LGBT-norms in Japan

Exploring the salience of LGBT-norms in Japan

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1. Introduction

The last decades have seen the rise of lesbian, gay, bisexual, and transgender (LGBT)-norms in Europe, North- and South America, and many other parts of the world. Hillary Clinton's words that "*gay rights are human rights",* spoken at the United Nations in Geneva, have become the norm particularly in western democracies (BBC 2011; Kollman 2018). These norms have also made their way into international organizations, as illustrated by initiatives such as the United Nations Free and Equal Campaign, and the appointment of an Independent Expert on sexual orientation and gender identity within the UN (UNFE n.d.; OHCHR n.d.). Many parts of the world have also seen the introduction of same-sex unions, marriage, and numerous other improvements of rights for LGBT-people over the last 30 years.

Considering the fact that many democracies around the world have put the emancipation of LGBT-people on their agendas, or are already enforcing LGBT-rights, Japan seems to be an exception to the rule. Of course, in large parts of the world LGBT-norms do not resonate with governments or citizens, and are even met with hostility. Nevertheless, Japan's case is exceptional due to the fact that despite it being a democracy, which is deeply involved in global governance, takes a seat in the UN Human Rights Council, and proclaims to be a strong believer in the universality of human rights, the Japanese government has made very little efforts to protect LGBT. It is the only G7 country that does not recognize same-sex marriage as of today (McKirdy 2020). As Japan is an important partner for western democracies, it has rarely been the subject of scrutiny by the international community regarding its (lack of) LGBT policies. Nevertheless, Japanese LGBT still face discrimination and numerous other challenges in their daily lives. Considering the fact that 76% of Japanese LGBT aged 13 to 79 want equal rights for same-sex couples, and that amongst young LGBT-people this percentage is even higher, it is important to critically assess the lack of effective LGBT-policies in Japan (Nikaido 2020).

Many scholars have already written about the current hardships for Japanese LGBT and have tried to explain these mainly from a sociological perspective (e.g. McLelland 2000; Lunsing 2005; Arai 2014; Tamagawa 2016; Tamagawa 2020). Their studies predominantly focus on the emergence or acceptance of LGBT-norms as a development within Japanese society itself. However, there has been little to no research

that uses perspectives from international norm-theory to study the situation of LGBT in Japan. The few studies that have focused on the effect of international norms on Japanese human rights policies did not revolve around LGBT-norms, but for example around gender norms (Chan-Tiberghien 2004), refugee norms (Wolman 2015; Flowers 2016), or wildlife preservation norms (Miyaoka 2004). Given the increased visibility that LGBT-norms have gained internationally over the last decades, particularly in democracies, it is remarkable that LGBT-norms in Japan have been underexplored so far. Therefore, the study of LGBT-norms with Japan as a case study contributes to the existing research of international norms and their relation to domestic policies.

However, before even beginning to map the different ways in which international norms might affect domestic policies, Cortell & Davis (1996; 2000; 2005) argue that the degree of *salience* of a norm needs to be studied. This is something that is often overlooked in existing research. They argue that norm salience: "(...) *conditions the effects of international norms on domestic political processes and provide explanations for important cross-national variation in compliance with and interpretation of international norms.*" (Cortell & Davis 2000, 66). While Japan proves to be an interesting case study for the compliance with- or refusal of LGBT-norms, the existing salience of these norms has to be explored first before such a study can be conducted. As there has been little to no research conducted yet in this area, this thesis takes the first steps in this direction. It does so by answering the question: *To what extent are LGBT-norms salient in Japan?*

In order to research salience, which exists at different levels – for example, a political or institutional level - Cortell & Davis propose a research model that comprises five different categories, that together create a general image of the degree of salience in a certain country. These categories are *cultural match, political rhetoric, domestic interests, domestic institutions*, and *socializing forces* (Cortell & Davis 2000). In the current thesis, each of these categories will be applied to the Japanese case in relation to LGBT-norms.

This thesis continues by elaborating on international norm theory and the research model proposed by Cortell & Davis. It shows that norm theory has become highly constructivist in nature and that the acceptance or refusal of certain norms is considered to be part of a *socialization process* between states and actors. It also explains the relevance of Cortell & Davis' model, which is aimed at conducting case studies to research the degree of salience of a norm in a specific society based on their five categories (Cortell

& Davis 2000). This is followed by a justification of the research methods through which each of these categories can be analyzed in the case of Japan. This analysis is then made in the subsequent chapters, which each end with a conclusion about the degree of salience of LGBT-norms in Japan for that specific category.

This thesis concludes that the case study of Japan through Cortell & Davis' model does not generate clear-cut answers to the general degree of salience of LGBT-norms in Japan, as this highly varies for each of the five categories. In that regard, this thesis did not to come to a conclusion about the *general* level of salience of LGBT-norms in Japan, but rather it argues that the large variety in salience reflects the reality of the Japanese situation. Instead of making generalized statements about Japanese society as a whole, this thesis shows that differences in salience exist amongst different actors, while highlighting the tensions that might arise from this.

2. Literature Review

2.1. International norm-theory: the constructivist turn

Existing research on international norm-theory can usually be characterized as being either based on normative, or rational theories. Rationalist theory focuses on the motivations for states to adopt international norms, which revolve around, for example, increasing geopolitical power, material benefits, or the benefits of spreading a certain ideology (Wolman 2015, 422). According to rationalist theory, states are more likely to adopt a norm if there are pragmatic reasons to do so, for example, if they fear material repercussions, if they consider the norm to be in their interest, or if their international credibility is at stake (Miyaoka, 2004, 2).

However, Checkel (1998) describes how scholars of international relations have taken a *constructive turn* in the 1990s, moving away from more rationalist, neoliberal theories of international relations (Checkel 1998, 327-328). Normative theories focus more on the social relations between actors in the international sphere and are constructivist in nature (Checkel 1998). They look at the influence of transnational activist networks, but also at the interactions between actors that shape international norms and acceptance of those norms. In other words, they study the *socialization process* between international actors (Wolman 2015, 422). Normative theories also focus on more

pragmatic reasons for states to adopt a certain norm, such as power relations or material benefits, but they connect these motivations to the socialization process between international actors. There has been no shortage on this type of international norm-research (eg. Risse-Kappen 1995; Finnemore & Sikkink 1998; Risse-Kappe & Sikkink 1999; Acharya 2004; Cortell & Davis 2005; Kollman 2018).

In their well-known research on international norms in relation to political change, Finnemore & Sikkink (1998) for example, describe norms as involving the standards of what is considered to be appropriate behavior by a society or community. Behaving in line with the norm then results in praise or no reaction at all if the norm is considered to be obvious, while norm-breaking behavior results in public disapproval or stigma (Finnemore & Sikkink 1998, 891-892). On the international level, this is illustrated for example by diplomatic shaming of a state that does not comply with a norm by another state or group of states, where that norm is accepted. This is often also reinforced by material sanctions. The process of socialization between states is argued to be the dominant mechanism that leads to the acceptance of norms (Finnemore & Sikkink 1998, 902; Risse & Sikkink 1999, 11-12).

Within this socialization process, the main reason *why* states that initially do not share a certain norm nevertheless comply, is the fact that a state's 'political self' or identity is shaped in relation to the international community. Norms do not only constrain state behavior, but they also construct state identity (Miyaoka 2004, 8). If the international community or a group of states that holds close ties to another then adopts a new norm, the socialization process between these states creates peer-pressure, as each state seeks legitimation, conformity, and esteem as a part of their identity. In other words, each state government seeks to be considered as a legitimate player in the international, as well as the domestic sphere. They aim to be part of the 'group' and to *belong* to it, and they want others to think well of them, while also thinking well of themselves (Finnemore & Sikkink 1998, 930).

