in the current Diet session” (Glad XX, 2021).

**First dimension:** Stating that something is only “natural” and “should” be done expresses a strong expectation that prohibiting discrimination is seen as a natural or necessary course of action. Moreover, the second statement implies that the ruling party has a duty or obligation to pass the bill, it is their “responsibility.” It is clear that the LDP is the agent with the responsibility and no abstraction was utilized.

**Second dimension:** The newspapers mentioned in this case were 1) the center/left Mainichi Shimbun and 2) the Akita Sakigake Shimpō. The discourse practice of the newspapers is influenced by their role as media outlets and their mission to inform and influence public opinion. By running these editorials, the newspapers are taking a stance on the issue, using their platform to advocate for legal protections against discrimination and urging the ruling party to act.

**Argument 3.** One voice criticized the revision because: “there are no specific measures to eliminate discrimination,” but also said that “with this as a step forward, we aim to create a society free of discrimination and bullying regarding sexual orientation and gender identity” (Editorial, Asahi, May 15, 2021).

**First dimension:** The use of modality in this statement is conveyed through the phrase “no specific measures,” which indicates a lack of concrete actions to combat
discrimination. The absence of specific measures implies that the revision falls short of adequately addressing the issue of discrimination based on sexual orientation and gender identity. The use of modality in the second statement is conveyed through the phrase “as a step forward.” Here, it is acknowledged that the revision might not fully meet their desired objectives but sees it as a progressive move in the right direction. The use of “aim to create” also indicates a future goal, reflecting a sense of aspiration and intention to work towards a society free of discrimination and bullying.

**Second dimension:** The actor behind the quotes was Chinami Nishimura the Secretary-General of the Constitutional Democratic Party (henceforth the CDP). Nishimura’s discourse practice is influenced by her role as a member of the CDP, a political party known for its progressive stance. By critiquing the revision and emphasizing the need for specific measures to combat discrimination, Nishimura is advocating for stronger legal provisions and societal actions to protect the rights of LGBTQ+ individuals. At the same time, her statement about using the revision as a step forward reflects a pragmatic approach, acknowledging gradual progress while advocating for broader goals of creating a discrimination-free society.

5.1.3 Because protection of Human rights in the universal sense is important

This argument underscores the broader importance of universal protection and support for human rights, namely, ensuring equal rights and inclusivity for all individuals, regardless of their sexual orientation or gender identity.

**Argument 1.** In an interview, it was voiced that “rather than focusing on right and left ideology, I want to work on protecting human rights (of minority people) as a conservative within the LDP” (Furugaki & Nakamura, 2021). It was also mentioned how “The LDP is the only conservative party that is tolerant of diversity” (Editorial, Yomiuri, May 25, 2021).

**First dimension:** What is stated here is the commitment to human rights rather than affiliation. The LDP is also painted as the only conservative party that “is tolerant of diversity” probably in an effort to appeal to them.

**Second dimension:** The actor behind this statement was the coordinator of the LDP’s SCSOGI Tomomi Inada. Having denied the Nanjing massacre and being affiliated with the

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50 イデオロギーの右と左とかの問題じゃなくて、人権を守るということで自民党として取り組みたいと思った [Ideorōgī no Migi to Hidari toka no Mondai Janakate, Jin Ken e Mamoru to iu koto de Jiminittō toshite Torikumitai to Omotta]
51 多様性に寛容な保守は自民党しかない [Tayōsei ni Kan'yōna Hoshu wa Jiminittō shika Nai]
Nippon Kaigi and the Unification Church, her being one of the main advocates for the bill is somewhat surprising. Inada refers to the pressure of right-wing men regarding her past controversial statements and explained how one of her closest friends’ son being a member of the LGBTQ+ community and attending a lecture in the US made her want to fight for LGBTQ+ rights (Furugaki & Nakamura, 2021; Japan Press Weekly, 2007; WEB Joseijishin, 2022). By emphasizing the importance of protecting human rights and being tolerant of diversity, Inada is positioning the LDP as a party that can encompass a broad range of perspectives within its conservative stance. The statement is questionable, since the coalition party Kōmeitō could be considered conservative, but still supports the bill.

**Argument 2.** The LDP was criticized for uttering discriminatory remarks and not passing the bill and questioned whether they actually are “a political party that protects the human rights of sexual minorities” (Editorial, Asahi, May 29, 2021).

**First dimension:** The language is accusatory and critical, highlighting the ruling party’s alleged discriminatory behavior and failure to pass the bill related to sexual minorities. The question raised, whether they actually are ‘a political party that protects the human rights of sexual minorities,’ reflects the concerns and skepticism regarding a potential discrepancy between the rhetoric and action of the LDP. That is the LDP’s commitment to effectively addressing the human rights concerns of LGBTQ+ individuals. It implies that the LDP’s choice of language may be a strategic move to create an appearance of inclusivity while failing to implement substantial policies for protecting sexual minorities.

**Second dimension:** The Asahi Shimbun was the actor behind the direct criticism. Their discourse practice is influenced by their role as a media outlet and their mission to inform the public and hold political parties accountable. By criticizing the LDP for discriminatory remarks and inaction on the bill, the Asahi Shimbun is engaging in a form of social critique and raising awareness about potential discrepancies between the party’s rhetoric and actions.

**Argument 3.** It was announced at a press conference held in front of the LDP headquarters the importance of the revised statement saying: “The current situation in Japan, where there are no laws pertaining to LGBT human rights, is extremely irresponsible even from the perspective of the international community”52 (Twitter, J-All, May 31, 2021).

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52 LGBTの人権に関する法律がない日本の現状は、国際社会から見ても非常に無責任 [LGBT no Jinken ni Kansuru Hōritsu ga Nai Nihon no Genjō wa, Kokusai Shakai kara Miteru Hi no Musukinin]
First dimension: The language used is assertive and critical, highlighting the lack of laws addressing LGBT human rights in Japan. The statement also emphasizes the perspective of the international community, suggesting that Japan’s current situation is seen as irresponsible not only domestically but on a global scale.

Second dimension: The actor behind the statement is Equality Act Japan. Their discourse practice is influenced by their role as an activist organization advocating for LGBT human rights. By holding the press conference in front of the LDP headquarters, they are using their platform to draw attention to the issue and urge for action. The statement implies that the lack of legal provisions for LGBT rights reflects a failure to meet international standards and expectations regarding human rights. This perspective highlights the need for Japan to address this issue and align its legislation with global norms to ensure the protection and equality of LGBT individuals. Including the international community in the discussion, could possibly work to put some external pressure on the LDP.

