

# “The Personal is the Political”: Women’s Surname Change in Japan

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## **Abstract**

*This paper discusses the political significance of women’s surname change in Japan by reviewing the history of the surname system and its establishment in the traditional family system, ie. It was created based on the idea that women belong primarily to the husband’s family and her identity is absorbed into the husband. It has significant ramifications on women’s citizenship today, when a greater number of married women are in paid employment and professional careers. The enforcement of a single surname plays a central role in sustaining the patriarchal nature of family that continues to marginalize women’s participation as equal individual citizens beyond their households.*

## **I. Introduction**

For the past two decades, women’s surname change has been at the heart of public debates in Japan. The central issue of the debate is whether married couples should be allowed to have separate surnames. The current family law stipulates that married couples should declare a single legal surname upon marriage. In practice, this law, in combination with gendered family norms, exerts great pressure on the wife to give up her surname upon marriage. Only 3% of husbands take the wife’s surname today, while the vast majority of women have changed their names on legal marriage.

Globally women’s struggles for their own name have a long history. Lucy Stone’s famous words that “a wife should no more take her husband’s name than he should hers, my name is my identity and must not be lost” is expressive of such movement. For the past several decades, women in most

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liberal democracies have gained the rights to choose their names regardless of their marital status. However, Stone's claim is still felt vividly by many Japanese women. The Japanese family law does not recognize married couples' "name choice equality"<sup>1)</sup> under the conservative outcry for "family unity."

Since the Japanese family law was revised into the current form in 1947, women's participation in paid employment has steadily increased, and families have dramatically diversified in their forms, social roles and meanings.<sup>2)</sup> The Japanese family law, however, hardly accommodates these changes in women's lives and families. Rather it has reinforced the persistent gender norms in Japanese society that women belong primarily in the domestic sphere and they are subordinated to the authority of the head of family. The family is seen separate from the public world, the principles of which, according to this view, fundamentally differ from that of civil society. Taking no considerations of the changes of families and needs of women in their actual lives, the enforcement of a single family surname in Japanese laws has drastically increased women's difficulties in both family relations and workplaces.<sup>3)</sup>

When women's actual lives are not confined to the domestic sphere and their participation in paid employment is necessary for many families, the gendered impact of the reified patriarchal surname system on women's citizenship is palpable. When women are identified with domestic life and their work at home providing welfare is not viewed as constitutive of full citizenship, their incorporation into public life could be possible only "as members of another sphere who cannot, therefore, earn the respect of fellow (male) citizens."<sup>4)</sup> Women become marginal and secondary citizens in public

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1) I borrowed this phrase from Lucy Stone League. Lucy Stone League is an organization dedicated to women's "name choice equality" in the U.S. [www.lucystoneleague.org](http://www.lucystoneleague.org).

2) See, e.g., *THE CHANGING JAPANESE FAMILY* (Rebick, Marcus & Ayumi Takenaka eds., New York: Routledge 2006).

3) Other than a single surname, there are other clauses under deliberation for revision for gender-biased: divorced women have to wait for at least 6 months before they remarry; children born out of wedlock, either by common law marriage or a single woman, are discriminated in inheritance; the lawful minimum age for women is two years earlier (16 years old) than men (18 years old); the strict laws about fatherhood and the legitimacy of children frequently work against the interests of women and children.

4) Pateman, Carole, *The Patriarchal Welfare State*, in *THE DISORDER OF WOMEN* 197 (California:

world which is seen as men's terrain. Women's surname change is symbolic of their second-class citizenship in such a gendered dichotomy.

This paper examines the establishment of the surname system in Japan and the legal and practical ramifications of women's surname change on their citizenship; that is, how the patriarchal construction of a single family name as constitutive of Japanese family shapes the ways in which women participate in the public world as worker and/or citizen. In the following sections, I briefly review the insights of feminist theories in rethinking women's surname change. Then I sketch a history of the surname system and the debates on women's surname in various phases of the family law revisions. I then address the gendered impact of women's surname change on women's actual life, within and beyond the family. The final section summarizes the recent family law reform movement by which women's surname change emerged as a focus of political debates.

