Report article

How the subject of the Anti-Prostitution Act was stipulated in Japan − Investigative report on ways to express females −

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Abstract

In contemporary Japan, the question of "whether women are considered 'girls requiring protection'" is the basis for enforcement of the prostitution prevention laws, and the concept of "girls requiring protection" has become the crux of the prostitution prevention issue in Japan. An important question is why the wording of the law contains the word "girls"? In other provisions of the same law, women are referred to as "ladies," causing the present author to wonder about the differences in these two expressions for women. Although some research has been done on the "requiring protection" part of the law, there appears to be no examination in the history of the legislation about the "girls" terminology. Interestingly, this law was not readily adopted even after several submissions, and an examination of its legislative history must include the consideration of what kinds of expressions were popular during the period of its establishment. This paper also investigates how and when it was decided to use this particular expression only in certain parts of the legislation. This study has elucidated some of these points brought some points to the surface. As the investigation proceeded, the time period studied was narrowed down and its scope deepened in terms of the particular political and administrative circumstances at play at the time of the creation of the legislation. We hoped that the unfolding of these processes would bring to light the hidden historical implications of the laws examined.

Introduction

For example, on April 9, 1957, in a notice by the Vice-minister of Health and Welfare was the first to include the concept of "girls requiring protection," and on October 23, 1969, at the national chief executive officer meeting, a Ministry of Health and Welfare explanatory briefing examined the interpretation of the term. Why was the expression "girls"(This is what we call "joshi".) used? "Women" has been used to mean "female" in legal terms. For instance, the expression was used in Articles 4, 61, and 62 of the Labor Standards Act (before revisions from the Equal Employment Act were implemented), and in Articles 3 and 42 of the Employees' Pension Insurance Act (before the Partial Amendments to the National Pension Act of 1985 were implemented). The same law established both guidance centers for ladies as well as ladies' protection facilities, places where women's counselors could be consulted. The fact that these regulations refer to women as "ladies" (This is what we call "fujin".) sparked

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the researcher's curiosity about the differences in expressions used to refer to women. Meanwhile, adult women subject to this law residing in the vicinity of US military bases in Japan were referred to as "girls." Although most of the procedures in this law refer to women as "ladies," why then does the legal language refer to "girls" only in one section? Although some research about the historical context has been done on the "requiring protection" portion of the law, there appears to be no examination of the legislative history of the "girls" terminology. For example, one study suggests the protective care services for women and the theory of human Rights [1]. Another study attempts to analyze the perspective of changes in user's characteristics and the significance of the existence of facilities [2]. Along with the development of these studies, a few studies have been conducted to examine the issues on buying and selling persons [3] and the women's anti-prostitution movement in postwar Japan [4]. Interestingly, this law was not readily adopted even after several submissions, and an examination of its legislative history must include the consideration of what kinds of expressions were popular during the period of its establishment. This study aims to uncover when and how this portion only ended up using the term "girls."

Materials and Methods

In the course of this research, the researcher obtained reports from the Prostitution Prevention Commissions of 1959 and 1968 and minutes from Fuji-Shuppan (2004a, 2004b, 2005a, and 2005b), as well as related bills that had been rejected many times [5-10]. The researcher had the opportunity to read, first-hand, the request documents, and findings of the bills, and related draft legislation of the enquiry commissions and related conferences, and to then review them as appropriate. In the writing of this paper, it became apparent that the evaluations of the historical context of the time lack consistency; consequently, when necessary, this study avoids descriptions where individuals and organizations are identified. Further, in step with the trend before 2001, the names of ministries and agencies are expressed using the designations before the reorganization of ministries and agencies took place in 2001. The methods used for this study, which are based on detailed examination of these documents, are not subject to ethical review as would be living-body experiments. The research conducted herein does not represent any conflict of interest.

Results

At the outset, the researcher assumed that instead of "girls requiring protection," "women" (This is what we call "fujo".) or "ladies" requiring protection would be more natural. The researcher was under the impression that the usage of "women" as in the postwar expression "women's suffrage" would be the norm considering the well-known usage trends, such as the wording in the "Draft bill on the protection of women" introduced in the 45th Imperial Diet held on March 1922, and the usage throughout WWII and thereafter. In 1946, the Japanese Christianity Revival Committee and the National Association for the Promotion of Purity, among others, petitioned the Minister of Home Affairs for the abolition of prostitution, which prompted the General Headquarters of the Allied Powers to issue an "Abolition of Public Prostitution in Japan" memorandum of understanding soon afterwards. The so-called women's representatives and their movement entered the stage subsequently. This assumption was bolstered by the wording in, for example, the 1946 "Guidelines regarding the protection of ladies" issued by the Social Division Directorate of the Ministry of Health and Welfare and the Potsdam Royal Decree No.9, "The law regarding punishment of persons involved in the sale of women etc.," which was issued on January 15, 1947.

