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May 28, 2019

Your Excellencies:

The World Professional Association for Transgender Health (WPATH) is the only international, interdisciplinary professional association dedicated to the scientific study of gender dysphoria and the evidence-based best practices in transgender health. We are a non-profit association with over 2200 members in the fields of medicine, mental health, law and ethics, and scientific research. Formed in 1979 for the purpose of bringing scientists and medical providers together to exchange knowledge about the field, we are the creators of the internationally accepted Standards of Care for the Health of Transsexual, Transgender, and Gender-nonconforming People, now in its 7th edition (SOC v7), and available in a Japanese translation¹ on our website: www.wpath.org. We have also advised governments around the world with respect to transgender health and human and civil rights. Our mission is to encourage education and research to ensure that the highest possible standards of health, social services, and justice are available to transgender people around the world.

We, WPATH's leadership, write to encourage Japan to urgently amend the "Gender Identity Disorder Special Cases Act"² as it contains some harmful and unscientific elements, and is not in line with international consensus on protecting and promoting the health of transgender people.

In writing this letter, we use the term *transgender* as an adjective to describe all those who identify in a gender other than the one that matches the sex they were assigned at birth. The term, used in this simple way, includes persons who seek gender affirming medical services,

¹ https://www.wpath.org/media/cms/Documents/SOC%20v7/SOC%20V7_Japanese.pdf

² Act on Special Cases in Handling Gender Status for Persons with Gender Identity Disorder, Act No. 111 of July 16, 2003. 性同一性障害者の性別の取扱いの特例に関する法律. <http://www.japaneselawtranslation.go.jp/law/detail/?id=2542&vm=04&re=02>

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as well as those who do not. It includes persons who identify using labels other than transgender, and who are described by others by way of other terms (for example, by way of the term transsexual or gender-diverse). It includes persons who identify as male or female, as well as those who identify as both or neither, and who therefore find male and female gender markers inadequate in describing who they are.

As you are aware, Japan's law regulating legal recognition for transgender people requires a diagnosis of "Gender Identity Disorder" (GID) before any transgender person can apply to secure legal recognition of their appropriate gender. "GID" is defined in the law as: *A person, despite his/her biological sex being clear, who continually maintains a psychological identity with an alternative gender, who holds the intention to physically and socially conform to an alternative gender.*

In addition to providing a certificate attesting to the fact that the individual has been diagnosed with GID, an applicant to the court must meet the following qualifications:

- Be 20-years-old or older;
- Be presently unmarried;
- Not presently have any underage children;
- Not have gonads or permanently lack functioning gonads; and
- Have a physical form that is "endowed with genitalia that closely resemble the physical form of an alternative gender."

All of the above provisions require revision—most urgently, WPATH encourages the government of Japan to eliminate the sterilization requirement and update the diagnosis requirement in line with APA and WHO standards. The GID Special Cases Act, while serving to acknowledge the existence of a population and allowing for their legal recognition, is a formidable barrier for transgender people in Japan. The requirement of a "GID" diagnosis is unscientific and is no longer in use in the medical or mental health care fields in either clinical or research settings. The requirement of single marital status and not having minor children amounts to discrimination; and the requirement of surgeries that sterilize amounts to coerced sterilization—a widely-recognized human rights violation, including in Japan.

As the world's peak professional organization concerned with transgender health, WPATH is aware of the importance that gender recognition can play in facilitating the health and wellbeing of transgender people. We share here the official WPATH Identity Recognition Statement.

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WPATH Identity Recognition Statement:

The World Professional Association for Transgender Health (WPATH) recognizes that, for optimal physical and mental health, persons must be able to freely express their gender identity, whether or not that identity conforms to the expectations of others. WPATH further recognizes the right of all people to identity documents consistent with their gender identity, including those documents which confer legal gender status. Such documents are essential to the ability of all people to enjoy rights and opportunities equal to those available to others; to access accommodation, education, employment, and health care; to travel; to navigate everyday transactions; and to enjoy safety. Transgender people, regardless of how they identify or appear, should enjoy the gender recognition all persons expect and deserve. Medical and other barriers to gender recognition for transgender individuals may harm physical and mental health.

WPATH opposes all medical requirements that act as barriers to those wishing to change legal sex or gender markers on documents. These include requirements for diagnosis, counseling or therapy, puberty blockers, hormones, any form of surgery (including that which involves sterilization), or any other requirements for any form of clinical treatment or letters from doctors. WPATH argues that marital and parental status should not be barriers to recognition of gender change, and opposes requirements for persons to undergo periods living in their affirmed gender, or for enforced waiting or 'cooling off' periods after applying for a change in documents. Further, court and judicial hearings can produce psychological, as well as financial and logistical barriers to legal gender change, and may also violate personal privacy rights or needs.

