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Master's Thesis

**A Study of the Japanese Family
Registration System**

**Gatekeeping Normative Notions of Family and Creation
of the Unregistered**

November 2017

Graduate School of Seoul National University

Graduate School of International Studies

Area Studies

Nurhasfalilah Abdul Aziz

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A thesis Presented

By

Nurhasfalilah Abdul Aziz

to

A dissertation submitted in partial fulfillment
of the requirements for the degree of Master
of International Studies in the subject
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Abstract

A Study of the Japanese Family Registration System: Gatekeeping Normative Notions of Family and Creation of the Unregistered

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The unregistered people termed as *mukosekisha* in Japanese refers to individuals whose identity are not recorded and are excluded from Japan's household family registry, the *koseki*. An analysis of the phenomenon of the *mukosekisha* and the group's exclusion from the *koseki* points at the ideological functionality of the *koseki* in Japan. Analyzing the exclusion of the *mukosekisha* from the *koseki* as part of a series of omissions done on various levels associated to the family registration system, this thesis aims to argue and illustrate how the *koseki* has been utilized as a gatekeeping tool to preserve normative notions of family in Japan. The exclusion of the *mukosekisha* could be attributed to Articles 772 and 733 of the Japanese Civil Code pertaining to divorce and remarriage and hence the existence of this group points at a lack of harmony with long-

held social values pertaining to family. The lack of alignment of the profile of the *mukosekisha* from the idealized norms that the state seeks to propagate resulted in the group being pushed to the liminal margins of Japanese society as well as being ‘othered’ and disparate from the ‘us’ whose profile allows them to be registered into the *koseki* and be part of the system.

Keywords: Civil registration, identity, citizenship, imagined communities, family, Japan

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CONTENTS

I:	Introduction	1
	 Background	1
	 Literature Review & Analytical Framework	7
II:	Gatekeeping the Imagined Japan through the <i>Koseki</i>	17
III:	<i>Koseki</i>'s Unregistered People	27
IV:	Becoming Legally Visible: From an Excluded 'Other' to the Included 'Us'	46
V:	Conclusion	70
	Bibliography	75
	Abstract in Korean	82

CHAPTER I

INTRODUCTION

Background

In one of the most defining scenes in the drama '*Ikimodekinai Natsu*' aired by Fuji Television Network Japan in 2012, the main character played by Saki Takei was told that her status as an unregistered person meant that she officially does not exist in the Japanese society. This proclamation of her invisible status in the eyes of the state was uttered to the drama's protagonist after her repeated requests to attain a proof of identification from the family registration office was denied.

The affirmation of her legal invisibility later explains the character's initial puzzlement over her lack of possession of a public health insurance card as opposed to her other household members who have a family registration record. Consequently, she found her initial hopes of furthering her studies in France and realizing her ambitions to be a patisserie shattered. That scene and the drama that revolves around the theme of unregistered citizens in Japan ignited a slew of responses by viewers across various online community discussion boards. The running dialectic across these online platforms point at viewers' shocked comments over how they were incognizant about the phenomenon and existence of unregistered people within Japanese society and its consequent legality and ethical connotations.

The phenomenon of unregistered citizens is not new although awareness of it is lacking in Japan. According to a survey done by Japan's Ministry of Justice (2015), there are 533 people who are not registered in the Japanese family registration system.

84 of the people in this group consist of people over 20 years of age thus pointing at the worrying trend that most of the unregistered are children who are one of the most vulnerable demographic. As of August 10, 2016, the Ministry of Justice affirmed that there are 702 unregistered citizens with 132 of these consisting of adults.

This statistic has been contested by various non-governmental organizations (Hiroyuki, 2015) as well as individuals like Masae Ido - a Japanese politician from the Democratic Party of Japan – who countered that the estimated number of unregistered citizens to be approximately 1 million people. Ido (2016) attested that the figures of unregistered citizens revealed by the Ministry of Justice was derived from a questionnaire disseminated to local governments which garnered responses from only 20% of the population thus indicating a high probability of more unregistered people being unaccounted for.

The unregistered people termed as *mukosekisha* in Japanese, refers to individuals whose identity are not recorded in Japan's family registry, the *koseki*. The *koseki* is a document that holds the records of the Japanese household-based family registration system (*koseki seido*). It contains a legal documentation of family relationships, births, deaths, marriages and adoptions¹ that have occurred within the family unit. In essence,

¹ Family Register Act, Chapter 3, Article 13 states that the following information will be recorded for each person whose name is entered into the family registry: (a) name, (b) date of birth, (c) reason for and date of entry into the registry, (d) parents' names, (e) for an adopted child, the names of his/her adoptive parents, (f) for married couples, a statement that declares their marriage status, and (g) references to the previous family register for a person who has newly-entered the current register (Ministry of Justice, 2017).

the *koseki* is a civil registration document and an individual's entry into its records will accord him with typical civil rights. These civil rights range from the social like having access to social and welfare benefits, to the administrative which involves the right to have their births registered and consequently apply for documents like the residency card, passport, driving license, and open a bank account, to the political like the right to vote. However unlike the civil registration systems practiced in various developed and democratic nations comparable to Japan like the United States, United Kingdom, France and many more which is premised upon the individual, the *koseki* is characterized by its family-based registration.

In Japan, this family-based registration as codified in the Family Register Act is based on the state-defined notions of a hetero-normativity where a family is seen to be consisting of a legally married heterosexual couple with children born from the union. This is evident from the condition in Article 2 that states that 'A family register shall be created for each unit consisting of a husband and wife, and any children thereof' (Ministry of Justice, 2017). Upon meeting this requirement, two individuals who newly entered a marriage can then create a *koseki*. For an individual who chose to join the *koseki* of her spouse, and for children born from a legal conjugal union, he or she will then be recorded into a pre-existing *koseki*. Being part of a *koseki* makes its legible to the authorities that the individual is a Japanese citizen and thereafter accord him access to basic citizenry social and welfare rights.

In essence, the conditions for being a Japanese citizen are bounded by the Nationality Law. This is seen from Law No. 147 that stipulates how the Japanese

nationality can be acquired in two ways – by birth or by naturalization. In the former, Articles 2(1) and 2(2) of Law No. 147 specifically states that both or one of the parents of the child has to be a Japanese before the Japanese nationality is prescribed to the child. Should the parents of the child be missing or stateless, Article 2(3) of Law No. 147 states that the child will be granted a Japanese nationality if he or she were to be born in Japan. Hence it is evident that the status of a Japanese nationality is determined by the legislation outlined in the Nationality Law. In this light, the *koseki* does not determine the Japanese nationality. However as an apparatus of the state, the *koseki* allows the authorities to legibly identify its citizens. It also simultaneously aids the state in managing its social and welfare resources to ensure its citizens receive it. This points at the indirect link between the *koseki* and Japanese citizenship status.

The *koseki* also functions as a state apparatus in another aspect. Its basis of registration which requires a Japanese individual to be identified as part of a collective group referred to as the ‘family’ seems to suggest that the *koseki* also indirectly aids the state to uphold and propagate its definition of family in Japanese society. Ninomiya (2014) states that besides being a documentation portraying the family relations of Japanese nationals, the *koseki* has also come to ‘represent an idealized or conceptual family’ (p. 173). Ninomiya (2014) conspicuously notes how the *koseki* has been paralleled to the family based on the feelings of being integrated into a family unit that individuals experience simply by being recorded inside the same *koseki*.

Japan is not unique in its experience where the state promulgates idealized concepts of a family unit to consist of a legal union between a heterogeneous couple.

This phenomenon is also seen in other places and societies particularly in Asia. In Japan, the state-held definition of a family unit is made official through the *koseki*. In this light, the *koseki* connects the respective Japanese people to the larger narrative of how the authorities have imagined the Japanese state to be: part of a family. This narrative engenders many years of history to the Meiji era where the ideology of the centralized position of the family and as a corollary, the traditional values associated to the family like that of filial piety and loyalty were pervasive and has been discussed in many *Ninhonjinron* discourses.

It is this framework and vision of a Japan with the family at its centre that the *koseki* supports. Viewed from this perspective, the *koseki* thus functions as a tool of state surveillance to sieve out aspects that failed to be part of the idealized collectivity and homogeneity propagated by being part of the family and the value that it espouses. The *koseki* seems to function as a regulatory tool to preserve the sanctity of a heterogenous family unit and the traditional values associated to it. Along this vein, the persistence of the problem of unregistered children points at more deeper and complex function of the *koseki* as a gatekeeper that this thesis posits is rooted in maintaining the ‘social peculiarities’ (Hirobumi, 1889, p. 740) of Japan. In doing so, the *koseki* assumes a level of power to render some members of the native Japanese that seemingly do not exemplify this social peculiarity to be invisible in the eyes of the state. It then relegates them to the realm of the ‘other’ which is separate from the vision of Japan that has been imagined by the state. By being this ‘other’, the individual finds himself discriminated from the Japanese society and this is felt strongly through the

denied access to basic rights as a citizen.

In this light, by examining the development of the *koseki* system from its roots in the Meiji era to the present, its position within the Japanese law, the associated problems faced by the unregistered people in Japan as a result of the way the *koseki* functions, and lastly with a focus on the agency of the state, this thesis seeks to argue that the *koseki* is a profound state surveillance gatekeeping tool of inclusion and exclusion that seeks to preserve its imagined notion of a Japanese society. In other words, it functions as an ideological gatekeeping tool for the state. This thesis will elucidate this argument through qualitative analysis. Statistical data published by the various Japanese ministries and other secondary sources from books, journal articles, websites and social media accounts of unregistered people support groups, Japanese discussion boards, television documentary and news articles published by the Japanese media informs much of the material for analysis. This thesis also sought opinions from native Japanese through opinion surveys conducted through two of the author's contacts residing in Saitama and Niigata. The aim of seeking opinions of the Japanese native from this survey is to provide brief personal insights separate from those published in the media as a way to further understand the issue.

Consequently, this thesis seeks to provide the English-speaking readers an analysis informed by content drawn from various Japanese sources that would have otherwise been inaccessible non-Japanese literate readers due to the language. Additionally it also aims to contribute an alternative analysis to the issue of unregistered children in Japan by framing the problem in the context of constructing

and preserving an idealized imagined Japanese community through exclusion.

In the section that follows, this thesis will situate the current research in existing studies pertaining to population registration. It will also clarify the analytical framework used throughout the analysis of this paper. Thereafter in Chapter II, the thesis will outline the development of the modern day *koseki* which has its roots in Meiji era. Chapter II highlights the historical and social influences that came to shape the role and functions of the *koseki* and how Japan has been imagined by the authorities. In Chapter III, this paper will discuss how the phenomenon of unregistered people came to arise from the *koseki*. Chapter IV moves the discussion into the current moves that have been instituted by the state to solve the problem of unregistered children and consequently, ensure their rights are accorded. In doing so, the thesis argues that while public pressure to address the unregistered issue have seen huge strides made in this area, the problem is far from solved.

Literature review

Population registration which is also referred to by various names like ‘civil registration’ or ‘birth registration’ represents an administrative exercise in which a person gets himself officially documented into the civil census record kept by the country in accordance with its civil requirements (Office of the United Nations High Commissioner for Human Rights, 2014). It involves submitting various personal information and the extent of information required differs across states according to the stipulations set by it. The practice of civil registration can also differ across states

depending on the basis the individual enters the registration system. Most states sets the individual as the basic unit of registration while some states like Japan, China and Vietnam maintains a system in which the recording is done based on the family as the unit of registration. Despite these differences, all civil registration systems are characterized by a core element. At its core, all civil registration systems typically start at birth and will eventually allow the state to have a centralized compilation of fundamental information pertaining to the population's registrations of births, deaths, marriages, ethnicity, occupational background and residential addresses (Giddens, 1987).