## II. Women's Surname and Women's Citizenship

The feminist slogan 'the personal is the political' provides important insights into the women's naming question. It opens up possibilities of reconsidering an aspect of women's personal life such as women's surname change as a political matter having significant ramifications on women's citizenship. The slogan draws our attention to the extent which we are accustomed to framing women's issues in personal terms. Women's social life is frequently reduced to a matter of individual capability to be successful in careers or personal luck in marrying a supportive husband. The injustice and violence to which women are exposed are as frequently committed in the private as in the public realm. Feminists have called for due attention to the politics of personal matters which were seen traditionally non-political. They attend to the private sphere such as the family as the contentious site of patriarchal power.

Feminist theorists have also argued that the dichotomy between the private (personal, non political) and the public sphere (the political), as it

exists, is the patriarchal construction of the social and the political worlds. Pateman argues that the patriarchal understanding of the liberal contrast between private and public is more than a distinction between two kinds of social activities. She maintains that the Western liberal democracy is built on the view that the governing principles of the public are seen as separate from, or independent of, the relationships in the private sphere.<sup>5)</sup> The imagined distinction between the private and public spheres has justified the unequal relations within family. To the contrary of the liberal dichotomy between the public and private spheres, feminists have demonstrated that civil society (the public, the political sphere) can only come to existence in conjunction with the private sphere where women serve most unpaid domestic and care-work for other citizens. Furthermore, feminists have argued that those personal relations in private circumstances are structured by public factors, by laws and public policies regulating personal relations.<sup>6)</sup> The separate worlds of private and public life are actually interrelated, connected by a patriarchal structure.<sup>7)</sup> These arguments call for closer examination on the various ways in which the seemingly separate two spheres are constructed as they exist now as well as the hidden relationship between the two spheres in different cultures.

Such a view prompts a rethinking of women's surname change in Japan. The de facto enforcement of women's surname change in the current legal system renders women's public identity dependent on her personal relationship to the husband as she is identified by "Mrs. her husband." The marriage law takes away a consistent individual identity from married women. Such personal circumstances significantly hinder women's participation in public world from standing as an individual citizen. However, all these problems are framed as an individual woman's problem caused by her idiosyncratic desire to retain her old name after marriage, not a social problem that exerts unequal pressure on women.

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5) Pateman, Carole. *Feminist Critiques of the Public/Private Dichotomy*, in *THE DISORDER OF WOMEN* 119 (California: Stanford University Press 1989).

6) *DESERVING AND ENTITLED: SOCIAL CONSTRUCTIONS AND PUBLIC POLICY* (Anne L. Schneider & Helen M. Ingram eds., NY: Suny Press 2005).

7) Pateman, *supra* note 5.

### III. Women's Name and the Family in Japan

#### 1. A Short History of Women's Surname in Pre-WWII Period

Historically, Japanese laws on couple's surname have shifted from a separate surname scheme to that of a single surname.<sup>8)</sup> The surname system was established as an important strategy of modern state building in the late 19<sup>th</sup> century.<sup>9)</sup> In an attempt to grasp power over its subjects, the fledging Japanese state designed a new population registration system called *koseki*<sup>10)</sup> and institutionalized a family name system.<sup>11)</sup> Until the outset of the Meiji state in 1867, public surnames could be owned only by the privileged class and a small number of common people who were given permission by the aristocratic class. However, the Meiji state monopolized this authority over surnames as part of the centralization of power. Shortly later in 1870, the state divorced any privilege from surnames by granting common people freedom to declare surnames. In 1875, for the purpose of tax collection and military conscription, the Meiji state changed its policy again to oblige every person to officially claim a surname that would be registered permanently on the *koseki*.

Gradually, the state required reports of more events in the *koseki*. Family members up to three generations appeared in one *koseki* in the order of age, gender, and generation under the head of family. The *koseki* kept record of personal data on status change such as birth, marriage, adoption, death, change of the head of family as well as domiciles. Each *koseki* was easily over

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8) IDOTA, HIROBUMI, *KAZOKU NO HO TO REKISHI: SHI, KOSEKI, SOSENSAISHI* [LAWS AND HISTORY OF THE FAMILY: SURNAME, FAMILY REGISTRATION, ANCESTRAL RITES] 70 (Tokyo: Sekaishiso 1993).

9) *See Id*; MUTA, KAZUE, *SENRYAKU TOSITENO KAZOKU: KINDAINIHON NO KOKUMINKOKAKEISEI TO JOSEI* [FAMILY AS A STRATEGY: MODERN JAPANESE NATION STATE BUILDING AND WOMEN] (Tokyo: Shinyosha 1996).

