Gender Inequality and Family-Related Risks

From the Perspective of Law and Ideology

TANAKA Sigeto (Tohoku University)
http://tsigeto.info/18z
Background
1980s- gender mainstreaming in Japan

Question
Why does inequality in family system perpetuate?
Perspective

Ideology = system of beliefs on

- **Fact**: How the society is
- **Value**: How the society should be
- **Norm**: What should we do
Contents

§ 1. Findings from NFRJ
§ 2. Ideologies on family
§ 3. Prospects for change
§ 4. Conclusion
Trend in marital status in Japan

Population Census 1950-2015,
Women aged 30-74
§ 1.
Findings from NFRJ
(National Family Research of Japan)
National Family Research of Japan (NFRJ)

★ Detailed information on kinship and life events

★ National representative samples:
  (NFRJ98, NFRJ03, NFRJ08)

★ Huge number: 473, 494, 463 divorced

http://nfrj.org
Equivalent Income (EI)

\[ EI = \frac{\text{Annual household income}}{\sqrt{N \text{ of household member}}} \]

Gender gap in EI

F/M =
0.897 0.925 0.932

1,000,000 yen

NFRJ98 NFRJ03 NFRJ08

Male
Female
Marital history and EI: NFRJ98

Graph showing marital status versus earning in 1,000,000 yen. The graph compares male (yellow line) and female (red line). Marital statuses include 1st Mar., Widow, Remarried, Divorced, and Unmarried.
Marital history and EI: NFRJ03

1st Mar. Widow Remarried Divorced Unmarried

Male Female

1,000,000 yen

0 1 2 3 4 5
Marital history and EI: NFRJ08

- 1st Mar.
- Widow
- Remarried
- Divorced
- Unmarried

1,000,000 yen

Male
Female

Graph showing marital status vs. economic indication.
Summary

F/M (divorced) = 0.572 0.668 0.752
Marital History and Gender Gap

- Unmarried / Married
  ......... No gap

- Divorced / Widowed
  ......... Great gap
Regression (those who experienced divorce)

Independent variables:

- Age
- Education
- Spouse
- One-parson household
- Co-residing parent
- Co-residing child under 13
- Continuous regular employment
Result

- Age
- Education
- Employment
- Child
- Remarriage/Household
- Parent
- Gender

+ +

EI
Effect of remarriage (male)
Effect of remarriage (female)

- Remarried
- Other
- Co-res. Parent
- One-person

NFRJ98, NFRJ03, NFRJ08
Findings

✓ Female EI is 10% lower than male
✓ Mainly caused by widowed/divorced
✓ 4 factors of gender gap after divorce
  - Education
  - Interrupted career
  - Child
  - Remarriage
Factors of post-divorce gap

Pre-marriage investment

Education

Gender

Marital life

Specialization

Custody

Remarriage

Living standard

Marriage

Divorce

Post-divorce life
Gender equality and family

• Fact: Gender gap after divorce caused by marital life

• Value: Gender equality

• Norm: Needed reform of family but…
§ 2.

Ideologies on family

- Tradition vs. modern
- The divorce law
- What is the obstacles?
The finding is not new

Single mother households’ poverty has been well known

Social policy targeted at them

Nevertheless......
Little attention on this issue
History & logic of norms

Society is divided into sub-systems. Each sub-system has own norms and ideologies to justify them. They have been formed in history.
Ideologies on family in 20C Japan

**Traditional**: Stem family (ie) system as a company

vs.

**Modern**: Nuclear family as a unit of altruism
Ie: traditional family system

- Stem families with family business
- Their network
- Local community

Unified system after Meiji Restoration (1868)
Civil Code (1898)

**Autonomous stem family**

Registered on *koseki* as a group

Inherited by the eldest son
Family-state ideology

Parent-child relationship as the foundation of loyalty to the state = emperor
Emerge of modern family

Urban middle class in early 20c
- Nuclear family based on altruism
- No family business

中川 善之助 (1928) “親族的扶養義務の本質 (1)”. 法学新報. 38(6) (Nakagawa Zen’nosuke 1928)
1946 Civil Code

Individualization (not *ie* system)

Unwritten assumptions

- Unit of nuclear family
- Essentialism on altruistic support: husband – wife
  parent – child
Current ideology on family

Hybrid of the two ideologies with wide spectrum

They have common norm of autonomous/private family → no clue to intervene marriage and divorce
Japanese divorce system

Traditional: Unilateral no-ground (controlled by family/local community)

Meiji: Bilateral no-ground (by family) + Unilateral ground-based (by court)
Current state of divorce

90% ...... Bilateral (by mutual consent, no legal intervention)
9% ...... Bilateral (mediated by court)
1% ...... Unilateral (judgement by court)
Overlooked problems

- Individualization
- Power gap in negotiation
- Financial provision in few cases
What is the obstacle

For traditionalist: Autonomy of *ie*

For modernist: Private family life based on altruism

→ Anyway they are against legal intervention
Consequence

No systematic criticism of the family system
Little attention on distributive justice in family
§ 3. Prospects for change

On marriage:
  • Feminist movement
  • Family law debates

On children:
  • Children’s poverty
  • Low fertility
Gender-equal policy

1985: Ratification of CEDAW

1996: Vision of gender equality

1999: Basic Law for Gender-Equal Society

2000: Basic plan for gender equality
      (Revision in every 5 years)
Vision of gender equality (1996)

1 – (1) ……without being restricted by “gender”, a social and cultural constraint…..

1 – (2) – c. ……Greater and deeper awareness of gender-sensitive perspective

http://www.gender.go.jp/english_contents/about_danjo/lbp/basic/toshin-e/part1.html#P1
Backlash from the right

Attack from right-wing advocating

- biological sex difference
- traditional family value
2nd Basic plan for gender equality (2005)

2 – 2. ……it is not desired to deny traditional culture using the term “gender free”

[translation is mine]

http://www.gender.go.jp/about_danjo/basic_plans/2nd/pdf/all.pdf
4th Basic plan for gender equality (2015)

2 – II – 6. ……gender equality based on understandings of biological differences between sexes

[translation is mine]

No chapter for family issues
Against liberal divorce

Long history of legal debate on how to regulate Japanese liberal divorce system to achieve equity

Referring UK, US, France, Germany
Financial provision reform

All of these should be settled on divorce:

- Earning capacity due to specialization
- Burden to bring up legitimate child
- Disease caused/worsened by marital life

→ Slow implementation
Practical problems

Currently:
90% ...... Consensual divorce
   (no legal intervention)
9% ...... Court mediation
1% ...... Court decision

→ Should court intervene all divorces?
Small presence

Inactive research, only handful researchers

Little public attention
Children’s poverty

High rate of children’s poverty
- Unstable employment
- Increasing divorce
- Ineffective social policy
Support for children or family?

Ad-hoc treatment for poor children
Focused on issues of social security / education rather than family
Pro-natal policy

Decreasing birth number
Fear of population shrinking

→ Direct incentives for childbirth
§ 4. Conclusion
Competing ideologies

Ideology = system of beliefs on

• Fact: How the society is
• Value: How the society should be
• Norm: What should we do
After gender mainstreaming…

We accepted the value of gender equality.
We know the fact about gender gap after divorce.
But we insist family should be autonomous/private.
Traditional/modern norms prevent discourse toward public regulation of family. No prospect for public regulation framework, but some changes might lead to it.