

# Geographies of Self and Other: Mapping Japan through the Koseki 自己と他者の配置—戸籍を通して日本を見る

David Chapman

## Geographies of Self and Other: Mapping Japan through the Koseki

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Abstract:

This paper traces the social history of the household registration system (*koseki seido*) in Japan from its beginning to the present day. The paper argues that the *koseki* has been an essential tool of social control used at various stages in history to facilitate the political needs and priorities of the ruling elite by constructing and policing the boundaries of Japanese self. This self has been mediated through the principles of family as defined by the state and has created diverse marginalised and excluded others. The study includes social unrest and agency of these others in furthering understanding of the role of the *koseki* in Japanese society. The paper also contributes understanding of nationality and citizenship in contemporary Japan in relation to the *koseki*.

Keywords: *koseki*, nation-state, family, household, nationality, citizenship, self, other, identification, documentation, self, other, Japan

### Introduction

It was not until the sixteenth century that 'documents of origin and identity came to be demanded as a matter of course' in Europe.<sup>1</sup> The earnest documentation of populations in Asia however, began in China four thousand years ago during the Xia Dynasty.<sup>2</sup> Unlike the west, where registration is based on the individual, since its inception

population documentation (*hukou*)<sup>3</sup> in China has been based on the household as the fundamental social unit. As part of the Taika reforms in the seventh century, along with many other governmental structures adopted from China, Japan employed the same system of household registration (*koseki seido*) to enhance and centralise the powers of the Yamato imperial court. Once the inhabitants of the Yamato-controlled territories were identified they could be conscripted, taxed and controlled. Population registration has been practised in Japan ever since and although it has undergone numerous changes and, in recent times, been supplemented by other legislation, the *koseki* has endured the course of Japanese history through to the present day and still maintains primacy in identifying who has legal Japanese status.

In this paper I trace the social history of household registration from the late Tokugawa period and argue that the *koseki* has been an essential tool of social control used at various times to facilitate the political needs and priorities of the ruling elite. This has mostly been achieved through the construction and policing of the boundaries of a 'legible' Japanese self as mediated through the family unit. I also aim to reveal more about the *koseki* by examining the agency exercised by the diverse others created in constituting a *koseki*-defined self. Finally, this exercise is also meant to reveal new understanding of the workings of nationality and citizenship in contemporary Japan.

Despite the *koseki* system's fundamental role as a conduit between state and subject, it remains

peripheral or absent in many discussions of Japanese society and English language research on the topic is scarce. Existing research usually focuses on a specific historical period and provides only part of the overall picture.<sup>4</sup> There are some studies that provide interpretations of legislation relating to the Household Registration Law (*kosekihō*) and the closely related Nationality Law (*kokusekihō*).<sup>5</sup> A recent study on law reform and family law, *Japanese Family Law in Comparative Perspective*<sup>6</sup> has contributed new and important knowledge and provided a long awaited update in this area. Other research has examined legislation that interacts with the Household Registration Law such as the Civil Code (*Minpō*), Constitution (*kenpō*) and the Nationality Law that perpetuates a patriarchal and hetero-normative family structure. The research in this area has addressed the marginalization of women and homosexuals resulting from such legislation and its interpretation.<sup>7</sup> In the 1980s, Satō Bunmei<sup>8</sup> provided perhaps the most exhaustive accounts of the history of Japan's household registration system. Sato argued that historically the *koseki* was responsible for the marginalization of many quarters of the Japanese population. And, a recent book by Endō Masataka<sup>9</sup> provides a detailed study of the *koseki* and nationality during Japan's colonization of Taiwan, Korea and Manchuria.

### Identification and Documentation

There are many reasons why governments identify and document a population. For example, authorities require such organised systems for tax collection, the management of conscription, the tracking of subjects/citizens (surveillance) and the differentiation between those who belong and those who do not (citizens and non-citizens/nationals and non-nationals, residents and migrants). Moreover, internal systems of registration and identification map out the space of the controlling authority and provide a network of social organisation and a means by which state

power can be exercised and realised. James Scott<sup>10</sup> argues that a central problem of statecraft is making society 'legible'. He proposes that,

[c]ertain forms of knowledge and control require a narrowing of vision. The great advantage of such tunnel vision is that it brings into sharp focus certain limited aspects of an otherwise far more complex and unwieldy reality. This very simplification, in turn, makes the phenomenon at the centre of the field of vision more legible and hence more susceptible to careful measurement and control.<sup>11</sup>

In short, it is in the interest of state authorities to simplify and 'know' their population and to minimise complexity. Household registration and the process of identification and documentation have been key in strategically governing the population as Japan moved from a feudal-like state and on to a modern nation and expanding empire. Moreover, it has been one of the principal means of regulating and defining the relationship between various ruling authorities and the lowest levels of organisation. It has been the most enduring social contract between the Japanese polity and the Japanese subject. The same fundamental system has remained as the definitive mechanism for identification serving the various ruling authorities through until present-day Japan. Even after the official introduction of the western notion of 'nationality' as a category within the Japanese legal system in 1899, as I will explain below, the *koseki* has remained the ultimate bureaucratic identifier of status (*mibun*) as Japanese.