5.2 Anti-bill arguments within and outside the LDP

Both conservatives of the LDP as well as the opposition and activists voiced criticism towards the bill for different reasons. Anti-bill actor’s main arguments for being against the statement are listed as follows:

<table>
<thead>
<tr>
<th>Anti-bill arguments within and outside the LDP</th>
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<td>1. Because the definition (of discrimination) is ambiguous</td>
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<td>2. Because excessive lawsuits should be avoided</td>
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<td>3. Because banning discrimination “would lead to legalizing same-sex marriages”</td>
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<td>7. Because the existence of a bill promoting understanding could be used as an excuse to not establish a proper anti-discrimination law</td>
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<td>8. Because it could let discrimination go unchecked and hamper moves to allow same-sex marriages and similar partnership systems</td>
</tr>
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</table>
5.2.1 Because the definition (of discrimination) is ambiguous

**Argument 1.** At the meeting on the 27th of May, conservative lawmakers objected one after another, saying that the interpretation of the phrase “discrimination is not allowed,” was ambiguous”53 (Editorial, Yomiuri, May 28, 2021).

**First dimension:** The language reflects concern and uncertainty about the meaning and scope of the statement in the revision. The word “ambiguous” indicates that the language in the proposed provision is perceived to be unclear or open to different understandings.

**Second dimension:** This argument is typically represented by more conservative lawmakers within the LDP. One possible reason for their statement is the fear that their thoughts and opinions which they do not regard as discrimination might be defined as such.

5.2.2 Because excessive lawsuits should be avoided

**Argument 2.** The revision led to the concern that it would lead to lawsuits being filed every time someone felt discriminated against (Editorial, Asahi, May 29, 2021). Concerns were even raised about the potential fragmentation of Japanese society if lawsuits were filed every time someone felt discriminated against saying “If there is discrimination, and it results in a lawsuit, society will collapse”54 (Asahi Shimbun, 2021b).

**First dimension:** In the first sentence, “society” is objectified as something which can “collapse.” Objectification can “obscure actual agents and processes” (Machin & Mayr, 2012:171) and by obscuring societal agents, Nishida is able to conceal what/who will actually collapse. “society” as something which can “collapse” can also be interpreted as a building or construction metaphor (Machin & Mayr, 2012:168). “This metaphor can allow the author to avoid specifying just what they will do while at the same time summoning up a sense of progress and collaboration (Charteris-Black, 2004).” For instance, “we collectively ‘build’ our future.” In this case, however, it could be interpreted as a warning that the opposite will happen, highlighting the perceived severity of the situation. The high-modality word “will” also conveys a sense of authority and implies a firm belief or prediction about what is expected to happen.

**Second dimension:** The actor behind the statement was Shōji Nishida, a member of the Upper House and several conservative LDP lawmakers. Nishida’s statement reflects a strong worry and warning, potentially even fear-invoking opinion on the matter. That is the

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53 「差別は許されない」との文言の解釈が曖昧だ [Subetsu wa Yurusarenai to no Bungen no Kaishaku ga Aimai da]
54 差別があったら訴訟となれば社会が壊れる [Subetsu ga Attara Soshō to Nareba Shakai ga Kowareru]
practical implications and potential burden on the legal system. However, since Nishida himself has uttered what has been described as a discriminatory statement, he might merely be afraid for himself.

5.2.3 Because banning discrimination “would lead to legalizing same-sex marriages”

Argument 3. Certain members of the LDP reportedly voiced opposition to the prohibition of discrimination since they felt that it “would lead to legalizing same-sex marriages.” The LDP accepted the revision, however, reportedly “conservative party members may still block the bill over their aversion to same-sex marriages” (Editorial, Asahi, May 10, 2021).

First dimension: In the first sentence, the phrase “would lead to,” suggests a prediction or a potential consequence that the members perceive if the prohibition of discrimination is implemented. The use of “would” expresses a hypothetical or conditional situation, indicating the LDP members’ subjective assessment of a possible outcome. In the second sentence, it is conveyed through the phrase “may still block,” which implies the possibility and uncertainty about whether conservative party members will indeed obstruct the bill. The use of “may” expresses a degree of doubt or likelihood, indicating that the potential blockage is not guaranteed but remains a possibility based on the aversion to same-sex marriages.

Second dimension: In this case, the LDP members’ discourse practice is influenced by conservative values and beliefs regarding same-sex marriages. The acceptance of the revision by the LDP reflects a decision made within the party, but the potential blockage of the bill suggests that certain conservative members still resist its passage due to their aversion to same-sex marriages.

5.2.4 Because it will exacerbate the declining birth rate

Argument 4. One concern that has been expressed multiple times is that sexual minorities were “resisting the preservation of the species that occur naturally in biological terms” (Editorial, Asahi, May 22, 2021).

First dimension: In this statement, there is no explicit use of modality in terms of modal verbs (e.g., can, would, should). However, we can infer a form of modality in the phrase “occur naturally in biological terms.” This phrase suggests biological terms as an inherent, natural order. The use of “occur naturally” implies a sense of inevitability or a belief
that certain characteristics, behaviors, or relationships are inherent to biological norms. The term “biological terms,” in this context, might be indicating a view of certain expressions of sexuality or gender as biologically determined and immutable. This perspective reflects a form of modality in the way the speaker views sexual minorities’ identities and actions within the context of biological norms.

Second dimension: The actor behind this statement was Kazuo Yana, an LDP Lower House member representing a district in Tochigi Prefecture. In this case, Yana is expressing his concern about sexual minorities. His discourse practice is influenced by his role as an LDP member and his conservative beliefs regarding biology and societal norms.

5.2.5 Because discriminatory remarks will be punished

Argument 5. Yana also suggested that the proposed wording regarding discrimination in the legislation would ensure that the comment (see 4.2.1.5) he made would not be allowed in the future. One participant at the same meeting also said: “A situation is emerging of not being able to say such comments because that would lead to political suicide” (Editorial, Asahi, May 22, 2021).

First dimension: The language used reflects the participant’s perspective on the potential chilling effect of the proposed legislation on political discourse and freedom of expression. The phrase “not being able to say such comments” indicates a perceived limitation on speech, which could have significant ramifications for political actors. It also could create a sense of fear in politicians and the everyday population that if the law were approved it would lead to a society where language is harshly policed.

Second dimension: The actor behind this statement was unknown but in line with Kazuo Yana’s thinking. His discourse practice is influenced by his role as a conservative political actor from the LDP. By voicing these concerns, he is engaging in the discourse surrounding the legislation, freedom of expression, and the potential consequences of political speech.

