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Chapter 2
Law, blood, and the space of waiting:
Theorizing the temporality of attachment in Japanese child welfare placements

The train was crowded, and Professor Hasegawa and I swayed as we stood clutching the handholds dangling from a bar above our heads. Hasegawa worked in the welfare division of a large southern city in Japan, and we had just come from touring some of the city’s welfare facilities. Due to his and other government officials’ efforts, in just six years this city had increased foster care placements of children in state care from seven percent to 21 percent (JaSPCAN 2010). Since around 90 percent of Japanese state wards are placed in children’s homes, and the national average of foster care placements hovers around nine percent, this quick local transformation was noteworthy. One major reason often cited to explain why children are generally placed in children’s homes, rather than foster or adoptive care, is that natal parents often oppose—or caseworkers anticipate that parents will oppose—any placement other than in an institution. Parental rights, or shinken, are thus often described as a “problem” (mondai) that prevents the expansion of Japan’s foster care program.

The city where Professor Hasegawa worked, however, must have found some way to mitigate this problem. As we chatted about his work and my research, I asked Hasegawa rather vaguely what he thought about the shinken mondai (親権問題), the question and trouble of parental rights in the context of child welfare placement decisions. Why would a parent care about maintaining parental rights if she or he never anticipated being able to raise the child, or

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1 The city was sometimes cited as an example of the potentially significant impact of local, rather than national, governmental programs. Although the Japanese government has stated policy guidelines to increase the percentage of foster care placements, there are no overarching and specific national implementation procedures.
2 I will use both the Japanese legal term shinken and the translated gloss “parental rights” somewhat interchangeably, using the term shinken especially when the specific legal technicalities are at stake.
even have a relationship with that child? Why would this sort of parent oppose having the child placed in foster or adoptive care?

Hasegawa nodded slowly. “Well, these parents are just really focused on the blood relationship between themselves and their child. They don’t want to cut the parent-child bond by having the child fostered or adopted.”

Although I had heard this sort of response many times before, the inherent logic suddenly struck me as quite odd. “But these parents would still have a blood connection with the child,” I replied, taking Hasegawa’s reference to blood ties as a literal, biological bond. “If the child is adopted, what will actually change is the legal status.”

“Ah, yes...” Hasegawa paused. “What I mean is, these parents are focused on the legal status, not the blood relationship. After all, the legal status is all they have at that point. The child has been taken away from them, so they have already failed as parents anyway.”

Both my response and Hasegawa’s counter-response make clear something that is never explicitly elaborated in Japan: Hasegawa wasn’t actually talking about biological ties, but rather something more ineffable. He also wasn’t exactly talking about legal ties, since adoption and fostering have entirely different legal statuses, but both equally seem to threaten a “parent-child bond” (oya-ko kankei). However, in this chapter I will illustrate the ways in which legal ties—or more specifically, the ways in which legal ties are imagined within bureaucracies—in many ways do seem to have the power to constitute kinship, by way of allowing or prohibiting the creation of relationships between a child and a substitute caregiver.

Behind the focus in Japan on blood ties as determining kinship is, I propose, the scandal that although kinship seems like something that should be innate and inborn, people in Japan understand very clearly the ways in which kinship actually emerges through practice, over time,
in intimate caregiving settings. This perspective has recently been espoused by adoption and fostering movements. The overt framing of parent-child ties as created gives authority to a project of making former strangers into parents-and-child. These bonds are generally described as kizuna (絆), which can mean both bond or tie and also fetter, but is used with a positive valence in discussions of adoption and fostering. In many ways, then, discussions surrounding the putative power of blood and legal ties in Japan are undergirded by the sense that neither blood nor law, when it comes down to it, actually constitutes kinship. At the same time, references to these seemingly stable referents do a lot of the labor that authorizes institutional and bureaucratic negotiations of the placement of children who become wards of the Japanese state. Thus “the law” or “blood ties” are held up as stable forms of authority, without, in many cases, the overt recognition that neither are, exactly, “things” with stable interpretations. Legal categories both felicitously and infelicitously trace present and future interpersonal relationships between caregivers and children. Thus, arguments about parental rights are actually arguments about the types of relationships understood to be both inherent in parent-child bonds by virtue of biological relatedness, and potentially emergent in relationships between non-biologically related caregivers and children.

**Legal access and the “problem” of parental rights**

So how did Professor Hasegawa’s city increase foster care placements so notably in such a short time? And what does this achievement have to do with negotiations of parental rights? First, the city’s initiatives included a proactive public relations campaign. Further, the increase in foster care placements had been facilitated by the assignment of a lawyer to the city’s child
guidance center (CGC) to help caseworkers make placement decisions for children in state care.\(^3\) The affiliated lawyer could help caseworkers negotiate the legal category of *shinken*, parental rights.

The city’s public relations campaign was centrally implicated in changing placement practices. Within the narrow field of Japanese child welfare, the topic of placement takes on enormous importance, and is discussed often stridently and at length both among friends and in semi-public forums, like conferences, symposia, and foster parent trainings. The two major placement options, in a children’s home versus in foster care (which sometimes leads to adoption), are often represented as qualitatively and systemically opposite, the former being considered as care in an *institution*, the latter as care in a *home*. Evaluations of the relative benefits and deficiencies of both also split along this divide (see Chapter 3). However, despite the prevalence of placement debates *within* the field of child welfare, there is little public awareness of the presence of either children’s homes or foster families.\(^4\)

As discussed previously, the prevalence of institutional care for children in Japan’s child welfare system is often understood to be based on a cultural valorization of blood ties (*ketsuen kankei*): the argument, so it goes, is that adoption and fostering are rare in Japan because people are unwilling to incorporate non-blood-related children into the family. In this argument, placing wards of the state in children’s homes is only natural—and, indeed, inevitable—in a society rooted in the celebration of “traditional” biological relatedness. Here biological descent becomes the boundary dividing those who are incorporable and non-incorporable as kin. As discussed in the Introduction, these discourses persist despite the fact that diverse adoption and fostering

\(^3\) Tsuzaki Tetsuo, personal communication, July 17, 2011.

\(^4\) Foster care is increasingly receiving media attention, however, as evidenced by a recent newspaper article series focused on foster families, and television specials about adoption.
practices have been important technologies of kinship in Japan since long before the modern era. Further, contemporary Japanese families do pursue fostering and adoption—albeit often facing a lack of social understanding, which leads many adoptive parents to keep the adoption secret, even from the child. However, only within around the last hundred years has overt reference to the importance of blood ties come to dominate discourses about Japanese character.\(^5\)

Further, although child abuse has become a topic of common knowledge in Japan in the past two decades (Goodman 2002), the pragmatics of Japan’s child welfare system are little known. In fact, many Japanese people understand the term “foster parent,” or satooya, to index the foster care of pets: an internet search of the term reveals more websites advertising cats and dogs than child welfare-related websites. The Japanese term for children’s home, jidō yōgo shisetsu (児童養護施設), is often misunderstood as an institution for developmentally disabled children or juvenile delinquents. Japanese texts on the topic describe the ways in which placement in a children’s home is experienced as social exclusion (Nishida 2001), in which residents of children’s homes might be considered “invisible minorities” (Nishida 2011).\(^6\) Thus, Professor Hasegawa and colleagues’ efforts to improve the visibility of the city’s foster care system was necessary in increasing public awareness and interest in child welfare concerns and in recruiting foster parents. The project was also pressing back against a host of discourses about

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\(^5\) A focus on blood relationships within families seems to have emerged with the nuclear household. A gradually declining birthrate meant that there were fewer “extra” children to adopt out. Further, sociological transformations in which a large number of upper-middle-class women became housewives whose labor was eased with new technologies (like washing machines), made the need for servants (i.e., non-family members inside the private family space) obsolete (Ochiai 1997, Sand 2003, Ronald and Alexy 2011). Others argue that the rise of advanced reproductive technologies contributed to the cultural valorization of biologically related progeny, which then came to be experienced as obligatory (Shirai 2010, Tsuge 1999).