2.2. Norm salience & norm translation

The leading normative theories described in the previous section, assume that international norms have great potential to change domestic policies and views regarding a certain norm. Keck & Sikkink (2014) argue for example that international norm-

advocates play an important role in the spread of norms to the domestic sphere, as they can offer international resources, such as access to the international system and introducing human rights narratives to domestic actors (Keck & Sikkink 2014, 1). In doing so, these advocates improve norm-acceptance by 'framing' norms in order to make them suitable to international, but also domestic institutions (ibid., 3). Their support is often directed at domestic NGO's, in order to strengthen grassroots voices in a certain society (Popovski 2010, 25). In doing so, their *norm-framing* can influence the human rights agendas of states, international organizations, and societies in general.

As this assumes that there will be little to no strong resistance to a norm in a certain society, Schneiker (2017) prefers to use the term *norm-translation*, rather than *framing*. Norm-translation has two important features: first, a norm has to be met initially with a degree of collective resistance, which can be large, resulting in a norm being mostly ignored or outright refused in a society, but can also be small, resulting in collective acceptance. Then secondly, norm-translation states that norms cannot be implemented through coercion, but rather that norm-advocates need to address the specific arguments of the norm-refusing group, in order to convince them to implement the norm (Schneiker 2017, 383). Norm-translation thus introduces the domestic situation into international norm-theory. It takes into account resistance that might exist in a society towards specific norms, while others might be easily adopted. This does not imply that existing literature on international norms has ignored the domestic situation. On the contrary, many scholars agree that international norms travel through a certain 'filter', which is determined by domestic structures and dominant views before they take root in a society (e.g. Risse-Kappen 1995; Finnemore & Sikkink 1998; Cortell & Davis 2000).

In order to measure the degree to which a norm resonates within a society, Cortell & Davis (2000) argue that researching broader *norm salience* in a society is important, yet often ignored in existing literature (Cortell & Davis 2000, 68). Salient norms are those that constitute "*a durable set of attitudes towards the norm's legitimacy in the national area"* (ibid., 69). This means that these norms stimulate critical societal reflection, and generate a sense of obligation for social actors to comply with the norm. Salience cannot simply be measured by the degree to which a state appears to behave in accordance with a certain norm; one has to study the prevalence of the norm in national discourse, a state's institutions, such as the judicial system, and a state's policies (ibid., 70). To clarify this,

they argue that there are five categories through which norm-salience can be measured in a society.

The first is what they call the *cultural match*. This refers to pre-existing understandings, beliefs, and obligations in a society and to what extent those are compatible with the international norm. That means that it is not merely political opinions that define the chances of a norm being accepted or refused by a society, but also the dominant views of the people (Cortell & Davis 2000, 75).

The second condition is *political rhetoric*. Norms may resonate more if they are repeatedly expressed by political or societal leaders, regardless of whether the state effectively complies with the norm. If the political or societal discourse revolves around certain norms long enough, these norms will be considered legitimate by state and societal actors (Cortell & Davis 2000, 76). Politics also heavily influence the degree of advocacy that a certain norm can receive within a society by favoring or disfavoring advocates of specific norms, and by allowing or disallowing participation of norm advocates in policy-making processes. State-societal relations can therefore influence the chances of a certain norm being accepted or not (Risse-Kappen 1995; Cortell & Davis 2000, 66-67). This means that a norm needs to be at least part of the accepted political discourse in order to become salient eventually.

The third condition is *domestic interests.* Here Cortell & Davis draw on rationalist theory, arguing that norms often become salient if they are linked to certain material or economic benefits, although such benefits are rarely the sole motivation for adopting a norm (Cortell & Davis 2000, 78). A clear example of this would be compliance with gender equality norms, which might result in a larger female workforce, which in turn creates economic benefits for a state. Other *domestic interests* one could think of are for example an increase in productivity, innovation, or simply happiness of a country's citizens.

The fourth condition is *domestic institutions.* Sen (2006) argues for example that norms become truly salient only after they are embedded in a state's institutions, particularly in its domestic law (Sen 2006). Once the norm is embedded in a state's institutions, it becomes salient because actors comply with it out of habit, or out of necessity, and the norm assumes a 'taken-for-granted' character (Cortell & Davis 2000, 81).

The fifth condition is *socializing forces*. Cortell & Davis describe these forces as being both state actors and (transnational) advocacy networks, that influence each other. In accordance with the leading literature on international norms, Cortell & Davis argue that states can be convinced to adopt a norm through the socialization process involving other states (Cortell & Davis 2000, 83). International legitimacy and state identity both play a role here. Advocacy networks on the other hand, also influence the degree of norm-salience. Amongst these networks are, for example, international non-government organizations (INGOs), local non-government organizations (NGOs), but also state-actors, such as diplomats and embassies promoting certain norms abroad. Scholars generally agree that these advocates are an important factor in limiting state power, making it easier to introduce norms through the mobilization of the international civil society (Popovski 2010, 25).

Cortell & Davis' research on norm salience paves the way for empirical research in "*specific national contexts*" (Cortell & Davis 2000, 84). Exploring norm-salience furthermore helps to elude the tendency to: "(...) *rely on correlations as evidence that norms matter*," which often exists in the constructivist literature on international norms (ibid., 84). Cortell & Davis' proposed model is therefore highly suitable to research the case of Japan, particularly because little to no research on LGBT-norm salience exists. It allows for an initial exploration of these norms in Japan, without resorting to generalized statements or correlations as evidence for the importance of international norms, as the next few chapters will show.

3. Methods

In order to research the degree of *salience* of LGBT-norms in Japan, the model proposed by Cortell & Davis (2000) is guiding throughout this thesis. This means that the *cultural match, political rhetoric, domestic interests, domestic institutions*, and *socializing forces* will respectively be explored in the case of LGBT-norms in Japan. This leads to a conclusion about the current level of salience of these norms, at the same time providing valuable information about the current state of norm translation. The categories proposed by Cortell & Davis are not all-encompassing, yet at the same time very broad. For this thesis, this proves to be helpful, as it conducts an initial analysis of LGBT-norms in Japan and does not seek to find an all-encompassing answer. It is nevertheless important to limit the

scope of this thesis, partly so that it is adjusted to the available data, and partly because exploring *all* the factors that might influence salience in a single research is simply not realistic. The next sections therefore elaborate on the exact scope of this thesis.

3.1. Researching cultural match

The first category is also the most problematic one in the case of Japanese culture, which is all too often the subject of generalizing or even orientalist analyses (Nishihara 2005; Wagenaar 2016). Furthermore, the *cultural match* is a concept that is deeply intertwined, and sometimes overlapping with the other categories that Cortell & Davis propose. Therefore, this thesis is careful not to make presumptions about Japanese culture in relation to LGBT-norms but rather looks at the available data about pre-existing understandings of these norms, by focusing on what Japanese people themselves have stated about this. Drawing from Japan's history of opinions towards homosexuality, recent public opinion polls, and newspaper articles, a general image of the public acceptance of LGBT-norms is made. These numbers also tell us something about the degree of salience that LGBT-norms have in the public debate.

3.2. Researching political rhetoric

The discourse about LGBT-norms has not yet made it to the agenda of the Japanese Diet. With the exception of several controversial statements made by politicians, that usually sparked a large backlash, government officials have not taken a clear or outspoken stance towards LGBT (The Mainichi 2016; Tanaka 2016; Aggarwal 2020). Therefore, in order to research to what extent these norms are salient within Japanese politics, this thesis explores the nature of some of the most controversial statements made by politicians in recent years, as well as the few statements that former premier Abe has made on behalf of the cabinet. It also analyses the arguments used in these statements and what those tell us about the degree of salience of LGBT-norms amongst Japanese politicians.

