The notion that Japan is a comparably tolerant nation in regards to same-sex issues continues to be circulated within both academic and media discourses. Intergenerational same-sex relationships were found in sections of pre-modern Japanese culture/society (Ryosen 1983; Ihara 1990; Leupp 1995; Pfugfelder 1999; McLelland 2000; Chalmers 2002), and contemporary Japan has no laws criminalizing homosexuality or sexual acts between persons of the same sex (Taniguchi 2006). Hence Japan is often positioned as being queerer earlier than so-called western nations. However, due to lack of legal support for domestic partnerships, contemporary Japan is, paradoxically, also often perceived as lagging behind in equal rights for same-sex partners. Neither of these positions is unproblematic, and both have received rigorous debate (Shimizu 2007; McLelland and Suganuma 2009). The result is a jumbled notion of a unique queer indigeneity where the borders of sexual citizenship are heavily patrolled.

How can a seemingly impossible combination of radical queerness and conservative heteronormativity sit side by side? In her discussion of the idea of sexual freedom, Judith Butler alerts us to the problematic of perceiving sexual rights within the framework of temporal progression (Butler 2009). One key to understanding this perplexing situation could reside in a reading of the \textit{koseki} (household registry system) or, more precisely, through an understanding of the social machinations and ideologies of the registry system that shape the ways ‘family’ is made intelligible in contemporary Japanese society while at the same time masking its hegemonic power (Krogness 2013) and deflecting sustained critique. Putting the \textit{koseki} at the forefront of discussions of sexual citizenship in Japan allows a reading of both queerness and heteronormative regulation within a cultural climate that discourages overt critique of the very system at issue. In this chapter I will focus on the negotiation of sexual citizenship as proscribed through the \textit{koseki} by individuals, groups and partners seeking to resist and contest the material impacts of the household registry system on partnership rights. In particular, I will focus on same-sex partnerships in contemporary Japan.
Sexual citizenship

The notion of sexual citizenship can be traced to David T. Evans’ work (1993) on the ‘material constructions of sexualities’. Mobilized within academia and activism, the notion of sexual citizenship emphasises the gendered and sexualized aspects of citizenship, that is, the impact of legal and social discourses on sexual expression, reproduction and the family (Robson and Kessler 2008). Citizenship as a notion of ‘civil, political and social rights, as well as common membership of a shared community’ is intimately linked to the ‘institutionalisation of heterosexuality’ (Richardson 2000: 107). One’s status as a woman and/or man, as heterosexual and/or homosexual maps out the rights and privileges – as well as the responsibilities – one can partake of as a citizen in a specific time and place. The specifics of sexual citizenship are important because citizenship itself ‘should always be situated in the context of an individual lived experience’ (Oleksy 2009: 5). For this reason, ‘citizenship’s territory must be extended beyond the conventional public sphere and, consequently, located at the intersection of many axes of social, political, and cultural stratification’ (2009: 5).