10) The first Koseki Law was passed in 1871. The government passed a new Koseki Law that included the idea of the *honseki*, the permanent domicile where the koseki is registered and won't change regardless of the actual domicile of the family unless the head of family so requested.

11) Personal names are of great interests to modern states not only in Japan, but also in others. *See, e.g.*, James C. Scott, John Tehranian & Jeremy Mathias, *The Production of Legal Identities Proper to States: the Case of the Permanent Family Surname*, 44-1 *COMPARATIVE STUDIES IN SOCIETY AND HISTORY* 4-44 (2002).

several pages long. Two important filing principles of the *koseki* were both related to the surname system: “one surname for one family register,” and “same surname for father and sons.”<sup>12)</sup>

These policies gave rise to a great deal of public confusion and controversy about married women’s surname, as the early government pronounced that a married woman shall retain her natal surname except when she took over the head of family. While people understood that the *koseki* be filed by family unit, the government’s *koseki* policy, “one surname for one family register,” seemed odd to the general public, for it would exclude the wife from the husband’s *koseki* due to her separate surname. That is, she would not appear as a member of her husband’s family on legal documents while she actually married into her husband’s family. Common people viewed it contrary to the general perception of the family and marriage.<sup>13)</sup> The local administrations in charge of the practical task of filing *koseki*, too, expressed great frustration in dealing with the complex actual cases and the complaints from their constituency. They maintained that it would be simpler if the wife’s surname would change upon marriage and enter into the husband’s family register.

Married couples’ separate surnames were a common custom in the aristocratic class, although it had its own patriarchal nature.<sup>14)</sup> The aristocratic class supported a wife’s separate surname, mainly because it wanted to clarify the wife’s original family and keep her in lower status in her husband’s family as a permanent outsider.<sup>15)</sup> The early Meiji government adopted such an idea for the official policy on married women’s surname. In the meanwhile, the Draft Committee for Civil Code in the Ministry of Justice took another position about women’s surname differing from the government’s official policy. Taking advantage of oppositions against the government’s separate surname policy from the grassroots, the committee argued that a wife is subordinated to the authority of the husband and her name change should be a manifestation of such a tradition.<sup>16)</sup> Informed by conservative members, the

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12) IDOTA, *supra* note 8, at 76.

13) I have not yet found how women themselves thought about this issue. These arguments are based on official documents quoted in previous studies.

14) IDOTA, *supra* note 8, at 74-77.

15) YAMANAKA, EINOSUKE, NIHON KINDAI KOKUGA NO KEISEI TO “IE” SEIDO [IE INSTITUTION AND THE JAPANESE MODERN STATE BUILDING] (Tokyo: Nihonhyoronsha 1988).

16) IDOTA, *supra* note 8, at 89-90.

committee concluded that the wife shall change her surname to that of her husband's family upon marriage. The old aristocratic custom of women's surname retention was denied as outdated and distant from the actual practices of common people. Based on this proposal, The Meiji Civil Code was revised in 1898. The article 750 stipulated that "a wife is marrying into her husband's family, taking the surname of her husband's family."

As a consequence, the debates on women's surname came to conclusion in favor of the forced surname change on the wife side. Although there existed various views on married women's surnames, the patriarchal interpretation of the family and marriage dominated in the process of institutionalizing the surname system.

The surname system contributed to the institutionalization of the Japanese family *ie*. The surname system was established as the public label or the official title of each Japanese family which affirmed a wife's subordinate position in the family.<sup>17)</sup> *Ie* (generally understood as Japanese stem family system) has its specific characteristics. Differing from the Christian family in which the conjugal relationship between the husband and the wife constitutes a core of the family, *ie* consists of the extended family members beyond the couple and children; it is preserved through patrilineal links between generations. The eldest son inherits responsibilities for the *ie*, taking over as its head, while all of his sisters would marry out of the *ie* and younger brothers would move out, creating his own *ie*. What is distinctive about the Japanese *ie* from others in Asia is the widespread use of adoption whenever the survival of the *ie* is at stake.<sup>18)</sup> If there is no son, or if none of the sons is suitable to be an heir, the husband of a daughter may be adopted to become the new head of the *ie*. If there are no children at all, then a son may still be adopted. The goal of the *ie* system is to ensure the continuity of the *ie*, or family line, without being restricted by strict blood relations.<sup>19)</sup> The *koseki* takes record of all these events taking place in one *ie*. The membership of the adoptee or the women

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17) I am taking the perspective of women as completely subordinate or victims of the patriarchal family in their actual life. However, the Meiji Civil Code rendered married women legally incompetent.