3.3. Researching domestic interests

The argument that acceptance of LGBT-norms leads to economic or other benefits, has not made it into Japanese politics yet. This thesis has consequently not found any statements made on this topic by politicians. However, such arguments are emerging more and more amongst Japanese companies themselves, which constitute the country's

economy (Nakagawa 2019). This inherently means that salience amongst (some) Japanese companies about the benefits of adopting LGBT-related policies seems to be higher than that of the government. Therefore this thesis analyzes the development of LGBT-related company policies and their motivations. It also looks at the available data about LGBT-employees, and the degree to which companies facilitate the (working) lives of those employees.

3.4. Researching domestic institutions

Based on what scholars have previously written, this thesis argues that norms can only become truly salient when they are embedded in a state's institutions, where embedment in the law is most important (Sen 2006; Drobak 2006). This section explores the degree to which LGBT-norms are embedded in Japan's different institutions, despite the absence of any national laws aimed at protecting LGBT-people as of today (Kyodo News 2020). Therefore, it analyzes the current status of the legally non-binding *same-sex marriage certificates*, the possibilities for same-sex marriage to be introduced into Japanese law, and the developments within the Japanese judiciary regarding LGBT-norms. It argues that those developments are a clear example of how certain norms can be institutionalized, even before being adopted in domestic laws.

3.5. Researching socializing forces

This chapter explores *socializing* actors in Japan; that is those actors who might influence the government or public to change their views on LGBT-norms through for example lobbying, education, or increasing visibility (Sato 2010). The chapter is divided into two sections, the first exploring the role of domestic advocates and the second that of the international community, in particular the states promoting LGBT-norms worldwide. To do so, the research draws on websites of NGOs and other organizations, on international critiques directed at (lack of) Japanese LGBT-policies, and on the limited information available about diplomacy. This information is then used to come to a conclusion about the strength of LGBT-advocacy in Japan.

4. Cultural match

4.1. A short history of opinions towards homosexuality

Contrary to what this thesis has illustrated so far, Japan does not have a relatively long history of negative views towards homosexuality. The first documentation of homosexuality goes back as far as a thousand years to the Kamakura-period, with the description of sexual relations between priests and servant boys, or samurai and their page boys (Arai 2014, 124). Much later, in the Tokugawa period (1603-1868), the toleration of male to male sexuality was still widespread. Although excessive sexual desire was generally viewed as immoral, male sexual desire towards other men, or *nanshoku*, was considered to be not just normal, but also as an inclination that was common to all men to some degree (Leupp 1995, 146-147). Homosexual relationships were therefore not uncommon amongst male youth, samurai, daimyo, or even priests.

It should be noted however that where Leupp describes *male* homosexual relations as being normative in the Tokugawa period, the same cannot be said for *female* homosexual relations. Although lesbian relationships are sometimes documented, existing research has predominantly focused on *nanshoku* and male homosexuality (Leupp 1995, 4 & 189). Consequently, the term 'homosexuality' from a historical perspective, particularly when discussing its normativity, usually refers exclusively to male homosexuality.

It can generally be stated that it was not until the Meiji-restoration that views on male homosexuality started to become more negative and shunned by society (McLelland 2005, 22; Arai 2004, 126-127). This was mainly due to a new narrative introduced by the west with the 'opening' of Japan, in which homosexuality was described as a deviant and dangerous passion, contrary to earlier conceptions of *nanshoku*. This trend eventually led to a short illegalization of sexual relations between men, from 1873 to 1881. Although this ban was barely enforced, it nevertheless increased the stigma on homosexual relations (McLelland 2005, 22).

At the end of the 19th century the practice of *nanshoku,* which still existed particularly in the homosocial context of the military, was openly despised in newspapers, which claimed it negatively affected the soldiers' discipline. (McLelland 2005, 23). Nevertheless, homosexuality at this time was still generally viewed as a masculine

practice that was common in male homosocial contexts, such in the army or at boy schools and universities. The notion of homosexual relations as sodomy, which was widespread in the western world, never really rooted in Meiji-Japan (ibid., 24). For decades, homosexual relationships were considered to be troublesome in the sense that they were viewed as a sexual excess, which would affect the morale of particularly Japanese male youth. But the view of homosexuals as a minority group, which would 'challenge' the traditional husband-wife family structure, did certainly not exist.

After Japan's defeat in the Second World War, sodomy laws or anti-homosexual regulations that were still existent in the US were not 'transferred' into Japanese law, despite being heavily influenced by the US. Therefore, there was no illegalization of homosexuality, yet it remained generally shunned (McLelland 2005, 25). The 50s also saw the rise of the notion of the 'salaryman', or male breadwinner as the ideal image of fatherhood and the male role in the family. This is where we see the divide between homosexuality and family values widen, as homosexual men who did not fulfill this ideal image started to be labeled as 'failures' in society (Arai 2014, 129).

Around the same period, prostitution was made illegal, causing the numerous brothels and bars in Tokyo's *Shinjuku Ni-chōme* neighborhood to clear out, and allowing for the entry of numerous gay bars in the area. In the following decades, *Shinjuku Ni-chōme* became Japan's most vibrant LGBT-neighborhood. Although the sexual revolution that took place in the US and Europe in the 60s did enhance the tolerance towards non-heterosexual sexualities to some extent, and representations of mostly male, but also female homosexual relations broke into the mainstream manga fiction directed at female audiences, a more extensive 'gay boom' did not reach Japan until the 90s (McLelland 2005, 28-29; Welker 2017, 151).

The 90s saw the rise of pop-culture revolving around homosexual relationships, and the emerging of 'gay' vocabulary, such as *homophobia, coming out* and *acceptance* in the mainstream media (McLelland 2005, 32-33). This development also helped to weaken the sexualized and pornographic image of male and female homosexuality that had emerged in popular fiction (Welker 2017, 156). However, this did not signify a widespread acceptance of homosexuality, as many of the media sources reporting on homosexuality still had a voyeuristic character, as if exposing the oddities of a secret world to its viewers (McLelland 2005, 33). However, this world slowly became more open

and visible to the broader public, illustrated also by the first gay pride being held in Tokyo in 1994, in which back then only around 1000 activists participated.

A more extensive look at the gay-pride in Japan reveals really how much the visibility of gay culture has grown during the last two decades. The Tokyo Rainbow Pride, which became an annual event from 2011 onwards, has seen an immense growth of visitors each year, from 4500 visitors in 2012 to more than 200.000 in 2019 (Tokyo Rainbow Pride n.d.). It is now a widely known phenomenon, surrounded by numerous LGBT-related events for which large parts of Tokyo's *Shibuya* neighborhood and *Yoyogi-park* are made available. Furthermore, already in the 90s the pride started to be held in other Japanese cities as well. The pride is now a returning event in, amongst others, Osaka, Sapporo, Fukuoka, and Nagoya as well (OutJapan n.d.).

4.2. Current public opinion towards LGBT

It is safe to conclude that the visibility of LGBT in Japanese society has grown in the past decades, as illustrated for example by the introduction of LGBT-vocabulary as well as the rising number of visitors to the various gay-prides throughout Japan each year. However, visibility alone does not lead to an answer as to whether LGBT-norms are becoming more 'suitable' to Japanese culture. For that, a more extensive look at public opinion is needed.