In Japanese terms citizenship as a notion is covered by two separate yet interconnecting terms: kokumin (national citizen) and shimin (resident citizen). These separate yet interlinking terms indicate the different levels on which the notion of citizenship operates with Japanese social discourses, and reflect the circles of power of the koseki on the one hand, and the jūminhyō (residency registration system) and gaikkokujin tōroku (alien registration system) on the other. Until 2012 foreign residents were required to be listed on the alien registration system, and Japanese residents were listed on the residency registration system. The alien registration system was terminated in 2012 and foreign residents now must be listed on the local residency system (see Chapman 2012). The implications of this are yet to be fully determined. Nihonjin and kokumin are used interchangeably to indicate a combination of ethnicity, nationality and shared language/culture. The koseki provides the backbone to nationality status and shapes the borders of the family – arguably still the most basic social unit in contemporary Japanese society. In this way, it fundamentally shapes notions of citizenship – practices of inclusion and exclusion (Cossman 2007) – in Japan. Originally introduced to define the Japanese population (see Chapman, Chapter 6 in this volume; Krogness 2013), the registry system sits tightly within the workings of the Japanese family-state. That the basic unit is the ethnically homogenous, heteronormative family and the archetypical Japanese citizen is ‘a male, heterosexual, able-bodied, fertile, white collar worker’ (Mackie 2002: 203) should come as no surprise. The social, civil and political rights and responsibilities (Bell and Binnie 2000) of citizenship in Japan are shaped by the position an individual possesses within the household registry cradled in the nation-state. However, the privileges and obligations of the citizen as experienced within this system are naturalized to the point that they become invisibly silent. This is particularly evident in discourse surrounding partnership rights in contemporary Japan.
Silence surrounding the koseki is a noted phenomenon (Ninomiya 2006; Horie 2010; Chapman 2011) and is not limited to discussions of the rights of gays, lesbians, transgendered, bisexual and/or intersex peoples. As Ninomiya (2006) succinctly states, most people do not think about the registry system because they do not engage with it on a daily basis. However, legal experts and activists alike have identified its discriminatory nature (Satō and Kaihara 1981; Sakakibara 1992; Ōta et al. 1994; Satō 1995; Tsubuku and Brar 1996; Fukushima 2001; Ninomiya 2006; Chapman 2008; Miyamoto, Ninomiya and Shin 2011). Not only does the notion of ethnic homogeneity centered on the heteronormative family form the base of the family unit as delineated by the koseki, but, as writer and koseki critic Satō Bunmei (1995; Satō and Kaihara 1981) argues, a fundamental inequality that has considerable consequences for marginalized peoples in Japan is maintained by the two-tiered system of one registry for the Japanese imperial family and another—the koseki—for all other Japanese nationals. The ethnically homogeneous heteronormative family as imperial subject leaves its cultural and social trace at all levels of society.

Being naturalized to the point of silence, however, does negate the koseki as a locus of agency. There is repeated resistance to this system of intertwining rights and responsibilities, and lobbying by activists and legal scholars has led to gradual changes to the system. Publications by activists and academics alike address the issues of the koseki in regard to partnership rights (Akasugi, Tsuchiya and Tsutsui 2004; Sugiura, Nomiya and Ōei 2007; Ishii 2009; Nagayasu 2009; Horie 2010). Minority groups and individuals have engaged in a variety of strategies to negotiate the hegemonic powers of the household system.

It’s a family thing: sex/gender vis-à-vis kinship

Calls to end discrimination against children born to parents not legally married (see White, Chapter 14 in this volume), the push to allow wives and husbands to use different last names, calls to take measures to end discrimination against marginalized communities—there is a growing body of activist and academic work on the koseki. Discussions regarding alternative families and the struggles of de facto couples are noticeable amongst work on the household system, and there is reference to same-sex partnerships. In his book Shinpan Koseki to JinKen (The Family Registry and Human Rights New Edition), Ninomiya includes same-sex partners in the list of diverse households in Japan: ‘households of married couples and child/ren, households of only married couples, single parent households ([single] mother/father households) people living on their own; couples who have not submitted a marriage certificate; cohabitating non-family households; same-sex partners etc’ (Ninomiya 2006: 56). Ninomiya also shows some understanding of the difficulties faced by those who live between genders, and/or transfolk who fall outside the Act on Special Cases in Handling Gender for People with Gender Identity Disorder (2003/2004; herein GID Act) requirements for changing their sex on their registration papers. Ninomiya proposes an alternative individual system to the current
family registry. In this new system the seibestu (distinction of sex/gender)\textsuperscript{4} of the individual will be registered. There is no alternative but to keep the distinction, Ninomiya maintains, because a) same-sex marriage is not recognized, and b) there remain areas where the social demarcation of sex/gender is still practised – for example single-sex schools and gender-differentiated sports (Ninomiya 2006).