\(^6\) This is in part because the old-fashioned word for “orphanage,” kojiin (孤兒院), is no longer used; children in Japanese children’s homes are rarely orphans, anyway. Jidō yōgo shisetsu has a more technical social welfare valence than kojiin, and means “an institution for the care of children.”
Japanese people as such, and the structural constraints that make entire populations of people invisible.

In a very important way, however, the city’s public relations campaign highlights the tensions inherent in the problem of *shinken*, parental rights. The campaign focuses on the concept of “new *kizuna,*” or new ties that can be *created* through effort and time between adoptive or foster parents and child. Simultaneously, the concept that kinship ties can themselves be created is, I believe, a central reason why *shinken* itself is so fetishized as a crucial factor in allowing birth parents to maintain the possibility of a relationship with a child.

![Figure 2: “New ties” event advertisement popularizing foster care.](image-url)
The image included here is an advertisement for an event held in Hasegawa’s city. The large script in the center reads “new ties” (atarashii kizuna), and the subtitle explains, “for the benefit of children who cannot live with their families.” The speaker at the event is Murata Kazuki, a freelance writer based in Tokyo whose book, Making Family: The way of life of non-adoptive foster parents (Kazoku wo tsukuru: yōiku satooya to iu ikikata), is well known within the broader Japanese child welfare community. Murata’s writing, like many texts in this genre, focuses on the possibilities of creating family out of non-family through caregiving practices over time, in this case importantly through non-adoptive foster care (Murata 2005). Thus while this campaign to popularize foster care speaks directly to potential future caregivers, by representing family ties as something that can be agentively made, the very concept of indelible kinship ties that are created in foster care explains, in many ways, why foster care might be seen as highly threatening to a parent who has lost custody of a child.

With this point I return to the other aspect of Professor Hasegawa’s city’s project to increase foster care. With the publicity campaign targeting future caregivers, another important aspect of the city’s interventions was to provide legal council to the local child guidance center. When a caseworker becomes involved with placing a child in out-of-home care in cases of abuse, neglect, or generally in situations where a parent cannot care for the child at home, the placement is almost always decided through negotiation between the caseworker and the parent. Although my ethnographic material does not extend to courts, a widely held perception is that if a child welfare custody case goes to court, the family court almost always rules in the favor of the parents.\(^7\) Thus the anticipation of family courts following well-established precedent, which

\(^7\) Bamba and Haight cite statistics from 2007, in which 40,639 cases of child maltreatment were brought before CGCs, and out of those cases, CGC staff members appealed to the family court for termination of parental rights in
privileges the parental rights of the biological parents, shapes caseworkers’ decisions. Further, even if a child is placed in a children’s home, the parent often maintains some legal parental rights, *shinken*. *Shinken* are a set of rights regarding the care of a child. The Japanese characters themselves mean parent (親) and authority, power, or right (權), but although the term evokes rights of the parent, revised versions of the Japanese child welfare law make explicit that these rights are also attended by responsibilities. *Shinken* entails seven basic parental rights, all of which are actions with the child as the object: right to care and custody, right to educate, right to determine residence, right to discipline, right to approve of employment, right to manage inheritance, and right to legally represent.  

Crucially for the analysis that follows, parental rights are partible: in some situations, different people might each hold different elements of *shinken*. For example, a children’s home director might hold the rights to custody, education, and discipline, and the parent would hold other aspects of *shinken*. But although *shinken* is partible, multiple people cannot hold the same aspect of *shinken*. Although a married couple jointly holds *shinken* rights, a divorced couple must split parental rights so that one holds some rights and the other parent holds other rights. A crucial point is thus that the married couple functioning effectively and as a unit as caregiver for a child is the unmarked, unnoticed, unproblematic standard. *Shinen* only becomes a problem when parents divorce—when one unit becomes two—or cannot care sufficiently for their children. Further, when the division of *shinken* becomes a problem, both parents and children are made legible to the state in a new way. The rights that had “naturally” attended parents’
relationships with children can no longer be taken for granted, and these newly tenuous rights inevitably entail the attenuation of attachment relationships, as will become apparent.

Relationships to the state are also newly mediated by the figure of the social welfare caseworker. Upon divorce or family breakdown, the assignment of parental rights is relatively straightforward, as shingen is generally allocated in predictable ways (as outlined below). However, it falls to the CGC caseworker to negotiate the interpretive murkiness of the pragmatic implications of certain people holding certain aspects of shingen. Caseworkers are the actors most centrally charged with the right, by virtue of their position as government authority figures, to parse rights and responsibilities, and to consider these rights and responsibilities in light of what they judge to be the best interests of the child. As will become clear, this is most true in the case where a parent loses custody, but retains the right to determine a child’s residence.

Discussions about parental rights are thus negotiations regarding the types of relationships that people, in different structural positions, think should be prioritized. Those who cite shingen as reasons for a child’s placement in a children’s home might do so with hope, indicating that the parent is still interested in maintaining a relationship with the child; when the parent is abusive or uninterested, parental rights may be described as a barrier to the child’s best interests (being placed in foster or adoptive care). It is in this context that shingen is often discussed in Japanese child welfare circles in terms of the “shingen mondai,” the question or problem of shingen. This phrasing highlights the ways in which parental rights are both a question and a problem: a topic of dispute, and a legal barrier to attaining what many people understand as the “best interests of the child.” The phrase shingen mondai indexes perceived
tensions between the child’s present and future well-being, and the rights of the child’s parent to maintain legal ties with the child.¹⁰

By virtue of their position of responsibility for interpreting the various and sometimes competing imperatives of *shiken* holders’ desires, children’s situations, and placement options, caseworkers end up being charged with what many feel to be a heavy burden with contradictory objectives. The fact that parents often maintain some elements of *shiken* means, pragmatically, that the state still considers the parent to be the ultimate arbiter of many aspects of the child’s existence. How is a caseworker to act when a parent has lost custody but still retains the right to determine a child’s residence, and at the same time the parent is unavailable to consult, having apparently abandoned the child, but never explicitly relinquished parental rights? As I argue below, the difficulty interpreting the law allows caseworkers to make decisions based on their own understanding of what parental rights imply about the bond between the rights holder and the child, both at present and in the future. Caseworker assumptions are *tacitly* based on the understanding that the caregiving relationship between a child and foster parent will constitute kinship in a way that will forever exclude the child’s natal parent.

Although it is incumbent upon caseworkers to parse the rights and responsibilities of involved parties, many caseworkers understand their proper role as that of *not* making what they perceive to be binding decisions. As will be elaborated in this chapter, caseworkers often argue that placing a child in foster care forecloses the possibility of family reunification. So if a city—like the one where Professor Hasegawa works—is invested in increasing foster care placements,

¹⁰ At the time of my research, several of my interlocutors, who were foster parents and child welfare researchers, were engaged in pressuring the Ministry of Health, Labor and Welfare to revise the civil code’s treatment of *shiken*. This proposed revision would address what they saw as endemic problems within the child welfare system, and the pragmatic tensions between the *shiken* law and the practice of foster care. Some of these points will be discussed in detail below.
there must be a legal authority working with case officers whose counsel diffuses the responsibility caseworkers themselves feel in making placements.

