Date: August 16, 2022

United Nations Office of High Commissioner for Human Rights

Report of “Space Allies” Regarding the Seventh Periodic Report by the Government of Japan based on Article 40(b) of the International Covenant on Civil and Political Rights,

especially in the field of sexual reproductive rights



NGO Space Allies

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| **(Suggested Recommendations)**  **●　Abortion should be decriminalized.**  **●　The provision requiring spousal consent for abortion should be removed.**  **●　Abortion methods should comply with the recommendations of the World Health Organization.**  **●　The cost-sharing of sexual reproductive health services, including abortion costs, should be reduced.**  **●　Barriers to access to sexual and reproductive health services should be removed.** |

(Explanations)

The Penal Code contains abortion crimes that punish and prohibit women who have abortion and their practitioners (Penal Code Articles 212, 213, and 214).

The Maternal Protection Law also stipulates that, in principle, abortion requires spousal consent. This provision gives the husband the final decision to continue the pregnancy and women’s body’s decision (Maternal Protection Law, Article 14).

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| (Reference article)  Penal Code  Article 212　When a pregnant woman causes her own abortion by using drugs or any other means, imprisonment for not more than 1 year is imposed.  Article 213　At the request of a woman or with her consent, a person who causes her abortion, is punished by imprisonment for not more than 2 years. If the person thereby causes the death or injury of the woman, the person is punished by imprisonment for not less than 3 months but not more than 5 years.  Article 214　When a physician, midwife, pharmacist or pharmaceuticals distributor, at the request of a woman or with her consent, causes her abortion, imprisonment for not less than 3 months but not more than 5 years is imposed. If such person thereby causes the death or injury of the woman, imprisonment for not less than 6 months but not more than 7 years is imposed.  Maternal Health Act  Article 14(1)　A doctor designated by a medical association that is a public interest incorporated association established for the area of a prefecture (hereinafter referred to as a "Designated Doctor") may perform an Induced Abortion on a person who falls under any of the following items after obtaining consent from the relevant person and the spouse:  (i)a person for whom the continuation of pregnancy or delivery may significantly damage the person's physical health due to bodily or economic reasons; and  (ii)a person who was raped in a violent or threatening manner or at a time when the person could neither resist nor refuse and becomes pregnant.  (2)As for the consent provided in the preceding paragraph, the consent of the spouse is not necessary if the spouse is not known or cannot express an intention, or if the spouse no longer exists after the pregnancy. |

Although repeated recommendations for revision of these laws have been made by CEDAW, the government has shown no movement to even consider amending them[[1]](#footnote-1).

Contrary to the abortion method recommended by the World Health Organization, the dilation and curettage (D&C) method, which is outdated, prone to bring complications, and considered dangerous, is the main method used in Japan, placing a physical and emotional burden on women. The vacuum aspiration (VA) method recommended by the World Health Organization is not widespread. (The World Health Organization has published `Abortion care guideline’, of which object is to present the complete set of all WHO recommendations and best practice statements relating to abortion in 2022, however, the Japanese practice deviates significantly from the guideline.

https://www.who.int/publications/i/item/9789240039483 )

In principle, the cost for the first trimester abortion is not covered by health insurance and generally costs $1,000 or more.

There is concern that abortion pills, which have been applied for regulatory approval but are not yet approved, may cost as much as $1,000 or more, and there is also a concern that burdensome protocols may be implemented that would require taking the medication under physician supervision and waiting in a medical facility until the abortion is complete.

The policy about emergency contraceptive pills were also included in the fifth plan as a policy to be available at pharmacies without a prescription, but the Ministry of Health, Labor, and Welfare's study group opposed the idea, and the availability of emergency contraceptive pills at pharmacies without a prescription has not yet been realized.

In principle, Japan's health insurance covers injuries and sicknesses, and thus pregnancy and other conditions that do not require medical treatment are not covered. In principle, the cost of abortion, contraception, and other basic sexual and reproductive health services are financially borne by the women themselves who use these services.

In addition to economic barriers, there is also the issue of providing users with sufficient information about sexual reproductive health services in general.

　Due to poor access to abortion services, there have been cases of women who are unable to have abortions, giving birth in isolation, and being arrested for abandoning their newborn babies.

The decriminalization of abortion is addressed in Beijing Platform for Action 106(k), which states that "consider reviewing laws containing punitive measures against women who have undergone illegal abortions," and in paragraph 31(c) of CEDAW General Recommendation 24, "When possible, legislation criminalizing abortion should be amended, in order to withdraw punitive measures imposed on women who undergo abortion," and CEDAW General recommendation 35, paragraph 29, has also stipulate "The Committee recommends that States parties implement the legislative measures to repeal the provisions that criminalize abortion". Paragraph 8 of Human Rights Committee General comment No. 36 Article 6: right to life also states "For example, they should not take measures such as criminalizing the pregnancy of unmarried women or applying criminal sanctions to women and girls who undergo abortion or to medical service providers who assist them in doing so". Furthermore, CEDAW General recommendation 35, paragraph 18, states that "Violations of women’s sexual and reproductive health and rights, such as forced sterilization, forced abortion, forced pregnancy, criminalization of abortion, denial or delay of safe abortion and/or post-abortion care, forced continuation of pregnancy, and abuse and mistreatment of women and girls seeking sexual and reproductive health information, goods and services, are forms of gender-based violence that, depending on the circumstances, may amount to torture or cruel, inhuman or degrading treatment".

The obligation of governments to ensure the right to sexual and reproductive health is stipulated in GENERAL COMMENT 22 on the right to sexual and reproductive health (art. 12) and is expected to be realized by States Parties.

1. [↑](#footnote-ref-1)