

The Historical Background of Japan's Eugenics Protection Act and the Struggle of Its Victims

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While conducting research as a visiting researcher at Ritsumeikan University's Institute of Ars Vivendi, I am also a co-representative of the "National Liaison Committee for the Comprehensive Resolution of the Eugenic Protection Act Issue" (hereafter referred to by its Japanese abbreviation "Yūseiren"). "Yūseiren" is a national organization formed by groups of persons with disabilities and civic groups from all over Japan when victims brought a national compensation lawsuit that aims to win court judgements and eliminate discrimination against persons with disabilities based on eugenic thought.

Regarding the national compensation lawsuit brought by victims forced to undergo eugenic surgery (sterilization surgery) under the Eugenic Protection Act because they had a disability, on July 3rd, 2024, the supreme court handed down a ruling stating that the Eugenic Protection Act violated the constitution, clearly acknowledging the national government's responsibility for causing harm, and ordering that compensation be paid. It was a complete victory for the plaintiffs. Accepting this verdict, the national government enacted the "Act on Payment of Compensation to Persons Who Underwent Eugenic Surgery Based on the Former Eugenic Protection Act" (hereafter referred to as the "Compensation Act") on October 8th of that year and this law went into force on January 17th, 2025. At present, based on these developments, we have at last begun the process of restoring the human rights of all victims, elucidating the realities of the harm caused by the Eugenic Protection Act, and realizing permanent policies to prevent such mistakes from ever being made again.

Today, I will begin by giving an overview of the history of eugenic surgeries and abortions performed because of disabilities in Japan. I will then discuss the realities of the implementation of the Eugenic Protection Act as revealed by public documents maintained by national and local governments and the true nature of the damage this law caused as revealed by an interview survey of victims. Finally, I will discuss how the fight to restore human rights after the damage caused by the Eugenic Protection Act has unfolded and what we are aiming for in the future.

I would like to note at the start than when discussing this history, discriminatory terms that are no longer used such as “mental deficiency” arise, and these terms should be understood as historical jargon being used in quotation marks.

1. The historical details of eugenic surgery and abortion performed for reasons of disability

In Japan, under the Eugenic Protection Act with its stated aim of “preventing the birth of defective offspring from a eugenic perspective,” eugenic surgeries and abortions that were not based on the wishes of the person in question were performed on people with illnesses or disabilities deemed to be hereditary. Along with violently depriving persons with disabilities of their sexual and reproductive health and rights on the basis of discrimination, this policy caused them immense mental and physical suffering and trampled on their dignity as human beings. These actions were conducted “legally” by national and local governments in the name of healthcare, welfare and education.

(1) Eugenic surgeries and abortions under the National Eugenic Act

The predecessor to the Eugenic Protection Act was the “National Eugenic Act,” a law modeled on Nazi Germany’s “Law for the Prevention of Hereditarily Diseased Offspring.” It promoted the sterilization of “those possessing the innate qualities of a malignant hereditary disorder,” strictly limited sterilization and abortions for “those with healthy innate qualities,” and aimed to improve the innate qualities of the population. However, this was during the Second World War, and since policies to increase the population were being advanced under the total war doctrine, and since there was a family system at the foundation of society and strong opposition to surgery that would end the family line, only a relatively small number of sterilization surgeries were carried out up to 1947 (538). There was regulation imposing forced sterilization, but as this law was frozen at the debate stage, not a single forced sterilization was carried out under the law.

Abortions for medical reasons, on the other hand, which had been left up to the discretion of doctors, became strictly monitored by the authorities. As a result, only a few eugenic surgeries were carried out, and this act functioned mainly as a ban on abortion.

However, even before the enactment of the National Eugenic Act, many sterilization surgeries were already being conducted on leprosy patients. Sterilization surgeries were first carried out on male patients at the national leprosy sanatorium as a condition for marriage within the sanatorium. Sterilization surgeries continued to be performed amid a policy of reducing the number of patients through absolute isolation under the 1931 revisions of the “Leprosy Prevention Act.” While the Ministry of Health and Welfare tried to legalize the sterilization of leprosy patients, it was unable to include this in the “National Eugenic Act” targeting hereditary disorders, and the “Proposed Revision of the Leprosy Prevention Act” did not become law¹⁾. Nevertheless, sterilization continued to be performed on leprosy patients with the tacit permission of the national government.

(2) Enactment of the Eugenic Protection Act – a eugenic measure for “national revitalization and the creation of a cultured nation” after Japan’s defeat in the Second World War

The eugenic protection law was enacted in 1948 after Japan had been defeated in the war. Amid severe food and housing shortages, a baby boom occurred as people were brought back from overseas and demobilized, and during this period excessive population became a major issue. Pregnant women died as a result of back-alley abortions, and rape and pregnancy under the occupation after Japan’s defeat also became a problem. The national government was under pressure to limit newborn children through measures such as legalizing abortion and promoting birth control. If abortion and birth control were accepted, however, there were concerns that, since these measures would be utilized by “superior” families while “inferior” families would go on having children as they pleased, this could result in so-called “reverse selection” in which the quality of the nation as a whole declined. It was therefore decided that the birth of “defective offspring” must be strongly prevented, and the “Eugenic Protection Act” was enacted to this end.

Abortion under certain conditions was legalized, voluntary sterilization and abortion for reasons of leprosy was also recognized, and Article 4 recognized and led to the carrying out of forced sterilization of patients with hereditary conditions. Eugenic regulations were further strengthened alongside the easing of regulations on abortion and the spread of birth control to

prevent “reverse selection.” In 1949 “economic reasons” was introduced as a valid reason for an abortion, and the effective liberalization of abortion continued to advance with measures such as the abolition of the abortion screening system in 1952. In parallel to this trend, Article 12 was newly enacted to legalize sterilization surgery on persons with non-congenital mental illness and intellectual disabilities without their consent. The post-war “eugenic policies for national revival and cultural nation-building” were thus strengthened, and forced sterilization was positioned as one of their main elements.

(3) Amid eugenic policies for economic growth

In the middle of the 1950s Japan entered a period of high economic growth. The focus then became increasing the quality of the population to support this economic development.

In 1962, the Population Problems Council, a consultative body within the Ministry of Health and Welfare, released a “resolution on measures to improve population quality” which asserted that “in terms of population composition, reducing the ratio of deficient people and increasing the ratio of competent people is a basic requirement for improving the overall capabilities of the nation's people.”²⁾ At the time, facilities for persons with disabilities were expanding with the support of fiscal growth, and “colonies” were constructed as “mass detention centers” for persons with severe disabilities. This increase in spending for persons with disabilities led to calls “to prevent the birth of disabled people to reduce welfare costs.” In the “Opinion on the Establishment of Synthesized Measures for Maternal and Child Health” released by the Maternal and Child Health Measures Forum in 1968, it was asserted that “Care measures, including those for institutions, require huge costs. From the standpoint of cost reduction and national welfare, the most important and fundamental measure is to work to prevent the occurrence of children with physical and mental disabilities.”³⁾

In this context, the “campaign to prevent the birth of unhappy children” that had begun in Hyogo Prefecture in 1966 spread throughout the country, and a campaign by administrative bodies to prevent the birth of children with disabilities was carried out. Amid these developments, sterilization on grounds of disability was promoted. At the same time, prenatal testing (amniotic testing), which had first been introduced in Japan in 1968, began to spread as part of this campaign.

“Eugenic policies for the sake of economic growth” were thus developed from the 1960s through the early 1970s, and forced sterilization can be thought of as having been one of the methods employed in this effort⁴).

2. Overview of eugenic surgery and abortion under the Eugenic Protection Act

(1) The three types of forced sterilization surgery

Under the Eugenic Protection Act there were three types of forced sterilization surgery.

First, there was “sterilization surgery that does not require the consent of the individual” stipulated under Articles 4 and 12 of the Eugenic Protection Act. Article 4 stipulates that “when it is deemed necessary in the public interest” forced sterilization surgery can be carried out without the person in question’s consent on persons with an illness or disability considered to be hereditary as specified elsewhere in the law if a doctor applies for and is granted permission by the eugenic protection review board. Article 12 permits sterilization surgery to be carried out on persons with mental illness or intellectual disability on the determination of the review board with the consent of the person in question’s guardian.

Second, there were sterilization surgeries that while superficially “based on the consent of the individual” were de facto carried out under coercive circumstances in which it was difficult to refuse. Article 3 stipulates that in the case of hereditary illnesses and leprosy, sterilization surgery can be performed with the consent of the individual and their spouse. Nevertheless, in the case of leprosy, for example, in practice sterilization surgery was compelled as a condition of marriage under the absolute isolation policy, and it has become clear that if pregnancy occurred patients were subjected to sterilization surgery at the same time as a forced abortion. In the case of illnesses considered hereditary, too, it appears that in most cases consent was compelled under circumstances in which refusal was difficult. Persons with hearing impairment, for example, were placed in circumstances in which it was difficult to communicate even with their own families because the use of sign language was prohibited at the time. Amid such circumstances, there are clear examples of people undergoing surgeries they did not properly understand and of the consent of the individual being surreptitiously replaced by the consent of their parents. There is also testimony that sterilization surgery was strongly recommended by principals and teachers at schools for the deaf and that surgery was compelled as a condition of marriage.