There are further reasons that caseworkers may desire easy access to council and connections with legal authorities. As in social work professions in general, Japanese caseworkers are required to develop rapport with children’s parents, but they are also simultaneously charged with investigating potential child abuse and neglect cases and petitioning the family court for suspension or termination of parental rights. In a white paper report on children, Sato Takashi, a caseworker in Kanagawa Prefecture, describes the tensions caseworkers perceive between these two roles. Based on a national survey of CGC staff, Sato summarizes the majority opinion that CGC workers’ jobs are social work positions, which include negotiation with parents and should not include the enforcement of restraining orders, demands that parents appear at the CGC with the child, or forceful home investigations. These types of involvement, however, are often required of caseworkers, as there is often no one else to fill this role. CGC staff members thus feel the need for police and legal support and the active involvement of courts in restricting parental contact with children (2009: 139). In complicated cases that require law enforcement involvement, caseworkers also worry that conflicts with clients will “impede subsequent social work interventions” (Bamba and Haight 2011: 182). As will become clear in this chapter, much of caseworker labor is that of negotiating with a child’s parent. This emphasis on negotiation, often without legal council, is an important factor defining the prevalence of institutional placements. These dilemmas are among those that motivated Hasegawa and other government officials to provide legal council within the city’s CGC.
**The ties that bind?**

Attending ethnographically to the relationships that emerge within the ambit of the child welfare system is an excellent way to render problematic any assumptions regarding the power of either biological relatedness or legal ties to engender durable kinship attachments. In this context, what exactly is a blood tie, and how is it discursively and practically rendered vis-à-vis biology and law in Japan?

In his treatise suggesting either the abandonment or radical reconfiguration of anthropological kinship studies, David Schneider writes that anthropologists have long assumed a universal valorization of the relationships that “arise from the processes of human sexual reproduction”: anthropologists have made the naive assumption that in every society, “Blood Is Thicker Than Water” (1984: 165). Based on this supposition, Schneider writes, anthropologists have presumed that

kinship consists in bonds on which kinsmen can depend and which are compelling and stronger than, and take priority over, other kinds of bonds. These bonds are in principle unquestioned and unquestionable. They are *states of being*, not of *doing* or performance—that is, the grounds for the bonds “exist” or they do not, the bond of kinship “is” or “is not,” it is not contingent or conditional, and performance is presumed to follow automatically if the bond “exists” (ibid: 165-6, italics in original).

Of course Schneider’s own earlier research illustrates the ways in which kinship is, precisely, constantly questioned and questionable, relationships of doing and performance rather than states of being, conditional and contingent ties that do not follow automatically from a biological bond. Kinship appears in different guises depending on how you look at it. Simultaneously, Schneider’s material indicates that there is often the understanding that kinship ties should be bonds upon which people can depend, but that dependability is subject to those bonds’ proper performance. Schneider describes the “fuzzy boundary to genealogies” rooted in the differential
interpersonal relationships between persons related by blood. One of Schneider’s more flavorful interlocutors articulates how her “preference” shapes the ways she conceptualizes kin: “I frankly prefer not to be related to them. He is a river rat and she is a hillbilly, and they have five kids to prove it” (1980: 74). This sort of data expresses the “contingency of attachment” (Stasch 2009) at the heart of conceptualizing family, which depends on proper actions in order to constitute kinship as such. Even biological kin, who must be made kin through time and care, are also the “families we choose” (Weston 1991).

The contingencies characterizing kin attachments in my own field sites in Japan were certainly the norm: the possibility and probability of failed relationships, lost ties, and broken trust characterized many of the family relationships of my interlocutors, whether based in blood or not, and whether legal or not. Yet in the same way that Schneider describes anthropological assumptions regarding the non-negotiability of biological kinship ties, discourses about kinship in Japan also tend to center on this very concept that “blood is thicker than water.” Indeed, the Japanese translation of the phrase (chi wa mizu yori koi) is commonly used to indicate the compulsions of family as a force bringing kin together. Only one of my research subjects, when citing this phrase, noted pointedly that although people say, “blood is thicker than water,” there is also a corresponding set phrase: “kin are strangers” (shinseki wa tanin). Neither proverb, of course, expresses the content of practice. However, the positive affect of the family tied together in stable bonds of blood and law is a constant source of striving, an ideal that appears always deferred from the prosaic here-and-now of relationships whose parties would define their practical ties as precarious or divergent from that of a “typical” Japanese family.

What then is the affective load commonly presumed to be carried by blood ties—which might in the end be shaped by the presence or absence of legal ties? How do blood ties
themselves seem to shape human relationships? This issue is at the heart of Hasegawa’s explanation described above. What is the impasse within the shiken mondai, the question or problem of parental rights? It seems, initially, to be the fact that these parents “are just really focused on the blood relationship between themselves and their child,” as Hasegawa told me. Although the parents themselves may have failed in performing the connection that is “presumed to follow automatically if the bond ‘exists’” (Schneider 1984: 166), a parent’s concern with a blood relationship indicates some degree of imagining a future relationship with that child, even if none exists in the present. Focusing on the blood relationship is one way to express a future-oriented hope for (re)connection, a prioritization of the relationship by virtue of a bond that “exists” objectively in the world. That relationship might, in fact, exist on paper alone, in the bureaucratic detritus of family registers and CGC paperwork.

However, specifically in the face of adoption as a mode of cutting the “parent-child bond,” all sorts of future-oriented connections may be imagined or hoped for. Some of these connections, such as they are, might be most likely activated after the parent’s death. A child still entered in a parent’s family registry may be entitled to the bureaucratic benefits of legal kinship status: insurance payments after the parent’s death, property inheritance, some sense of obligation to look after the parent’s grave. At the same time, for Hasegawa, it is clear that the legal tie concretizes and makes real a parent-child relationship specifically in the face of the failure of blood to motivate enduring emotional connections. The very fact that the child has been taken away from the parent indexes the failure of putatively powerful biological ties that should have—but didn’t—motivate an enduring relationship. The legal tie, shiken, is all that is left; but legal ties have long tails, sometimes trailing beyond death.
A second important point is Hasegawa’s comment, that natal parents “don’t want to cut the parent-child bond by having the child fostered or adopted.” Hasegawa himself clearly knows the legal differences between fostering and adoption, but in his instinctive and too-quick answer to my question, he voices the perspective of a parent whose child has been removed from the home. If a child in this situation is placed for adoption, it is true that the legal parent-child bond would be officially terminated, and the child removed from the parent’s family registry. The child would take the name of the adoptive family, being entered into the adoptive family’s registry as a “true child” (jisshi). Further, the child would have neither obligation to the birth parents, nor the right to inherit from them.\(^{11}\)

In the case of fostering or institutional care, however, a portion of the legal tie remains with the family of birth. And, importantly, in extreme cases where the parents entirely lose shiken, the legal guardian would be the head of a children’s home or some other officially appointed guardian—again, not the foster parents. So neither fostering nor institutional placement would legally “cut the parent-child bond.” In what sense would it threaten a “blood tie”? The slippage in Hasegawa’s reply indicates that a focus on a “blood relationship” expresses, in many ways, the mutability of the bond seen to be indexed by biological ties. “Blood relationships” are not understood simply as the unchangeable, objectively true biological facts of reproduction. Rather, blood ties are something in process, subject to time and circumstance, and—most importantly—potentially threatened by other relationships. In other words, while institutional care might pose no such threat, foster care is understood to “cut the parent-child bond.” This is not by removing the legal connection or the biological connection, but by allowing the creation of attachment between the child and a non-related adult. It is this process

\(^{11}\) This scenario describes the case of “special adoption,” rather than “regular adoption” (see Introduction).
that, Hasegawa’s explanation indicates, is a central threat to the parent who wants to maintain both shinken and perhaps the future possibility of attachment to the child.

