



Name of Country and Jurisdiction:

Japan



What forms of legally recognized relationships are available?



LEGAL RECOGNITIONS FOR OPPOSITE-SEX COUPLE	GEOGRAPHY	LAW	AVAILABLE TO SAME-SEX COUPLE?
Marriage, registered	Japan	Constitution of Japan. Civil Code of Japan. Family Register Act of Japan.	No
<i>De facto</i> marriage (<i>naien</i>), not registered	Japan	Recognized by a decision of the Supreme Court of Japan.	No

Article 24 of the Constitution of Japan provides that marriage shall be based only on the mutual consent of “both sexes.” Some legal scholars argue that this provision does not prohibit same-sex marriage, but under current practice, same-sex marriage is not recognized in Japan. In order to enter into a marriage, a couple must submit an application to register the marriage in the family registry (Article 739 of the Civil Code and Article 74 of the Family Register Act), but the municipal offices, which administer the family registries, do not accept applications submitted by same-sex couples.

Some scholars argue that same-sex couples should be eligible for *de facto* marriage (*naien*). However, there is no law or court case that recognizes *de facto* marriage with respect to same-sex couples.

<p>Forthcoming changes</p>	<p>On March 31, 2015, Tokyo's Shibuya Ward adopted the Shibuya Ward Ordinance to Promote a Society in Which Gender Equality and Diversity Are Respected (the "Ordinance"). The Ordinance specifically provides for deference to the human rights of sexual minorities (Article 4) and introduces the issuance by the ward of "partnership certificates" (Article 10). Under Article 10, in principle, the mayor of Shibuya will issue a partnership certificate if: (i) each partner appoints the other as his or her voluntary guardian by notarial deed and such appointment is registered; and (ii) the partners execute an agreement by notarial deed with regard to certain matters designated in the rules prescribed by the ward.</p> <p>Although the partnership certificate itself does not have any binding legal effect, citizens, businesses, and public offices in Shibuya are required to give it the maximum possible consideration (Article 11). A certified partner, however, will not have legal rights regarding succession, pensions, or tax deductions, because these items are governed by the national laws of Japan rather than local public ordinances. The Ordinance was scheduled to take effect in 2015, with the application procedure and other necessary matters prescribed by subsequent rules.</p> <p>A growing number of cities and wards have joined Shibuya in recognizing same-sex partnerships. The following cities and wards have issued partnership certificates to same-sex couples:</p> <ul style="list-style-type: none"> • Shibuya, Tokyo (2015) • Setagaya, Tokyo (2015) • Iga, Mie (2016) • Takarazuka, Hyogo (2016) • Naha, Okinawa (2016)
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■ Sources:

Primary

- Constitution of Japan (November 3, 1946), Article 24, available in English at http://japan.kantei.go.jp/constitution_and_government_of_japan/constitution_e.html.
- Civil Code of Japan (Act No. 89 of April 27, 1896, as amended), Article 739.
- Family Register Act of Japan (Act No. 224 of December 22, 1947, as amended), Article 74.
- Shibuya Ward Ordinance to Promote a Society in Which Gender Equality and Diversity Are Respected (March 31, 2015).

Secondary

- Yukimasa Tanamura, *Kekkon no Houritugaku* (Jurisprudence on Marriage) (2000), Yuhikaku.
- Shuhei Ninomiya, *Kazokuhou* (Family Law) (4th ed. 2013), Shinseisha.
- Martin Fackler, *District in Tokyo Plans to Extend Rights of Gay Couples*, New York Times (Feb. 12, 2015), <http://www.nytimes.com/2015/02/13/world/asia/tokyo-ward-plans-to-extend-rights-of-gay-couples.html>.