Ninomiya's claim for the need to keep the sex classification contradicts his call for the recognition of the diversity of contemporary household arrangements discussed above. For all intents and purposes, de facto couples (of any 'sex/gender' combination) may still be vulnerable to the same type of discrimination to which they are exposed under the current system. Furthermore, in this revised system of individual registration, seibestu (sex/gender) would for the first time be recorded. This may seem counterintuitive but, as Ninomiya explains, in the current system it is not strictly speaking one's seibetsu (sex/gender), but one's familial relationship that is inscribed on koseki records. That is to say, members of a single household on the koseki are not listed as ‘female/male’ but as ‘husband/wife’, ‘eldest daughter/son’ and so on. Until the system was altered in 2004 it was only those children born outside of the marriage who were registered as ‘female/male’ (Mackie, Chapter 12 in this volume).

The use of familial connections is crucial to understanding the machinations of the koseki in relation to issues of sexual citizenship in Japan. Familial terms index an individual's sex/gender and position within the familial hierarchy and as such sex/gender is never far removed from the very concept of the household. Conversely, one could argue, to strive to be outside of the household system is to strive to disentangle sex/gender from the ideologies of family relations. However, entangled they are and one leaves traces on the other. This is evident in legal and social discourses surrounding same-sex marriage.

The (im)possibilities of same-sex marriage

It is a well-known fact that there is no overt law that criminalizes or prevents same-sex marriage in Japan. Legal marriage in Japan is a fairly simple act of submitting the relevant form completed by both partners and witnessed by two adults to the local government office.\textsuperscript{5} On this document, partners to be married are listed as ‘the one to become husband’ and ‘the one to become wife’. There is no space for partners to enter their sex/gender. Social custom, or common sense, dictates that the wife is understood to be female and the husband understood to be male. Could the male become wife and the female husband? Could a female become husband and her partner wife? The trace of gender to family renders such questions almost nonsensical. However, this jumbled semantics of marriage does not end here.

The current Constitution defines marriage as pertaining to the legal bonding of ryōsei (both sexes/genders) according to their own free will (konin wa, ryōsei no goi nomi ni mototsuite seiritsu). As there is no explicit mention of female and/or male, ryōsei could, it has been suggested, be interpreted to
include same-sex partners. However, the phrase is commonly taken to refer to ‘man’ and ‘woman’, thereby precluding individuals of the same sex from legally marrying (Hoshino 1981; Hoshino 1997; Taniguchi 2004, 2006; Shimizu 2008). In terms of the Civil Code, the main obligations of married couples are stated to be cohabitation, mutual care and fidelity. These obligations could, it has also been argued, be expanded to include de facto couples regardless of sex/gender (Satō 2004). However, as Taniguchi explains, it has not been possible to convince judges of an alternative reading, therefore ‘it is appropriate to say that Japanese law provides only for marriage between two people of different sexes. That is to say, marriage law in Japan does not cover same-sex relationships’ (Taniguchi 2006).

How can we truly be sure that same-sex marriage is legally impossible in Japan? After all, the image of same-sex partners marrying re-occurs within popular culture. Indeed, public marriage ceremonies have been carried out at pride parades and other queer gatherings. The answer lies in a common-sense understanding of legal marriage to be between legally male and female partners—I use the term ‘legally’ here as a reference to the GID Act. Two practices support this interpretation. The first is the requirement within the GID Act stating that only an unmarried person may alter their legal gender status. This requirement is necessary to prevent marriages between those of the same legal sex/gender. The second practice is the addition of a sex/gender section to the konin yōken gubi shōmeisho (Affidavit of Competency to Marry) provided to Japanese nationals seeking to marry according to the laws of other nation-states. According to a directive issued by Ministry of Justice in 2002, if the non-Japanese partner is shown to be of the same sex as the Japanese national papers should not be issued (Sugiura et al. 2007). This directive has been interpreted as a means to avoid recognition of same-sex marriages between Japanese nationals and foreign nationals performed in nation-states that permit such unions. As reported in the alternative press, lobbying by the head of the Social Democratic Party, Fukushima Mizuho, did not result in the removal of the requirement to declare sex/gender, but resulted in the creation of an Affidavit of Single Status to be used by Japanese nationals seeking to marry same-sex partners overseas (Nakai 2009).