The researcher, through this investigation, dis-

covered that there were many laws that had been submitted to parliament prior to this law being established. After directly studying the proposed bills one by one, it became evident that the term "girls" does not appear often. We shall begin by looking at the "Draft bill regarding punishment for prostitution" submitted by the legislature during the 2nd Congress of the Diet.

This Bill referred to "women and girls" engaged in prostitution work; it was ultimately shelved due to closure of the Diet on July 5, 1948. The request document submitted from the "Commission on issues concerning ladies and girls" addressed to the Bipartisan Committee on Judicial Affairs on October 13, 1948, concerned the elimination of this kind of behavior rather than the punishment of prostitution and included a call to enhance the liberties of prostitutes. In 1952, the council wrote a report calling for the establishment of a basic government policy after consulting with the Minister of Labor and strongly expressed legislative demands to the Ministry of Justice, etc. During that time, the Ministry of Labor's Women's and Juvenile's Bureau was established on September 1, 1947 in Japan, and this also played a role in women's liberation.

Then, on December 18, 1953, by Cabinet decision, a conference on measures concerning the prostitution problem was established, the result of which was that the "Regarding prostitution countermeasures" was submitted by the conference Chair to the relevant Cabinet Ministers after the 16th conference on September 2, 1955.

According to the findings, the Family Court, except when sending cases concerning prostitution back to the public prosecutor, would decide if these cases were to be considered questions of measures preserving law and order or not, and if not, the matter would be referred to the ladies' consultation office.

Now, we address the issue of designating women as "ladies" in institutional expressions. On December 27, 1952, the "Findings regarding measures to deal with the prostitution issue," with proposals such as "Toward the liberation of ladies," "Protecting ladies' rights," and "Improvement of ladies' status" was submitted by the "Ladies' and girls' issues" commission Chair to the Labour Minister.

To this end, general revitalization of prostitutes' protection and prevention of degradation of women was deemed to be required. On March 3, 1953, the "Bill on punishment for prostitution-related activities" was introduced in the Diet but was then shelved. The researcher noticed, while describing the legislation, that in the first article of the legislation, "women's" basic rights are described, and in the second article, there were descriptions of "women" getting remuneration.

In other words, "women" seems to be common legislative terminology. In Article 6, there is a description of "women" being deceived, Article 9 includes a reference to working contracts for "women," and Article 10 refers to providing a place for "women."

From this point onward, "women" is repeatedly used in legislation. On May 10, 1954, the next year, the "Bill on punishment for prostitution-related activities" was introduced in the Diet, and even this bill contains a reference to "women's" basic rights. In Article 2, there is reference to "women" engaging in sex with arbitrary partners to obtain remuneration, and Article 5 refers to deceiving "women" and establishes a prostitution agreement contracted with "women."

Following directly on the heels of the above-mentioned legislation, on December 14, at the 21st ordinary session of the Diet, the same member again submitted the same legislation, and it was once again shelved. In the 22nd Lower House Committee on Judicial Affairs, a "Bill on punishment for prostitution-related activities" was introduced in the Diet extolling the benefits of the "Protection of 'women's' basic rights in the interests of sound public order." Both in its definitions and the matters related to punishment, as

usual, the term "women" is used.