18) See *supra* text accompanying note 2.

19) This is specific character of the Japanese stem family system. Stem family systems in Korea and China are much stricter about the patrilineal blood relations in the adoption.

who married into the *ie* is ensured by the identification of surnames of all newcomers to the family name of *ie*. In this way, the Japanese family system came to materialize itself as creating a powerful image of what family is and how family functions which is still in existence. In those contexts of the establishment of the modern Japanese family system, the question of women's surname change was not of a women's problem, but of how to serve the interests of the patrilineal family.

## 2. Women's Surname in New Family Law

The surname system has undergone some significant changes in the post-World War II era. The newly established Constitution declared gender equality in 1946, and the next year, the Civil Code was revised to conform to the new Constitution. However, the new law retained glaring contradictions of the old family system and formal gender equality as reflected in the surname system. Formal gender equality was shadowed by the old family culture and traditional gender norms lingering in the new laws.

During the U.S. occupation, the Americans attempted to eliminate the old Japanese family system for being patriarchal and unequal. When the Americans proposed the individual-based population registration in order to replace the *ie* system, the Japanese bureaucrats resisted strongly.<sup>20)</sup> After a series of long negotiations, the Japanese bureaucrats proposed a new *koseki* system that would be filed by each nuclear family (a married couple and their children) instead of the *ie*. In this new system, when a couple gets married, they establish a new household creating the couple's new *koseki*. The previous legal authority of the head of family over his family members was abolished, and so was the term, the head of family, *koshu*.

However, a new *koseki* kept the important features of the old *ie* system. *Koseki* still records most events on each family member's identity change from birth to death. The concept of the head of family still continued under a

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20) Wada Mikihiko, *Sengo Senryoki no Minpo, Kosekihokaiseikatei* (2): *Ie no Haisi wo Chusintosite* [Revision Process of Civil Code, Family Registration Law during the Occupation Period], 95-2 HOGAKUSIRIN 29-85 (1997); Wada Mikihiko, *Sengo Senryoki no Minpo, Kosekihokaiseikatei* (3): *Ie no Haisi wo Chusintosite* [Revision Process of Civil Code, Family Registration Law during the Occupation Period], 95-4 HOGAKUSIRIN 39-89 (1998).

different name, "top of the list," *hittosha*. Other family members enter into his *koseki* either by marriage (in the case of wife), by birth (in the case of children), or by adoption. Adoption is still widely used for the purpose of maintaining family lineage.<sup>21)</sup> Above all, the new family law kept the single surname policy for all married couples and their children. Article 750 (Surname of Husband and Wife) of the new Civil Code states that "a husband and wife shall adopt the surname of the husband or wife in accordance with that which is decided at the time of marriage." Although the law formally recognizes formal equality of the husband and the wife in the choice of family surname, it must be chosen from either the husband's or the wife's surname. It does not permit a new surname or a hyphenated one. As a result, despite the formal gender equality in rights to choose a surname of the family, the wife is expected to change her surname just as she used to do in the traditional stem family system. Under this system where a surname is the title of the family, a wife's surname would change back to her premarital surname upon divorce of the couple (which was true until the 1976 revision of the family law).

The government was astonishingly ignorant of the gendered impact of women's surname change in their actual lives. In response to the questions of the single surname system during the revision of the 1947 Civil Code, the legislators of the new family law stated that there would be no inconvenience for those changing surnames upon marriage, since those parties could continue to use their old names as social names even though their surnames changed on *koseki* by law.<sup>22)</sup> The government disregarded the opinions critical of the single surname system and its implications on women's lives.

However, it took a double standard about women's surname. In 1976, in the beginning of the U.N. Decade for Women, the government revised laws to let women retain the previous husband's surname after divorce. It argued that the purpose of the revision was to release the practical disadvantage of divorced women's name change. However, it continuously neglected many more women's desire for their own surnames. During the deliberation of the

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21) SAKAKIBARA, HUIJKO, JOSEI TO KOSEKI- FUFUBESSEIJIDAI NI MUKETE [WOMEN AND THE FAMILY REGISTER: TOWARDS AN ERA OF COUPLE'S SEPARATE SURNAMES] (Tokyo: Akaishishoten 1992).