**Temporary engagements and the fear of overstepping boundaries**

Out of the 30 children at Takeyabu no Ie, the children’s home that was one of my field sites, two were considered by the children’s home staff prime candidates for foster care.\(^{12}\) One was a three-year-old girl named Kaori whose mother had been clear in her intent not to raise her, and this child had been placed in two different foster homes, but had been returned twice to institutional care after both foster matches failed. The children’s home staff thought that this was probably because although Kaori was energetic and healthy, she was also difficult and strong-willed, and she showed some signs of developmental delay. The other child thought to be a good candidate for foster care was a three-year-old girl named Hikaru. Unlike Kaori, Hikaru showed no signs of disability or delay; like Kaori, she had been placed in a baby home soon after birth, and had never been raised by her own parents. Hikaru was cheerful with sparkly eyes and dimples, and many of the children’s home staff seemed invested in finding a foster family for her. Whether adoption was a long-term goal was never made explicit.\(^{13}\)

In my visits to Takeyabu no Ie, one of the senior staff members, Fujikawa, often updated me on the project of finding a foster family for Hikaru. The process was proceeding smoothly, he

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\(^{12}\) The other 28 children at the children’s home were not considered good candidates for various reasons. A general perception is that children older than age 6 are poor candidates, because they are too old to be adopted under Japan’s special adoption law (more on this below), and foster and potential adoptive parents prefer younger children. Second, any child who has any contact with kin while in a children’s home is much less likely to be placed in foster or adoptive care. This chapter indirectly explores some of the reasons why.

\(^{13}\) The reason foster care for these two children—out of all the others—received perhaps disproportionate attention from the staff members was, I think, because Takeyabu no Ie had been conceived of as an unusual children’s home, one that would prioritize family-based care if possible. The reality, however, was that in practice very few children were considered by their caseworkers as available for placement in a family. Thus the two that were candidates became rather a cause célèbre around the institution.
would tell me excitedly—Hikaru’s case worker had located a couple that seemed interested; or there was a meeting between the interested couple and Hikaru, and they got along well. But then one day, his face heavy with disappointment, Fujikawa told me that everything had ground to a halt. “Hikaru’s mother suddenly appeared at the child guidance center” (jidōsōdanjyo de kyū ni arawareta), he told me. What was crucial was that the woman simply—and suddenly—appeared there: her material presence, perhaps more than anything she might have said, was the crucial information for Fujikawa to convey in his explanation of why all talk about foster care had suddenly ceased. Hikaru’s mother’s physical presence—at the CGC, notably, not at the children’s home—was itself proof to Fujikawa that foster care was not in Hikaru’s future. There was nothing that Fujikawa or the other staff members could do; the job of negotiating with Hikaru’s mother was that of Hikaru’s CGC caseworker.

Many of the people with whom I spent time during my fieldwork were highly critical of the functioning of Japan’s child guidance centers. Words like “negligence” (taiman) and “lack of responsibility” (musekinin) were flung about in symposia and in casual conversation. I was often amazed that CGC caseworkers dared show their faces at large events dominated by foster parents and activists working in foster and adoptive care, where panelists sometimes called CGC workers out in the audience: “Is anyone here from a CGC?” A brave volunteer might raise his hand and then be forced to tremulously defend bureaucratic practices at his particular organization, and at CGCs in general: Why didn’t CGC workers try to convince birth parents to let their children be fostered or adopted? Why didn’t CGCs arrange foster placements for newborns, and why did they instead automatically place babies in infant homes? Most CGCs refuse to deal with women who are pregnant and uninterested in or unable to raise the child until that...
importantly, why was CGC practice so focused on protecting the interests of parents, rather than the wellbeing of the children, who should legitimately be considered CGC clients? For their part, CGC workers at these sorts of events were often themselves upfront about their perspectives regarding the problems endemic to Japan’s child welfare system, as well as the systemic limitations of the CGC system. However, they were equally adamant that they were doing the best they could within these confines.

In my conversations with child guidance center workers and institutional directors and staff about why caseworkers feel uncomfortable placing children in foster care—much less adoptive care, which involves more bureaucratic hurdles—many people used the term *katte*. The term is written with the characters for “winning” (勝) and “hand” (手). To do something *katte* means to take the liberty to do something, and also implies that this action has been done at the doer’s own convenience and may also be an arbitrary use of power. In this situation, the term seems to most closely refer to doing something that is outside one’s proper role and somehow impinges on another person’s rights. A caseworker might explain that although she *knows* that foster care might be preferable for a particular child, if the child’s natal parent is unavailable to give explicit consent, the caseworker might feel that placing the child in foster care without the parent’s explicit permission is *katte*, inappropriate, a transgression of the caseworker’s own

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child has been born. The woman would be instructed to return to the CGC after birth, when the infant would be placed in a baby home. If the CGC caseworker asks the woman to sign over parental rights, then that infant might be eventually placed for adoption (very rarely) or for fostering-to-adopt (more commonly). But in general caseworkers are unwilling to make the presumption that the mother will desire to relinquish rights, and with the absence of a signed document consenting to foster or adoptive placement, it is likely that the infant will stay in the baby home until age two, at which point the caseworker might seek a foster parent. If no suitable foster family is found, the child would be transferred to a children’s home. The older a child gets, the less likely it is that the child will be placed in foster or adoptive care.
status, and even worse, a violation of the parent’s legal rights. As will be explored further below, placing a child in institutional care does not seem to violate a parent’s rights in quite the same way—although legally both placements have the same effects on shinken.

However, sometimes it is unknown whether a parent approves or dissents, because the parent is not available to ask. This issue is a major source of disagreement among child welfare scholars, caseworkers, and activists advocating for increased foster and adoptive placements. The parents of children in Japanese child welfare facilities are often yukuefumei (行方不明), meaning that their whereabouts are unknown. The category of yukuefumei indexes not necessarily the unknowability of the individual’s whereabouts, but rather simply the state of those whereabouts not being known. Thus, in the example given above, the mere appearance of Hikaru’s mother at the CGC meant that although she had been yukuefumei in the past—thus allowing talk of foster care placement to proceed—her physical presence at the CGC re-materialized her into the realm of the known, and re-materialized her as a holder of shinken. Hikaru’s mother’s very presence, then, was enough to indicate that she had not forfeited her parental rights. Her presence must have also indicated to the caseworker some latent desire for a connection with Hikaru, and thus discussion of foster care ended.

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15 Because CGC caseworkers tend to believe that parents will feel threatened by the possibility of foster care placement, most caseworkers suggest institutional placements right away, rather than foster or adoptive care, even for infants (Hayes and Habu 2006). Although the Aichi prefecture CGC in Kariya is heavily involved in providing adoptive placements for newborns, no CGCs aggressively place infants in foster care. A research team investigating this topic presented their findings at the Japanese Society for the Prevention of Child Abuse and Neglect conference in 2010. Although infant home representatives recognized that placing infants in foster care might have benefits from an attachment perspective, they were skeptical that birth parents would agree to foster placements, and were concerned that foster caregivers would refuse infants with illness or disability. The research team’s survey of foster parents yielded many enthusiastic responses, although there were concerns with having the proper equipment to care for an infant, the need for institutionalized support, and the necessity to encourage young and energetic people to become foster parents (JaSPCAN 2010: 176).