In his book *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed*, Scott (1998) argues that this practice of census recording is a type of statescraft that represents the authorities' attempts to make 'a society legible' (p. 2) and this is done by organizing its people in ways that will ease its 'classic state functions of taxation, conscription, and prevention of rebellion' (p. 2). In addressing the function of population registration from the state's standpoint, Chapman (2011) conveys similar sentiments pertaining to the objectives of this process. According to him, the system is a form of population surveillance that allows the state to identify its citizens and distinguish them from non-citizens, administer conscription and implement traditional practices of governance like the collection of taxes (Chapman, 2011). Frohman (2015) refers to this system and process of registration as essential to the state's 'political rationalities' (p. 316). The information gleaned from the civil registration is crucial for the state to assert its sovereignty, locating a person into the

social and geographical area and the biopolitical cultivation of its people (Frohman, 2015). Additionally, it allows the state to preserve its 'internal order' (Giddens, 1987, p. 180).

In other words, population registration that is typically practiced by the modern state can be regarded as a document that empowers the state through knowledge about its citizens. Scott (1998) differentiates this situation from the pre-modern states that he describes to be 'partially blind' (p. 2) due to the dearth of knowledge it possesses about the people under its rule. For Giddens (1987), the rise of 'administrative orders of high intensity' (p. 4) in modern states contrasts with that of pre-modern states. He perceives that the existence of territorial borders that characterize the modern states as opposed to frontiers in the pre-modern state to be a significant reason that gives rise to patterns of administrative practices like civil registration.

Veering from the administrative aspects of civil registration systems in *Family Register and Civil Registration*, Ninomiya (2005) elucidates another function of civil registration system as a means to preserve the state's ideology. Ninomiya's discussion on the ideological aspects of civil registration that is specific to Japan also provided a nuanced dichotomy between an individual-based and family-based registration system. Centering her discussions on the conservative-liberal debate surrounding individual-based and family-based registration systems which permeates the Japan Diet before the eventual implementation of the latter, Ninomiya illustrates how family-based registrations which contained records of pertinent life events like entrance or exit into

the family via birth, marriage, divorce and death as well as records of the relationship between each members de-emphasize individualism, accentuates the concept of familism and traditional family values of filial piety inherited from its Confucian past. Likewise, Osamu and Masahiro (2011) also highlight this conservative-liberal argument that pervades the adoption of a family-based as opposed to an individual-based registration system in Japan by underscoring how the individualist element of the latter could potentially erode the sense of loyalty and filial piety within the family unit. Even the Japanese reference for household registration system, the word 'koseki' contains two Japanese characters that symbolically connote the ideology underlying the system. Mori (2014) describes how the word contains the character 'ko' which translates into the meaning door or gate for a house and 'seki' which translates into register thus making the term 'koseki' assume the inherent understanding of registration or a sense of belonging to a house. Such emphasis thus underscores the regulatory ideological function of civil registration systems.

The role of regulating the ideological premises of Japan through the *koseki* is not just implemented by the state. Ogasawara (2008) moves the focus of discussions of the *koseki* from the state to the family by highlighting how the latter plays an active role ensuring the members in its *koseki* do not entangle themselves in socially and morally dishonorable situations like divorce that could sully the purity of the family name and its registry records. Since the *koseki* is an illustrative document to the public that portrays the record of private lives of the families, it is seen as a reflection of the family to the larger society and hence family members may intervene to ensure the

members in its registry do not taint its image to the public (Ogasawara, 2008). In this regard, the *koseki* thus preserves the social ideological precepts of the society through regulation on dual levels comprising the level of the state as well as the individual families.

Moving from the administrative, surveillance, and ideological functions of civil registration systems to the state, this practice is also equally important to the registrants themselves and starts as soon as he is born. For the registered, civil registration - whereby birth registration represents the first step - establishes his existence legally and sets the basis for preserving his 'civil, political, economic, social and cultural rights' (Office of the United Nations High Commissioner for Human Rights, 2014).

The Charter of the United Nations has vividly emphasized how birth registration is deemed to be a right that should be accorded to all individuals. United Nations International Covenant on Civil and Political Rights as well as Convention on the Rights of a Child have set out resolutions to mandate this right to birth registration. Article 24(2) of the United Nations International Covenant on Civil and Political Rights states that 'Every child shall be registered immediately after birth and shall have a name' (General Assembly resolution 2200A (XXI), 1966). In a later resolution passed that specifically deals with its commitment in ensuring any child born in the world would be able to receive civil protection and rights as a human being, Article 7(1) of the Convention on the Rights of a Child states 'The child shall be registered immediately after birth and shall have the right from birth to a name, the right to

acquire a nationality and as far as possible, the right to know and be cared for by his or her parents' (General Assembly resolution 44/25, 1989).

Typically, there is a connection between achieving the right to get one's birth registered and being able to achieve other basic fundamental rights deserving of any human being (Office of the United Nations High Commissioner for Human Rights, 2014). However Unicef (2016) notes that globally, one out of 4 children under 5 years old never have their births registered. The rates of birth registration also varies across regions in the world with the lowest rates 36% of children under 5 years old being registered observed in Eastern and South African region followed by 41% in Sub-Saharan Africa, 45% in West and Central Africa, 71% in South Asia, 79% in East Asia and Pacific, 87% in Middle East and North Africa, 92% in Latin America and the Caribbean and the highest percentage of 98% in Central and Eastern Europe (Unicef, 2013 as cited in Unicef, 2016).

Linder (1982) elucidates the following reasons to explain why some individuals can fail to get themselves registered: the factor of geography which entails the uneven spread of people across the terrain thus making it challenging for the individual to register the birth of his child as well the social factor of culture and illiteracy in which civil registration is not regarded as a matter of importance by the individual thus births tend to do go unregistered. Discussing in the context of wars, Bah (2014) highlights how political upheavals can severely disrupt the civil registration system thus resulting in not only cases of unregistered individuals but also destruction of existing civil documentation. Regardless of the reasons that lead a

person to being unregistered, the fact that not every one in this world gets to have their births registered underscores a far more important point. That is, it gives rise to concerns over the issue of the denial of other rights that they will consequently experience over the course of their lives.

Analytical framework

In *'Imagined Communities: Reflections on the Origins and Spread of Nationalism'*, Anderson (1983) described the nation as an 'imagined political community' (p. 6) which is simultaneously 'limited' (p. 7) and 'sovereign' (p. 7). He argues that it is an imagined construct as in reality, not everyone in the nation will be able to claim that they know and have corresponded with one another and yet the idea of being in a community resides in the psyche of each of these individuals. He also sees the nation to be imagined as 'limited' as it is constrained by a territorial boundary. Meantime, the nation is also imagined as 'sovereign' as it represents the desires for freedom of the state in an age of plurality. Anderson then proposed that the fall of three pertinent 'cultural roots' that has historically held sway had facilitated the elements that will later aid in the production of a national consciousness.

The production of a notion of national consciousness is a pertinent ingredient that allows for the formation of a sense of imagined collectivity in the minds of the members of the nation. In this aspect and with reference to the experience of 18th century Europe, Anderson (1983) attributes the role of the confluence of capitalism with print languages and an assortment of human linguistic repertoire in contributing to

the production of national consciousness.

With regard to print language, Anderson (1983) perceives that it opens channels of communication and enhances understanding regardless of the difference in their spoken languages. The sense of connected ignited by the power of the print consequently leads to a nascent form of an imagined community that transcends language differences. Next, print capitalism contributes by giving an element of 'fixity to language' (Anderson, 1993, p. 44). With little changes in the structural forms in the way that a particular language is used from the past to the present, this entails that a publication's reach can extend beyond the confines of space and time. This thus makes the words and its associated concepts and ideas accessible to even more readership whose audience includes the future. The type of language – whether it belongs to a minority or majority user base of that language - that finally makes its way and used in the publication also speaks of the hegemonic powers that had made the printing and circulation of the publication possible. In this light, one can infer a sense of imaginings done by the hegemony through authorizing the language the authorities deem to be representative of the imagined community. Seen from another perspective, denying the right or restricting the access of one language from having its words published illustrates how it is not seen to belong to the imaginings of the community and hence not part of the collective.

Overall, the discourse on the role of print capitalism and print language underscores an important argument that Anderson sought to address: for him, the origins of a nation lie in language. Language gives the precedents that enabled an

individual to connect to another through the power of words and develop a concept of an imagined community in their psyche. Additionally, language is also seen as an instrument that can be utilized to spread specific imaginings notions that the hegemony had imagined the community and nation to be and elements that do not belong to this imagination. This thus gives rise to the binary concepts of 'our' imagined community as opposed to 'other' imagined community.

Anderson's work on imagined communities inspired many other scholarly pursuits using the concept as a point of departure. In the *'Imagined States: Nationalism, Utopia, and Longing in Oral Cultures'*, Luisa del Giudice and Gerald Porter analyses how the existence of the 'other' that could arise in the process of imagining. Similar with Anderson's stance of the hegemonic aspect of the created imaginings of a nation, Giudice and Porter (2001) stated that these communities are 'both constructed of and within the symbolic order' (p. 2). According to them, this symbolic order is often challenged and reconstructed to the interests of the hegemony while the 'others' not deemed to be part of this imagination consequently gets stigmatized. In this aspect, Giudice and Porter (2001) again emphasize the duality characterized by the notion of 'us' and 'others'. The authors also highlighted how the imaginings can be created by the collective entities themselves or be imposed upon the group or individual. In the latter and drawing upon the example of how researchers of 19th century Indian folktales often generalize findings drawn from a small locality and specific context, Giudice and Porter (2001) illustrates the diminutive tendencies to exclude specific elements from the constructed imagination itself. In this strand, the

authors underscored essential issue of ‘agency and voice’ (p. 2) in the imagining thus bringing to the fore questions of who are the agencies who have the power to create these imaginations and eliminate specific imaginations from the main rhetoric.

Adopting a similar approach in analyzing the role of agency and voice in her study of the imagining of a Turkish nation, Ayla Gol (2005) illustrated the strong connection between the group consisting of ‘us’ and the ‘other’. That is, Gol (2005) argues that the creation of a collective imagination of which the ‘us’ could claim membership to is premised on defining and identifying its distinction from the ‘other’. Departing from Anderson’s (1983) focus on the binding factors of language that facilitated the creation of a national consciousness, Gol’s (2005) work highlights how imaginings can be constructed based on factors that deviate.

As a conclusion to this section, it is evident that the analytical framework of an imagined community proposed by Anderson (1983) can provide a rich basis for exploring and understanding the present political and social condition of a state. The framework also gives insights on the mechanisms that facilitate the process of the imagining and implication of the constructed imaginings itself. At its core, the processes of imagining highlights the role of dominant power in constructing its imagined version of the state. Lastly, these imaginings could not only be created and sustained but also eliminated as well to serve the interests of the hegemony. Regardless of the imagining, it results in the creation of ‘us’ and ‘other’ in the state.

CHAPTER II
GATEKEEPING THE IMAGINED JAPAN
THROUGH THE *KOSEKI*

During the early years of the Meiji Restoration of 1868, determining the structure and course of the newly formed Meiji state became one of the central agendas of the incumbent authorities as well as scholars in the Japanese society. While these different factions had differing notions of how they envisioned the Meiji state to be characterized and run, the consensus that Japan will be transformed into a modern state was a similar discourse shared by the various groups.

The Iwakura Mission held between 1871 and 1873 saw most members of the new Meiji government as well as scholars embark on diplomatic visits to Western countries which at that time were more industrialized and developed. The diplomatic visits involve journeys to Western countries like the United States of America, United Kingdom, France, Italy and many more. One of the main aims of the Iwakura Mission was to observe and learn about the modern state systems and institutions functioning in the American and European societies. The study of the law and government, economic structures as well as educational systems of these Western societies would later offer influential guiding principles in the state building agenda of the Meiji government. Thus in essence when perceived through the framework of Anderson's (1983) notion of the nation as an imagined community, the diplomatic trips made by the Japanese envoy can be regarded as the nascent steps in the construction of the vision of a Meiji state. The diplomatic trips allowed the Japanese to make firsthand observations of how

the various Western countries had imagined their nations to be, and how the Western models adopted served as the mechanisms to construct the West's imaginings of the state. The trip thus informed a lot of the direction the Meiji government later undertook to realize their modernization project upon the envoy's return to Japan.