5.2.6 Because former Prime Minister Abe is opposed to the bill

Argument 6. In response to the revision, former Prime Minister Abe reportedly was strongly against claiming that “this is a struggle” and “I will not let it pass” as well as directly

55 これは闘争だ [Kore wa Tōsō da]
56 絶対に通すな [Zettai ni Tōsuna]
First dimension: As mentioned in the analytical section, using deontic modality we can influence people through compelling and instructing. When Abe uses the high modality words “is” and “will” he shows certainty, persuasion, and a high level of authority. The language is assertive and forceful, indicating a determination to resist the revised bill. The phrase “this is a struggle” suggests that Abe perceives the situation as a battle or conflict, emphasizing the intensity of his opposition.

Second dimension: In this case, Abe is expressing his strong opposition to the revision of the bill. His discourse practice is influenced by his position as a former Prime Minister and his political stance, namely, that he was the facto in charge of the General Council and the largest faction within the LDP, the Seiwa Seisaku Kenkyūkai (hereafter Seiwakai). 57 By using assertive language and directly attacking the members of the general affairs council, he is engaging in the discourse surrounding the bill revision and asserting his position against its passage. Abe was reportedly the reason the LGBT Bill was shelved in the end, even though the agreement on the revision of the bill was reportedly partly based on Abe’s statement in the Diet that “there should be no unfair discrimination or prejudice against sexual minorities.” 58

5.2.7 Because the existence of a bill promoting understanding could be used as an excuse to not establish a proper anti-discrimination law

Argument 1. A concern was that the LGBT Bill could be used as an excuse, namely, that “there is still not enough understanding” 59 (Mainichi Shimbun, 2021).

First dimension: The language used reflects the perception that some individuals or groups may use a lack of understanding about LGBTQ+ issues as a justification for their resistance to the bill. The use of modality in this statement can be observed in the use of “still,” which indicates an ongoing or incomplete understanding of the subject matter. The phrase “not enough understanding,” further reinforces the notion of insufficiency or inadequacy. It reflects a sense of judgment about the current state of understanding and

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57 The faction was mentioned in the newspaper article I read as the Hosoda faction (because Hosoda was appointed to head the faction in 2012) but the actual name of the faction is Seiwa Seisaku Kenkyūkai (led by collective leadership).

58 性の少数者に対する不当な差別や偏見はあってはならない [Seiteki Shōsūsha ni Taisuru Futōna Sabetsu ya Henken wa Atte wa Naranai]

59 まだ理解足りない [Mada Rikai Tarinai]
suggests that there is room for improvement or development in comprehending LGBTQ+ issues.

**Second dimension:** In this case, the concern about the LGBT Bill being used as an excuse was written by LGBTQ+ human rights activist Sōshi Matsuoka and retweeted by J-All. His discourse practice is influenced by his perspective on the bill and its potential implications. By voicing this concern, he is engaging in the discourse surrounding LGBTQ+ rights, discrimination, and public attitudes toward these issues.

**5.2.8 Because it could let discrimination go unchecked and hamper moves to allow same-sex marriages and similar partnership systems**

**Argument 2.** Another concern was whether “local governments would not atrophy after the law comes into force, making it difficult to proceed with measures such as same-sex couple recognition systems and anti-discrimination ordinances” (Editorial, Asahi, May 14, 2021). This worry was also expressed by conservatives as mentioned in section 4.2.1.3, although they on the other hand were worried that, “If we proceed with the prohibition of discrimination, it will lead to things like same-sex marriage” (Editorial, Asahi, May 15, 2021).

**First dimension:** The phrase “making it difficult to proceed” implies modality by suggesting a possibility or potential outcome. It expresses the concern that local governments might face difficulties in promoting measures such as same-sex couple recognition systems and anti-discrimination ordinances after the law comes into force. The use of “would not” at the end of the phrase adds a sense of uncertainty or speculative nature to the concern. In this statement, the use of “if we proceed” indicates a conditional modality, suggesting that if the promotion of the prohibition of discrimination occurs, it may lead to consequences such as same-sex marriage. The phrase “will lead to” adds the idea of a causal relationship, indicating that the prohibition of discrimination might be seen as a catalyst for developments like same-sex marriage.

**Second dimension:** LGBTQ+ rights activists and supporters were the ones who expressed concern. The conservative worry about the prohibition of discrimination leading to same-sex marriage is expressed by speakers who may hold conservative beliefs and are

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60 自治体が法施行後に萎縮し、同性カップル公認制度や差別禁止条例などの施策を進めにくくなるのではないかと心配する声があがっている [Jichitai ga Hōshikōgo ni Ishukushi, Dōsei Kappuru Kōnin Seidō ya Sabetsu Kinshi Jōrei nado no Shisaka o Susume Nikukanaru no de wa Nai ka to Shimpattsura Koe ga Agatteiru]

61 差別禁止を進めれば同性婚などにつながる [Sabetsu Kinshi o Susumereba Dōseikon nado ni Tsunagaru]
concerned about potential shifts in societal values regarding the institution of marriage. Their
discourse practice is influenced by their political ideologies and social attitudes towards
LGBTQ+ rights and same-sex marriage.

In this analysis section, we have seen baseless remarks (e.g. “society collapsing” over
excessive lawsuits) that are clearly empty political rhetoric. Then there are arguments raising
advantages and disadvantages. Here we find both arguments concerned with human rights
and the utility of the bill, but also practical political questions such as will the passing of this
bill slow down future proper anti-discrimination legislation.
6. Discussion

This discussion section is focused on the third dimension of Fairclough’s framework, analyzing the sociocultural and historical context of the discourse surrounding the shelving of the LGBT Bill. Using the analysis performed in the prior section we can begin to answer the research questions introduced in section 1.2:

(1) What were the key arguments given for and against the passing of the bill?
(2) What is the background for these arguments, which positions, which actors, and which interests are behind them?
(3) Against this backdrop, what can be said about the future of an anti-discrimination law?

6.1 Key arguments for and against the bill and their background

In this subsection we discuss the two first research questions as the answers are tightly interwoven.

6.1.1 Pro-bill arguments in, and associated with, the LGBTQ+ movement

As mentioned in reviewing the material, it became evident that the revision of the bill was the focal point of the conversation. That is, the addition of “discrimination on the grounds of sexual orientation and gender identity is unacceptable” in the basic principles of the LGBT Bill.