Third, there were also extra-legal sterilization surgeries without the consent of the person in question beyond the scope of what was permitted under the Eugenic Protection Act. Only methods such as cutting or tying the vas deferens or fallopian tubes were recognized in the Eugenic Protection Act. Nevertheless, based on the discriminatory, prejudicial view that “it is impossible for persons with disabilities to give birth and raise children,” or with the aim of reducing the need for care in relation to menstruation, the removal of the uterus and the removal or irradiation of the ovaries of persons with disabilities was carried out. Many cases in which surgery was required for admittance to an institution or was recommended by an institution to those residing in it can be found. There were also men who underwent castration surgeries in which their testicles were removed on the grounds of their having a disability. Examples have also come to light of children who were institutionalized because of a complicated family situation or poverty being deemed “defective offspring” and made to undergo sterilization surgery. By making the scope of its application broad and vague, the Eugenic Protection Act can also be said to have played the social defense role of seeking to eliminate the poor, criminals, and those were otherwise seen as a “burden” on society.

(2) The “forcing” of surgeries under Articles 4 and 12

What was the extent of the “forcing” of sterilization surgery without the consent of the individual under Articles 4 and 12? According to a notice submitted to prefectural governors⁵⁾, “This [sterilization surgery under Articles 4 and 12] can be carried out even against the will of the person in question...regarding the method of forcing... [the Eugenic Protection Act] can be interpreted as stipulating that there are cases in which methods such as physical restraint, administration of anesthetic, and deception are permitted when truly unavoidable.” In other words, this was a notice stating that if the person in question said they did not want to undergo sterilization, it was permissible to bind them, put them to sleep with anesthetic, or trick them in order to carry out the surgery. The same content was included in “Regarding the Enforcement of the Eugenic Protection Act,”⁶⁾ a notice from the Vice-Minister of Health and Welfare issued in 1953 summarizing notices up to that point, and this policy remained valid until the Eugenic Protection Act was revised as the Maternal Protection Act in 1996.

This notice was based on the Ministry of Health and Welfare having asked the Legal Affairs Office “Is it permissible to conduct surgeries under conditions in which refusal is de facto

impossible through means such as physical restraint?” and received an affirmative reply. This response from the Legal Affairs Office is shown here⁷⁾. While acknowledging that forcing sterilization surgery “obviously implies limiting fundamental human rights,” it states that since “the Eugenic Protection Act itself upholds the aim of ‘preventing the birth of defective offspring from a eugenic perspective’ in the public interest” and this forcing is applied for after a determination of “necessity in the public interest,” such compulsion does not violate the spirit of the constitution. In other words, this opinion held that since conducting sterilization surgery by force was a necessity in the public interest because of disability, violating individuals’ human rights was unavoidable. It also noted that there were substantial legal structures governing such forced surgeries: they could not be conducted without a decision by the prefectural eugenic protection review board, if there was a dissenting opinion, an appeal for a second determination could be made to the national eugenic protection review board, and if there was still a dissenting opinion a lawsuit could be brought in court. In addition, since eugenic surgeries did not come with any notable risks, the opinion argued that “forcing” was justifiable since “the process is extremely careful, and sufficient consideration is given to the protection of human rights.”

Having received this answer, the Ministry of Health and Welfare then sent out a notice with the same content. It has become clear, however, that in fact there was no such “extremely careful process” being maintained by the state. The assertion that “eugenic surgeries do not come with any notable risks” was also gravely mistaken. As I will discuss later, those affected suffered from mental and physical pain until the end of their lives.

(3) Regarding the number of cases of eugenic surgery and abortion

This table (slide 11) shows the number of cases of eugenic surgery as determined by the national government based on its statistics. For sterilization with no consent required, the combined total for surgeries performed under Articles 4 and 12 was 16,500. For sterilization purportedly based on the consent of the individual but in fact carried out under coercive circumstances, the total number of surgeries carried out for reasons of leprosy or hereditary illness under Article 3 was 8,500. Adding these totals together, there were at least 25,000 people who underwent “sterilization for reasons of illness or disability.” The 820,000 people who underwent surgery for reasons of “maternal protection” may in fact also include people who were coerced into undergoing sterilization for reasons such as disability. Cases of forced sterilization beyond

the scope of what is permitted under the law are not included in this table. There were many forced sterilization surgeries conducted outside of this framework.

This chart (slide 12) shows changes in the number of forced sterilization surgeries performed on the basis of Articles 4 and 12. Peaking in 1955-1956, a total of around 16,500 surgeries were performed, roughly 70% of which were on women.

This chart (slide 13) shows changes in the number of sterilization surgeries performed for reasons of leprosy or hereditary disease under Article 3. Consent was given in name only, and we can see that sterilization surgery for reasons of disability was carried out under circumstances in which refusal was de facto very difficult right up until the revision of the Eugenic Protection Act in 1996.

Regarding abortion, after the Eugenic Protection Act was enacted there were several revisions, and Article 14 Clause 1 stipulates that in cases in which the individual in question or their spouse or family has a hereditary illness or disability, or cases in which the individual or their spouse has contracted leprosy, abortion can be carried out with the consent of the individual and their spouse. Like voluntary sterilization surgery, however, there seem to have been many cases in which consent was coerced under circumstances in which refusal was difficult. Moreover, regarding persons with mental illnesses or intellectual disabilities, it was stated that “consent of a guardian can be viewed as consent of the person in question” (Article 14 Clause 3), indicating that forced abortion not based on the consent of the person in question was legalized.

This chart (slide 15) shows changes in abortions for reasons of hereditary illnesses, disabilities, and leprosy. What is clear from these statistics is that the number of abortions for reasons such as disability was approximately 51,300 and for reason of leprosy approximately 7,700, giving a combined total of approximately 59,000 victims.

3. How were eugenic surgeries performed?

(1) The realities of the implementation of the Eugenic Protection Act revealed by official documents

How were eugenic surgeries implemented in practice? I will begin by discussing the realities of the implementation of the Eugenic Protection Act that have been brought to light by official documents that have been gradually made public thanks to national compensation lawsuits.

What sort of members formed the review boards that determined whether or not eugenic surgery was appropriate? The Eugenic Protection Act states that these committees should be made up of no more than ten members, and that these members should be doctors, community welfare volunteers, judges, prosecutors, employees of relevant administrative agencies, or other people with relevant learning and experience appointed by the governor (Article 18).

This table (slide 17) shows the composition of eugenic protection review boards in Kanagawa Prefecture and Miyagi Prefecture. While there is some difference between localities, from the medical field there are professors of psychiatry/neurology and obstetrics and gynecology from the prefectures' top university hospitals, psychiatrists and obstetricians from private hospitals, and chairpersons of medical associations and from the legal field there are lawcourt judges and prosecutors from district public prosecutor's offices. In addition, members of the prefectural assembly, community welfare volunteers, and civil servants from the local government also served as members of the committees. In almost cases, the majority of committee members were men, with only one or two being women.

Regarding the circumstances of the examinations carried out by the eugenic protection review boards, looking at the case of Kanagawa Prefecture⁸⁾, in fiscal year 1962 the review board convened six times, and as a result of examining 38 applications determined that the performing of sterilization surgery was "appropriate" in all cases. Approximately 90% of the applications were for surgeries on women (4 men and 34 women). 11 applications were made under Article 4 and 27 under Article 12. It was stipulated that the cost of eugenic surgeries performed under Article 4 be borne by the state, but there was no such stipulation for surgeries performed under Article 12. Applications under Article 12 being numerous in Kanagawa Prefecture can be seen as having been caused by the enactment of the "Eugenic Surgery Cost Assistance Regulation" in 1956 and the creation of a system in which the prefecture also covered surgeries performed under Article 12. Looking at the names of illnesses cited in applications, we see that people with mental illnesses, mainly "schizophrenia," and "mental deficiency" (intellectual disability) were targeted.

Unfortunately, I do not have time to present examples from other prefectures, but there are a few commonalities that have been elucidated: nearly all applications submitted received a determination of "the carrying out of eugenic surgery is appropriate," those targeted for forced sterilization surgery were mainly persons with intellectual disabilities or mental illnesses, and 70% to 90% of those targeted were women.

Looking at several typical cases among the reasons given for application, all were women in their teens living in institutions for children with intellectual disabilities. These women were often viewed as targets for forced sterilization surgery for reasons such as “even if she marries, she will not be able to raise children. She seems to have some interest in the opposite sex, so I am worried about her future when she enters society,” “she is completely unable to manage toileting, let alone her menstruation,” and “she is unable to carry out her daily life independently. She follows about a man she doesn't know well and does whatever she is told to do.”⁹⁾

Such examples are not confined to the older period of the 1950s to the 1970s. The last prefecture to continue forced sterilization surgery, Fukuoka Prefecture, continued this practice until 1992. The photograph (slide 20) shows an application form¹⁰⁾. We can see that in March of 1992 a woman with an intellectual disability was targeted for sterilization surgery under Article 12 of the Eugenic Protection Act because “this person is mentally deficient and therefore lacks the relevant abilities to become pregnant, give birth, and raise children.”

(2) The reality of the harm revealed by interviews

Next, I will address the reality of the harm that was made apparent by an interview survey of victims¹¹⁾.

① Forced sterilization – the reality of “surgery carried out through physical restraint, administration of anesthetic drugs, and deception”

As discussed in 2 – (2), according to the notice from the Ministry of Health and Welfare, it was deemed acceptable for forced sterilization under Articles 4 and 12 to be carried out using the methods of “restraining the person’s body, putting them to sleep with anesthetic drugs, or tricking them,” but the concrete realities of the circumstances in which these surgeries were actually performed remained unclear.