16 It is also possible that Hikaru’s mother made intermittent appearances at the CGC in order to have her engagement as a parent—such as it was—bureaucratically documented so that she could receive a childrearing stipend, which is apparently still given to parents whose children are in institutional care, as long as their involvement is documented. Many caregivers and caseworkers expressed frustration with this system.
The parent whose whereabouts are unknown or who materializes only occasionally, but who has no relationship with the child, presents a particular set of hazards to a caseworker. In the absence of a national law stipulating that caseworkers must place children in families after a certain period of a parent’s absence, one caseworker told me, there is no way a CGC could take the liberty of (katte ni) placing a child anywhere but an institution. This is the case even though on the books, institutional care and foster care are both equally valid and legally supported placement options. According to this caseworker, the external authorization of a national law, which would require caseworkers to prioritize foster care by acting in the name of national legal authority, would be the only acceptable option. This is because, I think, a national law would allow the transgression of a parent’s rights in a way that did not locate the agency behind that action in the caseworker herself.17

Just like adoption, many people—caseworkers, institutional caregivers, and perhaps even foster parents themselves—perceive foster care as a threat to a birth parent’s potential relationship with a child, but my interlocutors never made explicit the reasons why. Kondo Etsuko and Nakagawa Takahiro, two CGC caseworkers who had spent long careers working specifically in child welfare, explained the difficulty of the caseworker’s position.

Nakagawa Takahiro: There are a lot of people who know they can’t raise the child, but they don’t have the personal resolve to have the child placed for adoption. (Sodaterarenai kedo, yōshi ni dasu made no kesshin wa tsukanai hito wa kekko iru.)
Kondo Etsuko: Yes, there are.
NT: “At some point, I want to raise the kid,” etc. (Itsuka sodatetai, to ka.) People who can’t raise the child, but want to leave the child as their own child (wagako de wa okitai).
KE: Right. People who, like... want to have the child still somehow attached to them (fuzokubutsu), kind of. You know, one day they’ll be able to take the child back. Those

17 Webb Keane (1997) and Elizabeth Povinelli (2002b) both theorize compellingly about the ways in which agents are attributed to actions. Successful representations often require that one presents oneself as neither agentic, nor bearing particular interest in the outcome of an event.
are the people who don’t have the personal resolve... See, those are the people you can’t directly ask, “What about foster care?” Because they’ll think that that means giving the child away. They don’t think it means just temporary entrustment. They think the foster parent will take their child. They have that intuition. So really, first of all, they want to have the child remain theirs. (Yappari, jibun no mono ni shite okitai to iu no wa mazu.) So during the time they can’t watch over the child—they can have the child in an institution.

Nakagawa’s citation of future-oriented, hopeful thinking illustrates the ways in which a parent might have “failed” as a parent so far—by virtue of not being able to care for the child at the moment—but who hopes to re-activate some latent parent-child bond in the future. And until then, Nakagawa says, these people want to “leave the child as their own child.” I have translated Kondo’s use of the term fuzokubutsu as indicating the desire to keep the child “attached” to the parents; the term might also index belongings, dependents, or an ancillary associated entity. The vague and future-oriented desire on the part of the parents to “one day” be “able to take the child back” are those individuals who lack “personal resolve” to have the child placed either in temporary or permanent foster care, since they intuit that a foster parent will somehow “take” the child. Kondo explains that the CGC caseworker herself is unable to directly ask the parent about foster care, because even this question will be interpreted as a threat. Recall that because caseworkers are in the situation of negotiating with parents, rather than having children taken away by court order, caseworkers are often careful of the presumed or imagined mood of the client. Rather than the caseworker explaining that foster care could be temporary, Kondo implies, the CGC officers are more likely to respect the “intuition” of the parents who feel, somehow, that foster care will result in their permanent loss of the child. A seemingly less permanent option is institutional care.18

18 Although institutional care is often considered temporary, the average duration of a children’s home placement is 4.6 years; a minority of children (5.2 percent) live in the institution for over 12 years (MHLW 2010a). Many
Indeed, caseworkers’ own interactions with potential foster parents may be premised on the notion that foster parents want to “keep a child to themselves,” as one institutional director told me. This assumption makes a caseworker even more uncomfortable arranging a foster care placement that is not sure to be permanent, but this discomfort emerges in imagining the foster parent’s disappointment if a child returns to his or her natal family. Nakagawa explained, “There’s the thinking in the CGC that there might be some risk, if you send the child off to a foster parent right away (saishyo kara dashichau)... You ask the favor of a non-adoptive foster parent (yōiku satooya ni onegai suru)—but what happens if suddenly at some point the child has to be taken from them? Then you’re in trouble. That sort of thing happens at the CGC.”

In our conversation, Kondo and Nakagawa described placing a child in foster care not as acting under their own agency, in actively pursuing placements for children, but rather repeatedly used the phrase, “ask the favor of a foster parent,” in describing this process. This language points to the affective labor at the heart of their work as CGC officers: their job is to cultivate the consent of the natal parent to remove a child from the home, or place an infant in alternative care, but also to approach potential foster parents for the favor of taking in a child.

Notably, placing a child in institutional care was never described as asking a favor of the caseworkers and children’s home staff members told me that when a child is abandoned in an institution (meaning, the parent does not return to visit), if the parent does not reclaim the child in six months, it unlikely the parent will ever return. Notably, durational statistics do not represent the situations of children who move in and out of placements over the course of many years. Thus the average stay at one institution may be 4.6 years, but this does not represent the total average length of time a child might spend in a variety of placements. The majority of the individuals I interviewed who had grown up in alternative care spent time in at least two institutions (sometimes including a baby home).

The ways in which foster care was categorized in the post-war system may play a large role in shaping the perception that fostering and adoption are pragmatically isomorphic. Initially, there was no categorization difference between foster parents who hoped to adopt and foster parents who did not hope to adopt; these categories were made distinct only in 2008. Even now, individuals who hope to adopt through a CGC must first register as foster parents. It is difficult to find information about how to adopt privately (i.e., not through a CGC), and there is no national system for regulating or organizing private adoption agencies, many of which are run by religious groups, small organizations, or individuals. Thus many people who want to adopt first register as foster parents through the CGC. But because of parental rights laws, and CGC caseworkers’ tendencies not to place babies for adoption or foster care, many people who hope to adopt end up fostering a child who is not available for adoption.
institutional caregivers, which implies quite different expectations about the position of the foster parent as a private individual whose welfare contributions cannot be presumed upon in the manner of institutional care. Similarly, the intimate logic of favors implies different stakes for the foster parent. Even though Nakagawa is explicit that his example applies to a non-adoptive foster parent, as far as he is concerned, the CGC would be “in trouble” (komaru) if the foster parent agreed to take in a child who was later reclaimed by birth parents. In sum, the notion of foster care placements—by virtue of the assumption that they are not temporary—constitute a particular form of risk for caseworkers. Foster placements might be a site of inappropriate and katte action, and might also be a site of a caseworker’s failure, vis-à-vis a foster family, when the permanency the foster family might have desired was interrupted by the return of a parent.