This resulted in the rapid infusion of many Western models and institutions into Japanese society. In *'The Japanese Civilization in Comparative Perspective'*, Eisenstadt (1995) noted how Levy Jr (1997) and Pelzel (1970) had observed that by the late 1940s to early 1950s, the institutional patterns of family organization in Japan has a lot of parallels with those in the more advanced and industrialized nations in Europe. Eisenstadt (1995) also cited the observation made by Bendix (1968) of how during the aforementioned time period, the political patterns in Japan parallels that of Germany.

Such swift adoption of the Western models and institutions are also seen in the area of Japanese law. Steiner (1950) elucidates how the Japanese Commercial Code and Criminal Code follow closely and rapidly the Western European countries of Germany and France in the early years of the Meiji Era. However Steiner (1950) also highlighted that the Japanese Civil Code experienced much deliberation in its process of formulation such that it was only enacted in 1898 although the first drafts of its law was already fully compiled in 1875.

This delay in enactment was due to differing opinions that the lawmakers and scholars had regarding the areas of family and succession – one group pushed for a civil code replete with French legal influences while another who are the conservatives argued for the preservation of Japanese ideals and practices inherited from its past.

Specifically, the French model was heavily critiqued by the conservatives for its promotion of individualist values that could erode the traditional family values of Japan (Osamu and Masahiro, 2011). The Japanese Civil Code – and specifically with regard to the area dealing with family law - that was eventually enacted in 1898 marks a deviation from full adoption of Western systems and ideals into Japanese society and reflects significantly the ‘conservative line’ (Osamu and Masahiro, 2011, p. 13). The deviation is portrayed in the emphasis on upholding the Japanese family system.

This eventual outcome in the Japanese Civil Code was unsurprising considering that many years before it became officially enacted, Meiji Japan had already instituted laws that continued placing an emphasis on the family system and its ideals that have been embedded from its past. Eisenstadt (1995) refers to such endurance in Japanese ideals and practices as part of a ‘continuity of symbols’ (p. 299) and is a particularistic aspect of Japan. The formulation of the civic laws related to household registration (*koseki*) in 1871 and eventually, the implementation of the household registration system itself in 1872 illustrates this particularistic aspect of Japan. It can be argued that while the Meiji authorities imagined a Japan characterized by modernity paralleled to that achieved by the more developed and industrialized Western countries at that time, it also sought to construct a state imbued with the peculiarities unique to Japan. In this aspect, the *koseki* became a critical document in facilitating the authorities’ imaginings of the modern Japanese nation.

Even before the implementation of the modern *koseki* system in Meiji Japan, the nation already had a history of running a form of population registration system. In

his work *'The Development of the Modern Koseki'*, Mori (2014) outlined the 'three stages' in the development of the system and noted that the earliest records of census registration in Japan – referring to its first stage - could be traced back to the year 670 under the rule of Emperor Tenji and continued to be implemented between the 8th and 9th centuries. Mori (2014) elaborates that the family formed the basis for the registration into that *koseki* to complement the authorities' aims of having a documented reference to aid in the deployment of work and rice paddies by household, determination of one's class and clan status, and seizure of property and people.

The second stage sees the census registration being implemented during the Tokugawa reign (Mori, 2014). The population registration system during this time serves multiple purposes: as a record for the collection of taxes, to ascertain a record of the religious affiliation of the people in the nation in order to counter the perceived threat posed by Japanese Christians at that time and ultimately, facilitate the authorities in maintaining order within the society.

The third stage provides the backdrop for the development of the *koseki* that is to prevail until contemporary times. Developed within the context of a modernizing Japan headed by a new ruling authority, the initial promulgation of the *koseki* was accompanied by declaration from the authorities that it aims to enhance the protection of its people through the census registration. This is seen from the following decree number 170 released by the Meiji government in 1871:

'Any government's first and most important task is to clarify the count of households and the number of population. There is no need to be said that

the protection of people of the nation is the primary objective of this Sovereign State. Without the count of people to be protected, how could the protective duties be provided?’ (As cited in Osamu and Masahiro, 2011, p. 11)

Nobuyoshi (2005, as cited in Mori, 2014) states that the *koseki* also assumed a nationalistic purpose in this stage. Within its national boundaries, the *koseki* functions to aid the authorities in ascertaining and identifying the people under its governance and importantly, to identify the Japanese citizen and thus affirm its power position within the nation. Outside its national boundaries and faced with the pressure to implement international legal codes characteristic of developed and cultured nations, the existence of the *koseki* allowed Japan to participate with economies and politics at the international level (Kamoto, 2014).

While these aims of the population registration mimic the Western model, the way the registration is premised is one significant difference between that and the Japanese system and this underscores the way the Meiji authorities envisioned the nation to be. That is, as opposed to the Western model whose population registration is premised on the individual as the fundamental unit of society, the Japanese model is based on and sees the family as the basic unit in society (Mori, 2014; Steiner, 1950). This family was in turn headed by a male figure and thus patriarchal in nature.

Thus the legislation of the Family Registration Law in 1871 emphasizes this notion of the household headed by a male as the basic unit of Japanese society. In this sense, the family is imagined to assume an important position right from the beginning

of Meiji era. The Family Registration Law of 1871 was later revised in 1898 and enforced simultaneously with the new Japanese Civil Code (Mori, 2014).

In the 1871 version of the law, registrations into the *koseki* was based on an extended family led by on a household head and this group of family – referred to as the ‘house’ - is recorded to be living under one permanent address. This system is commonly referred to as the *ie* (family) system. However the place of actual residence of the individual families under this big family group might differ from that stated in the *koseki* especially since individuals have the autonomy to move depending on their circumstances, making tracking an issue for the authorities.

Mori (2014) argues that at this point, the *koseki* identifies the individual by both family and residence thus making it a document that serves as both a population census and administrative surveillance to the authority. With regard to the former, Bellah (2003) addressed how the family and the state were seen to be interchangeable during the era of the Meiji Restoration with each respective family taken to be an extension that leads to the imperial family which forms the ‘main family’ (p. 177) in Japan. In her book *Reinventing Japan: Time Space Nation*, Morris-Suzuki (1998) describes how the authorities utilizes the ‘imagery of the family’ (p.84) in the newly-established Meiji state. Morris-Suzuki (1998) then depicts how this imagined ideology of a family-state integrates the membership of all the Japanese to one coherent community with the emperor assuming the position of head of the family in the country.

The revision to the Family Registration Law in 1898 further emphasizes this

imagery of a family-based Japan. The revised law saw a shift in focus from individuals being identified by family and place of residence to sole identification by family only. The law itself became annexed to the part in the newly enacted civil code that deals with family and succession. In this regard, the *koseki* connects the power of the authority to the family as well as functions as a regulatory role to uphold the ideological precepts of the family system that the authorities sought to pursue through the law (Mori, 2014; Hashimoto and Traphagan, 2008).

These ideological precepts in turn epitomized the standard of morality – steeped in beliefs of a stable family and filial piety - descended from Japanese tradition that the authorities envisioned for Japan. Hirobumi (1889) in his '*Commentaries on the Constitution of the Empire of Japan*' refers to this move as maintaining the 'social peculiarity' (p. 740) of Japan. In essence, the *koseki* now acts as a gatekeeper for the government so that it could realize its imaginings of a family-based Japan where the yardstick of morality and tradition is preserved despite its transformation into a modern state (Fig. 1). Additionally, the *koseki* works in tandem with the civil code to regulate the marriage and divorce aspects of family life. Sugimoto (2007) noted how divorce rates in the twentieth century decreased significantly from the recorded high levels of 3.4 divorces per one thousand persons in 1883. He argues that in the *koseki* and civil code interplay to act as a deterrence to divorce' (Sugimoto, 2007, p. 160). From this, one can thus infer the subtle values pertaining to marriage and divorce that the authorities sought preserve through the *koseki* and civil code.

Hence the *koseki* is more than just a census recording or the documentation of

family relations otherwise as Ninomiya (2014) argues, it would have sufficed for the authorities to simply adopt the Western model of individual population registration. The *koseki* plays a larger role in realizing the specific imagination of a Japanese nation. As such, the *koseki* and the laws enacted associated to it function as the mechanism to support the constructed imagery. As a corollary the place of an individual whose identity is premised upon his links and belonging to a family is ultimately linked the nation by the *koseki*. In this manner, the individual ‘belongs, organically as it were, to a nation as one does to a family’ (Lie, 2001, p. 4, as cited in Krogness, 2004)

Koseki as a Gatekeeper

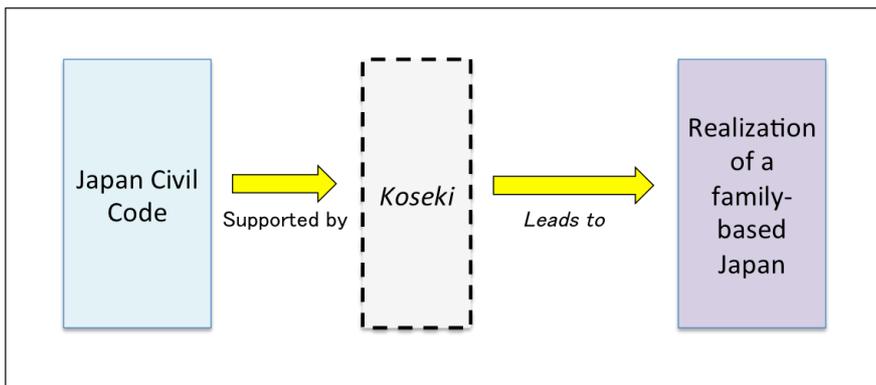


Fig. 1

During the post-war era after 1945, the Japanese Civil Code underwent substantive changes in light of the Potsdam Declaration that saw the adoption of a new constitution in Japan. According to an analysis by Steiner (1950), a substantive portion of the revisions to the post-war civil code that is required by the new constitution is associated to laws governing family and succession matters.

Like the drafting of the civil code of 1898 that saw arguments over inclusion

or exclusion of Japanese peculiarities, the revision of the post-war codes also underwent the same debates. During a presentation before the House of Representatives, Kitaura Keitaro – who belong to the group championing for the preservation of Japanese peculiarities – expressed the following:

‘This draft bill, it seems to me, is aiming at the wholesale destruction of the family system of our country centered on the rights of the head of a house to be replaced by the individualism based on the idea that husband and wife is [sic] the center of a house. The Civil Code, Criminal Code, Code of Criminal Procedure, Code of Civil Procedure, and even such a special law as the Family Registration Law will be fundamentally revised in consequence of the new Constitution. After all, I fear that the revision of our Constitution will shake the foundation of the rights of the head of a house and those of parents. What, do you think, will follow a revision like this? I fear that this will greatly affect the filial piety which forms the foundation of all morals.’ (Steiner, 1950, p. 173)

The views expressed by Keitaro highlights the continued tussle over maintaining the ideological precepts of morality that came to exemplify the 1898 civil code. Much later during the presentation of the draft constitution to the House of Representative which proposed for the abolishment of the family system, Kimura who is the Minister of Justice at that time explained that this does not entail that the spirit of the system would be entirely eliminated and even encouraged ‘that worship of ancestors and respect for the family trees, being a virtue and a good tradition of the Japanese nation,

should be carried over to posterity' (Steiner, 1950, p. 175).

The patriarchal-based family system was eventually abolished and a new image of the family reflecting the 'Western democratic ideal' (Hashimoto and Traphagan, 2008, p. 4) was propagated when the new constitution was enacted in 1947. This is premised upon Article 14 of the new constitution that maintain for equality between genders. As Hashimoto and Traphagan (2008) aptly describes, the postwar family epitomized civic Western values pertaining to 'equality, individual rights, freedom of choice, and voluntary unions' (p. 5) that are completely dissimilar from the previous ones uphold by the Japanese.

Yet despite the major change that precipitated the new constitution, the post-war Japanese Civil Code still upholds certain elements of Japanese ideals stipulated in the 1898 version of the code when it comes to family. As noted by Sugimoto (2010), the 'ideology associated with the *ie* system still persists as an undercurrent of family life in Japan' (p. 158). This is evident in the area of marriage and divorce laws which will later have a consequent contributing effect to the rise of unregistered people that will be discussed in greater detail in the next chapter.