In recent years, perhaps also due to the increasing visibility of LGBT in Japanese society, several public opinion polls and researches have been conducted. Most recently in April 2020, the results of Japan's country report of the *World Values Survey*, conducted by Doshisha University in cooperation with Dentsu Group, showed that in just ten years there has been a positive shift of over 20% in attitudes towards homosexuality. Whereas in 2010 some 33% of the respondents answered that homosexuality was 'always justifiable,' this number increased to over 54% in 2019, constituting a majority of the 1353 valid responses. A 2019 OECD report on Japan, similarly to these numbers, concluded that Japan scored about a five out of ten on the full social acceptance of homosexuality, and thus finds itself about halfway on the road to acceptance (OECD 2019).

In the aforementioned research by Doshisha University and Dentsu, the approval rating of homosexuality was highest amongst young respondents, with over 90% of the respondents aged 18-29 answering that it was always justifiable, while it decreased linearly with older respondents. Female respondents also generally showed a higher

tolerance towards homosexuality than male respondents (Ikeda & Dentsu Group 2020). These results are also illustrated in the outcome of a 2019 Japanese government survey amongst 6000 married women, which showed that 70% of these women supported same-sex marriage, and amongst the respondents in their thirties or younger this was even 90% (Kyodo News 2019a).

The numbers seem to be in favor of LGBT, be it not overwhelmingly. Another poll conducted by Dentsu in 2018, showed that over 78% of the respondents aged 20 to 59 approved, or 'somewhat' approved of the notion of same-sex marriage (Dentsu 2019). Another indication of a rising societal, but also self-awareness in regard of LGBT-norms, are the results of an online survey conducted by the Japan LGBT Research Institute Inc. amongst 428.000 Japanese, which showed that a notable near 10% of the respondents identified themselves as being an LGBT-minority (Japan LGBT Research Institute Inc. 2019).

Although these surveys and researches show that public opinion of LGBT in Japan has grown over the past years, the general acceptance of homosexuality seems to be around 50%, although the polls do indicate that the majority of Japanese people, be it a small majority, is overall positive about it. There is still a long way to go, as illustrated by the OECD report giving Japan a five out of ten on the scale of acceptance, but nevertheless, all the surveys did show that acceptance was significantly higher amongst younger generations, sparking hopes for the future.

4.3. Salience through cultural match

Historically, there are few indications that the *cultural match* of Japanese society with LGBT-norms would be highly problematic. The notion of *nanshoku,* or male to male sexual relations, goes back as far as the Kamakura-period, and likely even further. Despite the short existence of a barely enforced anti-sodomy law in the Meiji-period, (male) homosexuality was never really regarded as sodomy in the way that it had been for a long time in the US or Europe for example. However, from the Meiji-period onwards homosexuality did start to become shunned because of the implications it had for family-life and values (which will be discussed further in chapter 5). It is not until the post-war period that we slowly see the first identifications of homosexuals as a minority group, followed in the 90s during Japan's 'gay boom,' by other sexual minority groups. Judging

by Japan's history alone, there seems little reason for a cultural 'mismatch' regarding LGBT, perhaps even less than one would expect in some of the countries that are now in the front promoting LGBT-rights.

Since the turn of the century, public opinion of LGBT in Japan has improved greatly, as illustrated by the various surveys and researches that have been conducted in the past few years. There is now even exists a consensus that a slight majority of the Japanese bears an overall opinion towards LGBT. These numbers suggest that Japan's cultural match with LGBT-norms is generally not highly problematic. While a significant number of Japanese might still have negative views of LGBT, the majority, and even a *vast* majority amongst Japanese youth and women, does not share this negative view, and would not object against measures such as introducing same-sex marriage in Japan. When the cultural match seems to be unproblematic, and a majority of the Japanese has a positive view of LGBT, the answer as to why there is so little protection for LGBT in Japan needs to be looked for otherwise.

5. Political rhetoric

5.1. Political opposition to LGBT-norms

Social values and norms, including LGBT-norms, are not heavily politicized in Japan. Takao (2017) describes the current political system, with the LDP as Japan's dominant political party as follows: *"(...) Japan's coalition behaviour is framed by a low degree of "openness" in the political opportunity structure, that is, high territorial centralization and one-party dominance in a unitary state.*" (Takao 2017, 11). Although many factions exist within the LDP, the lack of strong political opponents causes opportunities for political debate about the core values of the party and its politicians to be few.

Political party stances on homosexuality or the possibility of same-sex marriage highly vary. An overview by the Asahi Shimbun of the stances on same-sex marriage by different parties in 2019 shows that where the LDP is more inclined towards non-acceptance of same-sex marriage, many other parties are located on the other side of the spectrum and hold highly favorable opinions on the issue (The Asahi Shimbun 2019).

Nevertheless, as the LDP is the dominant factor in Japanese politics, Takao (2017) states that: "*As LGBT issues have not as yet become heavily politicized, the narrow scope of conflict is less likely to increase the political salience and will advantage the dominant conservative coalition*" (ibid., 11). However relevant this statement still is today, there have been some developments in political rhetoric in recent years, but more importantly in the reactions to political rhetoric.

There are some recent cases of political rhetoric surrounding LGBT that sparked a great backlash due to the discriminatory nature of these remarks. Although the remarks were made by individual politicians, it does tell us something about existing views on LGBT, particularly inside the LDP. Moreover, the general reactions to these remarks also tell us a great deal about the increased degree of advocacy and support for the LGBT-community and the fact that more demands are being made towards politicians to alter their rhetoric. This section explores some of these remarks and the reactions to them.

The first and perhaps also the most controversial example of recent years is that of right-wing LDP politician and Diet-member Mio Sugita, in 2018. Sugita stated in an article and an interview with *Shinchō 45* that LGBT "*are not productive*" as "*they don't bear children*", and that therefore no tax-money should be spent on them (Schreiber 2018). She furthermore commented on education about LGBT in Japanese schools, which according to her was absolutely unnecessary, and on the high level of suicides amongst Japanese LGBT-youth, which was also not a priority to her (Tanaka 2018). She also described homosexuality as something one grows out of, and that in the end men should end up with a wife and women with a husband. The comments sparked outrage amongst not only LGBT-advocates and allies but also for example amongst childless men and women, that were particularly offended by Sugita's denigrating words about being not being productive if you do not have children (Dale 2020, 145). In response, around 5000 LGBT-people, advocates, and allies protested in front of the LDP headquarters in Tokyo (Allen 2020).

The critiques escalated to the level that former premier Abe had to stress to reporters, concerning Sugita's statements, that: "*It is only natural to aim for a society in which human rights are respected and diversity is cherished*"(Kyodo News 2018). Because of the heavy condemnation of her remarks, Sugita eventually admitted that the remarks had been inappropriate and that she did not mean to discriminate, but she refrained from

a formal apology and did not take back her words (TV Asahi, 2018). Although Sugita's comments were made on her own, the fact that she claimed in a later removed tweet that she had received support at the level of Cabinet Ministers for her statements, and the fact that former premier Abe has in the past expressed his admiration for Sugita as a politician, indicate that her opinion of LGBT might be shared by more LDP-members (The Mainichi 2018).

There are also many more examples of discriminatory comments by Japanese politicians that indicate this. In October 2020, another LDP-member, Masateru Shiraishi, created a strong backlash when he stated that Adachi-ward in Tokyo would cease to exist if LGBT-rights were improved, based on the assumption: " (...) *if all Japanese women were lesbian or all Japanese men were gay, then do you think the next generation of people will be born?* (Aggarwal 2020). And most recently, a councilor of Kasukabe city in Saitama-prefecture came under fire after stating that LGBT-discrimination was no issue in the city, as there had been zero reportings made by schools of LGBT-bullying in the past five years, without investigating possible reasons for this. He furthermore questioned the need for education about LGBT in schools (Kunizaki 2020). Such examples show that not only the salience of LGBT-norms is low amongst politicians, but they also refer to many politicians' underlying values that might explain their hostility to LGBT.