These two instances indicate the ways in which the ideology of family shapes that of sex/gender within the registry system. Although sex/gender is not overtly stated in many areas of law pertaining to marriage, common-sense interpretations are supported by legal discourse outlining the limitations to new laws. In this way, alternative interpretations are foreclosed as the system seeks to maintain its regulation of intimate relationships whilst adapting to changes in practices that affect sexual citizenship internationally. The ambiguity and flexibility of the system are therefore maintained in practices that ensure the continuance of the ethnically homogenous, heteronormative family. Referring to the ‘flexibility of the koseki system’ may appear to be an oxymoron, however. As we shall see below, this rigid system allows for movement within its borders to enable the perpetuation of the institutions it upholds (for other discussions see Bryant 1991; Krogness 2011).
Movement and the koseki

Movement, in particular the acts of entering and exiting, forms a large part of the household registry system, which initially appears to be firmly fixed. The phrases seki o ireru or nyūseki suru meaning ‘to put in the family register’ or ‘to (have) entered into the family register’ are still used today, even though the current system permits only two generations (i.e. parents and children) to be listed on the same register. The most common scenario is for newly married couples to exit their birth register to form a new one. Necessarily in this new family unit, one partner must become the first registered (hitto-sha), and all members registered must take on the same last name. Much work has been done to push for amendments to allow married couples to use different last names (fu-fu bessei); however this has been repeatedly defeated. Even today, it is more likely that the male partner will become head, and his name be adopted by the female partner.

Any children born to the first-registered and their husband/wife are entered according to date of birth and relationship to the head: eldest daughter/son, second daughter/son and so on. Upon divorce, the partner whose last name was not chosen as the conjugal name exits the registry. Removal indicates a movement from legal family to that of a person with no familial connection. When koseki were handwritten this removal was done by putting a cross through the registered details henceforth the colloquial phrase batsu-ichi (one cross) to refer to a divorcee. Whilst the register may appear to be fixed to a certain area or hometown, it is in fact possible to shift one’s koseki to a new location.

Birth, marriage and/or divorce are not the only means of entry and exit from a koseki. Adoption is another entry point. Death is another exit point. So is voluntary exit to form one’s own koseki, which is known as bunseki. Furthermore, as mentioned already, since the GID Act was enacted in 2004 it is possible for those who fulfil the stipulated guidelines to alter their registered gender by exiting to make a new register that indicates their gender status via their relationship to their parents.

There are limits to movement. Firstly, as with the system itself, it works for Japanese nationals alone. Foreign nationals cannot be part of the family registry system – they can be mentioned as a bikō (remark) but not as a member cited on the register itself. Finally, although movement appears to provide clear breaks in familial relations, lineage can be traced endlessly back through records. Hence, descendants of previously marginalized social groups are easily identified and re-stigmatized.

While the system itself is fairly rigid, there is an element of movement and flexibility within its confines. In contemporary Japan we can identify several points of entry – birth and adoption – and one point that is still envisioned as an entry point in the general imagination – marriage. Marriage, as we have seen above, is perhaps the vaguest and yet the most static entry point on the koseki’s borders. Through marriage individuals gain entry into a social world
of privileges and responsibilities not available to those outside of the system. Marriage is a crucial point because of its promise of procreation and the continuity of the family. However, marriage has limitations and may not result in progeny and therefore is a point of possible weakness. The push and pull of these two forces is softened by the alternative entry point of adoption.\textsuperscript{10} It is here that one of the strategies for negotiating the system has flourished: adult adoption. It is also here that marriage and all of its impositions – taking on the same name, cohabitating, entering into a household structure directly linked to the family state with the emperor as its symbolic head – become critical issues for those marginalized by the heteronormative imperialistic institutions of the \textit{koseki}. Before we look at the strategies enacted in regards to sexual citizenship in relation to the \textit{koseki}, let us look at the privileges, rights and responsibilities of marriage.