In the same way that other nations have incorporated population registration, the *koseki* system has been used strategically and efficiently to centralise power and control in Japan by variously codifying the population according to the needs of the incumbent authority. Throughout Japan's recent history the *koseki* system provided mechanisms of

exclusion and inclusion creating numerous others whilst defining the Japanese self. Moreover, the mandatory recognition of legitimate citizenship through membership of a registered household fixes the individual to an entity defined, controlled and recorded directly by the state and any relationship with the state therefore is mediated through the family unit. In modern times this seems to be in conflict with Article 13 of the Japanese Constitution that states, ‘All of the people shall be respected as individuals’. This approach has also established a system that contributes to the marginalisation of those outside of the heteronormative family structure.<sup>12</sup>

In constituting a legally recognised Japanese self defined in familial terms, bureaucratic processes often come into direct conflict with individuals and groups that identify themselves differently to state-defined categories. This paper also introduces the various ways in which individuals and groups have attempted to exercise agency directed at the koseki system, in some instances seeking to undermine state authority and disrupt control. The study of the tension and discord generated by the koseki system at different points in history provides further insight into Japanese society and the workings of systems of authority and power. The approach in this paper is twofold: to examine the top-down impact as well as the contribution of bottom-up human agency in influencing the historical course of Japanese self. Examining the influence of individuals and groups opposed to the koseki system is essential in providing a complete picture of its social context. As Caplan and Torpey<sup>13</sup> argue, “(h)uman agency remains a decisive factor in the genealogy of identification practices”. As part of this agency, recognition of the dual nature of identification and documentation is also crucial. In other words, whilst identification can limit and delimit, it is important to acknowledge that in order to be ‘counted’ one has to be identified.<sup>14</sup> Such recognition can lead to empowerment and emancipation.

### **Tokugawa/Edo Period (1603-1868): Surveillance, Division and Immobilisation**

Political unification and centralised control became a priority during the Tokugawa period and population registries were utilised as broad tools of tax collection and social control. Unification required a compliant and cohesive population and the Bakufu administration turned to population registries as the solution in making the inhabitants ‘legible’ and controllable.

There were four major forms of population registration used during this period. They were the ninbetsuchō (Registry of Human Categories), shumon aratamechō (Religious Inquisition Registry), gonin gumichō (Five Household Registry) and the kakochō (Death Registry). The first to appear were the ninbetsuchō, adapted from the registries<sup>15</sup> kept by Hideyoshi.<sup>16</sup> They were later adapted by the Chōshū clan<sup>17</sup> in southwestern Japan based on a Confucian patriarchal hierarchy similar to the original koseki household registries of the Yamato period. In the mid-1600s, the Tokugawa regime took control of the registry and recorded households based on social status (mibun) and categorised them according to occupations such as warrior, farmer, artisan and merchant (shinō-kō-shō). The ninbetsuchō were indispensable in maintaining social order and the collection of revenue through limiting the mobility of the population. It was almost impossible for anyone to change social status or geographical location and marriage between social groups or outside of villages was only allowed in special circumstances and only with the permission of feudal lords. There were also numerous communities of the ‘underclass’ that were placed on separate registers or were not registered at all.

During this period, religious affiliation also became a security concern because the Shogunate perceived Christianity to be a threat to unification and in order to suppress it, urged

each temple to effect a religious investigation (shūshi aratame). In 1632 and 1633 the submission of honmatsuchō (temple head and branch records) from all Buddhist headquarters was ordered and in 1635 the order for everyone in Japan to register with a local Buddhist temple (teraukeshōmon) was promulgated.<sup>18</sup> The process was formalised with the creation in 1640 of a Central Office for Religious Inquisition (shūmon aratame yaku) (1640 until 1792) and the later combination of the existing ninbetsuchō with the religious investigation (shūmon aratame) in 1670.<sup>19</sup> The result was a combined registry of religion and social status called the shūmon ninbetsuchō that was renewed every six years and lasted almost 200 years until the beginning of the Meiji period and made religious affiliation a category in defining Japanese self.

The kakochō was yet another recordkeeping device that monitored deaths and tied individuals and household units to Buddhist temples. It was also helpful in the surveillance of religious affiliation. And, as a fourth form of registry, the gonin gumichō contributed to the monitoring and control of the population by creating a system of neighbourhood surveillance with each family in a group of five that was responsible and accountable for the conduct of the others. A patriarchal head of family monitored each of the households and an elected leader of the group of patriarchs controlled the group of families.

There were other registries created for those others not in the shi-nō-kō-shō status categories. The terms hinin and eta were used to identify those at the bottom of the social hierarchy in Tokugawa Japan.<sup>20</sup> Those falling into these categories belonged to heterogeneous communities of both registered and unregistered individuals. Depending on the historical period, location, status and occupation, various other labels were used for sub-communities within these under classes. Apart from the terms eta and hinin, labels such

as kawata/chōri (other name for eta), kawaramono (those living in dry riverbeds), gōmune (street performers)<sup>21</sup> and sarukai (monkey handlers) were also used. By 1660 in Osaka there already existed a separate ‘eta register’ (eta shūmonchō).<sup>22</sup> Also, in the late 1600s in the Kanto district a hierarchical hinin administration had been forming. By the early 1720s the hinin administration in Edo was clearly structured to follow the bakufu-decreed laws.<sup>23</sup>

The Bakufu used the terms eta and hinin interchangeably during the Tokugawa period but there is also evidence of differential identification. According to Groemer,<sup>24</sup> the kawata/eta in Edo under the control of Danzaemon<sup>25</sup> were small in number and well contained. Conversely, the hinin population was larger and made up of both registered and unregistered individuals (see table below), those that were unregistered were originally referred to as ‘new-hinin’ (shin-hinin) and later as ‘wild-hinin’ (no-hinin or no-binin), many of whom were without a fixed residence (mushuku).<sup>26</sup> The unregistered hinin were viewed by the Bakufu as troublesome and in the mid-eighteenth century policies were created and zealously enforced to identify and control the ‘wild-hinin’ through registration and physical markings such as haircuts, clothing and sometimes tattoo markings.<sup>27</sup>

The Edo Hinin Population

Year	Registered Hinin	Other Hinin	Total
1692	4,329	1,037	5,366
1717	6,854	1,150	8,004
1722	5,373	2,469	7,842
1725	4,849		
1744			11,563
1745	7,091	3,057	10,148
1749	6,836	606	7,442
1771	4,766	5,352	10,118
1777	4,209	1,813	6,222 [sic]
1786	3,785	6,975	10,760
1834	5,709	6,091	11,800
1835	5,587	6,913	12,500

1837	5,505	7,761	13,266
1841	5,632		
1842			6,430
1843	5,643	1,157	6,800
1850	5,157	4,851	10,008
1865	5,460	4,833	10,293

Table 1.