5.2. Traditional family values

Arguments made by politicians like Sugita or Shiraishi, such as: "Japan's birthrate will decline if everyone is gay or lesbian", or "a family needs to consist of a husband, wife and their children", are no exceptions to the rule. They express a deep connection to what is considered by many Japanese to be 'traditional family values', which are perceived to be threatened by LGBT-couples, but according to this logic, also by single parents or married couples without children.

A closer look at the revision to the Japanese Constitution that was proposed by the LDP already in 2012, creates a better understanding of the role that these family values play. This proposal included an alteration of Article 24 of the Constitution, which revolves around marriage. The LDP proposed to add a sentence to this article, which put (respect for) the 'family' at the base of society, rather than the individual (24-jō kaesasenai 2018). This illustrates the great emphasis that the LDP puts on their notion of the traditional

family, as was also stressed by former premier Abe in a speech to the Diet: "*The family is the bedrock of society. How it should be positioned in the Constitution should be discussed*" (The Mainichi 2016). The government has furthermore stated in a reaction to the United Nations Human Rights Committee that: "*The question of whether or not same-sex marriage or systems equivalent to that should be introduced is an issue related to the nature of families in Japan. Therefore, careful consideration is required in light of national-level debates made thus far.*" (UN Human Rights Committee 2020). The proposal to alter the Constitution sparked fears amongst LGBT and advocates, as explicitly referring to the LDP's notion of 'family', would harm the rights of LGBT-individuals who would not fit into this traditional notion. Eventually, the draft Constitutional changes were set aside in 2016 but they nevertheless shed a light on the LDP's views on the traditional family (Osaki 2016).

It is thus the family, rather than the individual, that is the bedrock of society according to the LDP. It has also been repeatedly stated by politicians that this family consists of a husband, wife, and their children. The ultraconservative group Nippon Kaigi, to which former premier Abe and current premier Suga are both affiliated, has backed the LDP in the proposed revisions, but has taken the emphasis on the traditional family even further, as expressed by policy panel member Tetsuo Ito: "*The line of life handed down from our ancestors will be broken if there is only respect for individuals and equality between men and women, driving the Japanese race to extinction*" (ibid.).

Such statements show a strong rejection of family values that do not fit in these perceived 'traditional' values. In a broader sense, this results in the rejection of LGBT-couples or other non-traditional families, such as single mothers, stay-at-home fathers, and so on. But it is also illustrated by the objection of politicians to any changes in family laws or values, such as allowing women to keep their own surname after marriage; something that was heavily opposed by former-premier Abe and other LDP-members (Arai 2014; Ito 2015). Although recently prominent politicians such as LDP-member Shinjiro Koizumi have expressed their support of women maintaining their own surname after marriage, there has been a lack of real development on family values in the political debate (The Japan Times 2020). It is easy to imagine that if a discussion about surnames or the family register for straight, married couples already sparks such a backlash amongst prominent LDP-politicians or conservative groups, it is highly unlikely that the

traditional family values debate will open up to the discussion about LGBT-families any time soon.

5.3. Salience through political rhetoric

The salience of LGBT-norms in Japanese political rhetoric is, generally speaking, very low. Discussions that have been started so far by LGBT-people and civil society groups have been countered with a strong unwillingness to reconsider what are perceived to be traditional family values. This unwillingness has not only manifested itself amongst ultraconservative groups but also leading LDP-politicians. Moreover, one of the biggest indicators of the low salience in political rhetoric might be the absence of a real political debate about the position of LGBT in the first place.

Recent developments have shown some change in this. In particular, the election of two openly homosexual members of parliament, Kanako Otsuji in 2017 and Taiga Ishikawa in 2019, opens up the possibility of discussing LGBT-rights in the national Diet and is in itself a sign that LGBT-norm salience in politics might be growing (Nippon.com 2019; Lark 2019). The positions of Otsuji and Ishikawa in the national Diet can also increase the access of LGBT-advocates to politics, as they have already stated that they aim to empower the LGBT-community and work together to introduce same-sex marriage to Japan in a matter of years (Fabre & Savage 2019). Nevertheless, such developments have only recently occurred, and as such the degree of salience remains low, particularly within the LDP and in the dominant political debates.

6. Domestic interests

6.1. Economic benefits of LGBT-acceptance

The example of including women more in the workforce (one might think of former premier Abe's campaign to promote *womenomics* for example), might be the clearest illustration of how the acceptance of (gender) norms and equal treatment serve a country's domestic interests, by creating economic benefits. The same is also true for LGBT-norms and a growing number of Japanese and international companies have started to realize this. Not providing any protection or inclusive measures for LGBT has already resulted in a loss of top talent, as LGBT-business leaders and their partners are

more likely to opt for positions abroad, this alone being a missed opportunity for Japan's economy (Imahashi 2019). This issue was addressed by the American Chamber of Commerce in Japan in 2018, when they delivered a statement, co-signed by 87 multinationals, to the Japanese government, calling upon them to recognize same-sex marriage in order to attract more talent from overseas and to prevent losing talent from within Japan (McKirdy 2020).

Another motivational factor, particularly for big and internationally operating Japanese companies, might be the enormous market aimed at LGBT-customers. In 2016 it was estimated that the market for LGBT in Japan was good for more than five trillion Japanese yen, or 50 billion US dollars (Crowell 2016). Dentsu has estimated this market to make up for over 6 trillion Japanese yen in 2018, and although later data was not obtained in the current thesis, it can be expected to be even higher today (Kyodo News 2018). It is not surprising that companies want to tap into this market, but doing so also creates a responsibility to answer to the needs of their LGBT-employees.

Rakuten and Panasonic for example announced in 2016 that they would recognize same-sex partnerships and the benefits for employees that come with a partnership, such as paid leave or condolence payments (Crowell 2016). Other major companies that have provided benefits or organized activities for their LGBT-workers, include amongst many others Dentsu, Softbank, Japan Airlines, MUFG, Kirin Holdings, and Tokyo Disneyland. According to Work With Pride, an organization specializing in improving the working conditions and environment for LGBT-employees, the number of Japanese companies actively involved in organizing LGBT-related activities rose from 79 in 2016, to 192 in 2019 (Nakagawa 2019). Such initiatives can be encouraging for LGBT-employees, as illustrated for example by the coming out of Gold Man Sachs Japan Co.'s vice-president Hiroki Inaba in 2017 after his boss had openly supported the LGBT-community as an ally (Kikuchi 2017). Needless to say, Japanese companies have come a far way regarding LGBT-awareness. But is it enough?

6.2. Salience through domestic interests

Despite these increased efforts aimed at LGBT-employees, we should be careful not to deem the situation for LGBT on the work floor too rose-colored. A survey conducted in 2020 by the Japanese Ministry of Health, Labor, and Welfare shows that these efforts

might be a 'paper reality' in some cases. Although the results of the survey amongst 2388 employees did positively show that over 70% of the respondents working in smaller companies and 90% of those working in large companies believed that their company should create a safe environment for LGBT-employees, they also showed that not many people were aware of any LGBT-employees working at their company. Especially companies of up to 1000 employees, around 75% did not know of any LGBT-colleague, while in larger companies around 70% either knew someone or assumed that there would be LGBT-employees (Nippon.com 2020a). These results seem to align with another survey from 2020, which showed that of 500 LGBT-respondents, only 17.6% had come out at their work, and several amongst them experienced issues at work related to their coming out (Nippon.com 2020b).