22) Ninomiya, Shuhei, *Simei no Jikoketteiken toshiteno Tsushoshiyo no Kenri (Rights to Social Names as Constitutive of Rights to Self-determination of One's Names)*, 241 RITSUMEIKANHOOGAKU 611, 612 (1995).

partial revision of the surname system in 1976, the bureaucrat in the Ministry of Justice expressed such an opinion,

It is not prohibited to use various professional names, pen names, or business names. If (women) skillfully use such names together (in their social life), the current (surname) system would not be seen as violating women's rights.<sup>23)</sup>

The idea was that women's freedom to choose surname would bring too radical change to the Japanese family system, while women's continuous use of the previous husband's surname after divorce was not seen as threatening to the underpinning ideas of the patriarchal Japanese family system.

Even in the 21<sup>st</sup> century, marriage implies "entering the husband's family, taking his surname," to the majority of women. Such a view is deeply entrenched in the language of common Japanese expressions such as "a bride enters her husband's family (*yome ni iku*)" or "a husband's family receives a bride (*yome wo morau*)."<sup>24)</sup> The law contributes to shaping this kind of cultural understanding of the family life to a great extent. In everyday conversation, getting married is also expressed as "entering the husband's family register (*(ko)seki ni hairu*)." Not only parents-in-law but also the husband frequently calls his wife as *yome* (a bride who enters the husband's *ie* by marriage). The Japanese wives call their husbands (also others' husbands) *shujin*, a Japanese word of master, while their husbands call wives *kanai* (literally, inside the house). Under this cultural understanding and customary practices on marriage, the married couple's formal equality with which the Japanese government takes as an excuse to leave surname change to the "free decision of the couple" means almost nothing. As recent as in 2001, 97% of married women are reported to change their surnames,<sup>25)</sup> many of whom do because

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23) *Id.*

24) Arichi, Masumi, *Is It Radical? Women's Right to Keep Their Own Surnames After Marriage*, 22-4 WOMEN'S STUDIES INTERNATIONAL FORUM 411, 412 (1999).

25) Committee of Specialists on Basic Problems. *Sentakuteki Fufubessiseido ni Kansuru Singi no Chukanmatome*[A Summary of the Research on the Institutionalization of Married Couple's Choice for Separate Surnames] 1, Oct. 11<sup>th</sup>, 2001 (Cabinet Office Gender Equality Bureau ed., Tokyo: Cabinet Office, Government of Japan).

they do have no other choice.

#### IV. Gendered Impact of Women’s Surname Change in Actual Life

##### 1. *The Burden of Double Names*

Women who want to keep her surname after marriage choose either of two options. One, which is more popular, is using two surnames depending on the occasions, *tsusho*. She registers her husband’s surname on the couple’s new *koseki* as the family surname while continuing the old surname in her actual life. The other is common marriage without official marriage registration, *jjitsukon*. The couple carries out social ceremonies, but does not create a new *koseki*. Each of the couple keeps her or his own individual *koseki* as symbolic of their individuality and equal relationship; in other words, the wife does not enter her husband’s *koseki* to name her as “Mrs. her husband.” Both of these two options, however, put enormous burden on women in their family and social life. In most cases, the husbands are only observers or sympathetic supporters at best, if not opponents.

Married women who change their surname need to go through the cumbersome paperwork in reporting the surname change. They have to report to local administration, banks, insurance companies, workplaces, business partners and customers and have new name registered on family register, passport, bank accounts, driving license, insurance, and personal stamp which is commonly used instead of hand-written signature in Japan.<sup>26)</sup> When married women decide to continue to use her old surname in their social lives they need to juggle two names to meet the differing needs of her identity verification. More and more married women are exercising this practice in their careers and they have gained more tolerance in Japanese society.<sup>27)</sup> However, the burden of juggling two surnames is exclusively left to the individual women in that they have to go about the endless negotiations

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26) Arichi, *supra* note 23, at 413.

27) KOREKARA NO SENTAKU FUFUBESSEI [CHOICE FROM NOW-ON, FUFUBESSEI] (Japan Federation of Bar Association, Committee for Women’s Rights ed., Tokyo: Nihonhyoronsha 1996).

whenever a new situation comes up. It causes them a great deal of frustration and inconvenience in their social lives. The injustice of such burden of dual surnames was brought into focus by one court case in 1988.