Source: Minami, 349, and Nakao 276 cited in Groemer, 2001: 283.

The process of differentiation between eta and hinin in the 1800s is evident through the household register. An 1800 census records 5,664 eta and 1,995 hinin households in the Kanto area controlled by Danzaemon and in Edo itself the census lists 734 hinin and 232 eta households under his control.<sup>28</sup> Further, highlighting not only a separation of these groups but a hierarchy of the underclass, Tim Amos<sup>29</sup> has discovered a ninbetsuchō registry from Saitama Prefecture that records eta and hinin on the same registry but with all hinin households listed below eta households.<sup>30</sup> Amos adds,<sup>31</sup>

[B]ased on the Suzuki-ke monjo, it appears that the eta leader of Lower Wana stopped constructing a separate register for hinin sometime between 1770 and 1778. From 1778, the hinin village residents were always written at the very end of the register, after the name of the final eta family.

The context of hinin in Tokugawa Japan presents us with a number of interesting insights into the role of registration in Japanese society at this time. Firstly, registration was used extensively for control by Bakufu authorities. As mentioned above, those that were unregistered were depicted as ‘wild’ and at various stages the necessity of registration in order to rein in the troublemakers is clearly evident. Differential registration also meant that self and other could be clearly separated and the other easily distanced. ‘Homelessness’ (or

loss of residence) and the state of non-registration were often synonymous, demonstrating the nexus between household registration and a fixed locality. The status of hinin was also something that was variously acquired. For example, in many cases families or individuals affected by natural disaster, tax avoidance (tōsan), avoidance of detection (tōbō) or those who had property confiscated for not paying taxes often became simultaneously homeless and unregistered falling into the category of hinin. In some cases their status as commoners was retrievable as long as they were not hinin for longer than ten years.<sup>32</sup> Further, registration as a form of control was resisted by some hinin. As Groemer<sup>33</sup> demonstrates, the Edo hinin resisted their position in society throughout this period through attempts to conceal their status identity with particularly strong resistance to control and conformity towards the end of the Tokugawa era.

Also important is the use of the ninbetsuchō registry in documenting the indigenous Ainu and Ryukyu populations during the latter stages this period. Some communities of Ainu were placed on the separate ninbetsuchō. This was among assimilation measures and meant the changing of names to Japanese. Many of these communities opposed this action and some instances of social unrest ensued.<sup>34</sup> Recent research has also revealed that the Ryukyu Islands were included in the religious inquisition aimed at Christians and, demonstrating the extensive power and reach of the Tokugawa regime, these records reveal the area as being surveyed thirty times between 1635 and 1866.<sup>35</sup>

The Tokugawa Period was thus a period in which a complex mixture of political, economic, religious and ideological beliefs created an unyielding social system of categorisation. This system was facilitated greatly by the various population registries that systematically differentiated status and rigidly anchored people to locality. Without going outside of the

registration system, migration between social and geographical position was virtually impossible because of the strict application of identification. The extent of identification and documentation over this time makes the Edo period one of the most policed eras in Japanese history. However, it was also a period when many resisted this tight structure producing a growing diverse underclass of the marginalised and dispossessed.

### **Meiji Japan (1868-1912): Creating Nation, Creating Subjects**

The decentralisation of the Tokugawa order in Japan led to legislative changes that redefined the status of being Japanese in response to, but not necessarily in accordance with, western notions of citizenship and nationality. The Meiji period heralded the emergence of Japan as a nation in the eyes of the west, necessitating the incorporation of new ways of thinking about being Japanese. The creation of the jinshin koseki through the Household Registration Law (koseki hō) (introduced in 1871 and implemented in 1872) played a critical role in the formation of a modern state by identifying and documenting the Japanese population in preparation for a unifying national identity that would later become a nationality register (kokuseki).

This period is thus characterised by the inclusion of the many communities both registered and unregistered during the Edo period under the administration of a national registry. The aim was to bring order to the previous era's disorder.<sup>36</sup> Through the jinshin koseki the Meiji government was able to bring together diverse groups, both registered and unregistered/deregistered (datsusekisha), and confirm the reach of its newly forming national and imperial borders both in terms of sovereign territory and state subjects. Such uniformity in identification made the nation legible and controllable from the centre.

Under revised legislation the Tokugawa era

mibun categories such as samurai were abolished and the majority of the population, besides the royal family which was not registered, were listed on registries as commoners (heimin). The Meiji government also decreed that the ninbetsuchō and the registries of former outcaste communities be merged. However, the new registries labelled the former outcaste households with the term 'new commoner' or 'original eta' (shinheimin/motoeta) maintaining an identifiable differentiated status. The indigenous Ainu and Okinawa populations were also included on the new registries as commoners. As mentioned, the registering of Okinawans and some Ainu had already occurred during the Tokugawa Period but began in earnest with the introduction of the jinshin koseki.<sup>37</sup>

From 1873 gaining 'status' as Japanese was possible for foreigners and indeed a number of individuals did become Japanese subjects during this period through marriage to a Japanese spouse.<sup>38</sup> Under the Insider/Outsider Marriage Proclamation of 1873 (103) (nai/gaijinmin kon'in jōki) the process of son-in-law adoption (mukō yōshi) by the spouse's father was possible and allowed for registration of foreign husbands on the koseki and the possibility of taking on the position of patriarchal head of family (kosu). For women marrying Japanese males, the process involved registration on the husband's koseki.<sup>39</sup> This legislation provides some insight into how notions of being Japanese were considered in the years between the promulgation of the jinshin koseki (1872) and the introduction of the Nationality Law (1899). According to the legislation, foreigners were able to gain standing as Japanese through marriage and entry in a koseki, 'nihonjin taru no bungen o eheshi'. This legislation did not racialise the standing of being Japanese but rather highlights the fact that legitimacy was determined through entry on the koseki as a member of a registered family. At this stage, without a Nationality Law, registration on the koseki was the sole means of determining legal

status as Japanese.