Alarmingly, the results also showed that amongst smaller companies of up to 100 employees only 4% implemented measures to enhance the workspace environment for LGBT, while amongst companies of up to 1000 employees this number rose slightly to around 11%, and finally with large companies leading with around 43% implementing such measures (ibid.). These numbers indicate that the salience of LGBT-norms is still very low amongst small and medium enterprises, while they employ around 70% of all employees in Japan (METI 2019). Although it is clear that multinationals and large companies are making efforts to improve the inclusion of their LGBT-employees the majority of Japanese employees still work in an environment where it is extremely difficult to come out to their colleagues, and where little measures are taken to improve their situation.

Another notable aspect is the absence of the Japanese government in this discussion about domestic (economic) interests. While this chapter has shown that Japanese companies, and in particular the larger ones, are becoming increasingly aware of the benefits that LGBT-inclusive policies have, the Japanese government seems to think that these benefits are either outweighed by the importance of traditional family values, or they are simply not convinced that these benefits exist in the first place. This raises the question to what extent large Japanese companies see an incentive to encourage the Japanese government to improve the conditions for LGBT in Japan, and whether they are able to do so in the future.

7. Domestic institutions

7.1. Same-sex partnerships

Perhaps the most striking development towards the acceptance of LGBT-norms in Japan has been the increase in municipalities and prefectures that offer same-sex partnerships to LGBT-couples, not to be mistaken with same-sex marriage. The first to introduce same-sex partnership certificates to LGBT-couples was Shibuya-ward in Tokyo, which has been actively issuing the certificates since November 5, 2015 (Shibuya-ward 2019). Since 2015, this number has grown drastically and as of November 1, 2020, a total of 64 municipalities, wards, and prefectures are issuing these certificates, while 14 more are planning to introduce them and 12 more are currently discussing the partnerships (Out Japan 2020).

Based on these wards, municipalities, and prefectures that have introduced the partnership certificates, around one-third of the Japanese population currently has access to same-sex partnership certificates. That is if they qualify to apply for the certificate, which is possible if they: 1. Live in, or move to the ward, municipality, or prefecture where they apply, 2. Are an adult, 3. Do not have a spouse or partnership already, or 4. Are not related to each other (e.g. Shibuya-ward 2019; Ibaraki-prefecture 2020). Notably, several of the local governments issuing the certificates also state specifically that minority groups from the LGBT-community are qualified to apply, meaning that the certificates are not directed exclusively at cisgender lesbian or gay couples, but can also be requested by transgender people (e.g. Ibaraki-prefecture 2020; Osaka city 2020).

As of November 2020, the website of Out Japan states the system of same-sex partnership certificates is: "*A system in which local governments acknowledge that a partnership between a same-sex couple is an equivalent of marriage, and in which individual municipalities publish a certificate*" (Out Japan 2020). It should immediately be noted, however, that 'recognition' in this sense is not about legal recognition, because in legal terms these partnership certificates are completely different from a marriage (Marriage for All Japan n.d.(a)). The question that arises then is: what is the added value of these certificates for LGBT-couples, and how do they relate to same-sex marriage?

There are multiple answers to this question, focusing on both the symbolic and practical value of the partnership certificates. Firstly, the certificate might bear symbolic

value on a personal level, but also on a national level in spreading awareness. Secondly, the certificate offers some degree of recognition of LGBT-couples that was nearly non-existent before the introduction of the partnership system, which can be a very practical improvement of the lives of LGBT-couples. Some examples include being able to obtain housing benefits which 'regular' housemates cannot have, but also preventing some far-reaching discriminatory practices, such as being refused the right to visit a same-sex partner if they end up in the hospital, on the grounds of not being related or married (Human Rights Watch n.d.). Nevertheless, some major shortcomings of the certificates include the fact that they are only recognized by the local government that issued them, thus losing their value during travels or after a move, and perhaps more importantly that they are not legally binding, and therefore lack the means to penalize those people or institutions that ignore or reject the legitimacy of same-sex couples (Dale 2020, 149).

7.2. Same-sex marriage

The discussion about same-sex partnerships inevitably leads to the debate about same-sex marriage in Japan. The introduction of same-sex marriage is often mentioned as one of the major goals in the battle for more legal recognition of LGBT, as marriage as an institution is embedded in the Japanese Civil Code, giving specific rights and duties to married couples (Civil Code of Japan 1896). The main issues that arise from being denied the right to marriage, are related to being separated from a partner or children, or to economic disadvantages. As mentioned above, partnership certificates might offer some relief here conditionally but do guarantee rights. In a marriage, a partner is allowed by law to inherit and to have custody over children, as well as legal grounds to obtain housing benefits and to visit a partner when they end up in hospital (Marriage for All Japan n.d.(b)).

Another major issue for LGBT-couples living in Japan is the *koseki* household registry system. This is a system in which every Japanese household or family is registered, and which demands Japanese citizens to make note of any changes in the household or family structure (MOJ n.d. (b)). The traditional family lies at the base of this system, which lists a Japanese citizen according to their place in the family tree, for example as being a *wife, firstborn son,* or *second daughter*, rather than only categorizing citizens as *male* or *female* (Dale 2020, 145). Understandably the current *koseki-system* makes effective registration of same-sex couples impossible, particularly because a marriage creates a

new *koseki* for a couple, in which it needs to be clearly stated who will be the husband and who will be the wife. This has caused problems for any type of family that does not fit into the traditional family narrative, not only same-sex couples, but also families with children born out of wedlock, children with non-Japanese parents, transgender couples, or single women (ibid., 147). A change of the Japanese Civil Code, combined with an update of the *koseki-system* would thus be a great improvement of the livelihoods of many Japanese LGBT.

In June 2019, opposition parties have already submitted a bill that would allow for same-sex marriage to the Diet, but the cabinet is in a position to lay this bill aside by simply not discussing it (McKirdy 2020). Rather, the political discussion about this tends to revolve around the Japanese Constitution rather than the Civil Code, which often leads to a dead-end in this political discourse. LDP-members, including former prime minister Shinzo Abe, have often stated that the Japanese Constitution does currently not allow for same-sex marriage to be implemented (Huffington Post Japan 2015). This argument is made on the basis of Article 24 of the Constitution, which states that: "*Marriage shall be based only on the mutual consent of both sexes and it shall be maintained through mutual cooperation with the equal rights of husband and wife as a basis*" (Constitution of Japan 1946, Article 24). It is in particular the emphasis on '*both sexes*' that usually leads people to conclude that the constitution prevents same-sex marriage.

However, many LGBT-advocates and lawyers have argued that this is not necessarily the case (Marriage for All Japan (d) n.d.; Lawyers for LGBT and Allies Network 2018; Dooley 2019). They argue that one must take into account the historical circumstances under which the Constitution of Japan came into effect. The phrasing right before '*both sexes*' reads: '*based only on the mutual consent',* which was inserted into this article to prevent arranged, nonconsensual marriages, which still occurred in Japan at the time that the Constitution was promulgated. These advocates argue that Article 24 therefore puts a strong emphasis on this sentence. Not because a marriage needs to be between two sexes but because it needs to be consensual (Lawyers for LGBT and Allies Network 2018). The Japan Federation of Bar Associations even argued that we cannot assume that the notion of 'same-sex marriage' was even taken into account at the time the Constitution was written, and therefore such phrasing cannot be used as an argument against same-sex marriage (Kyodo News 2019b). They stress that all that is needed to

legalize same-sex marriage is an amendment of the Japanese Civil Code, not the Constitution.