WPATH advocates that appropriate gender recognition should be available to transgender youth, including those who are under the age of majority, as well as to individuals who are incarcerated or institutionalized. WPATH recognizes that there is a spectrum of gender identities, and that choices of identity limited to Male or Female may be inadequate to reflect all gender identities. An option of X, NB (non-binary), or Other (as examples) should be available for individuals who so choose. WPATH urges governments to eliminate barriers to gender recognition, and to institute transparent, affordable and otherwise accessible administrative procedures affirming self-determination, when

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gender markers on identity documents are considered necessary. These procedures should be based in law and protect privacy.

We are aware that in January 2019, the Supreme Court of Japan issued its judgment in the case of Takakito Usui, a 43-year-old transgender man who had brought a case to the court challenging the GID Special Cases Act on the grounds that the requirement of surgery violated Japan's constitution. While the court upheld the GID Special Cases act as constitutional at this time, the justices also stated that, "It cannot be denied that [this law] impinges on freedom from invasion of bodily [integrity]."

Two of the justices in a concurring opinion wrote of the urgency of Usui's case, and the need to reform Japan's law: "The suffering that [transgender people] face in terms of gender is also of concern to society that is supposed to embrace diversity in gender identity." They concluded that for transgender people, being "able to receive rulings of changes in recognition of gender status...is an important, perhaps even urgent, legal benefit."³

WPATH recognizes that, for optimal physical and mental health, persons must be able to freely express their gender identity, whether or not that identity conforms to the expectations of others.

WPATH further recognizes the right of all people to identity documents consistent with their gender identity, including those documents which confer legal gender status. Such documents are essential to the ability of all people to enjoy rights and opportunities equal to those available to others; to access accommodation, education, employment, and health care; to travel; to navigate everyday transactions; and to enjoy safety. Transgender people, regardless of how they identify or appear, should enjoy the gender recognition all persons expect and deserve.

Some transgender people want to undergo hormonal treatment, surgical procedures, or other medical interventions as part of their transition. Others do not. Access to gender-affirming healthcare is important;

³ Heisei 30 nen (2018)(ku) No. 269 Tokubetsu-koukoku Appeal Case Against the Koukoku Dismissal Decision Against the Decision to Dismiss the Application to Change the Treatment of Sex, Heisei 31 nen (2019) Decision by the Second Petty Bench of the Supreme Court, http://www.courts.go.jp/app/files/hanrei_jp/274/088274_hanrei.pdf; See Appendix 4

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however mandatory use of medical services as part of the legal recognition process is not recommended on the basis of science or human rights. The decision to undergo invasive medical or surgical procedures of any kind should remain with the individual in consultation with their physician(s).

Medical and other barriers to gender recognition for transgender individuals may harm physical and mental health. WPATH opposes all medical requirements that act as barriers to those wishing to change legal sex or gender markers on documents. These include requirements for diagnosis, counseling or therapy, puberty blockers, hormones, any form of surgery (including that which involves sterilization), or any other requirements for any form of clinical treatment or letters from doctors. People experience their lives under many different circumstances and may lack the means or the opportunity to overcome these barriers, yet their gender identity is an innate characteristic that they deserve to have recognized.

Although WPATH acknowledges that age restrictions are subject to local jurisdiction, we wish to point out that many countries do allow individuals younger than age 20 to transition and to receive identity documents that support their gender identity. Also, most countries that do acknowledge transgender individuals also do not restrict marriage or enforce divorce, nor do they demand that any children of a transgender person must reach the age of majority before a transgender parent may be legally recognized. Clinical and practical experience has shown that requirements such as these imposed by Japan's current law do not serve to protect parties who may be in relationship with a transgender person, but instead interfere with the rights of all parties to enjoy the support of their family members. Further, the physical form of an individual's genitalia in no way describes or defines the individual's gender. Variation in human bodies, whether congenital, accidental, or deliberately achieved should not limit any individual's integrity with respect to their gender identity or their humanity.

Japan has taken some important steps in recent years to respect the rights and protect the health of sexual and gender minorities, including by the Tokyo Metropolitan Government passing a non-discrimination law

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with protections for gender identity.⁴ The 2020 Olympic Games in Tokyo will be an important moment for the government of Japan to demonstrate to the world that it respects the rights of all people, and WPATH encourages urgent reform of the GID Special Cases act in order to do so. These are complex components of human experience, and we urge Your Excellencies to consider them with due diligence.

Please contact us if we may be of assistance in the process of reforming this law.

Sincerely and respectfully,



Vin Tangpricha, MD
President

on behalf of the WPATH Board of Directors

⁴ Human Rights Watch, "Tokyo: New Law Bars LGBT Discrimination," October 5, 2018, <https://www.hrw.org/news/2018/10/05/tokyo-new-law-bars-lgbt-discrimination>.