The determination of Japan's national boundaries meant dealing with geographical margins and the populations residing in these areas. Between 1877 and 1882, foreigners from the Pacific Islands, America and Europe living on the colonised islands of Ogasawara (Bonin Islands) were required to register on the koseki and become Japanese subjects. Five Bonin Islanders who naturalised in 1877 were the first foreign nationals<sup>40</sup> to become Japanese subjects in the Meiji Period. The rest of this community, initially reticent to register, were given until 1882 to become Japanese subjects or leave the islands. Most were naturalised as Japanese subjects. Despite becoming legally Japanese this population were referred to in official Meiji government documents as 'naturalised foreigners' (kika gaikokujin).<sup>41</sup>

Also salient during this period is the establishment of the 'ie' or household system as part of the Meiji Civil Code in 1898 (meiji minpō). The 'ie' system continued the practice of Confucian ideals by giving the patriarchal head absolute authority over family members and ensuring male lineage. This maintained a line of power between the emperor as ruler of the nation and the patriarchal head of household. Additionally, under the Nationality Law, based on the Household Registration Law, Japanese nationality was passed on through the father to a child. Making nationality patrilineal and preventing the passing on of Japanese nationality if a woman married a non-Japanese national or bore a child fathered by a non-Japanese national. Often referred to as the family nation (kazoku kokka), from the 1890s Japan increasingly symbolised the emperor as father of the nation-state in which the imperial family and the Japanese people were indelibly linked through blood. The introduction of the Nationality Law in 1899 defined Japanese status internationally in terms of western notions of nationality. However, registration on the koseki was still maintained as a necessary condition

and prerequisite for Japanese nationality. Here, as further discussed below, the relationship between nationality, citizenship, family, gender and genealogy is brought into particular focus through the lens of the koseki.

## The Meiji Period 2: Expanding Empire and Internal Borders

During the Meiji period the boundaries of Japanese sovereign control expanded with the colonisation of Hokkaido, Okinawa, Micronesia, Taiwan, Korea and Manchuria. The colonisation of Taiwan from 1895 and Korea from 1910, followed by Manchuria in 1931, each brought new challenges to population governance. Japan was simultaneously trying to deal with modernisation, expansion as a nation/empire and the conceptualisation and legislation of Japanese nationality. Important in this discussion is the role of the koseki in regard to the institutional and legislative division of Japan proper (nai'chi) and the outer or colonial territories (gai'chi) of the Japanese empire. One of the better-known and more influential contributions to the debates on the conceptualisation of citizenship during this time was that of Yamada Saburō,<sup>42</sup> a jurist from Tokyo University, who, contrary to the advice of Henry W. Denison, suggested national belonging could be separated from rights and responsibilities in the case of colonial citizens.<sup>43</sup> Yamada's suggestions were popular<sup>44</sup> and were first adopted in the colonisation of Taiwan. Once Taiwan was ceded by China in 1895, similar to the Bonin Islanders, the populace was given an ultimatum to become Japanese subjects (within two years) or leave Taiwan. Although Taiwanese families presented problems for a Meiji government trying to implement a household registration system<sup>45</sup> because of resentment towards its discriminatory nature<sup>46</sup> there was little in the way of organised resistance.<sup>47</sup> The Taiwan toguchi kisoku (Regulations for Taiwan households) was established in 1905 and administered by the police. This ordinance

provided for the separation of those from Japan proper and the Taiwanese.

In colonising Korea Japan took a different approach. Again Yamada contributed to discussions where he stressed the need for legally distinguishing colonials (*gai'chijin*) from colonisers (*nai'chijin*) in order to prevent Koreans from becoming *nai'chijin*. At the time<sup>48</sup> there was concern expressed that Koreans could become mainlanders with the same access to rights by simply moving to Japan proper. Yamada argued that to prevent this it was necessary to expedite the introduction of the *koseki* system into Korea.<sup>49</sup> Yamada also strongly suggested legislation to prevent Koreans registering on the Japanese *koseki*. This was facilitated by the fact that the colonies and the mainland fell under two different jurisdictions with colonial governments autonomously controlling the external territories (*gai'chi*). The Meiji government used the Korean indigenous family register in place since the Yi dynasty and maintained separate *koseki* laws between the mainland and the colonies and in effect created an external (*gai'chi koseki*) and a domestic family registry (*nai'chi koseki*).<sup>50</sup> This approach essentially created two types of Japanese subjects, colonials and mainlanders that could be easily distinguished through the two registries. The two registries also allowed mainlanders to move throughout the colonies whilst remaining bound to the nation as *nai'chijin*. Differential citizenship thus became institutionalised and the boundary between colonials and mainlanders was maintained despite the mobility of individuals throughout the empire.<sup>51</sup> Resistance was an unsurprising outcome of such attempts at social management. Nationalist movements on the Korean peninsula in 1919 protested colonial rule and led to violent outbreaks of protest. Efforts at early population censuses (1906-1908) were hampered by Koreans hiding from Japanese officials when they visited households resulting in inaccurate figures each time counts were

taken.<sup>52</sup> Increasing pressure to gain accurate figures led to Japanese officials barging into people's houses. The census taking likely offended most Koreans because of the insensitive way in which it was conducted by transgressing the sacredness of Korean homes.<sup>53</sup>

The *koseki* fit well with the institutionalisation of pan-Asianism and the strategy of turning all colonials into Japanese subjects. It played a significant role in an assiduously enforced Japanisation campaign (*kōminka*) starting in 1937 aimed at turning colonials into obedient (*junryō*) imperial subjects<sup>54</sup> through linguistic and cultural assimilation. The *koseki* was particularly useful in the colonial policy of *soshi kaimei* that attempted to eradicate the clan system of names by forcing Koreans to adopt a Japanese-sounding name. This policy was implemented through enforced family registry reform. The idea was to eradicate cultural identity entrenched in the clan name system. However, many Koreans resisted the campaign successfully by organising for kinship ties to remain intact through clans adopting the same Japanese name.<sup>55</sup>