In this case, a female professor of a national university claimed damages against the university, arguing that the university's enforcement of the *koseki* surname caused significant disadvantage to her in the process of evaluating her research funding applications due to the possible identity confusion. The female professor continued to use her old surname after marriage when she had officially changed her surname. However, the national university where she joined required the legal surname as it was registered in the *koseki* be used in all university documents. Against this policy, she kept making request for the use of her old surname. She argued that she had published all her works in her old surname long before marriage; therefore, a sudden change of her last name would do serious damage to her academic career. However, the university was recalcitrant about its surname policy and refused to accept any documents unless her *koseki* surname was filled in. The university argued that professors of national universities are public employees of the state, and that securing the public employee's personal identity was an important interest to the university. The university maintained that the *koseki* surname was the most reliable way to achieve that purpose. Based on this policy, the university forced her to write the research funding applications with her *koseki* name, but those applications turned out to be unsuccessful in the external funding competition.

As exemplified by this court case, those women attempting to keep their old surname solely bear the burden of double surnames. They use the old name practically in all actual life settings, yet the legal name is seen the most reliable way of verifying her identity. In a society where people hardly call each other by first name except in very intimate relationships, the surname change causes far more confusion to personal identity than in societies where a first name is more frequently used. Changing surname means changing the entire name, not a half of the name, by which, a person could be perceived as a completely different one. Such cost of surname change may well higher to those who gained considerable reputation in their fields of expertise. All those burdens of name change falls exclusively on women just because they are 'married' and 'women.'<sup>28)</sup>

In the middle of the enhanced expectation for the breakthrough in the

surname system, the court’s ruling was disappointing. The court reconfirmed the conventional perspectives on women’s surname change, by ruling against the plaintiff. It was in line with the university’s view that it was reasonable for the university to request a public employee to use a legal surname as a way to verify one’s identity.<sup>29)</sup> Also, even though the court broadly recognized that one’s names other than the *koseki* name may constitute important part of personal identity if it was used long enough, it stated that rights to name does not constitute the kinds of the constitutional rights. This ruling disappointed many women who experienced similar difficulties in their own situations. The plaintiff was not persuaded by the court decision and brought it to the appellate court. Before the appellate court’s deliberation reached the conclusion, the university suggested a reconciliation by which it agreed to accept the use of her old surname.<sup>30)</sup>

This court case spurred both public and scholarly debates on women’s surname change. Japanese legal scholars generally support rights to name as an integral part of personal rights, *jinkakukun*. These rights have been established in the context of copyright; for instance, rights to name as not to be used by others by stealth are recognized as an essential part of personal rights under copyrights. The copyrights laws protect writers’ and artists’ names, if not *koseki* names, on the grounds that a name (like a pen name) by indicating a particular writer comes to constitute his personal identity if it is used for a certain period of time. If such a name is used by others by stealth, it inflicts significant damage to the name owner’s personal identity, thus violating personal rights. However, it seems that scholars have not paid much attention to the single surname system in family law. Drawing on the arguments of “names as personal rights,” a group of Japanese female lawyers proposed that rights “not to be taken away one’s surname” should also be recognized as

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28) Many women also feel frustrated about exposing her marital status to anonymous customers (even though they do not expose it, women’s name change indicates her marital status).

29) Tokyo District Court 1486. 21, Nov. 19,1993.

30) This case exerted a great deal of influence in Japanese society. Many companies followed the reconciliation by allowing married women’s use of old surname on internal documents including pay checks, rosters, and name tags. The Japanese government also admitted the continuous use of old surnames upon request.

personal rights.<sup>31)</sup> However, it seems that their voice has yet to persuade neither the state nor the court.

## 2. Reinforcement of Gender Norms in the Family<sup>32)</sup>

Many women perceive that the *ie* still carries over in the current Japanese family system. They see the ritual of surname change upon marriage precisely as expressive of the unequal gender norms of *ie*. These women take a more direct way to resist the marriage system: coupled living without marriage registration.