The imagination of institutional care as a temporary solution mirrors other aspects of engagement that are also often temporary: the relationship of a caseworker with a child and that child’s parent. A large percentage of CGC workers are regular government workers (kōmuin), many not trained in child welfare concerns. Government officers in Japan are generally transferred to different offices every three to five years, ostensibly to give them a broad sense of the problems affecting diverse areas of the country, as well as to give them training in fields as diverse as child welfare, transportation, or water sanitation. Some caseworkers, like Nakagawa and Kondo introduced above, specialize in a field and are allowed to remain in one placement; other specialists are still subject to transfer rules. One CGC worker named Tanabe Nobuko, also a child welfare specialist, explained to me that she has been at her current CGC for four years,

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20 Forty percent of the staff members are general administrative officers with no training in child welfare; 20 percent have qualifications in some sort of human service, like teaching, public health, childcare, or child welfare; and the remaining 40 percent are educated in social welfare (Bamba and Haight 2011: 181). Professional social work qualifications do not exist in Japan, so education in social welfare is not equivalent to a professional degree.

21 It is possible that the transfer system is also intended to prevent overly cozy relationships between government workers and local businesses and politicians, although this is not an argument I heard.
which is longer than any of her previous appointments. Although it takes a long time to gain the trust of clients, Tanabe said, the transfer system means that a caseworker will not be able to stay with any given client for very long. Caseworkers will be unable to develop lasting relationships with the children whose futures are affected by placement decisions, and will not be able to track any individual’s progression or assess placement outcomes. Although some of the foster parents I know enjoy long relationships with individual caseworkers, the governmental transfer system ensures that this is uncommon.

I want to highlight the ways in which temporality—particularly the quality of temporariness—emerges as both a systemically imbedded quality of engagement within the Japanese child welfare system, and is represented discursively as sometimes a virtue, and sometimes a flaw. Caseworkers’ engagements with children may be temporary because of the government transfer system, but can also be temporary simply because caseworkers may discontinue interaction with a child if that child’s parent is not in the picture. A parent whose whereabouts are unknown means, as described above, that a caseworker may feel unable to take action in making alternative placement arrangements. So although the virtue of institutional placements might be that they are easy to sell to an abusive or neglectful parent, institutional care might for that same reason end up being a permanent solution by default.

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22 One final important factor is that CGC workers’ caseloads are very high; Tanabe herself had 90 cases, which is lower than the national average of 107 cases at any given time (JaSPCAN 2010: 46). The notion of screening massive numbers of foster parents and doing regular follow-ups with them is too much for many CGC workers to consider, and thus institutional placement is a tempting option for overburdened caseworkers. For some caseworkers, the Ministry of Health, Labor and Welfare’s concurrent policy statements, which advocate for the increase of foster care in line with international child welfare guidelines (see Chapter 1), seem to exist at odds with the realities of social welfare casework.

23 Tanabe described how a caseworker might receive notice of a transfer only a couple weeks before the transfer would occur; at that point the caseworker would scramble to contact clients and complete paperwork before moving to a different office with a completely different client base. Sometimes, she said, a caseworker will visit a client for the first time, and the client would simply remark, “Oh, my caseworker changed again, eh” (mata kawatta ne).
At the same time, engagements within the institution itself can be short-lived, as institutional staff members move between jobs. Although a staff member or children’s home director might end up developing long-term ties with individual children, this sort of care work is, after all, employment. The child welfare treatise, *Children Who Wait* (Rowe and Lambert 1973), describes the ways in which children in state care exist in an unending state of anticipation, waiting for decisive action from adults that never materializes.\(^{24}\) In the specific case of Japan, by virtue of their placement in institutions, children may be understood as waiting, too, for engagement from the parents who placed them there. If placement in an institution does not “cut the parent-child bond,” it is precisely because parents may figure the institution as an open-ended space for waiting. As one children’s home staff member told me, “We are not raising these children. We are temporality entrusted with their care (*azukatteimasu*).” Thus, from all sides, children in Japanese institutions are engaging with parents, caseworkers, and caregivers, as adults who are temporarily invested in their wellbeing, with a non-defined—and sometimes ever-receding—horizon at which temporary engagements might transform into something more durable.

In summary, foster care and institutional care have the same stakes for the parent’s *shiken* status, and the latter is understood to be temporary—in many ways—while the former is not. Even though no one made these arguments to me explicitly, the very qualities of caregiving practices in foster homes, in which a foster parent materially and emotionally invests in a child, implies the creation of a long-term and durable attachment. This is why a foster parent is asked—as a favor—to take a child, while an institutional caregiver is not. Further, the “intuition” of a natal parent that a foster caregiver will “take” the child is surely based on the sense that the

\(^{24}\) Thanks to Seamus Jennings for emphasizing this point.
emergent kinship ties between the child and foster parent will trump those of the absent parent. By invoking *shinken*, caseworkers often allow a parent’s very absence, in an all-present way, to shape the kinship ties the child is able to develop.

**Partial rights: Pragmatics of engaging *shinken* in foster care**

As noted above, in cases of fostering or institutional care in Japan, a portion of *shinken* remains with the child’s natal parents. The statutory pragmatics of Japanese parental rights divisions make explicit the impossibility of posing an easy typology for understanding the stakes of legal parent-child ties. *Shinen* can be parsed and fragmented, and each part held by different individuals. What sort of relationship is entailed in the partibility of parental rights? How might the holding of one part, but not others, have pragmatic effects on the relationship between holder of parental rights and the child?

*Shinen* is not divided only in cases involving child welfare. As mentioned above, there is no joint custody in Japanese law, so in the event of divorce, parental rights in their entirety might be granted to only one parent, or these rights split, so that one parent holds some and the other parent holds the rest. In child welfare law, *shiken* is growing increasingly partible as well, with increasing numbers of people or governing bodies assigned different elements of *shiken* for a particular child. Although prior to January 1, 2005, only the natal parent, the head of a child welfare institution, or a legal guardian could hold parental rights, after a revision of the child welfare law, foster parents were given an element of *shiken* as well. Many foster parents celebrated this decision, arguing that finally foster parents and institutional caregivers were considered on equal legal grounds. However, this ascription of *shiken* to foster parents changed little at the level of practice. Groups of foster parents and scholars are currently advocating for
further parental rights, or for a system that flexibly addresses the issue of parental rights on a case-by-case basis.

In a document published online on a foster parent weblog, Takenaka Katsumi, who identifies himself in the document as a Tokyo-area foster parent, outlines the legal implications of the 2005 application of limited *shinken* to foster parents, as well as remaining problems that the legal revision did not address. He outlines the contemporary categories of parental rights in a table, where the presence of *shinken* is marked by a circle, and the absence by an x (Table 1):

<table>
<thead>
<tr>
<th>Shinken (applicable civil code section in parenthesis)</th>
<th>True parents (実親)</th>
<th>Institutional head (in the case of there being no other shinken holder)</th>
<th>Institutional head (in the case of their being another shinken holder)</th>
<th>Foster parent (before the 2005 legal revision)</th>
<th>Foster parent (after the 2005 legal revision)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Right to give custody and care (監護権) (820)</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>×</td>
<td>○</td>
</tr>
<tr>
<td>2) Right to give education (教育権) (820)</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>×</td>
<td>○</td>
</tr>
<tr>
<td>3) Right to determine place of residence (居所指定権) (821)</td>
<td>○</td>
<td>○</td>
<td>×</td>
<td>×</td>
<td>×</td>
</tr>
<tr>
<td>4) Right to discipline (懲戒権) (822)</td>
<td>○</td>
<td>○</td>
<td>○</td>
<td>×</td>
<td>○</td>
</tr>
</tbody>
</table>

Table 1: Presence and absence of *shiken*. Reproduced and translated from Takenaka 2009.

| 5) Right to approve employment (就業許可権) (823) |  |  |  |  |  |
| 6) Right to manage assets (財産管理権) (824) |  |  |  |  |  |
| 7) Right to represent (代表権) (824) |  |  |  |  |  |
| Consent for child’s adoption (養子縁組の承諾) (article not listed) |  | Consent required by prefectural governor (in practice, head of the CGC) |  |  |  |

From the reproduced table, we can see that from a legal position, foster parents now have the same *shiken* as institutional directors, *in the case* that there is another *shiken* holder (presumably the natal parents, or perhaps a relative). Even if there is no *shiken* holder, however, foster parents still hold only the three rights of giving care and custody, education, and discipline; the other aspects of *shiken* would default to the head of the CGC in charge of the child’s case.