**Rights and obligations of the \textit{koseki} family**

Once married, the wife and husband registered as family on a household registry together form the basic legal family unit. This has repercussions for areas as diverse as taxation to inheritance and medical visitation rights (Bryant 1990; Izumo and Maree 2000; Maree 2004; Taniguchi 2006; Sugiura \textit{et al.} 2007; Nagayasu 2009). As a matter of cultural habit, in any dealings that require recognition, acceptance or permission from family, the definition of family will be limited to those who can demonstrate shared heritage via the \textit{koseki}. Even as the \textit{koseki} continues to exert hegemonic power, de facto relationships between legally defined men and women have gradually gained more recognition, and de facto partners now have greater access to rights, privileges and obligations.

To be legally recognized as de facto partners, female–male couples are obliged to cohabitate and support each other. A partner who is not working may be eligible to be listed as a dependent on the national pension scheme\textsuperscript{11}; however, tax concessions afforded to legally married couples cannot be claimed. De facto relationships are not recognized under immigration laws, and couples cannot be listed as parents of children born between them, or apply for joint adoption. De facto couples may claim compensation for dissolution of the partnership and for access to joint property. De facto couples are able to apply for public housing, and some workplaces give similar benefits to both legally married and de facto female–male partners.\textsuperscript{12} In the case of death, the surviving partner may claim compensation as a victim of untimely death, and is eligible to receive a pension. However, if the partner dies intestate, there is no right of inheritance. Rights to inheritance are defined by law in favor of the legal family as registered. Hence legal family members maintain the right to contest a will and claim their full legal entitlement to property.

The right to hold a funeral and/or maintain the deceased’s grave is also another area where de facto partners may experience discrimination. Traditionally, funerals and the upkeep of family burial plots are the obligation and
right of the legally defined family. This custom continues to have great cultural significance yet is under strain due to the changing demographics in contemporary Japan (Kawano 2003, 2004a, 2004b).

Same-sex partners can access none of the rights and/or privileges available to legally married and/or de facto couples. The exceptions to this may be an extremely limited number of corporations who may recognize same-sex partnerships in their employee benefits packages, and a small number of private companies that may recognize couples in their family benefit plans. No legal recognition means that same-sex couples may be particularly vulnerable in crisis situations when hospital visitation rights are denied and safety nets available to other couples remain inaccessible. This remains true not only for same-sex couples, but for individuals seeking to lead lives independent of familial ties.

How then do individuals in Japan negotiate this system that allows for fluidity within the limits of a legally defined family, and resists changes via the inscription of requirements and regulations in laws and practices that may potentially alter its hegemonic power? To counteract this, de facto partners and individuals alike have lobbied for change to the system, whilst strategically exploiting it on the one hand, and making alternative provisions and legal claims on the other. These strategies reflect the binding nature of the semantics of sex/gender as bound to familial terms within the koseki, and make use of the elements of movement allowed within this system to those qualified to enter and exit its borders. Let us consider two junctions of agency where sexual citizenship is contested either within or outside the confines of the koseki: adult adoptions and alternative agreements.

**Subversion through movement: adult adoption**

Adult adoption, the act of adopting a younger partner onto one’s family registry, has a long history in modern Japan (Bryant 1990). The act of adoption immediately establishes a familial relationship between two partners, and enables the benefits of familial ties to be enjoyed. This strategy effectively subverts the system by enabling same-sex partners with an age difference to attain rights in a system that excludes them as marriage partners (Maree 2004; Taniguchi 2006).

Adult adoption is not unique to Japan. As in Japan, in the American context adult adoption leads to the ‘recognition of familial ties, enjoyment of employment benefits, and establishment of inheritance rights’ (Ratliff 2011: 1778). As such, it is a strategy employed by same-sex partners in an effort to attain some of the rights afforded to married and/or de facto heterosexual couples. In the Japanese context, as we have seen above, a legal family relationship opens up access to health insurance, dependency taxation schemes and so on. Furthermore, the relationship of legal parent and child enables partners to partake in legal and medical decisions should one or the other become incapacitated. The legal status of parent and child also ensures
inheritance of personal belongings and property upon death. These factors may be key to the decision of one partner to adopt another.