Etsuo Nitta (pseudonym), a resident of Kiteien, an institution for children with intellectual disabilities in Miyagi Prefecture, describes his experience of undergoing surgery with no explanation whatsoever around 1952. Mr. Nitta, who at the time had come from Kiteien to work as a farmer, received a phone call early in the morning asking him to come to the institution, and was then taken to Atago Prefectural Hospital by a staff member along with another resident of the

institution. Most of the forced sterilization surgeries performed in Miyagi Prefecture from the 1950s to the early 1970s were carried out at Atago Hospital¹²⁾.

Atago Hospital. That's where they took us. First the person who went with me... they cut his male parts [genitals]. Then, after that person was done... it was my turn. They strapped me to a hospital bed and fixed my legs like this. I was crying my eyes out. In the end, they put me under anesthetic and operated on me.

Mr. Nitta, who was 15 at the time, says, “At Kiteien, when people reach my age, both men and women – well, not everyone, but a significant number – end up having surgery done here.”

In the same prefecture, Miyagi, another boy around 14 years of age living in a reformatory (now a children's independent living center) and a boy in a rehabilitation facility for persons with intellectual disabilities stated in the interviews that they were taken to Atago Hospital by institution staff without any kind of explanation, in 1957 and 1967 respectively, told “the doctor is just going to examine you” or “you're going to have a hernia operation,” and then anesthetized and subjected to sterilization surgery.

②The reality of sterilization surgery beyond the scope of what the law permitted

Next, I will present an example of a hysterectomy that went beyond the scope of what the law permitted. In 1966, when she was 12 years old and had not yet started menstruating, Yumi Suzuki (resident of Hyogo Prefecture), a person with the disability of cerebral palsy, was hospitalized and subjected to a hysterectomy without having been told anything about what was happening to her. She talks about her experience as follows.

Mum told me, “Yumi-chan, you're having surgery on the 27th of March.” I thought the surgery might make things even better since I had become able to sit with support from behind.

When I went into the operating theater, the scalpels were gleaming, the ceiling was full of lights, and there were doctors and nurses all around. I was scared and started crying, then they put me under anaesthetic...

When I woke up, my stomach felt really tight. ...After the nurse helped me change into my pyjamas, I saw this huge scar on my stomach. I thought, “Hang on, this wasn't here before. Why is it here now?”

After being discharged from the hospital, she often had flashbacks to the operation, and whenever this occurred her body would experience convulsions and rigidity, and she would be completely bedridden. Thinking, “I can't go on like this,” she gradually reduced her medication and practiced sitting up. She says that by the time she was finally able to sit in a wheelchair 20 years had passed since the surgery.

Next, I will discuss the case of an orchiectomy that was also performed outside the scope of what the law permitted. In 1961, when he was 10 years old, Kazumi Watanabe (resident of Kumamoto Prefecture), who had had a limp since early childhood because of osteoarthritis, was taken to the hospital by his mother because of blood in his urine. When his mother said she couldn't afford to pay for treatment, the doctor told them, “We'll do it under the Eugenic Protection Act, so you don't need to pay,” and he was subjected to an orchiectomy (the removal of his testicles). He speaks about this experience as follows.

After the operation, when the nurse placed something about the size of two quail eggs on a tray and said, “These are the testicles we removed from you, Mr Watanabe,” all I could manage was, “Oh, is that so?” Honestly, I didn't really get it at the time. Only later did I realise what an important thing it was.

After that, well, I suppose you could call it poor health. Basically, I couldn't muster any strength, couldn't build muscle, and my breasts started swelling. No hair grew at all – no armpit hair, no nose hair, no pubic hair.

As a result of his hormonal balance having been thrown off by the orchiectomy, his bones continued to grow even after the normal growth period had passed, and he developed brittle bones and osteoporosis. He had artificial joints inserted in both of his hips, both of his shoulders, and his left knee, and everyday life became extremely difficult. He also received a profound shock when his body did not develop secondary sexual characteristics, and there was a period during

which he gave up on himself in despair. He says that he thought about marrying a woman he dated, but felt he had no choice but to give up on the idea, and this led him to attempt suicide.

(3) What the Eugenic Protection Act took from its victims

The documents and victim testimony we have examined thus far compel us to consider anew the enormous burdens that the forced sterilization surgeries these people underwent when they were young placed on them for the rest of their lives¹³).

First, the choice of whether or not to have children was violently taken away from them, and they were deprived of the experience of raising and living together with children. This was an enormous loss, but it was not the only one they suffered. Second, the youngest boys and girls who underwent sterilization surgery are recorded as having been 9 years old. Considering cases in which young children are subjected to sterilization surgery and have their ovaries irradiated or their testicles removed, I think that as human beings they also experienced their “existence as a sexual being” being rejected. Third, these surgeries also caused rifts in their relationships with their parents and other family members. Victims who had been forced to undergo sterilization surgery without any explanation bore strong resentment toward their parents and close family, and for many this caused a long-lasting breakdown in their relationship. There were some victims who said it was only after learning of the existence of the Eugenic Protection Act and the fact that their parents had been involuntarily caught up in the national eugenic policy during the lawsuit that they were finally able to visit their parents’ graves. Fourth, most of the victims experienced various adverse health conditions that continued until the end of their lives as the result of aftereffects of the surgeries such as organ adhesion. Particularly in cases of the removal of ovaries or testicles or the irradiation of ovaries, the victim’s hormonal balance was disrupted, and they were constantly afflicted by severe health issues. Fifth, when we listen to the stories of the victims they often speak of humiliation or shame, and I think this is because they have been suffering from the stigma of being “defective offspring” or “people who should not have children.” This caused them to have low self-esteem and unstable identities, as seen in testimony such as “I felt that I had no value as a woman and as a human being.”

This is how damaging forced sterilization is for both mind and body, and this damage continues to the present day.

4. Restoration of human rights and dignity violated by the Eugenic Protection Act

(1) Removal of eugenic provisions and revision as the Maternal Protection Act, but still no apology or compensation

In 1996, the text of the Eugenic Protection Act was revised because it was deemed that the “part based on eugenic thought is discrimination against persons with disabilities.” The provisions permitting sterilization surgery or abortion for reasons such as hereditary disease or mental illness were removed, and the law was revised as the Maternal Protection Act. However, no reflection or examination was carried out regarding human rights violations under the Eugenic Protection Act.

In 1997, it became clear that forced sterilization had occurred in Nordic countries such as Sweden, and this was widely reported¹⁴⁾. This caused people to speak out about “the same problem here in Japan” and “The Association Seeking an Apology for Forced Sterilization Surgery” (later renamed “The Association Seeking an Apology for Eugenic Surgery”) was formed. This association, along with other civic groups and groups of persons with disabilities, then persistently demanded that the realities of the harm caused be made clear and an apology and compensation be given to victims. However, the Ministry of Health and Welfare repeatedly stated only that “Eugenic surgeries were performed under strict procedures and were legal under the Eugenic Protection Act. The surgeries were performed in accordance with the law, so no compensation is being contemplated. Hysterectomy is simply a medical issue and is not a eugenic surgery belonging to the Eugenic Protection Act.”

International institutions repeatedly issued recommendations to the national government.

In 1998, the DPI Japan Conference issued a counter report to the UN Human Rights (Civil Liberties) Committee that included the issue of the forced sterilization of women with disabilities. This committee then advised the Japanese government to stipulate the right of people who were targeted for forced sterilization surgery to receive compensation in law¹⁵⁾. In 2008 and 2014 it issued opinions that the recommendation from 1998 should be implemented.

In March of 2016, the UN Committee on the Elimination of Discrimination against Women (CEDAW) issued an extremely strong recommendation to the Japanese government urging it to investigate forced sterilization under the Eugenic Protection Act, prosecute and punish perpetrators, and provide legal redress and compensation to the victims¹⁶⁾.

Having received this recommendation, beginning in April of 2016 the Ministry of Health, Labour and Welfare met with victims and their supporters and began to ask about the reality of

harm caused by the Eugenic Protection Act. However, the opinion of the government remained the same: “It was legal at the time. No investigation and no compensation.”

In 2015, a victim in Sendai, who had been claiming damages since the late 1990s, applied for human rights assistance to the Japan Federation of Bar Associations, and in February of 2017 this federation submitted an “Opinion Seeking an Apology and Compensation for the Victims and an Investigation of the Circumstances” to the government of Japan¹⁷⁾. This was a major turning point, and harm caused by the Eugenic Protection Act gradually began to attract attention as a social issue.

(2) Filing of the national compensation lawsuit

In January of 2018, a national compensation lawsuit was filed in Sendai district court, claiming “the former Eugenic Protection Act was unconstitutional.” 39 plaintiffs then brought cases in 12 courts throughout the country.

Spurred by these lawsuits, the Ministry of Health, Labour and Welfare belatedly began to investigate the actual circumstances in March of 2018. In April of 2019 the “Act on Lump-sum Payment, etc. to Persons Who Underwent Eugenic Surgery or Other Operations in Accordance with the Former Eugenic Protection Act” (hereafter “Act on Lump-sum Payment”) became law. However, the responsibility of the national government was not made clear, and the lump-sum payment of ¥3,200,000 was wholly inadequate.

The plaintiffs’ fight widened their circle of support. Support associations for each district court and national groups of persons with disabilities formed the “Yūseiren” and together with plaintiffs’ groups and legal teams held many meetings in the Diet and worked to push the government and national legislature toward a rapid resolution.

However, the court cases were extremely difficult. Nearly all of the district courts of first instance and higher appellate courts ruled that the Eugenic Protection Act violated the constitution, but as the statute of limitations - a “time limit” of 20 years from when harm was suffered after which the harmed party loses the right to compensation - had long since passed, decisions were split on whether the nation should be ordered to pay compensation¹⁸⁾.