Note the categories of *shiken*. As long as there is another *shiken* holder in existence—even if that person has no interpersonal relationship with the child at all, or has been absent for years—both foster parent and institutional head hold only these three rights: care and custody, education, and discipline. The holder of the remaining *shiken* has the right to determine where the child lives, the right to give permission or withhold permission for positions of employment, the right to manage the child’s assets, and the right to represent the child legally (for example, in
signing contracts, opening bank accounts, and in medical cases). The *shiken* holder also has the right to approve or disapprove adoption.\textsuperscript{26}

In his document, Takenaka follows this chart with a list of the problems attendant with the limits to foster caregivers’ parental rights. The concerns he outlines here are the traces, in legal language, of the pragmatic barriers that legal categories might constitute in daily life, as foster parents attempt to care for the children with whom they have been charged. Although he does not advocate for institutional care, Takenaka first argues that in the absence of the natal parent holding parental rights, children in children’s homes have the advantage of the institutional head holding all parental rights. By summoning one unit that holds *all* rights, Takenaka implicitly references the default and unproblematic category of the married couple, that similarly together holds *shiken*. However, he notes, because foster caregivers have so little power to enact the child’s interests, children in foster care are in the pragmatic situation of *lacking* rights (*mukenri jyōkyō*), since there is no one close to them who can legally act on their behalf.\textsuperscript{27} This rhetorical move is based on the concept of children’s rights as the proper motivator for child welfare systems: Takenaka argues that these are unprotected due to legal limitations within the current foster care system.

\textsuperscript{26} While not detailed in Takenaka’s document, the right to approve or disapprove adoption is a common source of debate among child welfare officials in Japan. First, if the parent disapproves of adoption, does a CGC *ever* have the ability to place the child in adoptive care? Second, since the head of the CGC has the ability to approve adoption, when might it be assumed that a parental rights holder has forfeited those rights through long absence or abuse? Regarding the first point, if the parent disapproves of a placement—either in adoption, foster care, or institutional care—the CGC must either return the child to parental care, or take the case to family court. Family courts almost always rule in the parents’ favor, even in cases where abuse and neglect have been well documented (Tsuzaki 2009, Bamba and Haight 2011). While a recalcitrant parent might refuse other placement options, caseworkers are often able to convince the parent to have the child placed in an institution. In practice, an adoption cannot take place if a parent refuses to consent. Whether an adoption can occur in the case of the parent’s absence depends on the engagement of the caseworker and the family court judge.

\textsuperscript{27} Another foster parent, who raised two children from young ages, reported to me that she has never had trouble negotiating her lack of official legal rights. She has a close relationship with the children’s CGC caseworker, who always provided any legal document that was necessary. Notably, the two caseworkers quoted above, Kondo and Nakagawa, might argue that this family’s caseworker is acting *katte*, or overstepping appropriate boundaries, since the children’s mother is still alive and never officially relinquished her parental rights.
In the case that a holder of *shinken* exists, Takenaka writes, both institutional and foster caregivers may face a host of difficulties. The child’s legal representative (who, in this case, would be neither institutional nor foster caregivers) must be the one to complete the paperwork for a child’s residential registry or apply to request copies of related documents. The approval of the legal representative is necessary for a minor to apply for a bank account or postal savings account. Further, Takenaka notes, children cannot apply for these official documents using the family name of the foster parents (although many foster children go by their foster parents’ name—one more reflection of the ways in which kinship ties emerge at a representational and experiential level in foster care). Approval of the legal representative is necessary for entering into any kind of legal contract, including mobile phone contracts. Further, the approval of the legal representative is necessary for a minor to enter into a labor contract, which means that in some cases a minor would not be able to work without the cooperation of the holder of the right for representation. Finally, if for some reason a minor enters into a contract without the approval of the legal representative, that representative can cancel the minor’s contract. This is not something foster parents can do, which means foster parents may feel unable to protect foster youth from entering into contracts that might prove to their disadvantage; Takenaka gives the example of a youth renting an apartment in a dangerous area. Lastly, despite the lack of many legal capacities a caregiver might want, foster parents can actually be held liable for criminal damages incurred by a foster youth. This last point is often cited as an example of systemic asymmetry, in which a foster parent is legally bound to take on the risks, but not the benefits or protections, of caregiver status.

Underlying Takenaka’s legal enumeration are a whole set of highly emotionally charged concerns about the limits of the ability to care. These are, in the words of one caseworker,
expressions of the ways in which *shinken* can be a wall that is both impossible to scale and impossible to dismantle. The Japanese foster system exists in a strange space between institutional care and adoption. According to Takenaka’s depiction, a child might be raised by the same foster parents from toddlerhood, but that child’s inclusion in the sphere of the foster family is liminal by virtue of the legal restraints placed on foster parents’ abilities to enact care in the manner of a fully socially and state-recognized parent. (Of course, the fact that a foster parent might *want* to enact care in this way is a reason that a natal parent might prefer a child be placed in institutional care.) For instance, although a foster child is registered officially as residing at the foster family’s domicile, and this state will be documented (in perpetuity) in that child’s residential registry, copies of that registry are not available without the application of the official legal representative—who may be a parent with whom that child has never lived.

The legal status of that child is inscribed materially in many ways that concretize the tensions at the heart of sometimes contingent and tentative family inclusion. These inscriptions and traces appear and then recede in tandem with bureaucratic needs for a child to identify in a legally legible way as part of one—or another—family. Some foster parents and children are open about their status as a foster family, and some are not; some children go by their foster parents’ name, and some do not. But these personal decisions regarding self-representation often bump up against day-to-day negotiations of foster status. One night, sitting at the dinner table of a foster family, the mother instructed her daughter (a young woman she and her husband had raised from age four, but had never been able to adopt) to bring to the table a set of colored pencils from her elementary school years. “Look at the name written on the box,” the woman instructed me. “Isn’t the writing strange?” I inspected the phonetic characters with which the family’s last name was written. The characters were oddly stretched and cramped. This is
because, the woman explained, her daughter’s legal name had been originally written in phonetic characters; the girl had taken a pen and marked over the old characters, shifting their shapes to reflect the name of the foster family, by which she went when she was in grade school. Now, as a vocational college student, the young woman went once more by her legal name; the change had been necessary when she applied to professional school. Besides, upon having reached the age of twenty, she was no longer a ward of the state, although she still lived with the family and commuted from home to school. The names written and over-written on a box of colored pencils was an indexical icon of the layering and superposition of both public and private identities, graphically depicted in the twisted characters of a name (or two names), and pointing to the double status of the girl as a member of one family, although legally identified with another.