### **Postwar Japan: Occupation and US Administration**

After the War and under the Potsdam Declaration signed in 1945 Japan agreed to limit its sovereignty to its four main islands and some surrounding islands as determined under the declaration. Under occupation by the Allied Forces and the management of SCAP the administrative and governmental boundaries of Japan were redefined. They no longer included the outlying areas of the empire including Taiwan, Korea, Karafuto or most islands south of 30 degrees latitude north and the Ryukyus, the latter two territories seized by the United States.<sup>56</sup> This led to numerous administrative and legislative changes in allocating status and how people within this redefined space were then to be identified and documented. Initially,



on 13 March 1946 a ministerial order was issued to those living in Japan whose place of principle registration (*honseki*) was Korea, China, Taiwan, south of 30 degrees latitude north (also Kuchinoshima) and Okinawa prefecture to register and declare their desire to return.<sup>57</sup> Further, on 1 December 1946 (promulgated 30 November 1946) the Osaka Korean Registration Ordinance (*Ōsakafu Chōsenjin tōroku jōrei*) was enacted requiring Koreans to be fingerprinted and to carry a registration card. This met with intense resistance and the registration process proved to be difficult and consequently was only partially completed.<sup>58</sup> Moreover, on 11 June 1946 Imperial Ordinance 311, although ostensibly a measure to quell the upsurge in trade union activity, was promulgated. Morris-Suzuki argues that this ordinance was applied retrospectively to any Korean resident who had re-entered Japan after the start of occupation on 2 September 1945 and who was then deemed an ‘illegal entrant’.<sup>59</sup>

On 2 May 1947 the Alien Registration Order (*gaikokujin tōroku rei*) was enforced and defined anyone not holding Japanese nationality (members of the Allied Forces and their families were excluded from this ruling) as an alien. In 1950 Nansei Islanders were restricted from travel to the newly defined Japan and were treated as aliens under immigration orders. By the time Japan renounced any claim over Korea with the signing of the San Francisco Peace Treaty (signed 1951 and effected 1952) a majority of the former colonial subjects living in Japan had left but more than 600,000 still remained, having been deprived of Japanese citizenship. Around this time the Immigration Control Law (*shutsunyūkoku kanri hō*) (1951) and the Alien Registration Law (*gaikokujin tōroku hō*) (1952) were implemented. The controversial fingerprinting requirement did not begin until 1955 when a cabinet order and regulations for fingerprinting were issued.<sup>60</sup> The Japanese government also tried to get Korean residents to repatriate to North Korea and

eventually succeeded with at least 80,000 departing Japan.<sup>61</sup>

The War also brought with it destruction of many *koseki* records. Okinawa and Chichijima (Ogasawara Islands) were two locations that were the target of intense US attack leading to the destruction of *koseki* records in both locations. Postwar Okinawa and Ogasawara both fell outside of Japan’s sovereign administration and under US occupation and control. The restoration of the *koseki* records (*koseki okoshi*) occurred in both Okinawa and the Ogasawara Islands, but at different times. In Okinawa, in the absence of official documentation, the reconstruction of household records that included the names of past relatives, spouses and offspring was a problematic undertaking. Okinawans around the world were contacted during the process for verification and authentication.<sup>62</sup> In postwar Ogasawara the *koseki* was not resurrected until after the return of the islands to Japanese administration in 1968. The period of US occupation (1945-1951) and then US administration (1952-1968) meant that the descendants of the original settlers living on Chichijima, although under the protectorate of the US, were essentially *de facto* stateless for those intervening years<sup>63</sup> For some families of the descendants of original settlers, the restoration of the *koseki* meant they could return their names to the original katakana readings or to a Japanese reading instead of the English one they had under the US Navy.<sup>64</sup> This remains an exception in the history of *koseki* procedures. Until revision in 1987 Japanese manuals on naturalisation recommended the use of Japanese names. It was only after this that foreign names in katakana became possible for many.<sup>65</sup>

### Contemporary Japan

The modern day household registry is based on the Family Registration Law (promulgated in 1871 and implemented in 1872). It

authenticates the status (mibun) of an individual and details birth, marriage, death, divorce, family lineage and adoption. As stated above, the Family Registry Law predates the Civil Code (1896), the Meiji Constitution (1889) and the Nationality Law (1899) and in modern Japan these legislative structures interrelate to constitute a regulatory regime of social control in determining an individual's status within Japanese society.<sup>66</sup> In the postwar period three other Laws relating to population registration were established to further supplement regulation and control; the Basic Resident Register Law (1967), the Resident Registration Law (1951) and the Alien Registration Law (1952). Despite this complex and intricate legal network the Family Registration Law remains the foundation upon which other structures are based and still has primacy in defining legal status as a national of Japan. Indeed, as Sugimoto<sup>67</sup> has described, the present koseki is "the cornerstone" of this elaborate system of registration. As I have explained above, during the Meiji period family registration predated nationality in legally authenticating status as Japanese. It was only after 1899 that a national register (kokuseki) was recognised. Japanese kokuseki however, in most cases, is not possible without koseki registration.<sup>68</sup> Thus, in contemporary Japan national registration remains secondary to household registration in defining the Japanese self.

Contemporary problems relating to legislation based on the household registration system can be classed under two general categories. The first category relates to issues of privacy and public access<sup>69</sup> and the second concerns the long history of family (as opposed to individuals) as the fundamental social unit of legal registration. Access to the koseki records has meant that sensitive private information has been released publically. Particularly well known is the case of descendants of former outcaste (burakumin) communities identified through family lineage recorded on the koseki which led to the public distribution of lists followed by

employment and social discrimination. Despite action by these communities that eventually resulted in restricted public access to records,<sup>70</sup> the koseki still remains open to many professions such as lawyers, police and government officials. Given the accessibility of the koseki records, extensive traceability and the sensitive nature of information contained in the records, it is unsurprising that the koseki has been exploited. The koseki not only reveals ancestral links to former outcaste communities it also signals divorce through the use of an 'X' next to the name of a former spouse on the registry (this is where the colloquial term *batsu ichi*, meaning divorced, originates).<sup>71</sup> Until the amendment to the Civil Code in 1996<sup>72</sup> illegitimate births were also easily identified on the koseki because the Chinese character for child (ko) was used instead of the chronological descriptive for birth order and sex (for example *chōjo* and *jinan*).<sup>73</sup> Another issue that reflects the patriarchal nature of the koseki is the ruling that Japanese married couples cannot be legally married under different last names. This causes problems for women who wish to retain their non-married name especially in professional contexts. The Civil Code was revised in 1947 allowing either the husband or the wife's name to be used for koseki registration but different names (*fūfubessei*) are illegal. However, increasingly women are using their original non-married surname in socially and in the workplace.