(3) Decision of the Grand Bench of the Supreme Court

The Supreme Court's July 3rd, 2024, decision stated, to begin with, that eugenic surgery for reasons of disability under the Eugenic Protection Act violated Article 13 of Japan's constitution, which declares "all of the people shall be respected as individuals" and Article 14, Clause 1, which establishes equality under the law. It also ruled that eugenic regulations aimed at "weeding out defective offspring" cannot be justified, even if consideration is given to social circumstances at the time of the legislation.

Moreover, regarding the "statute of limitations" that had been a point of contention, the Supreme Court ordered the state to pay compensation, stating that "the state avoiding responsibility for compensation on the grounds that the right to demand it had expired because the statute of limitations had passed would grossly violate the principles of justice and fairness, and is completely unacceptable."

To reiterate the main points of the Supreme Court's decision, first, it made it clear that the Eugenic Protection Act violated the constitution from the time it was first enacted. Consequently, it also made it clear that all eugenic policies conducted based on this unconstitutional law were in error. As a second important point, it also clarified that even regarding eugenic surgeries with the consent of the person in question, in the case of sterilization surgery performed from a eugenic perspective, that is, sterilization surgery performed on the basis of eugenic thought, seeking consent was itself an impermissible violation of the spirit of "respecting people as individuals" and that consent having been obtained does not mean the person in question was not forced or coerced. Third, it highlighted the state's responsibility for causing harm. Fourth, by clarifying that the statute of limitations does not apply to victims of the Eugenic Protection Act, it made the restoration of human rights possible not only for those who had brought lawsuits in the past but also for any who might do so in the future.

(4) Toward a full resolution of the Eugenic Protection Act issue

After the Supreme Court's decision, then Prime Minister Kishida met with the plaintiffs on July 17th and made an apology. On October 8th, an apology resolution was adopted in the Diet. At the same time, the "Act Concerning Granting Compensation to Persons Who Underwent Eugenic Surgery Based on the Eugenic Protection Act" (hereafter "the Compensation Act") was passed and came into effect on January 17th, 2025. On December 27th, 2024, the government

announced an “Action Plan for Realization of a Symbiotic Society without Prejudice and Discrimination against Persons with Disabilities.”

Looking at the contents of the “Compensation Act,” its preamble states, “The Diet and the government sincerely accept the ruling of the Grand Bench of the Supreme Court. They have discriminated against persons with disabilities and forced them to undergo surgery that renders them unable to reproduce on the grounds of their disabilities, enacted legislation that violates the Constitution of Japan, enforced such legislation, and promoted policies based on eugenic objectives that were mistaken. With deep remorse and reflection, they acknowledge their responsibility for these actions and offer their sincere and heartfelt apologies. They also sincerely and deeply apologize for the fact that these people were forced to undergo abortion due to disabilities and other reasons.” The national government’s responsibility and apology for having forced people to undergo sterilization surgery and abortion for reasons of disability was thus clearly stated.

Those eligible for compensation included persons who were subjected to eugenic surgery under Article 3 Clause 1.1-1.3, Article 4, and Article 12, regardless of whether or not consent was given, and their spouses, and also those who were subjected to surgeries outside the scope of the law including the removal of the uterus, ovaries, and testicles and the irradiation of the ovaries. Regarding abortion, eligibility included persons who were forced to have an abortion for reasons of hereditary illness or disability and persons who underwent abortions in similar circumstances.

Regarding the amount of compensation, a person who underwent eugenic surgery is to receive ¥15,000,000 in addition to the existing lump-sum payment of ¥3,200,000, while spouses are to receive ¥5,000,000. If the person in question and their spouse are deceased, surviving family members can receive payment. Those who underwent an abortion are to be paid an “abortion lump-sum payment” of ¥2,000,000. I think this payment is nowhere near sufficient compensation for the harm done to those who had abortions, but the Compensation Act explicitly states the nation’s responsibility and apologizes to victims of abortion who were not cited in the Supreme Court’s ruling, and this is perhaps the first step on the path to redressing this harm.

As of December of 2025, however, only 1,629 persons have applied and been certified for compensation, representing only 2% of the more than 84,000 victims of eugenic surgery and abortion suggested by government statistics.

Article 33 of the Compensation Act, “Investigation and examination,” also states, “To ensure that a situation in which people are forced to undergo eugenic surgery or abortion for reasons of disability never again arises, with a view to eradicating prejudice and discrimination against persons with disabilities from a eugenic perspective and contributing to the realization of a symbiotic society in which all of the nation’s people respect each other’s individuality without being discriminated against due to illness or disability, the national government shall, along with conducting an investigation into eugenic surgery and abortion based on the former Eugenic Protection Act, undertake an examination and consideration of the causes of these things having been done and measures that should be taken to prevent their recurrence .” On this basis, in October of 2025 the “Council for the Examination of the Issue of the Former Eugenic Protection Act,” a body that included victims and persons with disabilities and was overseen by the Japan Law Federation at the request of the Diet, was established and began conducting an investigation and examination.

In addition, on September 30th, 2024, a “Basic Agreement for the Comprehensive Resolution of the Eugenic Protection Act Issue”¹⁹⁾ was reached between the government and the plaintiffs, their legal teams, and Yūseiren. The consideration and implementation of policies to ensure all victims receive sound and prompt apologies and compensation were agreed, along with the implementation of permanent policies to eradicate prejudice and discrimination based on eugenic thought and realize a society in which all people respect each other to prevent such errors from ever being repeated. There was also a commitment to hold regular meetings with the aim of realizing these goals. To date two of these regular meetings have already been held, and discussions of concrete measures are progressing.

5. Remaining challenges

In closing, I would like to raise two remaining challenges.

First, while persons with mental illness or intellectual disabilities make up a large part of victims of forced sterilization surgery²⁰⁾, there has been almost no testimony by these victims themselves, and the background and reality of the concrete harms they suffered remains unclear. I also think there is a strong possibility that information about the “Compensation Act” has not reached victims who have been hospitalized or institutionalized at mental hospitals or residential facilities for many years. In order to convey the national government’s apology and compensation

to those who cannot speak out and elucidate the reality of the harm they have suffered, there is a need for the national and local authorities to take responsibility for surveying medical records such as hospital charts and case files from institutions for persons with disabilities to bring these victims to light.

Second, there is the harm inflicted under the Maternal Protection Act. While the Eugenic Protection Act was revised as the Maternal Protection Act in 1996, the national government has not engaged in active educational efforts to reject sterilization surgery and abortion based on eugenic thought. As a result, in places where welfare and medical care are provided, the improper pressure of coercing or recommending sterilization measures or abortion for reasons of disability continues even today²¹⁾. It is necessary to elucidate the realities of the harm inflicted under the Maternal Protection Act and expand the scope of applicability of the “Compensation Act” to include it. At the same time, I think it is also important to put in place inclusive sexual education suited to the needs of the individual so that persons with disabilities can decide for themselves whether or not to have children without improper pressure, and to establish the foundations of daily life and adequate support systems for persons with disabilities to become pregnant, give birth, and raise children.

6. Conclusion

The Eugenic Protection Act that coerced sterilization surgery for reasons of disability or illness as “necessary in the public interest” trampled on basic human rights. By deeming persons with disabilities “defective” and promoting eugenic policies, it planted eugenic thought that viewed persons with an illness or disability as inferior throughout society. We must urgently bring to light the realities of these people who had their decision to bear children taken away for reasons of disability and suffered mental and physical pain and hardship throughout their lives, ensure that apologies and compensation reach all victims, and realize a comprehensive restoration of their human rights.

At the same time, to avoid repeating the same mistakes, we must examine postwar eugenic policies to determine why unconstitutional laws were made and continued to be implemented for half a century. Investigating the “crimes of the Eugenic Protection Act” means questioning our own society and the way of thinking that compelled people to undergo sterilization surgeries and abortions for reasons of illness and disability.

Even today, improper pressure is being applied in recommending sterilization surgery or abortion for reasons of disability. The way of thinking that justifies sterilization surgery for reasons of disability is directly connected to the rapidly accelerating development and spread of “technology for selecting lives” such as prenatal testing. I think we continue to draw clear lines between those who should and should not give birth and lives that are eagerly awaited and lives that should not be born.

What is frightening about eugenic thought is how, adapting to the circumstances of each era, it works its way into social systems in a rational, scientific, and humane guise and violates human rights. I will conclude by emphasizing that the issue of the Eugenic Protection Act is by no means a thing of the past.

Notes

- 1) There was an attempt to add clauses allowing sterilization and abortion in the case of leprosy patients in the “Leprosy Prevention Act,” but the proposed legislation was tabled without being passed.
- 2) Population Problems Council [人口問題審議会], 1962. “Resolution on Measures To Improve Population Quality [人口資質向上対策に関する決議]” (July 12th, 1962), *Population Problem Studies* [人口問題研究] Number 86: 66 – 69.
- 3) Maternal and Child Health Measures Forum [母子保健対策懇話会], 1968, “Opinion on the Establishment of Synthesized Measures for Maternal and Child Health [母子保健総合対策の確立に関する意見書]” in *Pediatric Health Research* [小児保健研究] 26(3): 138-145.
- 4) Matsubara Yōko, 2000, “Japan – The Postwar Sterilization Law Called the ‘Eugenic Protection Law’” [日本——戦後の優生保護法という名の断種法] in Yonemoto Shōhei, Matsubara Yōko, Nudeshima Jirō and Ichinokawa Yasutaka, *Eugenics and Human Society – Where Is the World of the Life Sciences Headed?* [優生学と人間社会——生命科学の世紀はどこへ向かうのか], Kodansha. See pages 170-236.
- 5) “Regarding the Implementation of Forced Sterilization Surgery According to Article 10 of the Eugenic Protection Act [優生保護法第 10 条の規定による強制優生手術の実施について]

(October 24th, 1949, Public Health Notice [発衛第] 1077, issued by the Vice-Minister of Health and Welfare to all prefectural governors.