In modern times, common marriage has been viewed as having an illegitimate relationship with her partner so that she cannot or is not eligible to register her coupled life legally. Their separate surnames would exemplify such private relationship. In contrary to this conventional view, women in deliberate coupled living make a purposeful 'choice not to register.' They attempt to reverse this negative connotation of the unregistered marriage to a positive public statement that they are selecting to live as individual selves. These women often define their individuality as an individual autonomy to choose their own lifestyle without being bound by the traditional gender roles of married women. To many women, the legal marriage means accepting familial obligations and the subordinate status of traditional daughter-in-law. One of my interviewees expressed her feeling this way,

I don't want to confine myself in the traditional familial responsibility. Even today, legal marriage is seen just as same as taking the traditional role of yome (a bride, or daughter-in-law). If I change my surname, I feel obliged to look after parents-in-law, I mean only parents-in-law,

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31) The Committee for Women's Rights of Japan Federation of Bar Association claimed that one's surname change upon marriage should be considered as violation of rights to name, thus impeding personal rights. See KOREKARA NO SENTAKU FUFUBESSEI [CHOICE FROM NOW-ON, FUFUBESSEI] (Japan Federation of Bar Association, Committee for Women's Rights ed., Tokyo: Nihonhyoronsha 1996).

32) This section is a revised section of my previous publication. See Shin, Ki-young, *Fufubessei Movement in Japan: Thinking About Women's Resistance and Subjectivity*, 2 FRONTIERS OF GENDER STUDIES 107-114 (2004).

not my parents. I want to oppose this social custom.<sup>33)</sup>

The Japanese housewife identity that LeBlanc points out helps one to understand the heavy cultural pressure on married women, particularly those housewives practicing a separate surname. LeBlanc argues that "the essence of the housewife identity is grounded in its bearer's exclusion from other possible social identities."<sup>34)</sup> A housewife is not seen as the kind of person who would have reasons to keep a separate surname or to be an individual self simply because of her status as housewife. Being a housewife reduces her identity to a care-giver of the family, thus she as a housewife should not be so selfish to insist on her self-identity as an independent individual from her family. A career woman may need to retain her surname, for the surname change would do damage to her career; however, housewives do not have such 'good reasons.' Her identity as housewife excludes her both from having other social identities, and from being individual self separate from her family. It is reflected well in their own expressions, "I wish I could live my own life, not as a wife, nor a *yome*, in an equal relationship with my partner," "my name and my family name are important parts of my identity. I don't want to change them. If I do, I would feel myself taken away."<sup>35)</sup>

By keeping her separate surname, the wife imagines herself as having individual autonomy to control who she is as a person. She reminds the family of her as an equal being to her partner that her subject position of the 'wife' would hardly permits. These women in coupled living without marriage registration also turn the oppressive functions of the *koseki* to their advantage, by indicating that the couple's separate *kosekis* ensures that she has never 'entered' the husband's family, thus not being the *yome* of the husband's family. They take advantage of the authority of the state's law in order to assert her individuality against the cultural power of the husband's family.

Cohabitation without marriage in general is increasing in Japan, but it is still not so popular, nor well accepted. Nonetheless, recent studies on common

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33) My interview with a member of *kekkon kaisei wo kangaeru kai*, May, 2004.

34) LeBLANC, ROBIN M, *BICYCLE CITIZENS: THE POLITICAL WORLD OF THE JAPANESE HOUSEWIFE* 65 (BERKELEY CALIF.: UNIVERSITY OF CALIFORNIA PRESS 1999).

35) YOSHIZUMI, KYOKO, *KINDAI KAZOKU WO KOERU [BEYOND THE MODERN FAMILY]* (TOKYO: AOKISHOTEN 1997).

marriage couples show that non-registered cohabitation is predominantly women-led; what is more, this form of partnership is intentionally chosen by women as a way of resistance to the traditional gender roles in the conventional marriage institution.<sup>36)</sup> These motivations are significantly different from those in Sweden and the U.S. where cohabitation is exercised as a prior stage of marriage or an experiment of the coupled life in future. Unlike the conventional view of Japanese women as submissive, obedient, and self-restrained, it demonstrates that women are taking an active initiative in challenging the injustice of the Japanese family system in their everyday life.

## V. Recent Reform Movement

In the mid-1980s, more women began to speak out on the gendered nature of women's surname change. Professional middle class women took the lead in the exercise of couple's separate surnames. In 1985 when the Japanese government ratified the CEDAW (Convention on the Elimination of all Forms of Discrimination against Women), the female members of the Japan Federation of Bar Association set out research on the gender discriminative clauses of the Japanese family law. As a part of the research, they organized a public symposium on the women's surname change which brought attention to the various problems of the women's surname change. The findings of this research group gained the official support of the Japan Federation of Bar Association. Later the Federation submitted to the Japanese government a family law reform proposal with a strong focus on the couple's freedom to separate surnames.<sup>37)</sup>

This social atmosphere led to the organization of many local citizens' self-help groups in many regions in Japan.<sup>38)</sup> Local groups (those for married couple's separate surnames and others for the abolishment of discrimination against children born out of wedlock) came together to form a broad network to push for the family law reform. These groups played an active role in

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36) *Id.*

37) See *supra* text accompanying note 31.