The rigid adherence to family as the fundamental social unit of registration and the limited principles of what constitutes a family embedded in household and related legislation has led to inequality and prejudicial treatment.<sup>74</sup> Limitations in legislation are apparent in a wide array of contexts that fall outside of the heteronormative<sup>75</sup> and nuclear family structure. One area where legislative limitations are obvious is that relating to birth registration. Reflecting the principle of *jus sanguinis*, Japan's Nationality Act only recognised patrilineal descent until 1985 when

an amendment was introduced recognising matrilineal descent. In many cases prior to 1985 children born to a non-Japanese father and a Japanese mother were rendered de facto stateless because of conflicting nationality laws. This was particularly the case in Okinawa where 90% of cases of statelessness prior to 1984 were children whose American father had deserted the marriage.<sup>76</sup> Children in this situation were living in Japan but were not registered on the koseki and in effect were without nationality.

Japanese legislation, as well as reflecting the principle of jus sanguinis, has favoured the principles of marriage and a woman's chastity in marriage in determining a child's right to acquire Japanese nationality. Article 772 of the Civil Code stipulates that: 1. A child conceived by a wife during marriage shall be presumed to be the child of her husband, 2. A child born after 200 days from the formation or within 300 days of the day of the dissolution or rescission of marriage shall be presumed to have been conceived during marriage. According to Suzuki<sup>77</sup> the Japanese state, has used its Nationality Law, to determine the nationality of children born out of wedlock<sup>78</sup> and has "championed the marriage institution".<sup>79</sup> This, he argues, is because paternity is more difficult to determine than maternity. Furthermore, Suzuki notes that 'foetus recognition' (taiji ninchi), a standard condition for birth registration and therefore entry on to the father's koseki registry, has been conditioned upon marriage by article 3-1 of the Nationality Law which stipulates that a child under 20 years of age may acquire Japanese nationality if the mother or father has married and acknowledges maternity or paternity.<sup>80</sup>

Increasing numbers of alternate family structures, non-nationals and irregular status residents in Japan has exposed the limitations of the legal matrix surrounding family law. However, laws are changed and in a landmark case in the Supreme Court on 4 June 2008 the

Nationality Law was amended resulting in a revision to Article 3 (revised 12 December 2008 and effected 1 January 2009). The amendment stipulates that, providing fathers recognise paternity, regardless of the timing, children born out of wedlock can obtain Japanese citizenship. This revision was the result of a long history of appeals based on Japan's Constitution (particularly Article 14-1) and international conventions that Japan has ratified.<sup>81</sup> Finally, a case brought forward by 10 Filipino women with children born to Japanese fathers instigated the revision. Despite this revision however, the problem of children becoming stateless (mukosekiji) because of inflexible legislation is still ongoing.<sup>82</sup>

## Conclusion

No administrative system is capable of representing any existing social community except through a heroic and greatly schematized process of abstraction and simplification.<sup>83</sup>

This paper is an introduction to the social history of the koseki system and an initial exploration of its place and influence within Japanese society. Although not comprehensive, this study traces the koseki from the Tokugawa Period through to the contemporary context to further our understanding of how the processes of identification and documentation have been used by various ruling authorities for social control and political gain. Fundamentally, the koseki has facilitated the functions of government in rendering the inhabitants living within Japan's sovereign and territorial borders 'knowable'. It has also been used to police boundaries and borders both internally and externally to authenticate a state-defined notion of Japanese self. Although the boundaries of self have shifted over time, as far as the state is concerned, status as Japanese has always been determined upon membership of a household defined by koseki legislation and attached to a local entity within the jurisdiction of the ruling

polity. In essence the koseki has acted as a historical map etching out the contours of the limits and delimits of a demographically defined Japanese self. Throughout this history the attempts at mapping a uniform, definable and registrable Japanese self have led to the exclusion and marginalisation of diverse others. It is through examining these others that we can gain further understanding of the koseki as an instrument of social control and the social reality that confronted ruling elites.

It was during the Meiji Period that the koseki was instrumental in not only controlling the populace but also for nationalising it. It is only during this period that the koseki was supplemented with other legislation to create a nationality registry (kokuseki) and the concept of a Japanese 'national' self emerged. It is also where the koseki became an important tool in the processes of colonisation, being used to determine national and imperial boundaries and to maintain a distinction between the colonisers and the colonised through the registration of inhabitants as Japanese subjects of outer territories.

The integrity of family registration as the primary legal definer of Japanese status has remained and created an indelible link between the Japanese state and the family. As explained here, in a rapidly changing contemporary Japan however, defining national belonging through the principles of family further creates various layers of marginalised others. Recent legislative changes such as the 2008 revision to Article 3 of the Nationality Law provide a glimpse of a future in which the Japanese nation-state must continue to take steps towards recognising the growing diversity of its society and the inadequacy of laws that do not recognise and adapt to inevitable social change.

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## Notes

<sup>1</sup> Groebner, 'Describing the person, reading the signs in late Medieval and renaissance Europe: identity papers, vested figures, and the limits of identification 1400-1600', 16.

<sup>2</sup> Wang, *Organizing through Division and Exclusion: China's Hukou System*, 33.