CHAPTER III

***KOSEKI'S* IMAGINED 'OTHER':**

THE UNREGISTERED PEOPLE

The legislation outlined through the Family Registration Law ensures that the *koseki* continues to maintain the symbolic order and sustain the imagination of a Japanese state characterized by the hetero normative family institution as its foundation. This symbolic order involves both ascertaining that only individuals born from Japanese parents and hence are deemed to be Japanese citizens as outlined by the Nationality Law, as well as from a hetero normative family context engendered by the Family Registration Law will be registered in the *koseki*. This stringent order entails two things.

Firstly, non-Japanese citizens existing within Japan are essentially excluded from the family registration system. Secondly, Japanese individuals whose family circumstances are not consistent with those outlined by the Family Law encounter problems when it comes to registering themselves into the *koseki* leading to the phenomenon of the unregistered people also referred to as the *mukosekisha*. From a macro perspective, the phenomenon of *mukosekisha* in Japan represents one microcosm amongst the larger group of exclusions from the family registration system as well as unregistered people that have existed since the implementation of the modern day *koseki* in Meiji Japan.

One of the earliest exclusions separate from the *koseki* that could be observed was when Taiwan came under Japanese rule and colony in 1895. Under Imperial

Ordinance No. 289, the Nationality Law in 1899 was applied to Taiwanese subjects and hence they were given the status of Japanese nationality. However despite the extended application of the Nationality Law territorially, the Taiwanese subjects were excluded from the main *koseki* system espoused by the Family Registration Law and instead had to maintain a different family registration record premised upon the Japanese *koseki* in 1905. With regard to the family register of the colonized subjects, it would be illegal for them to register themselves into the system in mainland Japan or to transfer it to mainland even if they had married a pure Japanese citizen (Sato, 1999 and Tanaka, 1995, as cited in Ogasawara, 2008). As argued by Nomura (2010), the Nationality Law underscores the role of *jus sanguine* (lineage by pure blood line) however its application in Taiwan was done on a territorial basis as opposed to individually as the Taiwanese who were subsumed under this law gained Japanese nationality despite not being born from a Japanese blood ancestry. The family register maintains primacy in both distinguishing and grouping collectively the individuals within the Japanese empire to the notions of being part of a Japanese family and thus not only ascribes a different social status to the subjects of the empire but also became a key guideline for the authorities to establish the demarcation between the colonized and the colonizer (Nomura, 2010). According to Oguma (1998, as cited in Kamoto, 2014), the Japanese colonial authorities used the *koseki* to separate and nationality law to incorporate its colonial subjects. In this instance, it could be argued that the *koseki* plays a role augmenting the concept of being a Japanese through exclusions which the Nationality Law was unable to when it was applied to the subjects of the empire.

Such discrimination was also noted in when Korea came under Japanese annexation in 1910. A separate household registration system known as the *Chosen kosekire* was maintained within the colonized territory of Korea and used as the basis to ascertain the Korean individual as a colonial subject. Prior to the *Chosen koseki*, the Joseon Dynasty had maintained its own household registry system know as the *hojok* which is ran by the head of the household in the Korean family. Unlike Taiwan whose colonization was soon followed by the implementation of the Nationality Law and thereafter the maintaining of a separate *koseki* premised upon the Japanese version, Korea's annexation occurred without the implementation of one and the Japanese essentially subsumed the present Korean registry without clearly defining the nationality status of the Korean subjects (Kim, 2014).

This created an ambiguity in terms of the provisions of rights of the citizens particularly given the free movement of colonized Korean subjects across the empire from Korea to Japan. This ambiguity extended to issues of intermarriages between the Koreans and Japanese which complications the process on whose registration and family law for marriages and children born from such marriages. These issues formed the impetus to the eventual implementation of the *Chosen kosekirei* (Korean family registration law) in 1922 that decreed all Koreans to be registered. This decree runs alongside the continued use of the Korean registry system which meant that despite the movement of the colonized Korean people across the empire, they are still bound to Korea (Chapman, 2011). The maintenance of distinct family registration laws between the mainland and its colonies thus 'created an external (*ga'chi koseki*) and a domestic

family registry (*nai'chi koseki*)' (Chapman, 2011, p. 5). In this regard, the Korean example illustrates how the exclusion of the colonized Koreans from the mainland *koseki* registry and through the maintenance of the Korean domestic registry had demarcated clearly the difference between the colonized and the colonizers. Ultimately, it allowed the Japanese authorities to maintain its rhetoric and conceptualization of the 'pure' Japanese.

The collapse of the Japanese empire in 1945 refocuses the application of the *koseki* to the confines of the Japanese territory. As espoused by the Nationality Law and the Japanese Family Registration Law, individuals born from Japanese bloodline and within the context of a family still forms the basis for registration in to the *koseki*. These strict legal stipulations meant that pockets of individuals residing within Japan would be excluded from the *koseki* on various levels.

The first level of exclusions pertains to separating non-Japanese spouse from the *koseki* of the Japanese spouse. In the context of an international marriage between a Japanese national and non-Japanese, the latter would be excluded from the *koseki*. Further until the amendment of the Nationality Law in 1985 which allows children born from a Japanese mother's marriage to a non-Japanese father be included in the mother's *koseki*, only the children born from international marriages from a Japanese father and non-Japanese mother could be included into the *koseki*. Thus is this aspect, exclusions prior to 1985 were carried out through a patriarchal basis. A Japanese couple that chose to adopt a non-Japanese child would also not be able to automatically register their adopted child into the *koseki* formed by the couple when married each

other. Instead, the adopted child has to undergo naturalization and acquire Japanese citizenship as stipulated through the process of naturalization in Article 5 of the Nationality Law. Essentially unless the adopted child attains permission from the Ministry of Justice upon fulfillment of the requirements stipulated by Article 5, the child would be excluded from the *koseki*.

The cases of exclusions from the *koseki* in the discussions above underscores the strict separation of an individual considered to be ‘pure’ Japanese from a non-Japanese. From the usage of the *koseki* during imperial times which seeks to differentiate the colonized subjects from the mainland pure Japanese to the exclusions exemplified from international marriages and adoption, one could conclude that the *koseki* maintains the rhetoric of a pure bloodline when it comes to defining a Japanese. Yet as of 2016 when the Ministry of Justice ran a survey of the people who have been excluded from the *koseki*, it is observed that there are groups of individuals who seemingly fit the notions of being Japanese as stipulated by both the Nationality Law and the Family Registration Law and thus deservedly be accorded the status of registration into the *koseki* being excluded from the system. The exclusion of these individuals from the *koseki* hints at the value of the *koseki* within Japan as not being merely an instrument that polices and distinguishes the Japanese from the non-Japanese. It also forms a surveillance document within the group of people already deemed as rightly Japanese to sieve out aspects that run contrary to the idealized conception of a Japanese society and individual. In this aspect, it sets to preserve specific notions of the fabric of Japanese society that has been inherited from the past

which will be discussed further on. As a consequent of not meeting the inherent idealized social standards, cases of unregistered people emerged in Japan.

As evident from Table 1, the presence of unregistered people can be found across Japan and is spread unevenly. Almost 90% of the proportion of unregistered people consists of people below 19 years old while the rest are adults (Sankei Shimbun, 2014). The largest proportions of unregistered people can be found in the more populated and larger prefectures of Japan consisting Tokyo, Saitama and Osaka. In general, the total proportion of *mukosekisha* at 702 people is significantly smaller in comparison to the total population of Japan that stands at 126933 thousand people as of October 1, 2016 (Statistics Bureau of Japan, 2016). The relatively small proportion could have been one of the reasons for the lack of awareness regarding the issue of unregistered people in Japan. Until coverage of the issue was made through channels like the Fuji Television drama ‘*Ikimodekinai Natsu*’ in 2012 and NHK Japan’s ‘*Kurozuappu Gendai*’ (Gendai Plus) in 2014 - a television programme covering topics related to society - awareness of the issue remains relatively weak in the society. Regardless of the relatively small proportion and lack of awareness regarding the issue, the emergence of *mukosekisha* remains an issue of concern.

Number of unregistered people in Japan by Prefecture

(as of August 2016)

Prefecture	No. of unregistered	Prefecture	No. of unregistered
Akita	1	Toyama	8
Kagawa	1	Yamaguchi	8
Kochi	1	Kumamoto	9
Gifu	2	Miyazaki	9
Nagasaki	2	Shiga	11
Okayama	2	Gunma	14
Tokushima	2	Mie	14
Aomori	3	Kagoshima	14
Oita	3	Kyoto	17
Tottori	3	Okinawa	17
Wakayama	3	Tochigi	17
Yamanashi	3	Shizuoka	18
Ishikawa	4	Ibaraki	25
Iwate	5	Hyogo	31
Saga	5	Chiba	33
Shimane	5	Aichi	46
Yamagata	5	Fukuoka	49

Fukui	6	Kanagawa	54
Nara	6	Tokyo	56
Miyagi	7	Saitama	60
Nagano	7	Osaka	65
Niigata	7	Total	702
Ehime	8		
Hiroshima	8		

Source: Ministry of Justice (translated from Sakurai, 2016)

Table 1

The patterns of emergence of the *mukosekisha* across Japan reflect how it is the anti-thesis from the imagined and idealized notion of a Japanese. An analysis of the backgrounds and reasons for the emergence of *mukosekisha* points at individuals whose family circumstances are not consistent with the family norms outlined in the Japanese Civil Code particularly that of Article 772. Article 772 from the Civil Code of Japan has been largely attributed for the phenomenon of the *mukosekisha*.

Part of the 1898 civil code and still enforced in contemporary Japan today with minor revisions along the years, Article 772 comes under law act number 89 of the Japanese Civil Code. The article addresses the issue of a child born within wedlock in two parts. Article 772(1) states that ‘a child conceived by a wife during marriage shall be presumed to be a child of her husband’ (Ministry of Justice, 2017). This is followed by Article 772(2) that states ‘a child born after 200 days from the formation of marriage or within 300 days of the day of the dissolution or rescission of marriage shall be presumed to have been conceived during marriage’ (Ministry of Justice, 2017).

In general Article 772 ensures that any child born within the marriage is assured of his legitimacy and position within the family nucleus. Given the context of Meiji Japan in which the law originates where scientific advances in the form of DNA testing to ascertain parent-child status were inexistent, this law thus assures protection to a child. However the clause with regard to the status of the child born within 300 days from the dissolution of rescission of marriage serves to be problematic when applied to real-life circumstances. This is because from the legal standpoint, any child born to a woman within 300 days of her divorce would be regarded to be the child of

her former husband even if it has been conceived upon her re-marriage to a new spouse. Thus if a woman seeks to register the birth of her child under the name of her new spouse, she would encounter problems in doing so since the child is perceived by the law to legitimately belong to her ex-husband.

Taking into consideration also another article - Article 733(1) - which states that 'a woman may not remarry unless six months have passed since the day of dissolution or rescission of her previous marriage' (Ministry of Justice, 2017) pertaining to the period where remarriage is illegal, it can be inferred that a woman has to submit her child's birth registration under her ex-husband's name if the child is born within 400 days of divorce. Unless this birth registration is submitted and successfully processed by the authorities, the child is unable to be entered into a *koseki*.

Referred infamously as the '300-days divorce problem' in Japan, this clause forms one of the contributing reasons for the emergence of an unregistered child (as illustrated in Fig. 2). Assuming a scenario in which a woman meets a new person after separating from her husband and then conceives a child prior to the time when her re-marriage ban is over, this would mean that the birth of the child would overlap with the period when the law presumes him/her to be the child of her ex-husband.

In an interview published by Toyokeizai (2016), a former Japanese politician Masae Ido who is known for her activism in championing for the rights of access to birth registration describes her experience with the 300-days divorce problem. After separating from her previous husband, Ido's divorce mediation took a prolonged time to be resolved. During this time, Ido met her current husband and thereafter got

married to him as soon as her divorce case with her previous husband was finalized. However due to the extended time it took for the divorce case to be resolved coupled with the premature birth of her child which was born within 300 days of the divorce, Ido faced problems when she submitted her child's birth registration records. She was told by the Ministry of Justice official that the birth registration cannot be approved and to resubmit the application under her ex-husband's name. Ido also expressed during that interview with Toyokeizai how she could not agree with the official standpoint as her ex-husband has no relations to the child thus making it preposterous to have her child registered under his name and not the name of her current husband with which she has conceived the child. This resulted in her child becoming unregistered.