**Argument.** Several pro-bill arguments entailed the upcoming Olympic games as a reason to include the additional statement since the Olympic Charter clearly states that “The enjoyment of the rights and freedoms set forth in this Olympic Charter shall be secured without discrimination of any kind” including sexual orientation. The Olympic charter in turn is in line with the Universal Declaration of Human Rights (UDHR). Then Prime Minister Suga, was in favor of the revision seemingly because of the upcoming Olympic Games although mentioning “unfair discrimination” rather than just “discrimination” which arguably is rather ambiguous. In the new watered-down version of the bill passed in 2023, instead of stating that “discrimination on the basis of sexual orientation and gender identity should “not be tolerated,” a softer version was adopted, namely, that “there should be no unfair discrimination” (emphasis added), a “wording critics say tacitly allows bigotry” (Reuters,
Pressure from other G7 nations, such as the United States, has called for greater LGBTQ+ rights. Takeharu Kato, a member of the activist group Marriage for All Japan, initially saw some value in the original bill, but now believes having no bill at all could be a preferable option. Komeito’s leader Yamaguchi expressed his expectations for the LDP to move forward with the bill, showing how even the coalition party supported the revision. While not directly addressing the LDP, Amnesty International, and the IOC expressed their strong support for the revision by writing about the importance of tackling discrimination based on SOGI.

**The third dimension:** The sociocultural practice centers around the significance of diversity and human rights, especially during an event like the Tokyo Olympics and Paralympics that are expected to embody and celebrate inclusivity. The fact that even the coalition party of the LDP has expectations on them in this regard speaks a lot to the situation, namely, how the only roadblock left is the LDP (or the largest faction within the LDP to be precise). The fact that Amnesty International and the IOC involved themselves in the discussion signals the lack of human rights in Japan from the international human rights perspective. To begin with, the bill gained momentum again as a result of LGBTQ+ rights groups and newspapers advocating for LGBTQ+ rights, and the majority of Japanese people being in favor of LGBTQ+ rights. By taking advantage of Japan hosting the Olympic and Paralympic games they put extra pressure on the government to address human rights issues because of the international attention. The decision of the ruling party to halt the bill’s process is influenced by a range of sociocultural factors, including conservative voters and supporters (e.g. funding and voters from the Unification Church, Shinseiren, and Nippon Kaigi), and party politics/traditional values (e.g. predominant patriarchal values resting on the koseki system, a heteronormative view on society, the value of reproduction partly because of the declining birth rate, and Asian values).

**Argument.** Moreover, human rights defender Matsuoka stated how it is impossible to protect LGBTQ+ people without an anti-discrimination provision, showing how the revision is actually not enough. Several newspapers also showed strong support by mentioning “responsibility” while directly addressing the LDP. Leader of the CDP Nishimura indicated the absence of concrete actions taken to address discrimination but views the revision as a step forward.

**The third dimension:** The sociocultural practice revolves around the ongoing debates and discussions surrounding LGBTQ+ rights and discrimination in Japan. The discourse
reflects the importance of legal measures to combat discrimination and protect the rights of
LGBTQ+ individuals. Since the LGBT Bill simply promotes spreading awareness it does not
provide sufficient protection for discriminatory treatments (e.g. being denied job interviews
or housing based on SOGI) which a law prohibiting discriminatory treatment could. Simply
stating the prohibition of discriminatory treatment by law does not mean that discrimination
will disappear immediately. However, the “prohibition of discriminatory treatment” is a
major premise for eliminating discrimination. If promoting understanding is the aim, then one
might argue that the first step should be spreading appropriate knowledge throughout society
and prohibiting discrimination. Although the LGBT Bill includes the phrase “under the
recognition that discrimination is unacceptable” in its basic principle and purpose, it is not a
provision prohibiting discrimination. In practice, it is nothing short of a “pre-recognition,”\textsuperscript{62}
“spirit,”\textsuperscript{63} and “official stance.”\textsuperscript{64} Despite this, the LGBT Bill was still shelved which
indicates a low interest in eliminating discrimination against sexual minorities from the LDP.
In the end, the new LGBT Bill which passed was an even more watered-down version,
revealing how even the watered-down draft from 2021 was not a compromise enough.

Argument. Another discourse on the importance of human rights (in the universal sense)
prevailed. Coordinator of the LDP’s SCSOGI Inada, states her commitment to human rights
and tries to appeal to the LDP to support the bill. The \textit{Asahi Shimbun} as well as Equality Act
Japan has openly criticized the LDP for not being a party committing to human rights
implying that the LDP creates an appearance of inclusivity while failing to implement
substantial policies for protecting sexual minorities. They also involve an international
perspective, possibly to put further pressure on the LDP.

The third dimension: Inada’s statements reflect the larger conversation about how
conservative parties like the LDP can approach issues of human rights and diversity. Her
claim that the LDP is the only conservative party that is tolerant of diversity is a sociocultural
perspective that reflects her view of the LDP as a party capable of accommodating a diverse
array of viewpoints within its conservative framework. It might also be a strategic move to
appeal to the conservative lawmakers opposing the bill. The \textit{Asahi Shimbun}’s critique is
situated within the context of public discourse and the public’s expectations of political
parties, in this case, the LDP, regarding protecting human rights, in this case particularly

\textsuperscript{62}前提認識 [Zentei Ninshiki]
\textsuperscript{63}精神 [Seishin]
\textsuperscript{64}たてまえ [Tatemae]
those of sexual minorities. By including the international community’s perspective in the
discourse, Equality Act Japan indicates that the issue of LGBTQ+ human rights legislation is
not only a domestic concern but also has implications for Japan’s standing and reputation in
the global context since it fails to meet international standards and expectations.

6.1.2 Anti-bill arguments within and outside the LDP

Argument. Anti-bill arguments from the LDP entail how first that the definition of
discrimination is ambiguous.

The third dimension: The criticism towards “ambiguity” is questionable since there
is a clear definition of “Discriminatory treatment,” namely, “discriminatory treatment without
reasonable grounds” and a number of laws have already been enacted in Japan that prohibit
discriminatory treatment as stated in section 3.3.2.1.

Arguments. The worry over the definition can be tied to other anti-bill arguments, namely
that the revision would lead to 1) an excessive issuing of lawsuits (e.g. lawsuits being filed
every time someone felt discriminated against and so society would collapse) and 2)
discriminatory remarks will be punished (e.g. discriminatory remarks like the ones the
politicians themselves use).