<sup>3</sup> The People's Republic of China created a hukou system that defined the urban-rural relationship and fundamentally shaped contemporary state-society relations; see for example, Cheng and Selden, 'City, countryside and the dialectics of control: The origins of China's hukou system'.

<sup>4</sup> See for example, Cornell and Hayami, 'The shūmon-aratame-chō: Japan's population registers', 311-28; Hirata, 'Heian jidai no koseki

ni tsuite', 59-96; Ishi, *Ie to koseki no rekishi*; Matsumoto, 'Sengo Okinawa no kazoku to hō', 80-89; Okuyama, 'Sengo Okinawa no hōtaisei to koseki no henkan', 350-67).

<sup>5</sup> Homusho Homu Sogo Kenkyujo 1975-2004; *Jurisuto*.

<sup>6</sup> Schieber and Mayali, *Japanese Family Law in Comparative Perspective*.

<sup>7</sup> Bryant, 'For the sake of the country, for the sake of the family: The oppressive impact of family registration on women and minorities in Japan', 109-68; Maree, 'Same-sex partnerships in Japan: Bypasses and other alternatives', 541-49; Lunsing, *Beyond Common Sense: Sexuality and Gender in Contemporary Japan*; Mackie, 'Managing borders and managing bodies in contemporary Japan', 71-85.

<sup>8</sup> Satō, *Koseki uragae shikō*.

<sup>9</sup> Endō, *Kindai Nihon no Shokuminchi Tōchini okeru Kokuseki to koseki: Manshū, Chōsen, Taiwan*.

<sup>10</sup> Scott, *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed*, 2.

<sup>11</sup> *Ibid*, 11.

<sup>12</sup> Mackie, 'Managing borders and managing bodies in contemporary Japan'.

<sup>13</sup> Caplan and Torpey, *Documenting Individual Identity: The Development of State Practices in the Modern World*, 7.

<sup>14</sup> *Ibid*, 6.

<sup>15</sup> During the sixteenth century the centralisation of control by Hideyoshi meant the creation of a national government and the unification of Japan. As part of this process he issued the Edict Restricting Change of Status and Residence (*mibun tōseirei*) in 1591 and conducted a land survey (*taikō kenchi*) from 1583 to 1598.

<sup>16</sup> Satō, *Koseki uragae shikō*, 33.

<sup>17</sup> Cornell and Hayami, 'The *shūmon-aratamechō*: Japan's population registers'.

<sup>18</sup> Amstutz, *Interpreting Amida: History and Orientalism in the Study of Pure Land Buddhism*, 22.

<sup>19</sup> Bitō, 'Thought and religion 1550-1700', 369-371.

<sup>20</sup> The term 'Burakumin' was not in use to describe these groups at this time.

<sup>21</sup> Demonstrating some fluidity in categorization, *Gōmune* were considered *hinin* only when engaged in this occupation (see Groemer, 'The creation of the Edo outcaste order', 281).

<sup>22</sup> Ōsaka-shi *Kyōiku Kenkyūjō*, cited in Groemer, 'The creation of the Edo outcaste order', 269. Moreover, the *kawata* continued to farm, pay taxes and, in some places, continued to participate in village affairs, see Groemer, 'The creation of the Edo outcaste order', 269.

<sup>23</sup> Groemer, 'The creation of the Edo outcaste



order', 276.

<sup>24</sup> Ibid, 284.

<sup>25</sup> Danzaemon was appointed the head of the eta in eight Kanto prefectures; see Nakao, Danzaemon kankei shiryō shu, 118-22.

<sup>26</sup> Ibid, 284.

<sup>27</sup> Nakao, Edo shaki to Danzaemon, cited in Groemer, 'The creation of the Edo outcaste order', 285.

<sup>28</sup> Ibid, 272.

<sup>29</sup> Also see Amos, 'Portrait of a Tokugawa outcaste community'.

<sup>30</sup> Saitama Prefectural Archives, Suzuki-ke monjo, record number 161.

<sup>31</sup> Correspondence with Amos, 20 July 2010.

<sup>32</sup> Minami, cited in Groemer, 'The creation of the Edo outcaste order', 283.

<sup>33</sup> Ibid, 291.

<sup>34</sup> Emori, Hokkaidō Kinseishi no Kenkyū: Bakuhan Taisei to Ezochi.

<sup>35</sup> Kinjō, Meiji roku nen jūichi gatsu jūyokka tsuke 'koseki sōkeihyō': Yaeyamatō, Ishigaki Magiri Ishigakimura no 'Tōsūchō' no bunseki o toshite.

<sup>36</sup> Imperial Japanese Commission, Japan at the

Beginning of the 20<sup>th</sup> Century, 49.

<sup>37</sup> Although perhaps not a procedure adopted nation-wide, Richard Siddle has recently revealed the labeling of some Ainu as former natives (kyūdōjin) on their koseki registries; Siddle, 'The limits to citizenship in Japan: Multiculturalism, indigenous rights and the Ainu', 451-52. Without access to records it is difficult to determine the extent of this practice and whether it was widespread or only present in isolated cases.

<sup>38</sup> Lafcadio Hearn (Koizumi Yakumo) in 1895 and Henry Black (Kairakutei Burakku) in 1893 were two notable male foreigners who became Japanese citizens under this legislation.

<sup>39</sup> For more detail on this legislation, see Kamoto, Kokusai Kekkon no Tanjō: Bunmeikoku Nippon e no Michi.

<sup>40</sup> Ogasawaratō Zaiseki Kikajin ni Kan suru Ken. Not all the inhabitants of the Bonin Islanders had a recognized foreign nationality. Many from the Pacific region had no legally recognized nationality.

<sup>41</sup> Ogasawaratō Zaiseki Kikajin ni Kan suru Ken.

<sup>42</sup> Yamada Saburō (1852-1919) was a graduate of international law and President of Seoul Imperial University from 1931 until 1936.

<sup>43</sup> Yamada, 'Shin-ryochi ni kansuru hōritsu kankei o ronzu'.