7.3. Lawsuits and the judiciary

Already in 1997, a Tokyo court ruled in favor of a group for gay and lesbian people, the *Ugoku Gei to Rezubian* Kai, who had filed a lawsuit against the *Seinen no ie,* a public facility in Tokyo that had refused the group's access to it on the grounds of their sexual orientation (Suwamori Law Office n.d.). Although such lawsuits at the time might have been a small sign of changes in Japan's judiciary and its rulings, it has only been since recent years that a significant increase in favorable court rulings towards LGBT-plaintiffs, as well as growing support for the LGBT-community by the Japanese judiciary, seems to surface. Besides, for example, the previously mentioned statements by the Japan Federation of Bar Associations being a clear sign of support for the LGBT-community, there are also a few recent lawsuits that have created a large amount of media attention and have increased the focus on LGBT-norms in relation to Japanese law.

In 2019 for example, the Ministry of Justice (MoJ) overturned a deportation order of a Taiwanese man living in Japan, who had been in a longtime relationship with a Japanese man but had not been able to apply for a visa due to their relationship not being legally recognized (Imahashi 2019). And in the same year, a long-term residence permit was handed out to a transgender woman from South-East Asia, on the grounds of her 17-year long relationship with a Japanese man, showing willingness by the Japanese judiciary to recognize non-traditional relationships (ibid.). Regarding the issue of same-sex marriage, a Tokyo court has even ruled earlier this year that a same-sex former couple had the same rights as a married couple, in a damage claim case (The Mainichi 2020).

Perhaps the most well-known of these lawsuits however, is the *Freedom of Marriage for All Lawsuit*. It was symbolically filed on Valentine's Day by thirteen LGBT-couples and their lawyers in 2019, suing the Japanese government. It made headlines in both Japanese and international media (e.g. Ilmer 2019; Osumi 2019). This lawsuit is led by Marriage For All Japan's representative director and lawyer Makiko Terahara, and it claims that the Japanese government's neglection of same-sex marriage is unconstitutional, based on Articles 13 and 14 of the Constitution, which respectively state that: "*All of the people shall be respected as individuals. Their right to life, liberty, and the*

pursuit of happiness shall, to the extent that it does not interfere with the public welfare, be the supreme consideration in legislation and in other governmental affairs" (Constitution of Japan 1946, Article 13). And: "*All of the people are equal under the law and there shall be no discrimination in political, economic or social relations because of race, creed, sex, social status or family origin*" (ibid., Article 14).

A hurdle in this lawsuit is the fact that the Japanese judiciary system does not allow for rulings in cases that revolve solely around interpreting the Constitution. Constitutional examination can only become an option after the judiciary rules that there have been concrete violations of rights against defendants in many different cases. To avoid this, the couples in this lawsuit are primarily demanding financial compensation by the government, which is possible in the current judiciary system, while adding to that the claim that the denial of their marriage is unconstitutional. Only if many cases like this are filed, the judiciary can call for an examination of the constitution based on a perceived violation (Marriage for All Japan n.d. (c)). The rulings in this specific case are yet to be made.

7.4. Salience through domestic institutions

In general, it is safe to say that the salience of LGBT-norms embedded in Japanese domestic institutions is still low. Following the theory of Cortell & Davis (2000) and Sen (2006) that state that domestic laws as an institution play a major role in the degree of norm-salience, Japanese law consequently shows a low degree of salience, due to the absence of any laws specifically protecting LGBT, the absence of a law allowing same-sex marriage, and even due to the existence of outright discriminatory laws, such as for example the forced sterilization of transgender people who want to legally have their sex changed (Doi & Knight 2019). However, as illustrated in a case revolving around the latter issue, where the forced sterilization of transgender people was not ruled to be unconstitutional but raised major concerns amongst the judiciary about Japan's legal gender recognition laws, there are signs that domestic institutions are slowly starting to take LGBT-norms into account.

In regard to the existing theories on norm-salience and domestic institutions, Japan offers an interesting case study, because it shows that norms can become embedded in (informal) institutions before any national laws are in place. The increase of wards,

municipalities, and prefectures issuing same-sex partnership certificates, the growing calls to legalize same-sex marriage, and the increased number of lawsuits involving LGBT, all show that Japanese institutions are slowly changing, despite the absence of national law. The (often pro-bono) defending of LGBT by Japanese lawyers, the statements made by the Japan Federation of Bar Associates, and the increased number of favorable rulings for LGBT are signals that might increase the general level of LGBT-norm-salience amongst Japanese lawyers and the judiciary.

Despite these positive developments, it must be concluded that the general degree of salience amongst Japan's institutions remains low, and seems unlikely to increase as long as the efforts made by the LGBT-community and its allies do not result in the embedment of LGBT-norms in Japanese law.

8. Socializing forces

8.1. The strength of domestic advocates

Previous chapters have briefly touched upon several initiatives that were organized by a variety of NGOs and civil society actors to enhance the position of LGBT in Japan. From the lawyers representing LGBT in lawsuits against the government to the volunteers helping yearly to organize Japan's various gay-prides; Japan has seen a rise of LGBT-advocates in the past decades. Many of these organizations, but also individual advocates, are focusing on education about LGBT in schools or on the work floor while aiming to fundamentally change how people think about LGBT and their rights (e.g. Pei-fen Dale 2016; Rebit n.d.).

While the exact number of existing LGBT-organizations in Japan has not been published, some of the biggest and most active Japanese organizations include Nijiro Diversity, Marriage for All Japan, Equal Marriage Alliance, Cialframe, Rebit, LGBT-families & Friends, Japan Alliance for LGBT Legislation, Association for the Promotion of LGBT Understanding, Pride House Tokyo, but also many others (for an extensive list see: Nijiro Diversity 2019).

These organizations are supported by INGOs and transnational advocates as well, in particular by Human Rights Watch and Amnesty International. Both organizations have

published several reports on the situation of LGBT in Japan. Human Rights Watch has actively used shaming tactics to influence the Japanese government, most notably with the publication of their reports on LGBT-bullying in Japanese schools and the report on the discriminatory laws for transgender people (Knight 2016; Knight et al. 2019). Amnesty International also applied this tactic when publishing their report on discrimination against LGBT in Japan in 2017, followed by a campaign addressing former prime minister Abe to improve LGBT-rights (Amnesty International 2017).

8.2. The Tokyo Olympic Games

In light of the upcoming Tokyo Olympic Games, currently planned in 2021, LGBT-advocates have increased their efforts to use the Olympics as a chance to expose the Japanese government to international scrutiny as well. The *Pride House* initiative associated with the Olympics has also actively provided LGBT-education, first at a temporary location in Tokyo's *Omotesandō*, and now at a fixed location near *Shinjuku nichōme,* Japan's most famous LGBT-neighborhood (Pride House Tokyo n.d.).

Human Rights Watch, Athlete Ally, and the Japan Alliance for LGBT Legislation launched a campaign to push the government to introduce an anti-discriminatory 'LGBT Equality Law' before the Olympics, referring to Japan's position in the world as staying behind on other countries by not having such a national anti-discrimination law in place (Kyodo News 2020). The campaign stresses that the Olympic Charter bans discrimination of any kind and that Japanese domestic law should be aligned with this charter before the Olympics are held. The Tokyo Metropolitan Government has already put such an LGBT anti-discrimination law in place in 2018, showcasing its commitment to the Olympic Charter and its readiness to host the Olympics. Human Rights Watch argues however that as some games will be held outside of Tokyo, and moreover, that to protect Japan's legitimacy in the eyes of the world, nationwide legislation needs to be put in place (Human Rights Watch 2020).

While such initiatives have yet to bear fruit, they are a clear sign of the strength and visibility of Japan's LGBT-advocates. If the Olympics are held in 2021, the eyes of the world will be on Japan, creating an opportunity for LGBT and their advocates to expose the Japanese government to international scrutiny. To what extent they might succeed, will soon be discovered.