The third dimension: In the first case, the sociocultural practice involves the
revisions’ potential impact on society. The discourse reflects the larger conversation about
balancing the protection of human rights and the practical implications of the revised
legislation. Concerns about excessive lawsuits and their potential impact on Japanese society
reflect broader discussions about the role of the legal system and the balance between
individual rights and societal well-being. There is, however, a lack of evidence backing up
the discourse. Anti-discrimination laws (or explicitly stating the prohibition of
discrimination) are a great backing for victims of discriminatory treatment. Implementation
would lead to a possibility to change the situation from the current state, that is, where it is
difficult to even consult professionals to receive help. It is important that problems are
brought up in the form of lawsuits and that victims can receive relief, conciliation, and
mediation. A bad image is being manipulated by the wording “excessive issuing,” referring to
the belief that since “anything can be discrimination” there will be an excessive issuing of
lawsuits. In reality, LGBTQ+ people face a strong societal stigma, and the rate of coming out
is low. Under such circumstances, it is clear that there are considerable hurdles to filing a
lawsuit, not to mention troublesome for the person concerned to prove that it is “discrimination.” In order to change this situation, a clear legal prohibition of discrimination is necessary.

The second issue raised by LDP lawmakers, that is, discriminatory remarks will be punished, involves a larger conversation about the balance between protecting individuals from discrimination and safeguarding freedom of expression and political discourse. The argument is that the proposed legislative phrasing on discrimination would prevent certain comments (e.g. sexual minorities as “resisting the preservation of the species that occur naturally in biological terms”) from being permissible in the future. However, when discussing the damage of discrimination in the first place, it does not matter whether there was intention or malice. “Prohibition of discriminatory treatment” does not prohibit discriminatory intentions or malicious intent, nor is it a law that prohibits discriminatory remarks. In addition, neither the LGBT anti-discrimination law that the LGBTQ+ community wants nor the LGBT Bill that is being considered, have “penal provisions” for discrimination. It is important to note that those who do not want to prohibit discrimination lump these arguments together and oppose them.

**Argument.** Furthermore, several LDP conservatives voiced opposition to the wording since they felt that it “would lead to legalizing same-sex marriages.”

**The third dimension:** The discourse reflects the larger conversation about the complexities of addressing discrimination and the intersection of social attitudes towards same-sex marriages within the political landscape. The reason for LDP conservatives’ opposition to the prohibition of discrimination against LGBTQ+ people is mainly that the movement to legalize same-sex marriage could gain momentum on the grounds that it could be discrimination that same-sex marriage is not allowed, and thus leading to the legalization of same-sex marriage. The reasons for conservatives opposing “same-sex marriage” are mainly connected to the strong idea of the nuclear family as the only family structure to be accepted (which is a direct result of patriarchy and the value of reproduction). An idea held by not only LDP conservatives but also the Unification Church, Shinto shrine headquarters, and the Nippon Kaigi (日本会議) [Nippon Kaigi], to which they are connected. For instance, in 2006, the Unification Church responded to Miyakonojo City’s ordinance for the purpose of

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65 責則規定 [Bassoku Kitei]
implementing gender equality\textsuperscript{66} including the wording “sexual orientation.” They said that “gays, lesbians, and bisexuality are defended”\textsuperscript{67} and thus “it will become a free sex commune,”\textsuperscript{68} so the wording was deleted (Matsuoka, 2023). Although it is not certain to what extent, the LDP politicians are influenced by these religious sects as mentioned in the theoretical framework.

**Argument.** There is also the fear that the revision might lead to an exacerbation of the declining birth rate since sexual minorities are “resisting the preservation of the species that occur naturally in biological terms.”

**The third dimension:** This remark is an example of heteronormative language. What is considered the norm, is the nuclear family, which includes reproduction. It also adheres to the discourse of reproduction as a tool to curb the acutely decreasing birth rate in Japan (Reuters, 2021). In the context of opposition to same-sex marriage and the prohibition of discrimination, it is not uncommon for lawmakers to mention that same-sex marriage would further the declining birth rate. This too is a factual error. 33 countries and territories have already legalized same-sex marriage, but there is clearly no correlation with declining birth rates (as mentioned in section 2.3.2). It can also be pointed out that some same-sex couples are already raising children. However, dividing who can marry and who can not only by whether or not they have children in the first place is discriminatory and not a problem limited to sexual minorities. It is a discourse that could lead to the exclusion of those who do not want to have children, or who cannot have children. Additionally, if one would work hard toward a society without discrimination against certain groups like the LGBTQ+ community, it would rather benefit the county in terms of more work capacity and more couples wanting and being able to have children. That is because discrimination leads to health issues which in turn leads to less work capacity and in extreme cases an inability to work. In case of increasing the birth rate, lesbian couples could for instance have more children through insemination and adopt if society were more inclusive.

**Argument.** Last but not least, the main force behind the opposition was former Prime Minister Abe. Abe was strongly opposing the bill revision, drawing from his past role as Prime Minister and his influential position within the LDP. His forceful language and direct

\textsuperscript{66}男女共同参画推進条例 [Danjō Kyōdō Sankaku Suishin Jōrei]
\textsuperscript{67}ホモ・レズ、両性愛を擁護 [Homo-Rezu, Ryōseiiaisha wo Yōgo]
\textsuperscript{68}フリーセックスコミュニンになってしまう [Frī Sekusu Komyūn ni Natteshimau]
criticism of the general affairs council members indicate his active involvement in the discourse on the bill's revision and his strong stance against its approval. He has furthermore been the chairman of the Nippon Kaigi and had close ties to the Unification Church.

**The third dimension:** Abe was a key political player with both power and connections, but seeing that he passed away and the bill passed in 2023 was still even more watered-down there seems to be a major backing of his ideals. Possibly associations like the mentioned former Unification Church and Nippon Kaigi. Among conservatives of the LDP, there seems to be a strong emphasis on collective values and the importance of the group over the individual. Social conformity plays a significant role, that is, maintaining a harmonious social order and avoiding actions that disrupt social harmony are highly valued. This seems to include the human rights of individuals such as LGBTQ+ people. As mentioned by Neary (see section 3.2), Japan took a universalist view in opposition to some Asian countries’ emphasis on “Asian Values,” however, it seems that the thoughts of conservatives within the LDP align more with the “Asian values” approach.

**Arguments.** There were also opinions by activists and the opposition against the bill even after the revision. First, the existence of a bill promoting understanding could be used as an excuse to not establish a proper anti-discrimination law as tweeted by human rights advocate Matsuoka. Furthermore, it could let discrimination go unchecked and hamper moves to allow same-sex marriages, partnership systems, and anti-discrimination ordinances.

**The third dimension:** In the first case, the sociocultural practice includes the concern that since progress is being made there is no need to implement an anti-discrimination law. There is advocacy for a “step-by-step approach” which would mean that the LGBT understanding promotion law should be enacted as a “law based on principle” and then the prohibition of discrimination would be specified later. It is, however, more accurate to assert that the prohibition of discrimination should be explicitly stated precisely because it is a law based on principle. This step is essential to eradicating discrimination from society.