<sup>44</sup> Asano, 'Nihon teikoku ni okeru Taiwan hontōjin to shinkokujin no hazuma: kokuseki sentaku to Taiwan hōsei'.

<sup>45</sup> Ibid.

<sup>46</sup> The system did not apply to Japanese residents.

<sup>47</sup> Lamley, 'Taiwan under Japanese rule, 1895-1945: The vicissitudes of colonialism'.

<sup>48</sup> The Ōtsuka Tsunesaburo Bunsho documents are not dated but the Minsekihō (1909) and the Korean Governor General decree number 75 of 1911 (Shukuhaku oyobi Kyojū Kisoku) are mentioned in this discussion.

<sup>49</sup> Ōtsuka Tsunesaburo Bunsho.

<sup>50</sup> Legislation was created that banned movement from one koseki to the other.

<sup>51</sup> Morris-Suzuki, 'Migrants, subjects, citizens: Comparative perspectives on nationality in the prewar Japanese empire' refers to this as a 'regional citizenship'.

<sup>52</sup> Henry, Sanitizing empire: Japanese articulations of Korean otherness and the construction of early colonial Seoul, 1905-1919', 654-55.

<sup>53</sup> Ibid, 655.

<sup>54</sup> See Komagome, Shokuminchi Teikoku Nippon no Bunka Tōgō.

<sup>55</sup> Mizuno, Seikatsu no naka no shokuminchi shugi.

<sup>56</sup> SCAP-IN 677. The directive specifies the following as excluded from Japanese

administration: "(a) Utsuryo (Ullung) Island, Liancourt Rocks (Tako Island) and Quelpart (Saishu or Cheju) Island, (b) the Ryūkyū (Nansei) Islands south of 30° North Latitude (including Kuchinoshima Island), the Izu, Nanpo, Bonin (Ogasawara) and Volcano (Kazan or Iwo) Island Groups, and all the other outlying Pacific Islands [including the Daito (Ohigashi or Oagari) Island Group, and Parece Vela (Okinotori), Marcus (Minami-tori) and Ganges (Nakano-tori) Islands], and (c) the Kurile (Chishima) Islands, the Habomai (Hapomaze) Island Group (including Suisho, Yuri, Akiyuri, Shibotsu and Taraku Islands) and Shikotan Island. A later directive includes Izu and the Nanpō Islands."

<sup>57</sup> Justice Ministerial Order No. 1 1946.

<sup>58</sup> Yang, Ōsaka-fu Chōsenjin tōroku jōrei seitei: 1946 no tenmatsu ni tsuite.

<sup>59</sup> Morris-Suzuki, 'Guarding the borders of Japan: Occupation, Korean War and frontier controls.

<sup>60</sup> A signature replaced fingerprinting for special permanent residents in 1993 and in 2000 for long-term (3 months or longer) foreign residents.

<sup>61</sup> Morris-Suzuki, Exodus to North Korea: Shadows from Japan's Cold War.

<sup>62</sup> Kugai et al, 'Okinawa no hōsei oyobi koseki tochi mondai nado no hensen'.

<sup>63</sup> For more on the Ogasawara Islands and the koseki see Chapman, Inventing subjects and sovereignty: Early history of the first settlers of the Bonin (Ogasawara) Islands.

<sup>64</sup> On April 14 1969 representatives of Tokyo

Family Court went to Chichijima and collected details from thirty-two individuals wishing to change their names. All sixteen requests for name changes from English to Japanese and sixteen for Japanese to English were granted.

<sup>65</sup> In 1982 the Kobe Family Court restored the name of a Japanese claimant of Vietnamese origin and stated that because of the increasing mobility and internationalization of society the selection of one's name in katakana should be allowed, see Iwasawa, *International Law, Human Rights, and Japanese Law: The Impact of International Law on Japanese Law*, 140-41.

<sup>66</sup> For a thorough explanation of the entwined workings of these legislative structures and their relationship to inclusion and exclusion of individuals from the nation-state see Mackie, 'Family law and its others'.

<sup>67</sup> Sugimoto, *An Introduction to Japanese Society*, 146.

<sup>68</sup> In exceptional cases Japanese nationality is granted to children who are deemed stateless. However, this is rare and rates of success of applicants in this situation are very low, Okuda in *Overview of Statelessness: International and Japanese Context*, 40.

<sup>69</sup> According to Ninomiya, *Koseki to jinken*, 25, the koseki allows unlimited public access to an individual's family relations and extensive access to changes in status and residence.

<sup>70</sup> Legislative reform was achieved in 1976.

<sup>71</sup> However, having one's name transferred to the original koseki after divorce will remove evidence of divorce.

<sup>72</sup> Despite this amendment illegitimate children are still treated differently from legitimate children in Japan. Illegitimate children only receive half of the inheritance of legitimate children upon a parent's death. Adopted children receive the full duty of inheritance.

<sup>73</sup> It is worth noting that in Meiji Japan criminal offences were also recorded on the koseki.

<sup>74</sup> See Miyamoto, Ninomiya and Shin, *The family, koseki and the individual: Japanese and Korean experiences*.

<sup>75</sup> Some interpretations highlight the fact the heteronormative family is enshrined in the Japanese constitution, see Mackie, 'Family law and its others', 142-143.

<sup>76</sup> Tsukida, *Nihon no mukokusekiji to kodomo no fukushi*, 108-109.

<sup>77</sup> Suzuki, 'Outlawed children: Japanese Filipino children, legal defiance and ambivalent citizenships', 36.

<sup>78</sup> *Ibid*, 36

<sup>79</sup> *Ibid*, 37.

<sup>80</sup> *Ibid*, 37.

<sup>81</sup> *Ibid*, 39-42.

<sup>82</sup> For more discussion on this problem refer to Mainichi Shinbunsha, *Rikongo 300 Nichi Mondai: Mukosekiji o Suke!*.

<sup>83</sup> Scott, *Seeing Like a State: How Certain*



Schemes to Improve the Human Condition Have Failed, 22.