8.3. The international community and Japan's legitimacy

In line with previous research on norm-acceptance and international legitimacy (e.g. Finnemore & Sikkink 1998; Risse & Sikkink 1999; Clark 2007), this section explores the socialization process, or lack thereof, through which the Japanese government might be *socialized* into accepting LGBT-norms by the international community. The degree to which the Japanese government has been the subject of scrutiny by the international community in regard to LGBT-rights or norms is limited. This thesis has not been able to locate any official sources of Japan being openly criticized for the lack of LGBT-policies by another state in their bilateral relations, despite whatever might be discussed in closed-door diplomatic sessions.

On the level of international and multilateral organizations however, there are a few examples. Perhaps most notable are the Universal Period Reviews that are conducted for each country by the United Nations Human Rights Committee. The 5th and 6th reports, respectively published in 2008 and 2014, pay attention to the position of LGBT in Japan, and the 2014 report explicitly calls upon the Japanese government to:

"(...) *adopt comprehensive anti-discrimination legislation that prohibits discrimination on all grounds, including sexual orientation and gender identity, and provides victims of discrimination with effective and appropriate remedies. The State party should intensify its awareness-raising activities to combat stereotypes and prejudice against lesbian, gay, bisexual and transgender persons, investigate allegations of harassment against lesbian, gay, bisexual and transgender persons and take appropriate measures to prevent such stereotypes, prejudice and harassment. It should also remove the remaining restrictions in terms of eligibility criteria applied to same-sex couples with respect to publicly operated housing services at the municipal level.*" (UN Human Rights Committee 2014, 3-4).

This language is clear, and the Japanese government has reacted to this report in preparation for the upcoming 7th report by the Human Rights Committee. The government states that it has taken measures to combat discrimination against LGBT-people, particularly by informing companies and by preparing educational flyers. However, the issue of same-sex marriage is avoided by stating that it requires 'careful examination', as well as any other concrete measures that would improve the situation of

Japanese LGBT (UN Human Rights Committee 2020). Despite the publication of reports, the Japanese government has not been the subject of scrutiny by the international community, with the exception of a few human rights organizations picking up on the reports (e.g. Outright Action International 2014).

One other means through which the Japanese government might be reached more effectively is diplomacy. However, as mentioned earlier, most information on diplomatic efforts made by countries promoting LGBT-norms is either not documented, or not available to the public. Nevertheless, through initiatives such as the *Equal Rights Coalition*, launched in 2016 by the Netherlands and Uruguay, the agenda for multilateral organizations is actively set to include LGBT-rights. As of May 2020, this coalition consisted of 42 member-states, mostly South-American and European, but Japan is not a member state (Government of the United Kingdom 2019). Nevertheless, several of the coalition's member states have been actively promoting LGBT-rights through their embassies in Japan. Examples include participating with a country delegation in the yearly Tokyo Rainbow Pride, sponsoring LGBT-organizations, and offering a platform or a location for Japanese LGBT to organize educational events. Such support measures have been taken by, amongst others, the Dutch, Canadian, British, and Swedish embassies (e.g. Government of the Netherlands n.d.; Government of Canada 2017; Government of the United Kingdom 2014; Government of Sweden 2019). Despite these efforts, it is unlikely that these embassies will openly scrutinize the Japanese government due to diplomatic sensitivities, but they might nevertheless affect public opinion and salience of LGBT-norms from the bottom-up.

8.4. Salience through socializing forces

This chapter has shown that Japan knows a variety of LGBT-advocates and organizations that are fighting for the protection of LGBT by the Japanese government, and on several occasions have gained a considerable amount of publicity in doing so. Their activities range from publishing critical reports to filing lawsuits, such as the ones discussed in chapter 7. Although these organizations often target the Japanese government, their lobbying power has not yet been strong enough to make the government create national laws, whether it is about same-sex marriage or anti-discrimination laws. These organizations nevertheless plant the seeds of change and are doing so more publicly than

ever. It is safe to say that they play a big role in improving the salience of LGBT-norms in Japan.

The international community is another *socializing actor*, albeit less in the foreground. Through international organizations and actors, such as the UN Human Rights Committee or the Equal Rights Coalition, but also through diplomacy and embassies in Japan, the Japanese government can at least be encouraged to improve the lives of LGBT.

This being said, it is clear by the sheer variety of LGBT-advocates in Japan that the degree of salience of LGBT-norms amongst them is high. In terms of Cortell & Davis' theory, these socializing actors are well-organized and actively trying to lobby with the Japanese government. Even though the government is still in a position to ignore or avert their demands, these advocates can still contribute to the salience of LGBT-norms in Japan through their various initiatives.

9. Conclusion

LGBT-norms have become increasingly accepted during the last few decades, particularly amongst democracies. This period has also seen increased attention for the emancipation of LGBT-people and the enforcement of their rights, both on a domestic and global scale. However, despite being a democracy and promoter of universal human rights, Japan seems to be an exception to this development. Remarkably, little to no research exists on LGBT-norms in Japan, which is why this thesis has made an initial analysis of these norms.

More specifically, it has researched the degree of salience of LGBT-norms in Japan, which according to Cortell & Davis (2000) is often overlooked in existing research on international norms. It has used Cortell & Davis' proposed research model, through which salience is analyzed by looking at the *cultural match, political rhetoric, domestic interests, domestic institutions*, and *socializing forces* of a state, to answer the question: to what extent are LGBT-norms salient in Japan?

This model proved to be useful in the case of Japan, as its categories are well-suited for an initial, broader analysis of LGBT-norm salience. Another strength of Cortell & Davis' model is the fact that analyzing the different categories allowed for the variations in the

degree of salience and tensions that might arise from this to be mapped, rather than making generalized statements about the degree of salience of LGBT-norms in Japan.

This thesis has shown that LGBT-norms are practically absent from *political rhetoric* and formal *domestic institutions* such as the law and that they are still insufficiently connected to *domestic interests.* Yet, it also concluded that *socializing forces* have become stronger in recent years and that the *cultural match* does not seem to pose many obstacles to the acceptance of LGBT-norms. Consequently, it can be expected that in the domestic sphere, the biggest hurdle for the improvement of LGBT-rights lies with the Japanese government. Furthermore, a lack of knowledge about LGBT-people and negative opinions, particularly amongst elder generations, still exist. National laws are insufficient, or non-existent, and many small and medium companies are not taking measures to protect their LGBT-employees. But despite these problems, this thesis has shown that there is a clear development towards greater awareness, particularly amongst younger generations, and towards more visibility for the LGBT-community through strong advocacy.

To sum this up, and to answer the research question posed by this thesis, it has concluded that salience of LGBT-norms is the lowest in the political sphere and amongst politicians, followed by Japan's formal institutions. Salience is much higher amongst Japanese civil organizations and human rights advocates, and to a lesser extent amongst the general public, which predominantly holds a positive view of LGBT-people. The degree of salience varies so greatly amongst the different categories that were analyzed, that making general statements about salience of LGBT-norms in Japan would not be in line with the reality of the Japanese situation.

Although this thesis has contributed to the literature on international (LGBT)-norms by mapping salience in the case of Japan, future research should be conducted to analyze the exact role of international LGBT-norms on the domestic sphere in Japan. Using the conclusions about salience made in this thesis, it seems fruitful to focus in particular on those areas where salience is still very low and to explore *why* LGBT-norms do not seem to resonate in these areas. It should also be noted that research outcomes are likely to be very different depending on which area of society is studied. This thesis had laid the foundation for potential future research by showing that the salience of LGBT-norms in Japan is highly diversified.

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