In the case of the latter concern, is based on the fact that since the LDP holds the position that “careful consideration is necessary” regarding same-sex marriage, anti-discrimination ordinances, and the same-sex partnership system, there is a strong concern that the enactment of the LGBT Bill, would affect and regress decisions related to LGBTQ+ rights already made by prefectures and/or municipalities (Twitter, Matsuoka, April 8, 2021). That is, the fear is that local governments will enact ordinances based on the “promotion of understanding” rather than the prohibition of discrimination in the future. According to
Nishimura, a Member of the House of Representatives of CDP, there were many references to a possible impact of the LGBT Bill on local governments at the general assembly. In response, Inada explained that she has “no intention of obstructing the partnership efforts of local governments” and she cannot see how the bill would obstruct it (Editorial, Asahi, May 11, 2021a). However, Nishimura pointed out that if there is no intention to impede the partnership system, it should not be difficult to specify it in the bill (e.g. clearly stating that policies of local governments will not be hindered). Kamiya, secretary-general of J-All, emphasizes the importance of clearly stating in the law that “not only partnerships but also the entire local government policy will not be hindered” (Yasuda & Tsuboike, 2021a). Here we can see a difference between the measures and actions taken by the prefectures and municipalities as opposed to the state (i.e. the government, the LDP). Moreover, it should be noted that an adoption of a new law does not necessarily imply that the government or responsible agencies actively implement and adhere to it. The law rather works as an obstacle to more progressive laws such as an anti-discrimination bill.

6.2 The future of an anti-discrimination law

Given how watered down the 2021 LGBT Bill was, and still being shelved tells us a lot about the future prospects of a comprehensive anti-discrimination bill. As mentioned, the LDP successfully passed an even more watered-down version of the LGBT Bill in 2023 which faced criticism for lacking human rights guarantees and potentially even enabling discrimination as mentioned (The Japan Times, 2023b). The conservatives of the LDP now have a bill that can be used as an excuse not to focus on anti-discrimination. Looking at demographics, young people tend to be more progressive and open to LGBTQ+ rights, however, they generally do not vote, and since the old population has the majority of voter power either way it is hard to imagine a comprehensive anti-discrimination bill being implemented any time soon. On the positive side, however, we could potentially see a continuous progressive change at the local level. Although a bill mainly promoting understanding was passed, many local governments have supported LGBTQ+ rights even though the LDP’s official stance has never been as progressive. Additionally, the fact that there are different factions within the LDP with different positions on LGBTQ+ rights serves as a positive sign for the future. Although it is clear that the lawmakers holding a more conservative stance on the matter are the majority, many politicians of the LDP challenge this

69 自治体の取り組みを阻害するつもりはない [Jichitai no Torikumi o Sōgaisuru Tsumori wa Nai]
stance and work internally toward rights for the LGBTQ+ community. In the end, the younger generation will grow up and become the main voters in time, which will probably gradually shift the conservative stance on human rights in Japan. Pressure from other G7 nations, such as the United States, has called for greater LGBTQ rights. This too might potentially work to pressure conservatives of the LDP further in the future.

In summary, a number of factors contributed to the shelving of the LGBT Bill, namely deeply ingrained conservative values, concerns over societal changes, fears of legal repercussions, and the influence of the Seiwakai faction within the ruling party. These factors converged to prevent the bill from passing, despite growing support for LGBTQ+ rights in Japan. Going forward, the enactment of meaningful anti-discrimination legislation on a national level is expected to be very slow since the LGTB bill has passed, so most progress is expected to happen on the local level in the coming years.
7. Conclusion

This thesis has studied the main political arguments surrounding the efforts to enact legislation to better protect the rights of LGBTQ+ people in Japan. The aim was to investigate how – and why – the LGBT Understanding Promotion Bill was shelved in 2021. That is, examining the arguments leading to the shelving and considering why with regard to human rights and gender studies. The results show that there are several factors contributing to the shelving of the bill. This, despite the momentum it gained due to the Olympic and Paralympic games which mobilized the International community, as well as national and international LGBTQ+ human rights organizations. Namely, the conservative stance of the majority of the LDP, influenced by factors like traditional values (e.g. heteronormativity), religious associations, and demographic voting trends, as well as fears of the perceived ambiguity of the definition of discrimination, excessive lawsuits, legal repercussions, and the revision leading to the legalization of same-sex marriages. Moreover, LGBTQ+ activists also opposed it because of a fear that the passing would lead to it being used as an excuse not to continue moving towards an anti-discrimination law and hampering local governments’ more progressive results. In the end, it was shelved due to the power of the LDP faction of former Prime Minister Abe, that is, the Seiwakai, a faction with particularly strong connections to religious associations (e.g. Nippon Kaigi).

The passage of an even more watered-down version of the LGBT Bill in 2023 significantly highlighted the challenge of implementing comprehensive anti-discrimination legislation in Japan. While young people tend to be more progressive, their tendency to abstain from voting makes immediate change less likely. However, a gradual shift is driven by generational change, progress by local government, lawmakers advocating for LGBTQ+ rights within the LDP, and international pressure pointing to the potential for an anti-discrimination law to be established, but not in the near future.

This study has only scratched the surface of the topic at hand. Many studies to further explore this and other related topics can be envisioned. It would be particularly interesting to look at the same material from a law studies perspective since it could show an evaluation and analysis of the LGBT Bill itself as well as a comparison between the legal process towards an LGBTQ+ anti-discrimination law and the already established anti-discrimination laws. Although this study has contributed an overview of the situation surrounding the bill, it
would also be interesting to go beyond a discourse analysis on text excerpts and interview key actors for a more in-depth view.
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Appendix

The LGBT Understanding Promotion Bill

The law stipulates the roles of the national and local governments with the aim of “promoting measures to promote public understanding” and “realizing a society that is tolerant of diversity.” It includes 1) the formulation of a basic plan, 2) the publication of the implementation status of measures, and 3) the establishment of a liaison conference by related ministries and agencies (Editorial, Asahi, March 25, 2021).

Later:

▽ Clearly states that “discrimination on the grounds of sexual orientation and gender identity is unacceptable.” 70

▽ The government is obliged to formulate a basic plan to promote understanding. 71

▽ The government announces the implementation status of measures once a year. 72

▽ The national and local governments strive to disseminate knowledge and develop a consultation system. 73

The timeline for drafting the LGBT Understanding Promotion Bill

On April 8, the LDP’s SCSOGI: Chairman: Tomomi Inada, former Defense Minister and deputy chairman: former Minister of Education, Culture, Sports, Science and Technology, Hiroshi Hase) compiled the outline of the LGBT Understanding Promotion bill and submitted it to the current Diet session. The aim was reportedly to show an understanding of diversity ahead of the next House of Representatives election (Editorial, Yomiuri, April 9, 2021). The bill, however, does not include a prohibition of discrimination and only promotes “understanding.” Thus, there was a fear that the bill would be used as an excuse, namely, that more understanding is needed (Mainichi Shimbun, 2021).