Diagrammatic Representation of Articles 772(2) and Article 733(1)

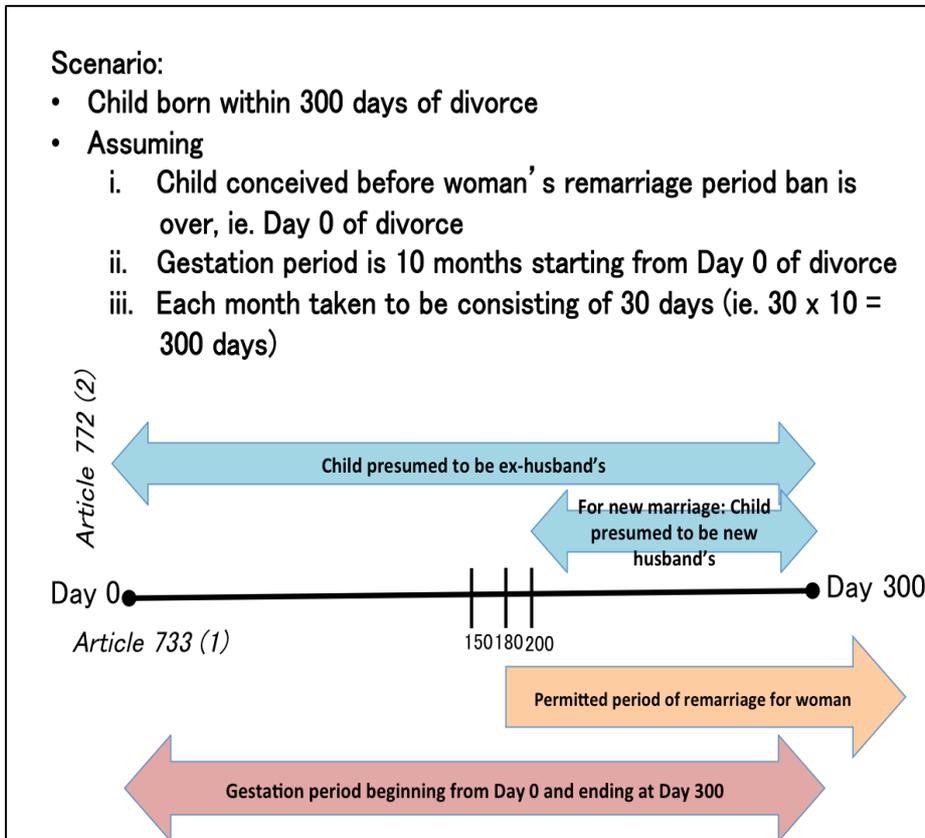


Fig. 2

The case of Fuyumi Kakuda (as she was referred to), 32 years old, in Ido's (2016) book *'Japanese People who cannot be Registered in the Koseki'* also portrays yet another one of the many 300-days divorce case problems reported. Kakuda was conceived from her mother's relationship with her father upon the separation of the former from her legal husband. However as she was born after her mother's separation from her former husband but while still being legally married to him. Due to the bureaucratic obstacle imposed by Articles 772(2) and 733(2), Kakuda's birth went unregistered. She remained an unregistered person for 32 years.

Extreme domestic circumstances experienced by the family delayed her mother's divorce proceedings and the latter's divorce was only finalized after 33 years thus inspiring her to seek to get herself registered. However her efforts were impeded by bureaucratic proceedings that required the cooperation of her mother's former husband in making a legal declaration Kakuda is not his child before the latter can submit an application to be registered. This added requirement of having the former husband declare his lack of parentage links to the child has added a layer of complexity to exacerbate the problem of unregistered children especially in instances of domestic violence (Yoshida, 2011 as cited in Mukawa et al, 2016).

With regard to cases of domestic violence, it could be said that this forms another reason commonly associated to the emergence of unregistered child. As the father would be automatically notified by the system as soon as a record of a birth registration is submitted, a woman who chose to flee from her abusive husband might avoid registering her child's birth to protect their safety and for fear of being tracked

(Chapman, 2017).

Kumi (not her real name), a 23 years-old female *mukosekisha* living in Kansai is one of the people whose experience of being unregistered results from the context of domestic violence. She was interviewed in one of the episodes of NHK's '*Kurozuappu Gendai*' that was broadcasted in May 2014. During the interview, Kumi and her mother shared how the latter had run away from her previous husband after experiencing suffering abuse like being beaten and cut by broken beer bottles by her spouse during the marriage. After running away from her abusive husband, Kumi's mother got a protective order against her husband. During that time, she met Masato and Kumi was born from this new relationship. However, divorce between Kumi's mother and her previous husband has not yet been finalized when Kumi was born. This would mean that her mother's previous spouse would be notified of the birth and Kumi would enter his family registry as soon as her birth is registered. Even though the birth registration was submitted listing Masato as the birth father, the application was rejected by the municipal office thus leaving Kumi with an unregistered status.

Similar cases like Kumi's in which the child is born from the mother's new relationship after leaving an abusive marriage is noted. As part of its research for '*Kurozuappu Gendai*', NHK sent out questionnaires to major municipality offices across Japan. It received responses from 118 locations. According to NHK, the responses to some of the questions posed indicates that in cases involving domestic violence, it usually takes many years for a spouse to submit an application for divorce. The fear that the abusive partner will locate their whereabouts and inflict violence

again discourages a swift divorce application. Additionally as stated by a lawyer interviewed by Sankei Shimbun (2014), the attorneys' fees to get the divorce court proceedings and thereafter reverse the unregistered status settled can be expensive and a financial burden to some families. All these reasons thus leave an individual with his/her unregistered status.

As an unregistered person, the *mukosekisha* lives life being excluded from Japanese society. This exclusion comes in the form of being denied the fundamental rights like access to education, adequate health insurance coverage, possess a house, have a fulltime employment, own a driving license and personal bank account, create a passport, the opportunity to vote and many more enjoyed by other fellow Japanese whose names are recorded in the *koseki*.

In the words of one unregistered woman in Saitama who filed a legal proceeding seeking to reverse her unregistered status and whose case was reported in the Sankei Shimbun (2014), the denial of these rights makes a *mukosekisha* akin to being a 'transparent human being'. The aforementioned woman (name withheld in the report) has been living as a *mukosekisha* for 32 years after her mother decides not to register her birth as doing so would mean that the former will be regarded as the daughter of the abusive ex-husband who had not fathered the child. The woman shared with Sankei Shimbun (2014) that as she was unable to submit her resident card (which requires the submission of a *koseki* record for application), she was unable to register into a high school.

Another unregistered individual who was referred to as Hiromi during her

interview with NHK's '*Kurozuappu Gendai*' gives an insightful account of how a life that is excluded from the legal rhetoric is like. With no possession of a personal bank account, Hiromi's monthly salary which she earns from her part-time job of 6 years has to be transferred to a relative's bank account. She shares an accommodation with a friend as she is unable to sign the lease for an apartment due to the lack of personal identification. This lack of personal identification also meant that her monthly mobile phone subscription has to be registered under her friend's name. Hiromi also shared that she has never been to the dentist as the fees are expensive and she does not possess a health insurance card to help her cope with the costs.

An analysis of the reasons that led to the unregistered status and the consequent experience of being excluded from attaining access to basic rights as a citizen highlights that the core of the issue lies in the bureaucratic impediments caused by Articles 772(2) and 733(2). In this light, this thesis argues that the two legal articles sought to indirectly uphold the vestiges of the family system and the associated ideological precepts of the past by using the *koseki* as a discriminatory tool for inclusion and exclusion. This leads to the creation of a notion of 'us' which exemplifies individuals who conform to the constructed imaginings of a family-based Japan and 'others' who do not (See Fig. 3).

Construction of 'Us' and 'Other' through the *Koseki*

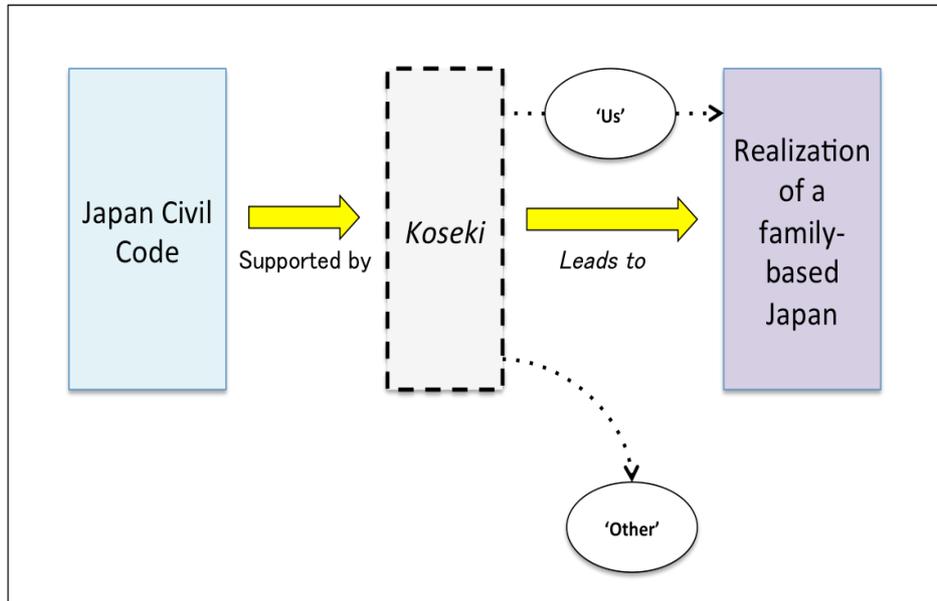


Fig. 3

The opinions shared during an opinion interviews done on 12 Japanese natives conducted during the course of the research for this thesis could possibly provide some brief ideas pertaining to the archetype family-based Japan that has been imagined. Although the sample size with which the opinion interview was small and admittedly not be representative of the sentiments of the whole Japanese population, it nevertheless provides a good point of departure for analysis.

When the 12 respondents who range from 20 to 40 years old were asked for their opinion on how important they perceived the family to be in Japanese society, 9 of them expressed their perception that this institution forms a central aspect to Japan. However their opinions seemed to be varied when the interviewer prompted for their

opinions on whether any specific forms of family unit – that is, the normative one consisting of a married heterogeneous couple with children as opposed to others like a family where one or both spouses were previously divorced as well as single-parent families - would be more acceptable to the Japanese society. The majority of the 12 interviewed – 9 of the respondents – expressed that that they personally believe that the normative family unit consisting of a married heterogeneous couple with children to be the most acceptable form in Japanese society. The other forms such as those where one or both spouses were previously divorced, and single-parent families while it is on the rise in Japanese society are not as favorably and fully accepted for it is not considered to be the ‘norm’. Articles 772(2) and 733(2) in the Japanese law are meant to address family situations such as those whom the respondents consider to deviate from the norm.

Against this backdrop and taking into the consideration the idealized moral precepts pertaining to family that the articles were built on, it could be argued that the family circumstances of the unregistered do not conform to these norms. The instances of domestic violence, divorce and remarrying go against the idealized moral precepts of, for instance, a stable family. With regards to divorce, Sugimoto (2010) makes an allusion to the stigma attached to a divorce despite the rise in divorce cases in Japanese society. People who have experienced divorced, particularly women, expressed being discriminated and seen as negligent or easy (Suvendrini, 2003).

It could also be seen that the Articles 772(2) and 733(2) and applicable only to women. This gender-slant to the law alludes all the way back to the patriarchal-based

family system in the Meiji era and whose spirit still survives even though the system has been abolished in the new post-war constitution. Thus in this light, the Articles 772(2) and 733(2) seemed to serve as a regulatory role on expectations imposed upon the Japanese woman in terms of marriage and motherhood. In modern times under the law, women who undergo divorce and remarriage seemed to be penalized (Ido, 2016 as cited in the Ueda, 2016). Thus for those whose lived experiences do not conform to the legal codes, the *koseki* effectively filters them out and relegates them to the status of unregistered and consequently, the ‘other’.