- 6) “Regarding the Enforcement of the Eugenic Protection Act,” 1953 Notice from the Vice-Minister of Health and Welfare, last revised on March 20th, 1990, Ministry of Health and Welfare Notice No. 55.
- 7) Cabinet Legislation Bureau Part 1, 1949, “Regarding the Methods of the Implementation of Forced Sterilization Surgery [強制優生手術実施の手段について]” (Legal Affairs Office Legal Opinion [法務府法意一発第] No 62, October 11th, 1949) in *Attorney General Opinions Annual Bulletin* [法務総裁意見年報] Volume 2: 325-330.
- 8) The prefectural official document archives in Kanagawa Prefecture contain materials pertaining to the eugenic protection review board in fiscal years 1962 and 1970.
- 9) *Materials Related to the Kanagawa Prefecture Eugenic Review Board for Fiscal Year 1962* [昭和 37 年度神奈川県優生保護審査会関係綴] (created by the Prevention Department and kept in the Kanagawa Prefectural Official Documents Archive).
- 10) *Records of the Eugenic Protection Review Board 1996* [平成 8 年度優生保護審査会議事録] (Health and Environment Division, Health Promotion Department, Fukuoka Prefectural Official Documents Archive).
- 11) From an interview survey conducted by the Disability Research Team (Naoko Kawaguchi, Megumi Sakai, Noriko Seyama, Keiko Toshimitsu), Grant-in-Aid for Scientific Research (A): “Research on the History of the Eugenic Protection Act Based on Archive Construction.”
- 12) Atago Prefectural Hospital was opened in 1950, and operated sexually transmitted disease, dermatology and urology, gynecology, and obstetrics departments. In 1954 a eugenic protection counselling center was added to the hospital. In 1957 it was reduced in size and renamed “Atago Clinic,” but in 1962 it was reopened as the Miyagi Prefecture Eugenic Protection Counselling Center and Medical Clinic. It did not provide general medical treatment and performed only

forced sterilization surgery under Articles 4 and 12 of the Eugenic Protection Act. It was closed in 1972.

13) See Toshimitsu, Keiko (supervised by Yōko Matsubara), 2016, *Forced Sterilization of Women with a Disability in Postwar Japan* [戦後日本における女性障害者への強制的な不妊手術] (Ritsumeikan University Research Center for Ars Vivendi).

14) In August of 1997, the Swedish newspaper *Dagens Nyheter* reported that forced sterilization surgeries had been performed until 1976.

15) United Nations Human Rights Committee “Consideration of the Report Submitted by Japan under Article 40 - Concluding Opinion of the Human Rights Committee: Japan”

16) United Nations Committee on the Elimination of Discrimination against Women “Concluding observations on the combined 7th and 8th periodic reports of Japan” (March 7th, 2016).

17) Japan Federation of Bar Associations, “Opinion Seeking Appropriate Measures such as Compensation in regard to Eugenic Surgeries and Abortions Based on Eugenic Thought Carried Out under the Former Eugenic Protection Act [旧優生保護法下において実施された優生思想に基づく優生手術及び人工妊娠中絶に対する補償等の適切な措置を求める意見書]” (February 16th, 2017).

18) Regarding all court judgments handed down up to July of 2024, in district courts the plaintiffs won 6 and lost 7 and in higher courts won 6 and lost 2.

19) https://www.cfa.go.jp/assets/contents/node/basic_page/field_ref_resources/08ff65b4-e080-4fe8-922f-28bd348731af/47d054f3/20241004_kyuuyuseiichijikin_39.pdf

20) According to *Investigation Report Based on Article 21 of the Law Concerning Granting Compensation to Persons Who Underwent Eugenic Surgery Based on the Eugenic Protection Act* [旧優生保護法に基づく優生手術等を受けた者に対する一時金の支給等に関する法律第 21 条に基づく調査報告書] (June, 2024), collecting the names of illnesses listed on medical reports submitted to prefectures for “those who should receive eugenic surgery”

showed that of 2,538 total cases, 1,125 (44%) were “mental illness” and 1,083 (43%) were “mental deficiency” (Volume 2, p. 93).

21) In December of 2022, it was widely reported that, for more than 20 years, at a group home in Esashi, Hokkaido, when a couple with intellectual disabilities wanted to get married or live together, sterilization measures were made a condition of their doing so, and if they refused their employment support would be cut off and they would be forced to leave. (Tokyo Shimbun, December 20th, 2022).

International Seminar on Disability Studies 2025

The Historical Background of Japan's Eugenics Protection Act and the Struggle of Its Victims

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25 October 2025, Ritsumeikan University Osaka Ibaraki Campus

July 3, 2024 Supreme Court Grand Bench Decision
Victims Completely Win the Case!



2

The Subject of My Talk Today

1. Historical background and overview of eugenic surgery and artificial termination of pregnancy on the basis of disability
2. How was eugenic surgery performed?
 - (1) The reality of the Eugenic Protection Act's implementation revealed through official documents
 - (2) The reality of the harm – What the Eugenic Protection Act took from victims
3. Restoration of human rights violated by eugenic surgery
 - State Compensation Claims Litigation and the Compensation Act
4. Summary

3

1. Historical Background and Overview of Eugenic Surgery and Artificial Abortion Based on Disability

4

Forced Sterilization and Abortion Under the Eugenic Protection Act

- Under the Eugenic Protection Act, which ostensibly aimed to “prevent the birth of defective offspring,” individuals with conditions deemed hereditary underwent eugenic surgery (sterilization) and induced abortions against their will.
- Rooted in discrimination, this practice violently deprived persons with disabilities of their sexual and reproductive health and rights, inflicted immense physical and psychological suffering, and violated their human dignity. This was carried out “legally” by the national and local governments under the guise of medical care, welfare, and education.

Eugenic Protection Act, Article 1 [Purpose of the Act]

The purpose of this Act is to prevent **the birth of defective offspring from a eugenic standpoint** and to protect the life and health of mothers.

5

Historical Background of Eugenic Surgery - Eugenic Protection Act Passed

- **1948: Enactment of the Eugenic Protection Act**
While promoting birth control, the Act aimed to prevent a decline in the quality of the nation’s people through “**reverse selection**” by strongly inhibiting the birth of “undesirable offspring.”
 - Conditional legalisation of abortion
 - Permitted voluntary sterilization and abortion for “leprosy” (Hansen's disease)
Permitted compulsory sterilization for hereditary diseases (Article 4)
- Further strengthening of eugenics policies alongside deregulation of abortion and promotion of contraception.
 - 1949: Introduction of “economic reasons” as grounds for abortion
 - 1952: Abolition of the abortion review system; institutionalisation of birth control
Simultaneously, **mental illness and intellectual disability not of hereditary origin also become targets for compulsory sterilization (new Article 12)**

The postwar baby boom amid food and housing shortages

⟨“Eugenic policies for national revival and cultural nation-building” in the post-WW2 period⟩

6

The Historical Background of Eugenic Surgery: 1960s to Early 1970s (Period Of Rapid Economic Growth)

- “Resolution on Measures to Improve Population Quality” (July 1962)

In terms of population composition, **reducing the ratio of deficient people and increasing the ratio of competent people** is a basic requirement for improving the overall capabilities of the nation's people (Ministry of Health and Welfare, Population Problems Council, 1962).

- “Measures to prevent the birth of disabled children” to reduce welfare costs

Care measures, including those for institutions, require huge costs. From the standpoint of cost reduction and national welfare, the most important and fundamental measure is to work to **prevent the occurrence of children with physical and mental disabilities.**

(Maternal and Child Health Measures Forum, May 1968)

- “Campaign to Prevent the Birth of Unhappy Children”

Hyogo Prefecture (since 1966) ⇒ Nationwide, government-led campaign to prevent the birth of handicapped children

⇒ **Implementation of forced sterilization, amniotic tests**

〈Eugenics for Economic Growth〉

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Reference: Matsubara, Yōko, 2000, "The Sterilization Law Disguised as the Postwar Eugenic Protection Act" Eugenic and Human Society, Kōdansha

Forced Sterilization Under The Eugenic Protection Act: Three Types

1. **Sterilization without the consent of the individual**

Article 4: For hereditary diseases, when it is “necessary for the public interest,” sterilization is to be carried out by the decision of the Eugenic Protection Review Board based on a doctor's application.

Article 12: To be implemented for people with non-hereditary mental illnesses or intellectual disabilities, with the consent of those responsible for their protection and after a decision by the Eugenic Protection Review Board.

2. **Although sterilization was purportedly carried out “with the consent of the individual,” it was in fact carried out under coercive circumstances**

Article 3: In the case of hereditary diseases or leprosy, sterilization is to be carried out with the consent of the individual and their spouse.

3. **Sterilization beyond the scope permitted by the Act**

Removal of the uterus, ovaries, and testicles; irradiation of the ovaries

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“Forced” Sterilization Under Articles 4 and 12 (1)

- “(Sterilization under Articles 4 and 12) is carried out even against the will of the person in question.

To the extent that it is truly unavoidable, the means for forced sterilization are....

Interpreting the Act, it may be permitted to use means such as physical restraint, administration of anesthetics, or deception.”

