

Japan: Keep Equality Protections for Lesbians and Gays

Municipality Must Not Weaken Landmark Anti-Discrimination Law

Sunday 22 October 2006, by [Human Rights Watch](#), [LONG Scott](#) (Date first published: 14 September 2006).

(New York, September 14, 2006) – A move to eliminate “sexual orientation” from a Japanese city’s groundbreaking antidiscrimination ordinance would be a damaging blow to the cause of full equality, Human Rights Watch said today in a letter to the city’s mayor. The city assembly of Miyakonojo will begin debating the proposed changes tomorrow.

The city of Miyakonojo led by example...It cannot retreat in the face of prejudice now

Scott Long

director the Lesbian, Gay, Bisexual, and Transgender Rights Program

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“Rights should never be subject to repeal,” said Scott Long, director of the Lesbian, Gay, Bisexual, and Transgender Rights Program at Human Rights Watch. “A city that became a model of progress by affirming equal rights must not break its promises now.”

In 2003 the southern Japanese city of Miyakonojo, located in Miyazaki prefecture, became one of the first cities in the country to include “sexual orientation” in its gender-equality ordinance. The national “Basic Law for a Gender-Equal Society,” passed by Japan’s Diet in 1999, required local governments to develop laws and policies promoting equality between men and women. While the national law did not mention sexual orientation, Miyakonojo’s ordinance stated: “In the gender-equal society, for all people irrespective of gender and sexual orientation, human rights should be fully respected.”

Early this year, Miyakonojo was consolidated with three other towns, and officials agreed that all ordinances passed before that date would undergo review. After a closed process, with no invitation for citizens or LGBT groups to present their views to the city assembly in hearings, a revision was proposed in which references to “gender” and “sexual orientation” were both dropped from key articles of the ordinance. The city’s website states that the revision is meant “to simplify the contents.”

“The city of Miyakonojo led by example,” said Long. “It cannot retreat in the face of prejudice now.”

Letter to the mayor of Miyakonojo Municipality about the removal of “sexual orientation” from the gender-equality ordinance

September 14, 2006

His Honor Nagamine Makoto

Mayor

Miyakonojo City

Miyazaki Prefecture

Japan

Dear Mayor:

On behalf of Human Rights Watch, I write in protest against the move to eliminate references to “sexual orientation” from Miyakonojo City’s “Ordinance for the formation of a gender-equal society.” Language affirming equality on the basis of sexual orientation has been part of that ordinance since 2003. Its proposed removal—by a process which has excluded the full input of citizens and civil society—would send a damaging message that your community is regressing from the promise of equality and its commitment to non-discrimination.

As you are aware, the Basic Law for a Gender-Equal Society (Law 78/1999), passed by Japan’s Diet in 1999, committed Japan to “respect for the human rights of women and men, including: respect for the dignity of men and women as individuals; no gender-based discriminatory treatment of women or men; and the securing of opportunities for men and women to exercise their abilities as individuals” (article 3). While the law did not propose penalties for discrimination, it was an important affirmation of government’s positive responsibility to promote equality at all levels. The same law made local governments responsible for “formulation and implementation of policies related to promoting formation of a gender-equal society corresponding to national measures (article 9). In response, Miyakonojo City in 2003 passed a human rights ordinance that affirmed the equality of people regardless of sexual orientation as well as gender. It was one of the first local governments in Japan to include sexual orientation in its commitment to promote equality. The final text of the ordinance was achieved through a process including open hearings at which citizens as well as local lesbian, gay, bisexual, and transgender (LGBT) groups spoke.

However, Miyakonojo City was consolidated with three other towns in January 2006, and officials agreed that ordinances enacted before this would undergo review. Human Rights Watch is concerned by reports that an open hearing was not held as the "Ordinance for the formation of a gender-equal society" was revised. LGBT groups and individuals and their supporters were denied the full opportunity to express their case. While municipal authorities insist that the proposal rises from discussions of a committee of experts, that discussion has not been made public.

Article 2.1 of the previous ordinance stated, "In the gender-equal society, for all people irrespective of gender and sexual orientation, human rights should be fully respected." Article 2.6 defined "sexual orientation" as "a concept describing the direction of an individual's sexuality, which can be directed to someone of the different or same gender, or to someone irrespective of their gender."

In the ordinance now proposed, Article 2.1 now reads, "In the gender-equal society, for all people, their human rights should be equally respected." Article 2.6 has been completely deleted.

The rationale for these proposed changes is explained, on the city's website, as "to simplify the contents." A simplification of an ordinance on gender equality which removes the term "gender" as well as "sexual orientation" is not a streamlining but a drastic weakening of the contents.

The Miyazaki Prefecture's "Miyazaki Prefecture Development Policies of Human Rights Education," introduced in 2005, includes a section on "Problems faced by gender minorities." This section recognizes persisting discrimination and prejudice based on sexual orientation as well as gender, and urges active steps toward accepting sexual diversity. The new text of your city's ordinance belies this aim. It also places your city at odds with the express finding of international human rights bodies that sexual orientation should be a status protected from discrimination. In 1994, the United Nations Human Rights Committee, which interprets and monitors compliance with the International Covenant on Civil and Political Rights (ICCPR), found that protections against discrimination in articles 2 and 26 of that treaty should be understood to include sexual orientation. Japan has been a party to the ICCPR since 1979.

The proposed revision of the gender-equality ordinance will be debated by the city assembly this week. I urge you to support retaining the existing language. Miyakonojo City's resonant support of equality made it a model in Japan. Its example is too important for you to retract it now.

Sincerely,

Scott Long

Director

Lesbian, Gay, Bisexual and Transgender Rights Program

Human Rights Watch

cc: Office of Miyakonojo City Assembly