70 「性的指向及び性自認を理由とする差別は許されない」と明記 [“Seitekishikō Oyobi Seijinin o Ryū to Suru Sabetsu wa Yurusarenai” to Meiki].
71 政府に理解増進に向けた基本計画策定を義務づけ [Seifu ni Rikai Zōshin ni Muketa Kihon Keikaku Sakatei o Gimu Zuke]
72 政府は年1回、施策の実施状況を公表 [Seifu wa Nen 1 Kai, Shisaku no Jisshi Jōkyō o Kōhyō]
73 国や自治体は、知識の普及や相談体制整備に努める [Kuni ya Jichitai wa, Chishiki no Fukū ya Sōdan Taisei Seibī ni Tsutomeru]
On May 2, LGBTQ+ people and supporters issued an emergency statement calling for a clear prohibition of discriminatory treatment regarding SOGI. On May 4, J-All issued a statement regarding the discussions between the ruling and opposition parties (LGBT Hō Rengōkai, 2021, May 4).

On May 10, opposition parties submitted a revision to the “LGBT understanding promotion bill” (Yasuda & Tsuboike, 2021a). They asked that it be clarified that the bill’s purpose is to eliminate discrimination based on SOGI, and set rules that ban public offices, and businesses from discriminating against sexual minorities (Editorial, Asahi, May 10, 2021). On the same day, the LDP announced at a general meeting of the bipartisan Diet Members’ League for Considering LGBT Issues (chaired by Hiroshi Hase) that the purpose of the law is that “discrimination is unacceptable” (Editorial, Asahi, May 11, 2021a; Editorial, Asahi, May 11, 2021b).

According to multiple ruling and opposition party officials, the LDP’s SCSOGI submitted a revised bill to the CDP on May 12th, stating “discrimination on the grounds of sexual orientation and gender identity is unacceptable” in its basic principles (Editorial, Asahi, May 14, 2021).

On May 14, the political parties of both sides agreed to add the phrase “acknowledging [in recognition of] that discrimination due to sexual orientation and gender identity is unacceptable” not just to the “aims” of the law but its “fundamental principles (the underlying philosophy)” (基本理念) [Kihon Rinen] (Kunizaki & Tsuboike, 2021, May 17; Editorial, Asahi, May 10, 2021; Editorial, Asahi, May 15, 2021). LDP’s agreement on the revision was partly based on the fact that former Prime Minister Shinzo Abe had previously said in Diet statements that there should be no unfair discrimination or prejudice against sexual minorities (Editorial, Asahi, May 15, 2021).

On May 20, the LDP decided not to approve the revised agreement of the ruling and opposition parties as conservative lawmakers expressed negative opinions about the wording.

74 Opposition parties including the CDP, on the other hand, have requested the following revisions: (1) establish provisions prohibiting discrimination or disadvantageous treatment based on sexual orientation or gender identity (2) change the role of the national and local governments (developing and implementing measures to promote understanding) from an obligation to make efforts to a “responsibility” (3) Clearly state that the policy of local governments will not be hindered (Editorial, Asahi, May 11, 2021b).

75 That is, the Liberal Democratic Party, Constitutional Democratic Party, Komeito Party, Communist Party, Democratic Party for the People, Ishin Party, and Social Democratic Party.

76 The new summary of the bill says, “This stands by the principle that all people are respected as irreplaceable individuals who are equally entitled to basic civil liberties regardless of his or her sexual orientation or gender identification, and it is based on the idea that discrimination because of sexual orientation and gender identity is unacceptable” (Nikaido, 2021).
“discrimination on the grounds of SOGI is unacceptable,” and would discuss it again at the beginning of next week (Asahi, 2021, May 21; Editorial, Asahi, June 21, 2021).

On May 24 the bill was approved, but a condition was “deliberation in the Diet” which is usually omitted when all parties are in favor. The bill would be discussed at the Policy Research Council (政調審議会) [Seichō Shingikai] and the General Council (総務会) [Sōmukai] with the intention of submitting it to the current Diet session as a bipartisan lawmaker’s bill (Editorial, Yomiuri, May 25, 2021). However, many conservative lawmakers voiced their opposition (Editorial, Asahi, May 29, 2021; Editorial, Yomiuri, May 29, 2021; LDP, May 25, 2021).

On May 25, the LDP began deliberations at the Policy Research Council (政調審議会) [Seichō Shingikai]. Moreover, since the Diet schedule was tight, Inada requested Yutaka Moriyama, chairman of the LDP’s Diet Affairs Committee, to secure time for deliberations but was told that “It will be quite difficult to get through to the enactment of the LGBT Bill” (Editorial, Asahi, May 26, 2021).

On May 27, the LDP approved the LGBT Bill at the Policy Research Council (政調審議会) [Seichō Shingikai]. The meeting erupted with objections regarding the interpretation of the phrase “discrimination is not allowed” (Editorial, Yomiuri, May 28, 2021).

With no approval granted at the May 28 General Council meeting, the General Council of the LDP (佐藤総務会長) [Satō Sōmukaichō] decided that it could not agree to submit the legislation in the current Diet session because unanimous consensus could not be reached (about the wording on discrimination) and because they could not secure the deliberation schedule (although it was pointed out that there were more than two weeks left) (Note, 2021; Editorial, Asahi, May 29, 2021). The handling of the bill was then entrusted to three top executives, Mr. Sato, Secretary-General Toshihiro Nikai, and Policy Research Council Chairman Hiroyumi Shimomura (Editorial, Asahi, May 29, 2021; Editorial, Yomiuri, May 29, 2021; Editorial, Yomiuri, May 28, 2021; Editorial, Asahi, June 2, 2021; LDP, May 31, 2021). Policy Research Council Chairman Shimomura told reporters on the night of the 28th that he would like to issue the bill again at the next Diet session (Editorial, Asahi, May 29, 2021). A lawmaker said, “It’s not good to show that you’re having troubles within the party,” and there are voices of concern about the impact on the election (Editorial, Asahi, May 29, 2021).

At a press conference on June 1, LDP Chairman Tsutomu Sato said that as a result of discussions among the three parties, “he would not submit the bill to the current Diet session.” Although the shelving of the bill was the LDP’s decision only, Sato said that the
three parties had agreed not to submit the bill to the current Diet session (Editorial, Asahi, June 2, 2021).