There are limitations and/or disadvantages associated with adult adoption by same-sex couples in an intimate relationship such that Ratliff refers to it as an ‘imperfect alternative’ (Ratliff 2011: 1785). One of the disadvantages is its irrevocability. In the US context that Ratliff describes this means that, even once an intimate relationship dissolves, the legal one remains. Furthermore, unlike divorce, there is no recourse to compensation for partners upon dissolution of the relationship. This is true, too, in the Japanese context. Moreover, it is not possible for individuals who have had an adopter–adoptive relationship to marry, even if they are no longer registered as such on the family registry. If the common-sense definition of marriage is ever broadened to include partners of the same sex, these individuals will not be able to partake of any newly decreed rights, privileges and/or obligations. The threat of being persecuted for incest is another issue. There is the possibility that members of a family may contest the relationship (Taniguchi 2006), thereby preventing those in an adopter–adoptive relationship from exercising the right to make medical and/or legal decisions on behalf of the other, or to inherit goods and property.

Adult adoption has recently received limited media coverage due to a number of reported cases of individuals partaking of adult adoptions to assume a new name for ostensibly criminal purposes. An article in the *Yomiuri* newspaper (2010) flags the issue of ‘unnatural (strange) adoptions’ in its short report on surveys conducted by the Ministry of Justice. While the main focus of concern appears to be cases involving insurance fraud, and those where the same individual has repeatedly undertaken adoptions in a short space of time, there is mention of ‘no age difference between the adopting parent and adopted child’ as an example of ‘unnatural’ adoption practices. Technically even a slight difference in age makes it possible for the older person to adopt the younger, so unless the individuals are born on precisely the same day, the labeling of this as ‘unnatural’ is problematic.

Regardless of the potential problems, adult adoption has been used strategically to ensure a greater level of legal protection for same-sex couples. It remains popularly practised. Not only have well-known literary figures such as Yoshiya Nobuko historically taken this course, but it is still considered relevant to contemporary discussions of same-sex partnership rights. A quick internet search will lead to several sites explaining the process, and both the question and answer style manual on partnership rights *Paatonaashippu: Seikatsu to seido (Partnership Life and Institutions)* Sugiura et al. 2007) and the edited collection on same-sex partnership issues *Dōsei paatona* (Akasugi et al. 2004) contain explanations of the adult adoption process and personal accounts by those who have chosen this strategy in their own lives. Whilst reasons for adoption vary from case to case, this strategy allows partners to access social services and gain legal recognition as a family via a historically entrenched institution: the *yōshi engumi* (adoption).
Adult adoption has been used historically to maintain family continuity. In partaking of adult adoption, same-sex partners subvert the system for their own needs. It can, therefore, be understood as a radically queer act enacted within a system that polices the boundaries of the legal family. Adult adoptions fall within the category of futsū yōshi engumi (regular adoption) where the link between biological parent and child remains. As such, adult adoptions may be entered into by consenting adults who wish to be legally recognized as family vis-à-vis the koseki. This act of movement into the koseki system could also be interpreted as a non-political act that supports the discriminatory force of the system itself. Multiple readings of the act of adult adoption are possible, yet, however it is read, this radical alternative is not available to all, nor is it one that is favored by all since it remains confined within the household. For those who wish to challenge the limits enforced on their citizenship as a direct result of familial relations, alternative systems and institutions are seen to have a greater potential for societal and individual change. One such strategy is that of preparing alternative legal documentation of relationships and partnerships.

Silently bypassing the borders: registered notary deeds and wills

Registering a partnership agreement as kōseishōsho (notary deeds) emerged in the 1990s as a way to bypass the koseki system (Maree 2004). Unlike the practice of adoption, it enables individuals to stipulate their wishes overtly in regards to areas that are otherwise deemed to fall within the realms of family: palliative care, medical emergencies and funerals. The first joint partnership agreement was developed based on similar documents drafted by de facto couples (Izumo and Maree 2000; Maree 2004). As yet to be tested in a court of law, legal practitioners encourage individuals considering this alternative to also draft and register formal wills and living wills. It is intended that this suite of documents be used to indicate the rights and wishes of partners in the event of crisis, incapacitation and/or death. Technically speaking, the documents should be able to be used by any national who wishes to have the responsibility of their personal matters given to another who is not part of their family as stipulated by the koseki.