“Regarding the Enforcement of the Eugenic Protection Act,” 1953 Notice from the Vice-Minister of Health and Welfare, last revised on March 20, 1990. Ministry of Health and Welfare Notice No. 55)

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Sterilization “Forced” Under Articles 4 and 12 (2)

- September 1949, Public Health Service, Ministry of Health and Welfare → Legal Affairs Office
Is it permissible to create a state of de facto irrefusability by means of physical restraint, anesthetic application, deception, etc.?

- Legal Affairs Office’s reply: enforcement by compulsion is permitted

(Legal Opinion First Director-General’s reply, 1949.10.11.)

- Although forced sterilization involves infringement of basic human rights, the Act itself has a **public interest purpose** of “preventing the birth of defective offspring,” and doctors apply for the procedure because they judge it to be “**necessary in the public interest**,” so it in no way violates the spirit of the Constitution.
- Implemented according to the decision of the Prefectural Eugenic Protection Board. If there is an objection, the applicant can reapply to the National Eugenic Protection Board, or even file a lawsuit.
- Furthermore, eugenic surgery is a straightforward procedure involving no particular danger.

➡ Coercion is justified by saying, “The procedures are extremely careful, and we give due consideration to the protection of human rights.”

Number of Eugenic Surgeries (Sterilizations)

“Diet Investigation Report” (June 2023) Part 2 “Status of Eugenic Surgery Implementation, etc.” Pages 130-132.

With the consent of the person in question			No consent required	
			Review Board decision	Parental consent, Review Board decision
Article 3			Article 4	Article 12
Hereditary diseases, etc.	Leprosy	Maternal protection	Hereditary diseases	Non-hereditary diseases
6,967	1,551	819,975	14,566	1,909

(2) Approximately 8,500 people

Does this include "due to disability"?

(1) Approximately 16,500 people

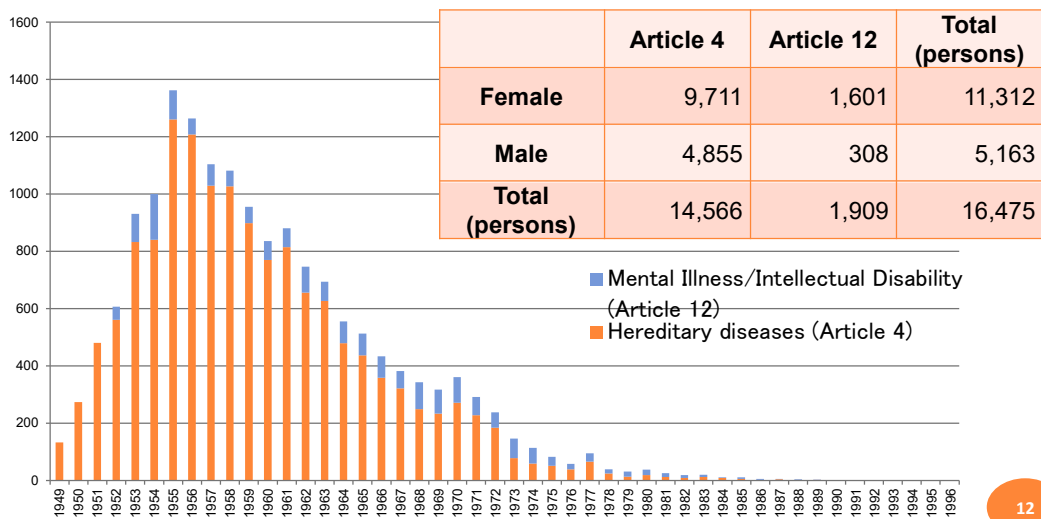
(3) Extralegal coercive sterilization measures are also carried out

Approximately 25,000 people

Sterilization due to illness or disability

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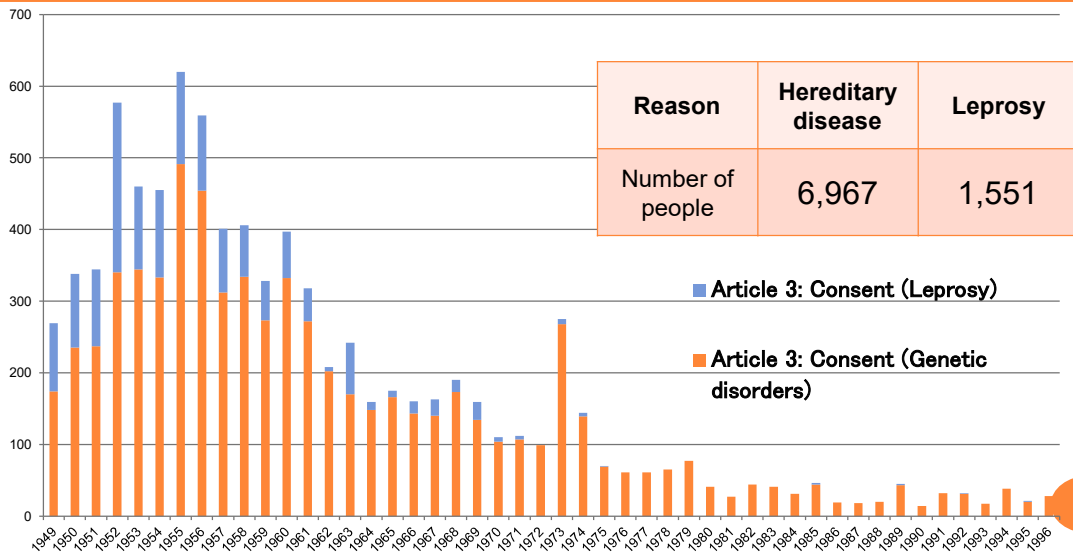
Trends in Sterilization Surgery Not Requiring the Consent of the Individual (Articles 4 And 12)



From “Annual Report on Hygiene” (1949-59), “Eugenic Protection Statistical Report” (1960-95), and “Maternal Protection Statistical Report” (1996)

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Eugenic Surgery Performed Under Coercive Circumstances, Despite Being Deemed “Based on the Consent of the Individual” Under Article 3



From “Annual Report on Hygiene” (1949-59), “Eugenic Protection Statistical Report” (1960-95), and “Maternal Protection Statistical Report” (1996)

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Abortion Under the Eugenic Protection Act

- 1948: Physicians may perform elective abortions with the consent of the individual and their spouse in cases where the individual is eligible for elective eugenic surgery (Article 3). Subject to review by the District Eugenic Protection Committee.
- 1952: Abolition of the review system.

〈Abortion by Physician Certification〉 Article 14

1. A physician may perform an artificial termination of pregnancy in the following cases, with the consent of both the person concerned and their spouse

- ① Where the individual or their spouse has a hereditary disease or disability
- ② Where a relative has a hereditary disease
- ③ Where the individual or their spouse has leprosy

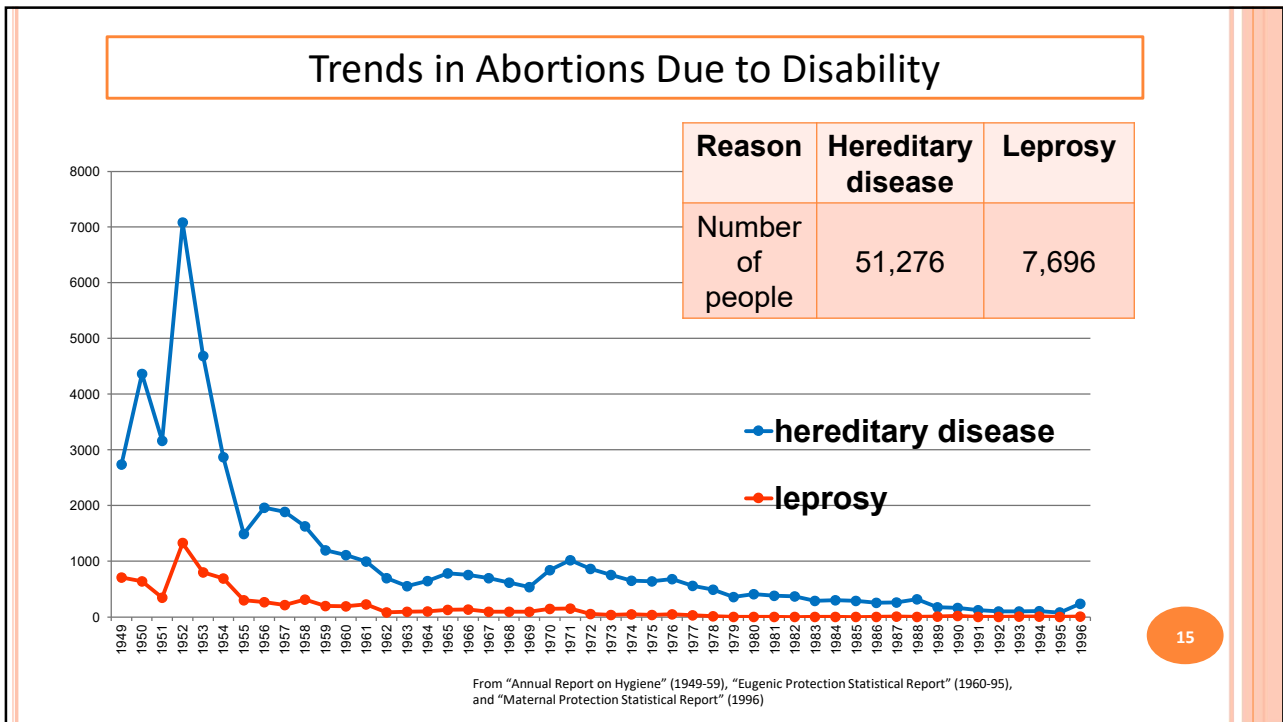
Abortion on grounds of hereditary disease or disability