CHAPTER IV

Becoming Legally Visible:

From the Excluded 'Other' to the Included 'Us'

Despite the stigma attached to divorce and remarriages, these two phenomena continue to be a fact and part of life in Japan. Based on the statistics from Japan's Ministry of Health, Labour and Welfare, divorce rates have increased since post-war. Total divorce rates for all prefectures in Japan have increased from 1.02 per 1000 people to 1.81 per one thousand people. In Osaka prefecture, which has the highest reported number of *mukosekisha*, divorce rates are noted to be much higher than the total for all prefectures. In 1947 which is the period after the war, divorce rates per 1000 people were 1.15 but this number increased to 2.08 per 1000 people in 2015. The top three prefectures with the highest number of *mukosekisha* also noted higher divorce rates as compared to the total across all prefectures from the year 2000 onwards.

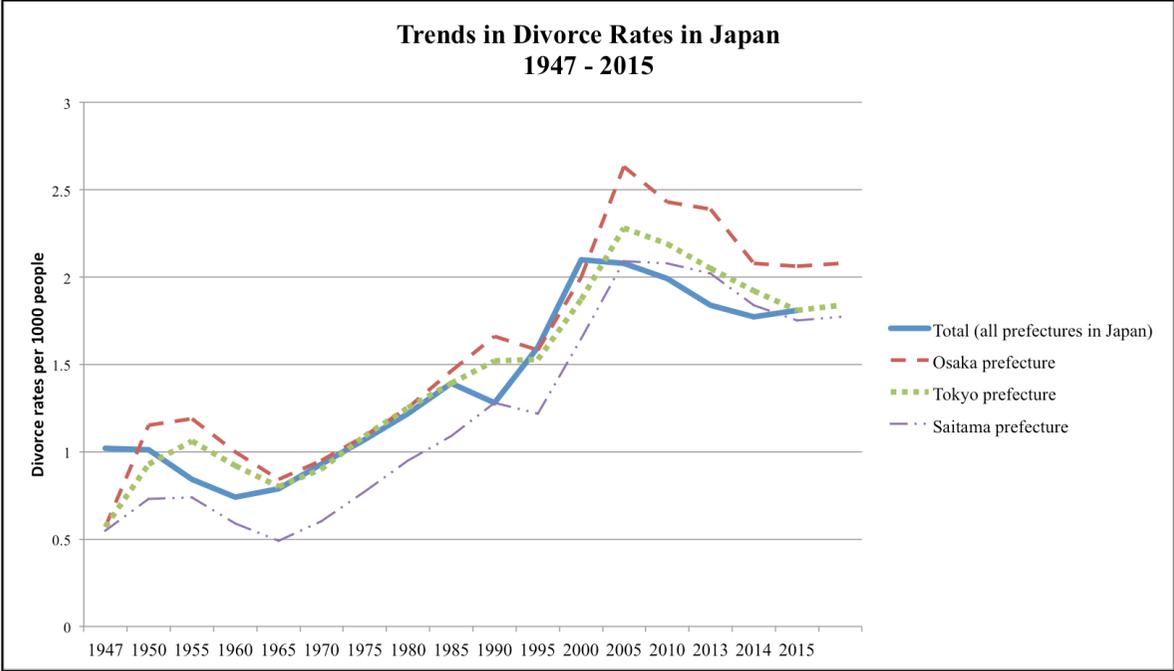


Fig. 4

Source: Ministry of Health, Labour and Welfare (2016)

These trends in divorce rates indicate changes in societal norms when it comes to marriage and divorce. Within the context of unregistered people in Japan and Article 772(2) that deals with legitimacy of a child of a woman conceived after divorce, the increase in divorce rates indicates that the issue of *mukosekisha* and the associated problem of access to basic rights as a citizen will continue to prevail unless amendments are made to the civil code.

Similarly, remarriage trends over the years also provides indications that unless amendments are made to Article 733(2) of the civil code, the problem of *mukosekisha* that arose out of the remarriage ban would remain to be a problem. In general, the total numbers of remarried couples have increased over the years from 127226 couples in 1952 to 170181 couples in 2015 (Ministry of Health, Labour and Welfare, 2016). Likewise, the proportion of remarriages as compared to all marriages has also shown a slight increase over the years from 18.8% in 1952 to 26.8% in 2015 (Ministry of Health, Labour and Welfare, 2016). Hence in light of these trends, it is evident that revisions in the area of legislation needs to

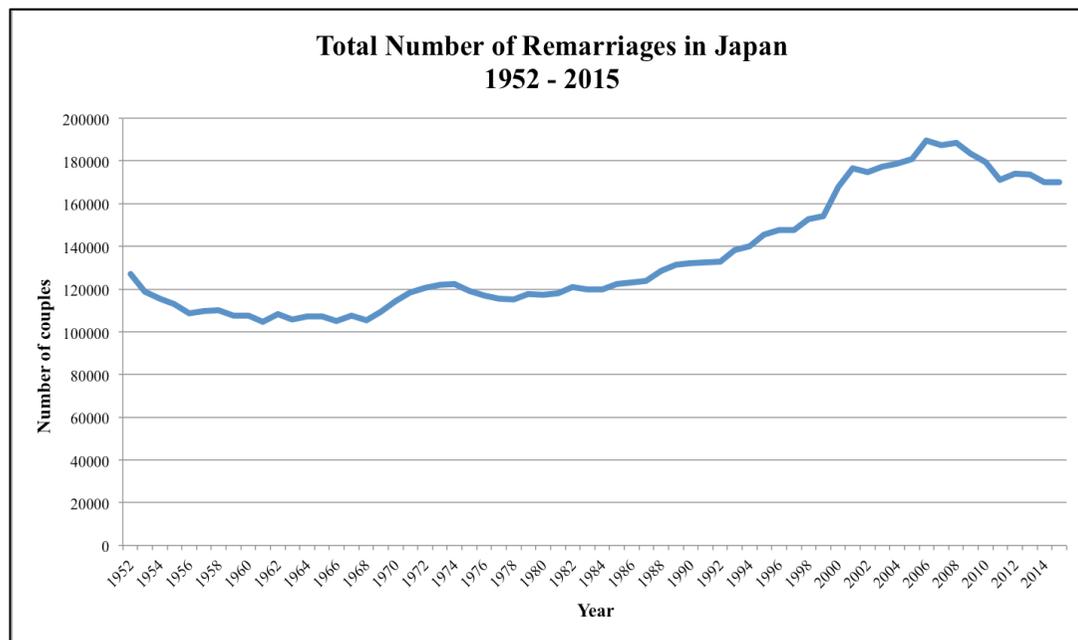


Fig. 5

Source: Ministry of Health, Labour and Welfare

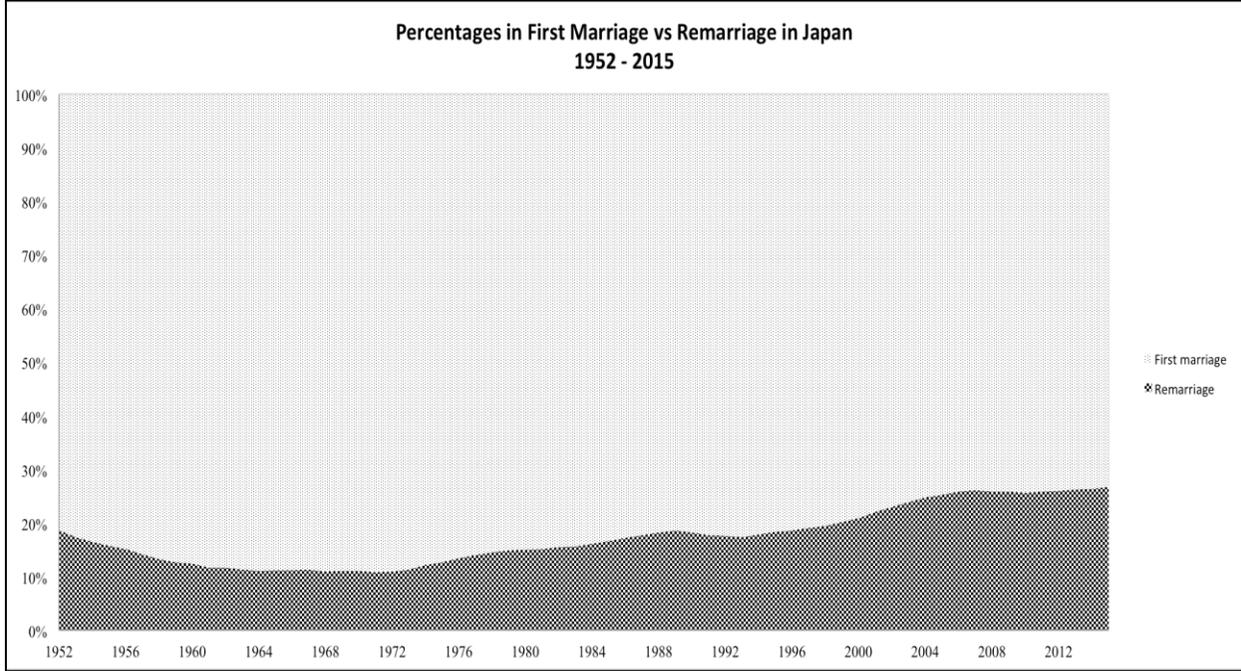


Fig. 6

Source: Ministry of Health, Labour and Welfare

be addressed in order to tackle the issue of unregistered individuals and ensure they are included back into mainstream society and receive their rights as a citizen and human being.

Over the years, there have been growing public sentiments and demands which have been widely reported by the media for reviews and revisions to be made to the constitution especially pertaining to Articles 772(2) and 733(2). These sentiments and demands stem from the perception of how these articles are unconstitutional as they deny the equal access to basic human rights. Some of the responses from the opinion survey conducted by the author provide brief insights into these sentiments.

When asked for her opinion on whether it is acceptable for the *koseki* to play a role in determining access to basic human rights, one of the interviewee, Akiyo, mentions that the ‘constitution states that the law protects the basic human rights of all Japanese people’. She then elaborates further that ‘even though they [*mukosekisha*] have not been registered, they are members of the society’. Making a reference to

contemporary Japan, another interviewee who goes by the name of Nagase stated that 'it is strange that such a system exists'. These opinion corroborates with others reported that call for a reform to the system to address the problem of unregistered people.

In 2007 following continued increasing negative public opinion with regard to the case of unregistered individuals like the ones above, Prime Minister Shinzo Abe announced a move to review Article 772. A study group and project team consisting of members from the Liberal Democratic Party and Komeito Party was formed to look into amending Article 772 and tackling three aspects related to the unregistered people issue (Maesawa, 2015). These three aspects are firstly, looking at the possibility of ascertaining the child to belong to the new spouse upon confirmation by a doctor that the conception happened after divorce, secondly, ascertaining the father-child relation through DNA results and thirdly, to shorten the remarriage prohibition period (Maesawa, 2015). However, the conservatives in parliament were against the proposals to consider DNA results to ascertain parent-father status and shortening the

remarriage prohibition period and hence these suggestions were passed over and consequently, the authorities appointed the Ministry of Justice to implement the proposals for confirmation of gestation period after divorce (Maesawa, 2015). Following that, the Ministry of Justice issued an announcement to all municipal governments nationwide to make a special provision to accept the birth registration applications of a child born within 300 days of divorce (The Japan Times, 2007).

Thus 2007 marked a turning point for the lives of the unregistered people in Japan. From that year, Japan seems to have developed a different rhetoric that sought to include the unregistered people back into Japanese society by reconstructing the symbolic order through changing long-held structural norms. Numerous efforts by both the state and non-state actors have been erected to provide support to inculcate the *mukosekisha* into the larger Japanese society and ensure they are accorded basic rights as a citizen.