Felicitous representation of oneself as part of a certain family is always threatened by the possibility of being identified as an illegitimate member of that group. Even if a child goes by the name of the foster family, the child’s legal name will still be that of the parents in whose family registry the child is entered. Thus, the child’s name on any legal document, including bank accounts, may be a different name than the one by which the child is socially known. Children are able to use their foster family’s name in school, but stories are commonly told about teachers, ignorant of the child’s status, who announce the child’s legal name during roll call. One foster mother told me how her son had been teased for not recognizing his own legal name when he failed to respond to the teacher’s summoning. The school, as apparatus of the state, attempts to interpellate the child according to legal rather than affective or interpersonal logics (Althusser

28 A young adult in Japan can generally remain in state care until age twenty as long as she or he is pursuing advanced education; otherwise, care terminates at age eighteen, or age fifteen if the individual does not go on to high school.
The child’s failure to recognize him- or herself in that attempted interpellation, or to respond in a way recognizable by the legal categories that structure the child’s family affiliations, is experienced as a social failure. But the failure is double: although the child may not recognize himself in the terms of the state, the state is also incapable of making its own terms legible to the child. Indeed, this moment of dual failure is the moment at which the legal categories and bureaucratic residue of the child welfare system are experienced as a barrier to wellbeing. The inability of state procedures to accord with the affective attachments and affiliations of children and their caregivers is itself an indicator of state inflexibility. Thus, although Takenaka’s document does not explicitly cite these sorts of experiences, his representations of the legal stakes of *shiken* attribution contain within them the highly charged experiences of pragmatically engaging legal forms of belonging.

Takenaka concludes his document by tracing out what he understands to be three possible trajectories for the status of foster parents as *shiken* holders. The first is the most conservative and addresses a discomfort some people feel with the fact that foster parents are, after all, private actors, which makes it inappropriate for them to take the same legal role as institutionally situated directors of children’s homes. Under this formulation, *shiken* is better invested in the head of a CGC, who will supervise the foster parent. A second way to understand the proper role of foster parents under the law, Takenaka suggests, is for the Ministry of Health, Labor and Welfare to create an official interpretation of the *shiken* law that would allow foster parents to be able to conduct legal matters necessary for their children’s day-to-day existence. These would include the ability to sign mobile phone contracts, open bank accounts, and apply for a passport, all of which, with intervention from the Ministry, could be categorized as actions possible under the right of care and custody. Takenaka’s appeal to a Ministry intervention speaks directly to the
caseworkers’ concern, above, with acting inappropriately or transgressing the rights of others. By an authorization from the Ministry, the actions of both caseworkers and foster parents would be legitimated as within socially accepted confines.

The final possibility Takenaka outlines, as a potential future direction for the interpretation of shinken, is the most radical, and focuses on a point introduced above: debates and negotiations surrounding parental rights are, at their heart, centered on the ability of foster parents to care. Further, here he addresses the temporalities at stake in legal formations that shape the ability to care, and for the caregiver and child to create durable and long-term relationships. Under the banner of the concept of “permanency” (which he glosses using the English term, pāmanenshī), Takenaka writes, foster parents in the United States are often able to adopt foster children and still receive the financial and programmatic support a foster parent would receive. This makes adoption an attractive option, and the provision of a supportive community prevents adoptive families from becoming isolated. But for families in Japan who do not adopt, Takenaka argues that foster parents caring for a child on a long-term basis should be treated legally with the same standards as an adoptive parent, receiving elements of shinken on a flexible, case-by-case basis. Further, he implies, adoptive parents in Japan should also receive the same financial support a foster parent would receive. The notion of “permanency,” the child welfare concept of providing opportunities for long-term bonds between caregiver and child, is a guiding concept for him. Notably, Takenaka translates the English term into Japanese as a “persistent or lasting relationship of mutual trust” (eizokuteki shinrai kankei).

In Takenaka’s citation of this term, a “persistent or lasting relationship of mutual trust,” he indicates that trust, as a concept, underlies theorizations of relationality over time: the belief that an interpersonal tie is stable, that it will last, that it will remain where you left it, even if you
look away. Takenaka’s arguments are rooted in the perspective that foster care provides the opportunity for these sorts of enduring and stable relationships, opportunities that, he would argue, are relatively rare in the case of institutional care. Persistent relationships of mutual trust are framed in implicit contrast to the ties of a caseworker to a child, whose short duration is built into the system of government worker transfers, or to the child’s relationship with children’s home staff, where staff member turnover is high. Takenaka’s final argument is based in the authority of the United Nation’s Convention on the Rights of the Child, which states that children have the right to be raised in a household: in order to guarantee the rights of a child, Takenaka argues, the rights of foster parents must also be carefully considered. Takenaka thus fuses arguments based in international human rights, domestic Japanese law, the pragmatics of caregiving within the contemporary foster care system, and theories of long-term interdependency and trust in his argument that foster parents’ ability to care should be protected by the law.

Conclusion

Legal ties have long tails. Like the partible shinen system, family court conservatism, allowing parents to hold rights even in cases of abuse or neglect, ensures continuity of the household over the long term, which itself can have affective value. By maintaining some aspects of shinen, a natal parent is able to preserve a connection with a child that is neither about care nor practice nor performance, nor the emotional attachments that might emerge over time in intimate conditions. This is not to say, however, that children do not feel emotional connections to absent parents. In some ways foster youth’s maintenance of a parent’s name, rather than legally adopting the name of the foster family, is a way of preserving some
connection, a sense of kinship with two families, and the possibility of reconnection, even if that reconnection occurs only upon the parent’s death. From some perspectives, seemingly temporary ties in the present might seem to allow more permanent ties in the future.

Despite the focus in Japan on the importance of blood ties and claims that Japanese people value blood as a mode of kinship, an exploration of legal processes illuminates the practical ways in which kinship is made, not always already present in a biological tie. The case introduced at the start, in which Professor Hasegawa’s city successfully pushed for a more robust foster care system, is illustrative. The public relations campaign focused explicitly on the ways in which kinship is created as a “new tie” (atarashii kizuna) between foster parents and children. It was precisely this perception, that new and durable bonds can emerge in foster care, that necessitated a way to legally mediate between child guidance center caseworkers and parents, who might both understand this capacity as a threat. The presence of a lawyer affiliated with the city’s CGC, then, would have the capacity to help CGC workers make placement decisions that they could understand as authorized by the lawyer’s legal advice, rather than a decision that could be interpreted as katte, overstepping boundaries. Otherwise, as long as a parent maintained a legal tie to a child by not relinquishing parental rights, a caseworker could only assume that it was important to preserve a future opportunity for that parent and child to (re)connect. Although blood ties may be perceived as durable, their existence based on a biological connection, the very focus on law draws into relief the ways in which blood relationships may always be considered threatened by other attachment relationships. The dream of parent-child attachment may forever be only a dream maintained in a space of waiting.

The following chapter engages many of these themes, but from different angles. I focus on Takeyabu no Ie children’s home staff members’ understanding of their engagement with the
children as temporary, which motivated caregiving practices that the children would themselves be able to experience as an investment for the future. The fact of having been cared for would resonate in children’s memories of eating and having been fed food that the staff members themselves had created. Food practices, too, became modes by which staff members re-socialized children to understand positive relationships between themselves and caregivers, which were imagined to shape children’s future possibilities for engagement in the world. In this case, caregiving practices were explicitly motivated by temporariness, but the effects of temporary care were understood to be lasting. In yet another setting, then, the motivation and ability to care articulate with bureaucratic forms as well as more intimate expectations of tenuous and durable interpersonal attachments.