④ Where continuation of the pregnancy or delivery poses a significant risk of serious harm to the mother's health due to physical or economic reasons

⑤ Rape involving assault or intimidation

3. Where the individual is mentally ill or mentally deficient, the consent of the guardian shall be deemed as the individual's consent

be₄



2. How Were Eugenic Surgeries Performed?

(1) The Actual Practice of the Eugenic Protection Act as Revealed by Official Documents

Composition of the Eugenic Protection Review Board

Composition category	Kanagawa Prefecture	Miyagi Prefecture
Doctor	Professor of Neurology, Yokohama Medical College Brain Hospital Psychiatrist Head of Obstetrics and Gynecology at Yokohama Hospital Director of Prefectural Serika Hospital	* Professor, Department of Psychiatry, Tohoku University School of Medicine Professor of Obstetrics and Gynecology, Tohoku University School of Medicine
Judge	District Court Judge	Chief Judge of the District Court
Prosecutor	Deputy Chief Prosecutor of the District Public Prosecutor's Office	Chief Prosecutor of the District Public Prosecutor's Office
Academic experts	Chairman of the Prefectural Medical Association lawyer	Chairman of the Prefectural Medical Association Prefectural Assembly Member Head of the Miyagi Prefecture branch of the Japan Midwives Association
Welfare Commissioner	Welfare Commissioner	
Government officials	* Lieutenant Governor Prefectural Health Department	Lieutenant Governor Miyagi Prefectural Government Health Department

Kanagawa Prefecture: 1962, Miyagi Prefecture: 1960. * denotes committee chairperson.

Kanagawa Prefecture: Review Data for the Eugenic Protection Review Board

(Kanagawa Prefectural Archives)

Name of the disease for which the application was made	1962					1970		
	Article 4		Article 12		Total (people)	Article 12		Total (people)
	male	female	male	female		male	female	
Schizophrenia	1	6	1	7	15		1	1
Mental retardation		1	2	11	14	1 + (1) *	6	7 + (1) *
Mental retardation and schizophrenia		1		1	2			
Mental retardation and epilepsy				4	4		1	1
Epileptic psychosis		1			1			
Bipolar disorder/mania		1		1	2			
Total	1	10	3	24	38	1	8	9

*In the case of one “mentally retarded” man a determination was withheld due to “insufficient investigation.” All others were deemed “appropriate for eugenic surgery.”

The Case of Kanagawa Prefecture: The Reality of Eugenic Surgery

- A female teenager (junior high school student?) put forward for sterilization under Article 12, with “mental retardation” cited as the reason.
 - Enrolled at ○○ (a facility for intellectually disabled children).
 - “Even if she marries, she will not be able to raise children. She seems to have some interest in the opposite sex, so I am worried about her future when she enters society.” (from the survey report)
- A teenage girl put forward under Article 12, with “mental retardation” cited as the reason.
 - Given a one-year exemption from school enrollment. Enrolled at ○○.
 - “She is completely unable to manage toileting, let alone her menstruation. Her first period came in the autumn of her 13th year and her period has been regular since then.” (from the medical examination record)
- A teenage girl put forward under Article 12 for “mental retardation and epilepsy.”
 - She started school a year late. Enrolled at ○○.
 - “She is unable to carry out her daily life independently. She follows about a man she doesn't know well and does whatever she is told to do” (from the reason for application)

➡ In both cases, “Eugenic surgery is appropriate”

(From the 1962 Kanagawa Prefecture Eugenic Protection Review Board documents)

Eugenic Surgery in Fukuoka Prefecture

福岡県優生保護審査会
 昭和四十四年三月二十一日
 右優生保護法第十条の規定により優生手術を行うこと
 の適否に關する審査を申請します。

優生手術を 受くべき者	本籍	氏名	性別	年齢	出生日
現住所	住所	住所	性	年	月
申請理由	診察科名	氏名	性	年	月
申請者	氏名	住所	性	年	月
医師	氏名	住所	性	年	月
付記	氏名	住所	性	年	月

- The prefecture where the last forced sterilization was carried out.
 - Application date: March 21, 1992
 - Woman put forward under Article 12
 - Reason for application: “This person is mentally deficient and therefore lacks the ability to become pregnant, give birth, and raise children.”

Minutes of the 1996 Eugenic Protection Review Meeting
 (Affiliation: Health Promotion Division, Health and Environment Department, Fukuoka Prefectural Archives)

2. How Were Eugenic Surgeries Performed?

(2) The Reality of the Harm Revealed by Interviews

From interview research by the Disability Research Team
(Naoko Kawaguchi, Megumi Sakai, Noriko Seyama, Keiko Toshimitsu),
Grant-in-Aid for Scientific Research (A):
"Research on the History of the Eugenic Protection Act Based on Archive Construction" 21

Forced Sterilization – The Reality of “Surgery Under Physical Restraint, Administration of Anesthetic Drugs, or Deception”

- Mr Etsuo Nitta (pseudonym, intellectual disability): Around 1952, aged 15
- While residing at Miyagi Prefectural Kiteien (a residential facility for children with intellectual disabilities), he was taken to the prefectural Atago Hospital by facility staff without any explanation and forced to undergo a sterilization procedure (vasectomy).

● “Atago Hospital. That's where they took me. The first person they took... yeah, they slashed his genitals with a knife. Then, after that person was done... it was my turn. They strapped me to a hospital bed, fixed my legs like this. And I just cried terribly. In the end, they gave me anesthesia and operated on me.”

● “At Kiteien, when people reach my age, both men and women—well, not everyone, but a significant number—end up having surgery done here.” 22

(From interview research by the Disability Research Team, Grant-in-Aid for Scientific Research (A): "Research on the History of the Eugenic Protection Act Based on Archive Construction")

Sterilization Surgery (Hysterectomy) Beyond the Scope Permitted by Law

- Suzuki Yumi (Cerebral Palsy / Resident of Hyogo Prefecture): 1966, aged 12
- Admitted to hospital without being told anything. Her uterus was removed with the stated aim of reducing assistance required during menstruation.

- “Mum told me, ‘Yumi-chan, you're having surgery on the 27th of March.’ I thought the surgery might make things even better since I had become able to sit with support from behind.”
- “When I went into the operating theatre, the scalpels were gleaming, the ceiling was full of lights, and there were doctors and nurses all around. I was scared and started crying, then they put me under anaesthetic...
When I woke up, my stomach felt really tight. ...After the nurse helped me change into my pyjamas, I saw this huge scar on my stomach. I thought, ‘Hang on, this wasn't here before. Why is it here now?’”

- After discharge, flashbacks of the surgery frequently occurred. Each time, she experienced repeated convulsions and rigidity, leaving her bedridden. It was only about 20 years after the surgery that she finally became able to sit in a wheelchair.

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(From interview research by the Disability Group)

Sterilization Surgery (Orchiectomy) Beyond the Scope of Legal Recognition

- Kazumi Watanabe (Osteoarthritis / Kumamoto Prefecture): Around 1961, aged about 10
- His mother took him to the hospital because he was passing blood in his urine. When she said they couldn't afford the surgery, the doctor told them, “We'll do it under the Eugenic Protection Act, so you don't need to pay,” and he underwent a castration operation.

- After the operation, when the nurse placed something about the size of two quail eggs on a tray and said, “These are the testicles we removed from you, Mr Watanabe,” all I could manage was, “Oh, is that so?” Honestly, I didn't really get it at the time. Only later did I realise what an important thing it was.
- After that, well, I suppose you could call it poor health. Basically, I couldn't muster any strength, couldn't build muscle, and my breasts started swelling. No hair grew at all – no armpit hair, no nose hair, no pubic hair.

- The orchiectomy disrupted his hormonal balance, causing him to continue growing beyond his developmental years while simultaneously developing brittle bones and osteoporosis. He required artificial joints in both hips, both shoulders, and his left knee, making daily life extremely difficult.

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- He contemplated marriage twice with women he dated, but ultimately gave up on the idea.

(From an interview survey by the Disability Research Team)

What the Eugenic Protection Act Took Away from Its Victims

- (1) Violently deprived of their self-determination regarding whether or not to bear and raise children.
- (2) Denial of “sexuality” as a person.
- (3) Alienation of relationships with parents and family members.
- (4) Lifelong health problems:
 - Persistent pain and physical discomfort due to the aftereffects of surgery.
 - In cases of testicular or ovarian removal or radiation exposure to the ovaries, severe long-term physical discomfort may occur due to sudden hormonal changes.
- (5) The anguish of being labeled as “bad offspring” or “unfit to have children,” the wavering of identity, and a decline in self-esteem.

Serious physical and emotional damage is still ongoing.