However as this thesis will argue in this chapter, there seems to be a lack of coordination from the side of the state – the most significant

player in resolving the issue of *mukosekisha* - when it comes to constructing the necessary mechanisms to facilitate the *mukosekisha*'s entrance into Japanese society. Movements to revise the legal rulings at the top level of the state's decision-making process are still fraught with persistent debates between the conservative and non-conservative groups pertaining to the preservation of long-held Japanese values from threats of moral erosion should changes be made to the civil code. This causes traction when it comes to efforts in making the *mukosekisha* legally visible. This slow progress is markedly evident in the efforts to revise Articles 772(2) and 733(2) that has been the crux in creating the rise and problem of *mukosekisha*.

As mentioned before, Article 772(2) was the first to be addressed in the path towards resolving the issue of unregistered people. In 2007, the Ministry of Justice instructed its municipal governments to make a special provision to accept birth applications indicating the name of the current husband as the father even though the child's mother gave birth within 300 days of divorce (Ministry of Justice, 2007). This move to recognize

the legitimacy of the child under the current husband's requires an accompanying certification from a doctor prepared by the Japan Association of Obstetricians and Gynecologists (See Figs. 7 and 8) to indicate that the child was conceived after divorce. This special provision was to be made applicable only for birth registrations from May 21, 2007 (See Table 2).

However since the notice is not applicable for cases where a woman gets pregnant before the divorce proceedings are finalized, this still means that the 300-days problem is still not fully resolved. According to a statement by Kazuhiko Shimokawa the chairman of Tokyo Bar Association in 2007, this move by the Ministry of Justice would help approximately 10% of unregistered children while the remaining 90% would need to undergo judicial proceedings in order to be legitimately registered.

Summary of Amendments to Article 772(2)

Before May 21, 2007	After May 21, 2007
<p>A child born within 300 days of a divorce would be presumed to legitimately belong to the previous husband's</p>	<ul style="list-style-type: none"> • If ascertained through 'Certificate of Gestation Time' that the child is conceived after the date of dissolution of cancellation of marriage, the presumption to Article 772(2) will not hold. Birth registration applications that indicate the current husband to be the father of the child will be accepted. • Time of conception is ascertained by a doctor through the 'Certificate of Gestation Time' which should be produced during birth

	registration
<p>Notes:</p> <p>‘Date of resolution or cancellation of marriage’ refers to the date whereby the dissolution or cancellation of legal marriage is legally effective such as the date of filing of the divorce. In the case of a mediated divorce, it refers to the date of registration for this mediated divorce. This date will be stated as the "divorce date" in the family register.</p>	

Table 2

Source: Ministry of Justice

Certificate of Gestation Period

懐胎時期に関する証明書	
子の氏名	
男女の別	1 男 2 女
生まれたとき	平成 年 月 日 午前 時 分 午後
母の氏名	
母の住所(※)	
母の生年月日(※)	昭和・平成 年 月 日

※ 診断をしたが出産に立ち会わなかった医師が、本証明書を交付する場合には、「子の氏名」・「男女の別」・「生まれたとき」の代わりに「母の住所」・「母の生年月日」を記載すること。

上記記載の子について
懐胎の時期（推定排卵日）は、平成 年 月 日から平成 年 月 日までと推定される。

算出根拠（1. 2. 3. のいずれかに丸印をつけてください）

1. 出生証明書に記された誕生日と妊娠週数から逆算した妊娠2週0日に相当する日は平成 年 月 日であり、この期日に前後各14日間ずつを加え算出した(注)。妊娠週日（妊娠週数）は、妊娠8週0日から妊娠11週6日までの間に計測された超音波検査による頭殿長を考慮して決定されている。
(注) 医師の判断により、診断時期、診断回数等からより正確な診断が可能ときは、前後各14日間より短い日数を加えることになる。
2. 不妊治療に対して行われる生殖補助医療の実施日を基に算出した。
3. その他（具体的にお書きください）
()
平成 年 月 日

医師 (住所) 印
(氏名)

※この証明書は、婚姻の解消又は取消後300日以内に出生した子の出生届に添付するために医師が作成するものです。

Fig. 7

Source: Ministry of Justice (2007)

Certificate of Gestation Period (Translated)

A gestation certificate

Name of child	
Gender	1 Male 2 Female
Date of Birth	Month _____ AM Heisei _____ Year _____ Date _____ Time _____ PM
Mother's name	
Mother's address	
Mother's date of birth	Showa.Heisei _____ Year _____ Month _____ Date _____

*If the medical practitioner only participated in diagnosis and was absent during the labour, he/she must only fill in the following sections: Mother's address, Mother's date of birth.

Regarding the aforementioned child
 Estimated ovulation day : Between Heisei year _____, Month _____, Date _____
 and Heisei year _____, Month _____, Date _____.

Basis for the estimation (Please circle 1, 2, or 3)

1. Estimated ovulation date is calculated by counting backward from the date of birth stated on birth certificate and week number in pregnancy, and adding 14 days* before and after the calculated date. Week number in pregnancy is determined by the child's crown-rump length measured during week 8 ~ week 11 (and 6 days) ultrasonography sessions.
 *Note: If it is possible to estimate the ovulation date more accurately by the numbers of consultations and checkups, medical practitioners are allowed to add less than 14 days.
2. The ovulation date is calculated based on the date that the patient underwent assisted reproductive treatment.
3. Others (Please specify)
 (_____)
 Heisei Year _____ Month _____ Date _____
 Medical practitioner (Address) _____
 (Name) _____ Stamp _____

This certificate is created by a medical practitioner should you wish to use it as a supportive document for birth certificate of a child born within 300 days after dissolution of marriage.

Fig. 8

A year later in June 1, 2008, the Ministry of Justice (2008) issued another statement to its municipal governments to make another special provision to view family registration applications involving re-marriage cases according to a new guideline. Instead of the 6 months re-marriage prohibition period for divorced women as legislated by Article 733(2), this new guideline shortens the duration to 100 days. Family registration applications involving re-marriage cases will thus be processed according to this shortened prohibition period.

However despite these special provisions, it should be noted that they in no way reflect the current change in civil code. Officially, the civil code still legislates the legal rulings outlined in Articles 772(2) and 733(2). On Dec 16, 2016 which is many years after the Ministry of Justice released its statement for special provisions to be made, the Japanese Supreme Court ruled the six months re-marriage ban as unconstitutional and passed amendment for revision to Article 733(2). The Japanese Diet approved this request for amendment on March 8, 2016 but till today, the bill has yet been passed at the constitutional level.

Summary of Amendments to Article 733(2)

Before June 7, 2008	After June 7, 2008* From Dec 16, 2015 – March 8, 2016**	After March 8, 2016***
<ul style="list-style-type: none"> • Remarriage prohibition period: 6 months from the date of resolution or cancellation of the previous marriage. • If pregnant before the 	<ul style="list-style-type: none"> • The remarriage prohibition period: 100 days from the date of resolution or cancellation of the previous marriage. • If pregnant before the 	<ul style="list-style-type: none"> • For non-pregnant women: No remarriage prohibition period. • If pregnant before the resolution or cancellation of her previous marriage:

<p>resolution or cancellation of her previous marriage: the remarriage prohibition period is not applicable.</p>	<p>resolution or cancellation of her previous marriage: the remarriage prohibition period is not applicable.</p>	<p>the remarriage prohibition period is not applicable.</p>
<p>Notes:</p> <p>* = Enforcement date issued by Ministry of Justice for handling of family registration cases involving women who re-marry within 100 days of resolution or cancellation of marriage</p> <p>** = Japanese Supreme Court ruled 6 months re-marriage ban as unconstitutional and passed amendment for revision to Article 733(2)</p> <p>*** = Approval for amendment by the Japanese Diet</p>		

Table 3

Source: Ministry of Justice

Number of Unregistered People who became Registered (Translated)

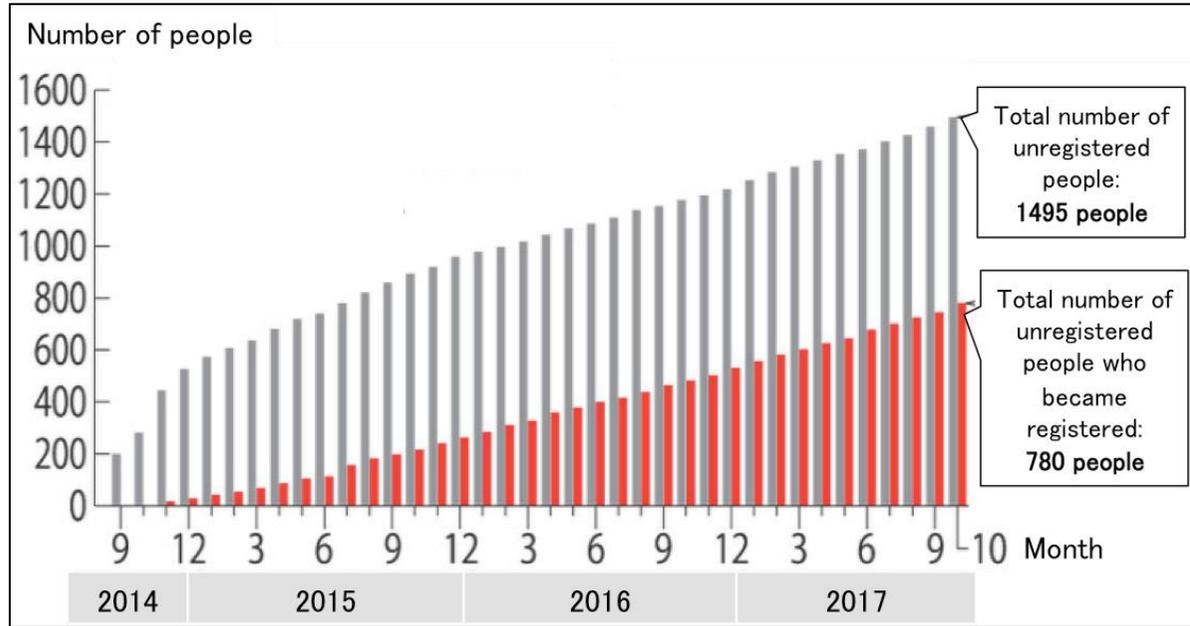


Fig. 9

Source: Ministry of Justice (2017) as cited in Mainichi Shimbun (2017)

The lack of an officially amended constitution affects the degree of adherence and effectiveness of the special provisions made by the Ministry of Justice. As of 2014 when the Ministry of Justice officially releases its first count of unregistered people, it was found that the problem still exists. The social profile of the unregistered people could partly be the reasons why this is so. Dr. Takashi Honaka, Professor Social Security Studies in the International University of Kansai (as cited in Asahi Shimbun, 2014) notes that at its core, some of the unregistered people are born into family circumstances already grappling with other social problems and consequently, the children are left neglected. Some of their parents lack the knowledge, means or are not fully involved in raising the child and to ensure their children receive access to their rights. In this aspect, the people who need the most support are isolated and do not get much-needed help (Asahi Shimbun, 2014).

In fact as the Ministry of Justice continues its efforts to detect and collate the number of unregistered people as the months unfold, it was found that the number increased as more of them are identified. Although statistics show that the numbers of unregistered people who became successfully registered also increased, the fact remains that this group still persists despite the earlier special provisions made by the Ministry of Justice in 2007 (See Fig. 8). Thus besides the social demographics of the profile of the unregistered, another reason that could possibly lead to the continued phenomenon would be the gap in acquiring information about the special provisions made. The Ministry of Justice sought to address this by publishing leaflets that it has distributed and circulated to various obstetrics and gynecology clinics and hospitals

across the nation in February 2017. Targeted at unregistered people, these leaflets contain information highlighting the importance of having a family register, the processes involved in getting oneself registered, and the relevant consultation helpdesks they can approach for advice and to establish legal procedures for registration.

The Ministry of Justice's move to establish consultation helpdesks at the various municipal offices and legal bureau offices across Japan represents another effort to increase knowledge about solving the problem of unregistered people. The parents of unregistered people and the *mukosekisha* himself could seek advice and help on getting himself registered. Through the municipal offices, the parents of the child or unregistered people themselves would also be able to receive advice on the relevant procedures that could be undertaken in order to be registered. The group would also be directed to the legal bureau offices and lawyers experienced in handling family registration issues on how to establish procedures to get themselves registered.