This bill was defeated 19 to 11 in the Lower House Committee on Judicial Affairs. In examining the important matters of the proposed legislation up to that point, it seems there was a shift from "women and girls" to "girls." If we take a principled approach, examples of "girls" are not found in the proposed legislation in question. While similar legislation proposed by the Opposition contained both "women" and "ladies," the term "girls" is not found. In other words, the Diet introduced a prostitution prevention draft bill on May 12, 1956, against the March 24 Socialist Party bill that proposed only punishment for prostitution, and, as a result, the former bill was abolished on the same day. As a side note, the Socialist Party bill submitted during the 24th congress of the Parliament contained 103 articles. It is noteworthy that the bill named "Law on Punishment for Prostitution, Safeguards and Rehabilitation of Life" stated safeguards and rehabilitation. In particular, it should be noted that it defines the logic of "requiring protection" for a pre-delinquent. Article 1 stated that it was for legislative purposes, Article 86 stipulated the definition of the requisite guardian, and the necessary measures were stipulated in Article 87. This legislation has had a significant influence on the implementation of ladies' classification homes and correctional facilities, on the establishment of theories regarding the authority of Family Court probation officers, on the creation of new measures regarding the legal attendant system, and finally, on the establishment of correctional education theories. The purpose of this legislation, according to Article 1, is the protection of "women's" basic rights in the interests of sound public order. However, Article 18 stipulates when the public prosecutor who, in cases of "ladies" being victims of an incident, decides based on investigation and considers the person in question being a "woman," the case should be referred to the Family Court for judgment, and ladies should be designated as "women."

Article 19 goes on to state that the Family Court can conduct investigations on women as necessary. In Article 21, it is stated that "women" can have a legal attendant appointed after getting Family Court approval. In Article 22, it is stated that when required for investigations or judgments related to a case, the Family Court can issue a summons for "women." Article 29 states that "women" can be taken to the closest ladies' correctional facility. However, in Article 92 regarding protection of women, the same phrase used in the government bill, "requiring protection," is found. The target persons in Article 86 are "requiring protection," and revitalized protection measures are set out including, for example, taking into custody as juveniles "persons likely to prostitute themselves." This is the same system design as for women needing protection in the current laws, but the term "girls" is not used here.

Finally, on April 9, 1956, the prostitution prevention commission findings would become the foundation for the government bill that was approved in the Diet. The target parties were women ("women requiring protection" hereinafter) who are likely to prostitutes themselves in light of sexual activity or the environment. So, while revitalized protection measures are indicated for "women requiring protection," it is stated at the same time that "in response to the consultations of women needing protection, appropriate counseling should be provided," and ladies' consultation facilities (tentative name) where temporary custody can be carried out should be established across the country. With this in the background, the government promptly drafted 22 bills with the same content. This draft legislation, containing the word "women" in many of the mentioned institutions' names, was submitted to the Diet all at once on May 2, 1956. The original bill with no revisions passed through the lower house and the House of Councilors in six days, three days each, which is a remarkably short time for deliberations. On May 21, 1956, the legislation was

approved and established, and on May 24, it was promulgated, and with the exception of punishment-related provisions in the second section, it was implemented on April 1, 1957, with the punishment-related provisions implemented on April 1, 1958.

Discussion

How the “girls requiring protection” provision of prostitution prevention law was established in Japan? However, regarding this law, there is no study that makes the investigation into how women came to be designated “girls” in legal language, although one study looks at legislation on sexual misconduct in Tokyo [11]. The researcher began this paper with questions about the differences in designations for women in legal language. Another study reported the mentally disordered women [12]. Why, in the mentioned law, are women in most cases designated as “ladies,” and why does the expression “girls requiring protection” contain the word “girls”? For example, one study pointed out the regulations of need of protection in protective care [13]. Another study attempted to identify the prostitutes against this law [14].While research exists on “requiring protection,” why, in legal history, are there no instances of investigations regarding the usage of “girls”? To this end, we collected certain types of legal materials to precisely address this issue. We can discuss the problems of care and treatment for the prevention [15]. In the course of the research conducted, the following items came to light and bear examination. First of all, in the state laws, the expressions designating the target individuals mostly contained “women” or “women and children” (This is what we call “fujoshi”.), at the outset while usage of “girls” was very rare. Thereafter and especially in the period leading up to the establishment of the bill, “women and children” as an expression completely disappeared in favor of “women.” However, at about the same time, the word “ladies” started to be seen in the names of new institutions related to women’s issues. Furthermore, conference findings that became the basis for establishment of bills, even though at the outset the naming convention dating to the time of the draft bill creation, “women” was used, but after that, for some reason, the expression “women requiring protection” all of a sudden switched to “girls requiring protection.” The legislation then passed without much deliberation. It was believed that if we allow ourselves to narrow down the focus period of the investigation to one and a half months and deepen it in terms of the political and administrative circumstances around the creation of the law during this research, then we will be able to help the hidden historical implications of the law come to light. Thus, we hope to further investigate the dynamics of the creation of this law in the future.

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