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3. Restoration of Human Rights and Dignity Violated by Eugenic Surgery

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Eugenic Provisions Removed, Maternal Protection Act Revised

- 1996: Eugenic Protection Act revised as Maternal Protection Act. Provisions allowing sterilization and abortion on the grounds of hereditary diseases and mental illness are removed.
- 1997: The issue of forced sterilization in Sweden became a topic in the news media.
- 1997: "Association for Apology for Eugenic Surgery" was formed. This association submitted a written request to the Ministry of Health and Welfare, demanding clarification of the reality of forced sterilization and an apology and compensation for the victims.
- The Ministry of Health and Welfare stated, "Eugenic surgeries were performed **under strict procedures** and were **legal** under the Eugenic Protection Act. No compensation is contemplated. Hysterectomy is a **medical problem.**"



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Recommendations from International Organizations

- 1998: DPI Japan Conference submits a counter report to the **UN Human Rights (Civil Liberties) Committee** that includes the issue of forced sterilization of women with disabilities. The Committee **recommends that the Japanese government legislate the right to compensation for those subjected to forced sterilization.**
- 2015: A female victim in Sendai files a petition for human rights relief regarding eugenic surgery with the Japan Federation of Bar Associations.
- 2016: **The UN Committee on the Elimination of Discrimination against Women (CEDAW)** recommends that the Japanese government **investigate** forced sterilization under the Eugenic Protection Act, **prosecute and punish perpetrators, and provide legal redress and compensation for victims.**
- 2016: The Ministry of Health, Labor and Welfare begins hearing about the actual damage from this victim. However, the view that "It was legal at the time. No investigation and no compensation" remains unchanged.
- 2017: The Japan Federation of Bar Associations submits a letter of opinion to the government demanding an apology and compensation for the victims and an investigation into the actual situation.

28

Filing of Lawsuits for State Compensation (2018~)

- January 2018: A national lawsuit is filed in the Sendai District Court
- May 2018~: National compensation claim lawsuits filed nationwide (12 courts, 39 plaintiffs) Circles of support also expanded (support groups, disabled persons, and citizens' groups in various regions formed the "YUSEIREN").
- April 2019: "Law on Lump-sum Payment to Persons who underwent Eugenic Surgery" enacted.

However, this law does not specify the responsibility of the government, and the lump-sum payment (3.2 million yen) is not enough to compensate for the damage received.

〈Proceedings of the trial from 2018 to July 2024〉

- In the district court (first instance), plaintiffs won 6 cases and lost 7,
- In the High Court of Appeals (Court of Appeals), plaintiffs won 6 cases and lost 2,
- In both cases won and lost, most of the decisions **ruled that the Eugenic Protection Act was unconstitutional.**
- The point of contention was **the statute of limitations (20 years) → the "time barrier."**

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Supreme Court Grand Bench Judgment 〈July 3, 2024〉 (1)

- **The Eugenic Protection Act violated the Constitution.**
 - The eugenic provisions (eugenic surgery on the basis of disability according to Article 3, Items 1-3, Article 4, and Article 12) **violate Article 13 of the Constitution**, which declares "respect for the dignity and personhood of the individual."
 - The Act **violates Article 14 of the Constitution, which** provides for equality before the law.
 - Eugenic provisions aimed at "weeding out defective offspring" **cannot be justified, even if one takes into account the social conditions at the time of the legislation.**
- In light of the State's responsibility for the harm caused, the court held that allowing the State to evade liability for damages by asserting that the claim had expired due to the lapse of the statute of limitations was profoundly **contrary to the principles of justice and fairness** and could not be tolerated. Consequently, the court ordered the State to pay compensation.

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Supreme Court Decision: Important Points (2)

- The Eugenic Protection Act **violated the Constitution from the time it was legislated.**
 - It has been recognized that all eugenic measures implemented based on this unconstitutional law were erroneous.
- Eugenic Sterilization by Consent of the Individual
 - Regarding sterilization for eugenic reasons, **asking consent for sterilization itself is contrary to the spirit of respect for individual dignity and personhood** and is therefore impermissible; even if consent is given, it cannot be said that the procedure is not compulsory.
- The ruling clearly points out the state's responsibility for the harm caused.
- The ruling clarifies that the exclusion period does not apply to victims of the Eugenic Protection Act.
 - **Human rights restoration possible for all victims**

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Toward a Full Resolution of the Eugenic Protection Act Issue

- 2024.7.3. Supreme Court Grand Bench victory judgment
- 7.17. Prime Minister Kishida meets the plaintiffs and apologizes.
- 9.30. The “Basic Agreement for a Comprehensive Solution of the Eugenic Protection Act Problem” between the government, the plaintiffs' group, the lawyers' group, and “YUSEIREN” is signed.
- 10.8. Resolution of apology passed in the Diet.
The “Law Concerning Granting Compensation to Persons Who Underwent Eugenic Surgery Based on the Eugenic Protection Act” is enacted. This law went into effect on January 17, 2025.
- 12.27. Government announces “Action Plan for Realization of a Symbiotic Society without Prejudice and Discrimination against Persons with Disabilities.”

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Compensation Act: Preamble

- The Diet and the government sincerely accept the ruling of the Grand Bench of the Supreme Court.
They have discriminated against persons with disabilities and forced them to undergo surgery that renders them unable to reproduce on the grounds of their disabilities.
They have enacted legislation that violates the Constitution of Japan, enforced such legislation, and promoted policies based on eugenic objectives that were mistaken.
With deep remorse and reflection, they acknowledge their responsibility for these actions and offer their sincere and heartfelt apologies.
- They also **sincerely and deeply apologize for** the fact that these people were forced to undergo **abortion** due to disabilities and other reasons.

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Compensation Act: Coverage of Compensation

- Persons who underwent surgery or other procedures under the Eugenic Protection Act
September 11, 1948 - September 25, 1996
- **Eugenic surgery etc.**
 - **Persons who had eugenic surgery done in accordance with the Eugenic Protection Act and their spouses.**
*Excludes surgeries performed solely for the protection of the mother's body.
 - **Surgeries outside of the Act (hysterectomy, oophorectomy, orchiectomy, irradiation, etc.) are also covered.**
*Excludes surgeries or other procedures for the protection of the mother's body or for therapeutic purposes.
- **Abortion**
 - Persons who had an abortion for reasons such as disability under the Eugenic Protection Act, and persons with similar circumstances.

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Compensation Act: Payment of Compensation

- Persons who underwent eugenic surgery or other procedure:
Compensation: 15 million yen
Lump sum: 3.2 million yen
- Spouse of the above
Compensation: 5 million yen
*If the above person has died, the surviving family members may also claim compensation.
- Persons who had an abortion: Lump sum of 2 million yen
*Same amount of money regardless of the number of abortions or whether or not the person has children.

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Compensation Act: Investigation and Verification

- Article 33
The national government shall take measures to ensure that the same mistakes are never repeated, and shall conduct an investigation into eugenic surgery and artificial abortion based on the Eugenic Protection Act, **with a view to eradicating prejudice and discrimination against persons with disabilities based on eugenic reasons** and contributing to the realization of an inclusive society. Furthermore, the national government shall **conduct an examination and review of the causes of such actions and the measures necessary to prevent their recurrence.**

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Conclusion of a Basic Agreement and Continuation of Discussions

- The plaintiffs, their legal representatives, “YUSEIREN,” and the State agreed on the following fundamental principles, aiming for a comprehensive resolution of issues arising from the former Eugenic Protection Act, including redress for victims, the eradication of eugenic ideology, and the elimination of prejudice and discrimination against persons with disabilities.

1. State responsibility and apology
 2. Measures to realise compensation for all victims based on the “Compensation Act”
 3. Implementation of permanent measures
 4. Establishment of a continuous and regular forum for consultation
 - ▢ Implementation of regular consultations towards a comprehensive resolution of the Eugenic Protection Act issue
- First Meeting: 27 March 2025
Second Meeting: 30 September 2025

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Remaining Challenges (1)

- Damage to victims with psychosocial or intellectual disabilities.
 - Majority of victims are people with psychosocial or intellectual disabilities.
 - With few victims themselves able to testify, the true nature and background of the harm remain unclear.
 - To deliver the State's apology and compensation to victims who find it difficult to speak out, and to uncover the true nature of the harm, it is necessary to **investigate and verify materials such as medical records and case files.**

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Remaining Challenges (2)

- **Damage Caused by Sterilization and Abortion on the Basis of Disability Under the Maternal Protection Act**
 - Even after 1996, when the eugenics clause was removed, unjust efforts to force and encourage sterilization and abortion on the basis of disability continued in the welfare and medical fields.
 - The scope of the “Compensation Act” needs to be expanded to include coverage under the Maternal Protection Act.
 - Simultaneously, comprehensive, individualized sex education should be implemented to enable people to choose whether or not to have children, alongside strengthening support systems for establishing a foundation for life and for childbirth and child-rearing.

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Summary (1)

- The Eugenic Protection Act, which conducted forced sterilization on the basis of disability or disease as “necessary in the public interest,” trampled on basic human rights.
- By assigning “defective” status to people with disabilities and promoting eugenic policies, the government has widely inculcated a eugenic mindset in society that regards people with disabilities and illnesses as inferior.
- The reality of those who have been deprived of self-determination regarding whether to have children because of their disabilities, and have suffered physical and mental pain throughout their lives, must be urgently clarified. An apology and compensation must be made to all victims to realize the full restoration of their human rights.

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Summary (2)

- At the same time, to avoid repeating the same mistakes, we must examine the postwar eugenics policy to determine why unconstitutional laws were created and were in operation for half a century.
- Questioning the “crimes committed by the Eugenic Protection Act,” is equal to questioning our way of thinking and our society that allowed forced sterilization and abortion on the basis of disease and disability.
- Even now, there are unjust motives or pressures that make people with disabilities undergo sterilization or abortion because of their disabilities.

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Summary (3)

- The idea that sterilization was justified on the basis of disability is directly linked to the development and spread of “life-selective technologies” such as prenatal testing, which is currently being undertaken at a rapid pace.
- Lines are still clearly being drawn between those who are expected to give birth and those who should not and between those whose births are wanted and those who are deemed unworthy of being born.
- The horror of eugenic ideology lies in its ability to slip into institutional frameworks, cloaked in rationality, science, and humanitarianism, and violate human rights according to the demands of each era. The issue of the Eugenic Protection Act is by no means a thing of the past.

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