These procedures are part of the government's efforts to solve registration issues given the continued limitations imposed by the legal rulings. The Ministry of Justice has outlined other specific judicial processes that can be taken to reverse a person's unregistered status. This process involves filing for a petition to the court to conduct a mediation proceeding to ascertain the lack of legitimacy of a child from the ex-husband, or to deny an absence of parent-child relations with the previous spouse. The former process is more applicable to a child recently born and needs to be applied and executed within one year from his or her birth. In the case of a 300-days divorce,

an additional document indicating the gestation period has to also be submitted to the court as part of the mediation proceeding. The cooperation and testimony from the previous husband to clarify that he did not conceive the child, that he is not the father, and that he relinquishes all legitimate parental rights from the child is also required.

This last requirement which sought the testimony of the previous husband proved to be one of the stumbling blocks that caused a *mukosekisha* to remain unregistered. Getting this testimony could be challenging in cases of unregistered people that resulted from issues of domestic violence. Kumi – the unregistered person whose experience was shared in the previous chapter of this thesis – related during her interview in the show how her mother’s former husband does not seem to have gotten over the divorce and still makes his presence known from time to time at her parents’ house. Due to the fear of agitating her mother’s previous husband by requesting him to make a testimony and then face the prospects of being threatened by violence again, Kumi’s family is unable to legally apply for judicial mediation for the absence of a parent-child relationship.

Another *mukosekisha* interviewed by NHK in 2015 as a follow-up from the May 2014 broadcast also expressed a similar obstacle when it came to getting herself registered. Aki (not her real name), a 32 years old female from the Kanto region shared that her mother had ran away from her abusive ex-husband. She was then born from a new relationship the mother had with her new partner. Her mother also gave up seeking application proceedings to deny the absence of a parent-child relationship when she found out that she had to seek the cooperation of her previous husband in

order to do so.

Although with advances in science and technology DNA testing is becoming more prevalent in countries around the world, its usage to determine the absence of a parent-child relationship that could have otherwise aided people like Kumi and Aki is still dogged with debates. As some have argued, the denial of an absence of a parent-child relationship is not simply a case of denying the existence of a genetic relationship. Professor Noriko Mizuno of Tohoku University explains in an interview that as a concept inherited from the Meiji era where households are run according to the family system, the phrase ‘parent-child relationship’ denotes the idea of a kinship between the people involved (Tsuji, 2015). Thus this does not necessarily entail bloodline relations. This leads to debates on the nature of the word ‘parent’. At the centre of this debate is the question of whether one becomes the parent of a child simply by being linked biologically to each other or if the person has been involved in raising the child (Tsuji, 2015). Thus DNA results do not suffice in establishing an absence of a parent-child relationship. This means that unless they are prepared to go through a longer legal proceeding process, people like Kumi and Aki needs support in other areas to ensure they still have access to their rights and to live a quality life.

One of the other areas of support for this group would be in ensuring access to education. In June 2016, the Ministry of Education, Culture, Sports, Science and Technology (MEXT) releases a statement to schools to accept application for entry into junior high school level. This provision is applicable to individuals who experience special circumstances – which includes unregistered family residence status

– and those who have not completed elementary school level. At the municipal offices level, some of these offices have also established specific support system to increase the level education received by the unregistered people. The Akashi Cityhall in Hyoga Prefecture for instance have established classes teaching reading, writing and Mathematics at the elementary school level. These classes – which takes place for 2 hours weekly for now - have been created for unregistered people who were not able to attend school although the Basic Act on Education has mandated that all children undergo compulsory general education.

In fact, the Akashi City Hall is one municipal office that has expended comprehensive efforts and resources in helping the unregistered people. On its official website, it has listed several areas of support it provides. Besides the creation of a consultation helpdesk and providing educational support, the Akashi City Hall has also established a special team whose task will be to fully identify all unregistered child born before they reach one years old. This would ensure that support is dispensed as early as possible to the families affected. It also conducts collaborative meetings involving the officers from its city hall, experts dealing with issues of unregistered people and family registrations as well as non-governmental support groups to exchange opinions and discuss measures for creating a more comprehensive support mechanism to help the unregistered people. The Akashi City Hall also sought to enhance knowledge about these support available to unregistered people through pamphlets. Besides giving information about the procedures available to register themselves into the family register, the pamphlets also gives information about the

citizen administrative services available to the unregistered even though they do not have a family register. The purpose of this is to debunk misinformation related to unregistration. For example, the new special provisions made in recent years regarding that allows an unregistered child to attend school and receive compulsory education might not be widely known. Thus in this light, the Akashi City Hall aims to tackle problems related to misinformation and lack of information.

In conclusion to this section, it could be seen that there have been significant efforts to tackle the problem of unregistered people especially after 2007. In a problem such as this which originates from legal clauses, the state would thus play a huge role in instituting influential support and reforms much need to tackle the issue. However despite the various support and provisions made largely through the Ministry of Justice, the most important one – amending the civil code - that forms the root of the unregistered people problem is still unresolved. Continued debates that reflect the conservative concerns of undermining the moral fabric of Japanese society alludes to the idea that the state still informs much of the representations and image of Japan that it seeks to portray.

CHAPTER V

CONCLUSION

Since the nascent stages of its implementation in 1871, the Japanese family registration system has come a long way. As of 2017, the system would have been implemented for approximately 146 years in Japan. It is a system that has survived the processes of Japan's modernization during its Meiji era, the times of Japanese colonization, as well as the rapid economic development of Japan since the end of the war in 1945. The long span of implementation of such a system which has been legalized nation-wide meant that millions of people in Japan would have encountered the system at various points in their lives.

For the typical millions of Japanese native, their first encounter with the system comes immediately after birth where the process of birth registration and consequently entrance into their parents' *koseki* sets the stage for ensuring legal recognition of their existence in Japan. On a macro level, this system functions to group and identify individuals who are Japanese natives as defined by the Nationality and Family Registration Laws. Yet as has been illustrated throughout this thesis, there is an element of discrimination associated to the Japanese family registration system that resulted in the exclusions of specific groups within the Japanese society across time. In this aspect, the family registration system also functions as a differentiating tool.

On one level, it differentiates by sieving out groups that are non-Japanese natives as seen during colonial times when the colonized subjects in Korea and Taiwan

were kept separate from being part of the mainland Japanese family registration system. In contemporary times, the exclusion is illustrated through the context of international marriages where the foreign spouse do not enter or possess a Japanese family registry despite being married to a Japanese, as well as in cases of international adoption where the child do not automatically enter the *koseki* of his adopted Japanese parents. On another level, it also differentiates within the inner core group of Japanese natives. The exclusion of the *mukosekisha* who are born from Japanese parentage and have met all the legal stipulations of the Nationality and Family Registration Laws to enter a *koseki* points at the ideological functionality of the family registration system.

This thesis focuses on the study of this group of Japanese natives, the *mukosekisha*, who are unregistered and excluded from the registration system as a result of complex and intrusive state processes that uses the *koseki* to regulate family life. The regulation of family life in turn reflects subtle efforts by the state to preserve the social peculiarities of Japan. These peculiarities are steeped with notions of not only preserving the traditional moral precepts inherited from its past but also in the beliefs and expectations of the relations between men and women framed within the context of family.

The enactment of a new Japanese constitution during the post-war era sets a new tone for equality in gender relations that reflects democratic ideals and many aspects of the civil code pertaining to family and succession have been revised in accordance to this. However despite these changes, the spirit of the old system steeped in patriarchy and its moral precepts still prevail subtly. The emergence of the

unregistered people and issues of a lack of provision of human rights are symptomatic of a clash between the democratic ideals that the new post-war constitution is supposed to espouse and the endurance of the spirit of the old system. In other words, the *mukosekisha* emerged at this crossroad where the *koseki* functions to support the ideological precepts descended from the past on the one hand, and to support the modern state system on the other.

Since the post-war, the *koseki* has been connected to many modern state administrative services pertinent to daily living in the contemporary world. Applying for public health insurance, a driving license, a passport, a bank account, signing for a lease agreement to a house, and getting the opportunity to vote are among the modern state administrative services with which the *koseki* has been tied to.

By linking the *koseki* to these services, the document has been assumed to be a form of identification. However as could be seen in the way that the *koseki* is tied to various articles in the civic code – Articles 772 and 733 in particular - the document does not simply function as an identification tool. In this sense, there is an incongruence in the way that the *koseki* has been construed by the larger administrative state services on the one hand and the constitution on the other.

The experiences of the *mukosekisha* speak of the offshoot that results from this incongruence. Additionally as the profile of the *mukosekisha* do not align with the idealized norms that the state seeks to propagate, this group find themselves pushed to the liminal margins of Japanese society, being ‘othered’ and disparate from the ‘us’ whose profile allows them to be registered into the *koseki* and be part of the system.

Significant efforts to rectify the situation have been made by the state to address the issue of unregistered people. However the amendments to the civil code which would be the most noteworthy area to tackle and will obliterate the presence of *mukosekisha* has yet to be made. Progress in this area is slow and still characterized by decades old contestations between preserving the traditional moral precepts of Japan and to secede some of these in order to further the cause for individual rights. Needless to say, it is not easy to draw the line between these two polemic aims. Unless a consensus or compromise is reached, or unless a new system of identification that works seamlessly with the requirements of the modern state and is divorced from ideological connotations is created, the issue of unregistered people will continue to stay.

However, advocates of the unregistered people could draw positive inspiration from the experiences of the groups of Koreans – the *zainichi* Koreans - who chose to remain in Japan even after the end of the Japanese colonial era and has special permanent residency status in Japan. A small proportion of the *zainichi* Koreans have taken up Japanese nationality status but a large group of them still maintained their Korean status. The successive descendants of this latter group of *zainichi* Koreans have been born and raised in Japan. Since the end of the post-war, this group has been championing to receive citizenship rights such as social welfare benefits. Over the years the Japanese authorities have acceded to these voices and through their special permanency residency status, been able to receive some of these citizenship rights. That achievement took many years in the making but their voices eventually gained a level of agency in the Diet leading to the provision of long sought for rights. The

progress for the movement that began in 2007 seeking the citizenship rights for the *mukosekisha* definitely is slow but the constant voices from lobby groups, media and others are bound to make an impression within the Diet leading to positive strides in the issue of the *mukosekisha*.

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국문초록

일본 가족 등록 시스템에 대한 연구: 가족의 케이트 키팅 개념 및 미등록의 창조

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미등록자가 일본에서 *mukosekisha* 로 알게 된 용어이다. 이는 일본의 가족 호적 (*koseki*)에서 기록하지 않거나 제외한 개인들을 언급한 것이다. *Mukosekisha* 와 *koseki* 를 제외한 그룹의 현상에 대한 분석이 일본에서 *koseki* 의 이념적인 기능을 지적한다.

Koseki 에서 제외한 *mukosekisha* 에 대한 분석은 가족 등록 시스템에 관련된 다양한 분석분석들의 생력 부분이다. 이 논문의 목적은 *koseki* 가 일본 가족에서 규범적인 관념을 보존하기 위해 케이트 키팅 도구를 어떻게 활용한지 논쟁하고 설명한 것이다. 일본적으로 국적 법에서 규정하는 일본 원주민만 *koseki* 에서 포함하고 등록하게 된다. 그러나 *mukosekisha* 는 부모가 일본사람인 인들을 불구하고 이그룹에도 속한다.

Mukosekisha 를 제외한 것이 이혼과 재혼에 관련된 일본 시민 규정의 772 사항과 733 사항에서 속한다. 그래서 사회에서 그룹의 존재는 오래동안 지속된 가족의 사회 가치의 조화성이 부족 한 것을 지적한 것이다. *Mukosekisha* 의 기록부가 국가가 전파하려고 한 이상적인 표준과 동조가 부족하기 때문에 이 그룹은 일본 사회의 한계 마진으로 밀어넣었다. 이 들은 '우리'- *koseki*에 등록된자와 시스템의 부분이 된 자과 달리 ' 다르'고 이질적인 부분이 된 것이다.

주제어: 시민 등록, 아덴디디, 시민, 상상된 공동체, 가족, 일본

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