38) About the resistant movement of local women's groups and their participants, see Shin, *supra* note 32.

raising wide public consciousness on the problems of women's surname change by holding regular meetings and issuing regular newsletters.

In response to such pressure as well as from the government's own obligation to conform to the CEDAW, the Japanese government undertook the task of family law revision by forming the research committee on family law in 1990. After years of deliberation, the committee proposed three new drafts. All of the three drafts aim at recognizing married couple's freedom for surnames and the *koseki* law revisions to reflect the respective change.

Against the upsurge of the reform movement, however, conservatives roared up opposing to all three versions of reform proposal. They bitterly criticized that the family law reform allowing separate surnames of the married couple would destroy the essence of the Japanese family. Senior male politicians of the Liberal Democratic Party (LDP) insisted that a married couple and their children sharing the same surname constitute the natural family unit in society. Different surnames would weaken the family tie, eventually undermining the entire family system. They vocally argued that it was too soon to discuss these issues at a time when family values must be reinforced. Moreover, they tried to persuade that couple's different surnames would exert significantly negative impact on children's welfare and emotional stability. In the end, different surnames within a family would cause the total crisis to the Japanese family.

In the face of such furious conservative critiques that the family law revision is a sinister attempt to destroy Japanese family values, the Ministry of Justice stepped back. Instead, it threw the issue of the family law reform to partisan politicians. However, due to the strong oppositions in the ruling LDP, the family law reform was not even put on the agenda in the Diet. It was only in 2001 that the law revision movement regained some strength when a high-profile female legislator in the LDP submitted a revision proposal. This proposal was something of a compromise in order to persuade the conservative legislators in the LDP by making a couple's choice of separate surnames more restrictive than the previous drafts. According to the proposal, the court hears each submitted case and rules whether or not the couple has reasons enough to retain separate surnames. This way, the proposal intended that only some exceptional couples would take separate surnames, while most women still change their surname upon marriage. Nonetheless, the conservative LDP politicians opposed this proposal as well, even though it

was much more reactionary than previous ones. Nor did it obtain much support from separate surname supporters. The reformers feared that if the passage of such law opens the possibility for couple's separate surnames, the family law reform movement may lose strength without any fundamental changes in current family system. Failing to get support, this proposal was simply tabled, currently making no progress at the time of this paper's writing in early 2009.

Despite the sluggish progress on the reform movement and the strong backlash against the family law reform movement in Japan, women's voices surfaced to the fore in the policy debates for the first time in the history of the modern surname system. It eventually pushed the Ministry of Justice to undertake the revision of the surname system in the early 1990s. However, women's family law reform movement was far from the conventional forms of collective politics with strong lobbying activities. It was much closer to the amalgam of diffuse individual claims. On the other hand, the conservatives and rightist politicians voiced much more concerted oppositions. Such difference of two opposing groups in political influence explains an important part of the weak reform movement in Japan.

## VI. Concluding Remarks

People invest their names with many special meanings and emotional attachment. Names constitute an important element of personal identity. However, it is never just of a personal matter. It expresses one's membership to the family. More importantly, names are a foundation for social relations. We create relationship with others through names and names give shape to our image of who the owners of names are. We remember others by their names and we are remembered by others by our names. Thus names constitute one's personal integrity. In modern civil society, these names have developed as expressions of one's independent identity for men. Men as independent citizens both represent himself and his family through his name. However, names are hardly so for women. Women's names deliver far disparate meanings from those of men; they are expressive more of women's relationship to men. And the relationship is mostly constructed by the men's law. This view explains why women's surname has been a focus of political

debates in Japan generating conservatives' intense opposition. Women's surname change in Japan signifies much more than personal name choice. As conservatives argue, women's surname change indeed underpins the Japanese family values by symbolizing a forced unity of the family members and the unequal relationship between a husband and a wife. Therefore, women's demand for "name choice equality" would disturb the very foundation of that form of family. And this is how the personal is becoming the political in Japan.