Inada and Hase met with Nikai at the party’s headquarters on June 1 and conveyed their intention to submit the bill to the current Diet session again (Editorial, Asahi, June 2, 2021). Moreover, Kōmeitō’s Yamaguchi said that “it is hard to understand why a political party that should have understood (diversity) stopped making its intentions clear at the last minute” (Editorial, Asahi, June 2, 2021).

According to J-All, over the past few days, there have been a series of movements in various places demanding the LDP for an early enactment of the bill (Editorial, Asahi, June 5, 2021a).

On June 7, at the House of Councilors Accounting Committee (参院決算委員会), the opposition parties asked then Prime Minister Suga to enact the LGBT Bill in the current Diet session, but it was abandoned. The Tokyo Shimbun asked the LDP thoughts on the matter, to which the LDP’s secretary-general Nikai answered that he would like to leave it to the on-site deliberation” (LDP, June 7, 2021). J-All also issued a statement (LGBT Hō Rengōkai, 2021, June 8).

Suga emphasized that he would “work to fulfill our promise to the public” and that “there should be no unfair discrimination or prejudice” (Nikkei Shimbun, 2021, June 7). Suga, who held the highest administrative power, did not belong to any factions within the LDP, and thus had an extremely limited presence within the party. This is why, although Suga was in a position not to deny the bill because of the upcoming Olympics, it was shelved (Editorial, Asahi, June 21, 2021). At the very end, multiple sources have testified that former Prime Minister Abe claimed the situation was a “struggle” and directly attacked the members of the general affairs council, telling them not to pass the revised bill. Abe was effectively leading the General Council and the Hosoda faction, which is the largest faction within the party” (Editorial, Asahi, June 21, 2021).

At a press conference on June 8, Tsutomu Sato, chairman of the LDP’s general affairs committee, expressed his recognition that the bill should be reviewed again. However, he explained that a revision was needed (Editorial, Asahi, June 9, 2021).

Following the shelving of the bill, petitions submitted (Tokyo Shimbun, 2021) as well as protests and press conferences (Yasuda, 2021, June 19) held by J-All and HRW representatives among others called for the enactment of the law in the current session of the Diet since there was still time left (Yasuda & Tsuboike, 2021b; Editorial, Asahi, June 5,
LGBTQ+ rights activists and supporters questioned, for instance, whether the LDP’s initial wording about “promoting an understanding” would actually protect the human rights of sexual minorities. They expressed concerns that such a bill would let discrimination go unchecked and hamper moves to allow same-sex marriages and similar partnership systems (Editorial, Asahi, May 10, 2021).

Newspapers across the country ran editorials to support LGBTQ+ people, stating among others that “it is natural that discrimination should be prohibited by law,” and “it is the ruling party’s responsibility to enact a bill in the current Diet session” (Glad XX, 2021). Moreover, 1,285 lawyers and legal scholars from all over Japan issued a statement urging the LDP to submit the bill to the current Diet which ends on June 16 (Bengoshi dotto komu: News, 2021). Three members of the LDP received it, but not as a party (Twitter, Huffpost, June 8, 2021).

On June 18, two days after the closing of the then-current Diet session, the parties concerned held a press conference in Tokyo (Editorial, Asahi, June 19, 2021). At the press conference, Matsuoka (Fair) said, “In a country where we can’t even show that ‘discrimination is unacceptable’ and where parliamentarians repeatedly make discriminatory statements, what kind of hope is there?” (Editorial, Asahi, June 19, 2021). J-All also issued a statement (LGBT Hō Rengōkai, 2021, June 18; Editorial, Asahi, June 18, 2021).

On July 10, secretary-general Kamiya of J-All contributed an article about the series of movements related to the new LGBT law (e.g. achievements and issues), which was not submitted to the current Diet session (Kamiya, July 21).

On July 21, J-All issued a statement both domestically and internationally to Suga stating that he should immediately make a public commitment to enact the LGBT equality law (LGBT Hō Rengōkai, 2021, July 21).

**Examples of UPR recommendations for Japan based on SOGIE**

This list contains a selection of URP recommendations for Japan on eliminating discrimination based on SOGIE given by different nations. The information was found on page 9 in the Joint Stakeholder Report on Sexual and Reproductive Health and Rights in Japan. The information was in turn found in paragraph 161.58-75, 161.84, A/HRC/37/15 (JOICFP et al., 2023).
161.58 Eliminate legislative provisions that are discriminatory against ...lesbian, gay, bisexual, transgender or intersex persons, with a view to expressly prohibiting hate speech and penalizing any non-consensual sexual conduct. (Mexico)

161.59. Adopt a broadly applicable anti-discrimination law, including a comprehensive definition of discrimination, with a view to ensuring the prohibition of all forms of direct and indirect discrimination, including on the basis of age, gender, religion, sexual orientation, ethnicity or nationality (Netherlands)

161.61 Enact a law prohibiting discrimination, including on the basis of age, gender, religion, sexual orientation or ethnicity, and that other necessary measures be undertaken to ensure gender equality (Norway)

161.63 Adopt and implement a comprehensive anti-discrimination law that would prohibit and sanction any direct or indirect form of discrimination based on age, race, gender, religion, sexual orientation, ethnic origin or nationality (Germany)

161.65 Adopt comprehensive legislation to combat discrimination in line with its international obligations and standards, which includes discrimination based on sexual orientation and gender identity (Honduras)

161.70 Take steps to address discrimination based on sexual orientation and gender identity, including revising the Gender Identity Disorder Law (New Zealand)

161.71 Continue the positive developments related to the elimination of discrimination based on sexual orientation and recognize same-sex unions at the national level (Switzerland)

161.72 Implement comprehensive anti-discrimination legislation to protect and promote the rights of lesbian, gay, bisexual, transgender and intersex persons (United States of America)

161.73 Further the efforts of some local governments and private firms to eliminate discrimination based on sexual orientation and gender identity, including by extending at the national level formal recognition of same-sex partnerships (Canada)

161.74 Continue developing the implementation of actions against any kind of discrimination for gender, ethnicity, skin colour, sexual orientation and gender identity, among others (Colombia)

161.75 Move quickly to introduce comprehensive anti-discrimination legislation to provide equal protection against discrimination for all persons and on all grounds, including sexual orientation or gender identity (Ireland)

161.84 Take further steps to effectively address hate speech and protect the rights of minorities, including introducing legislation to prohibit discrimination on the grounds of race, ethnicity, sexual orientation and gender identity (Australia)