One method of stressing the importance of a non-family member is to assign to them the role of moshu (chief mourner). As discussed above, funerals and the maintenance of final resting places continue to be of great cultural significance. The chief mourner is the symbolic head of any funeral proceedings to whom others turn for information about the final wishes of the deceased. Traditionally the chief mourner is the deceased’s legal partner or remaining parent or sibling. Formally appointing a chief mourner indicates that this individual is as close and/or important as legal family members. This in turn shows that they should be afforded the same rights/privileges as the legally defined ‘next-of-kin’. In addition to registered notary agreements, registered wills and living wills, activists have attempted to popularize the use of ‘emergency contact cards’ (Sugiura et al. 2007). These cards list the name and contact number of the person to whom one wishes contact to be made in case of a life-threatening
emergency. Stories are rife within the queer and de facto communities of loved ones and friends being denied visitation rights by legal family unaware (or unwilling) to recognize parties outside of the legal family unit. It is hoped that cards will also foster a growing awareness amongst medical practitioners.

Unlike the practice of adult adoption, this alternative does not guarantee the right of inheritance or ensure access to social services and taxation schemes available to legally married partners and/or legal dependents. Similarly, neither adoption nor a registered notary deed will automatically lead to any form of residency status for non-Japanese partners. However, unlike adoption, this alternative does not fit within the ‘family’ system and thereby is available to anyone, regardless of their partnership status. For this reason, it has gained popularity amongst individuals wishing to secure their rights outside of the legal family unit and is part of a growing call for the recognition of rights outside of the family registry system.

**Moving around the system**

Since the early 2000s there has been a noted increase in public discussion on partnership rights. Reports of legal rights attained in nation-states other than Japan feature in newspaper and internet articles, in the occasional television broadcast and in academic papers. Handbooks on same-sex and de facto rights have been published by commercial publishers, and public marriage ceremonies (e.g. former Osaka councilor Otsuji Kanako in 2007 and lesbian wedding at Tokyo Disney Resort in 2013) have been given space in the popular press. There is a noted disjuncture here between the discussion of rights in an overseas context and the celebration of the ceremony in the domestic context. In the midst of this disjuncture, lobby groups have emerged to begin the call for serious political attention to be paid to partnership rights.

Formed in 2010 by activists and academics, Partnership Law Japan (*Tokubetsu-haigūsha-hō Zenkoku Nettowaaku*) (2011) is currently exploring the possibility of introducing a special partnership law into the Japanese parliament. As the semantic vagueness of Japanese law does not delineate a *haigūsha* (partner) to heterosexual relationships, the group argue that there is leeway for the inclusion of same-sex partners in a ‘*tokubetsu haigūsha* (special partner)’ category. This strategy, too, avoids a direct clash with the rhetoric of the *koseki* family, in an attempt to secure rights for relationships that do not fall within its framework. In the call for a special partnership law, the emphasis is on securing a new system, one that does not disrupt the household registry, but that works outside it.

Feminist and labor groups, too, have identified the difficulties those estranged from the family system experience when accessing social services. Disenfranchisement has become an acute problem in this period of late capitalist economic downturn and post-disaster recovery. The *yorisoi hottomrainu* (literally ‘close together hotline’) – a twenty-four hour crisis line run by the Association for Social Inclusion (*Ippan Shakaihōjin Shakaiteki Hosetsu Sapōto Sentaa*) – is one example of networks coming together to provide assistance and support for
those in crisis. It is the first publicly funded hotline to include ‘gender and sexuality support’\(^{18}\) in its list of those in need. A close associate of this initiative is the National Sexual Minority Support Network for a Mutual Society (Kyōseishakai o tsukuru Sekushuaru Mainoriti Shien Zenkoku Nettowaaku), a lobby group pushing for legal reforms to ensure greater social inclusion. It is indicative of a growing range of alternatives to current ideologies of the family that, rather than addressing the koseki head on, seek to work around its limitations.

Not engaging with the koseki directly gives activists and legal scholars the freedom to avoid the ever-present rhetoric of family and ties to the imperial family. Given the feverishness with which supporters of both seek to protect these institutions, this may prove to be a sound lobbying strategy. As researchers have shown in relation to debates around same-sex marriage in the US context, discourse shifts over time and, as legal circumstances alter, so does the rhetoric of anti-same-sex marriage advocates (Smith 2001; Crehan and Rickenbacker 2006; Sullivan-Blum 2006; McFarland 2009; Bachmann 2011). As the backlash against gender-free education and the call for selective use of names after marriage indicate, any calls that are seen to be at all critical of traditional gender values and/or the family are quickly shot down with an ultra-conservative rhetoric that predicts the dissolution of any worthy Japanese values (Nihon Josei Gakkai, 2007). Furthermore, lobby groups maintain the right of the individual to access services should not be defined by that individual’s familial and/or koseki position. The groundbreaking telephone helpline shows that, despite a silence regarding issues faced by sexual minorities in Japan, there is a growing awareness of the need to respond to those who are in crisis.

The koseki effectively delineates the contours of citizenship: access to rights, privileges and obligations set by the state in all areas of social life. As such the family registry system is fundamental to any understanding of sexual citizenship in the Japanese context. Adult adoption has long been one strategy to negotiate the system. However, since the 1990s, calls for recognition of same-sex partnership rights within a framework that does not directly trouble the family registry system have gained momentum. In an era of post-gender equality and GID laws, full engagement with the patriarchal and heteronormative system of household registry and the many areas on which it exercises influence – family, identity, citizenship – is a fundamental yet often silenced aspect of discourses of global mobility and sexual citizenship in contemporary Japan.

Notes

1 ‘Daitofu is the record of the lineage of the Emperor, Empress, and Empress Dowager. Közokufu is the record of the lineage of other Members of the Imperial Family’ (Imperial Household Agency, no date).

2 In activist and academic writing on partnership rights the terms todokede-kon (notified marriage) and hōritsu-kon (legal marriage) are used interchangeably. In this paper I will use the term ‘legal marriage’ to refer to those marriages that have full legal recognition, and ‘de facto’ to refer to those male–female partnerships that receive limited legal recognition. I will use the term ‘same-sex partnerships’ for those relationships between individuals of the same legal sex/gender.
3 These are: 1) be over 20 years of age; 2) be currently not married; 3) have no children under 20 years of age; 4) have the genital composition of the other sex.

4 Throughout this essay I will use the term sex/gender to refer to the notion of seibetsu. Legal sex/gender will refer to one’s sex/gender as registered on legal documentation.

5 The form may be submitted on behalf of the couple, and it is possible to submit it via the post.

6 The original wording was adopted in the postwar Constitution to avoid enforced marriages that were historically pushed onto the wife in the name of protecting and/or continuing the family line and this phrase is generally interpreted as one that ensures that the rights and desires of both partners entering into a marriage are protected.

7 In the older system, three or more generations could be registered together.

8 Until recently, children born to unwed parents were registered as ‘female/male’.

9 Batsu-ni (two crosses) would refer to someone twice divorced.

10 Discrimination and social stigma surrounding minor adoption is still a point of contention in contemporary Japanese society.

11 In Japanese this is called the kokumin nenkin no dai sango hihokensha.

12 For a detailed overview of the rights and obligations of legally married, de facto and same-sex partners see Akasugi et al. (2004) and Nagayasu (2009).


14 Thanks to Vera Mackie for alerting me to the importance of making this clear in discussions of adult adoption in the Japanese context.

15 I was made aware of this via Nov (no date).

16 For example a page on the website Rainbow Support (2007).

17 The other category is tokubetsu yōshi engumi (special adoptions) where the relationship between biological parent and child is replaced by that of adoptive parent and child.

18 The other categories in the helpline directory are: advice on livelihood/subsistence; helpline for foreigners; sexual violence, domestic violence and other women’s issues; issues regarding gender and homosexuality; and for those whose hardship is triggering suicidal thoughts.

References


