Note

Family Policy and Family Sociology in Japan:
From My Perspective as a Researcher

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Abstract

In developed Western countries, "family policy in a narrow sense" has become a driving force for the enhancement of social security systems. In Japan "family policy in a broad sense" had existed before the Second World War, but "family policy in a narrow sense" was not established until a "comprehensive family policy" was introduced in the 1990s. The current "desirable" family model in Japanese family policy is a "legal marriage family". Through my own research, I have critically considered Japanese family policy, especially in relation to civil policy.

Family policy research in Japan has been undertaken by family sociologists much earlier than by social policy researchers. There are many excellent researches on family policy in every field, but among them I focused on the discussions of the target and unit of family policy that are deeply related to the concept of the family.

My expectations for future research of family sociology are to further advance research on civil policy and family law and to conduct research based on the viewpoint of the "child's best interests". What I desire for the young generation of researchers are ① to keep their awareness of current issues and chart new fields in family sociology, ② to learn from not only extant research but also from field experience that allows them to come into contact with the people directly concerned, ③ to proactively disseminate their research in society and provide policy recommendations that can lead to social reform.

Key words: family policy, family sociology, family law, child's best interests

Introduction

When I was given the opportunity to address the 8 th Board of Japan Society of Family Sociology as the president, I felt greatly honored and at the same time I was worried about what to say. I hoped my speech would foster young researchers' intellectual endeavors, even though I haven't done research that has dominated the mainstream in family sociology. I decided to frankly share my feelings and parts of my private life that are related to my research.

In that address, first, I spoke about why I studied a particular subject. Second, I discussed family policy in Japan through my research. Third, I tried to place family policy studies in family sociology. Finally, I expressed what I wished for the future of family sociology and researchers.

1. My First Step as a Family Sociologist

The first step I took as a researcher began with research on children born out of marriage. When I was a graduate student in the early 1970s, unmarried mothers became a hot topic in the mass media in Japan. There were articles in newspapers and magazines reporting that the number of unmarried mothers had been increasing. When I checked the birth rate of children out of wedlock in "Demographic Statistics in Japan", I found out that contrary to the media's representation, the rate had actually slightly dropped from 1.0% to 0.8%. This discovery led me to question why the rate was so low in Japan when it was increasing rapidly in Europe and the US. Answering this question became the main objective of my research.

At that time, I was quite taken by Malinowski's idea that a function of marriage was to give one a permission to be a parent, in which I believed when I got married. The turning point of my study was a fortunate encounter with "Group: SEKIRAN", which is an active civic organization that fights against discrimination toward children born out of marriage. This group planned and edited a special issue, "Breaking the spell of marriage registration", for the magazine Women's Eros (Vol.12 (1979)). They made the following appeal: No child is born unhappy. There are only adults who make children unhappy and a society which brands them as unhappy. Let's work together not to make unhappy children.

This innovative perspective forced me to reconsider my attitude toward my research. Consequently, my research shifted from investigating the reasons why the birth rate of illegitimate children was so low to constructing arguments so as to eliminate discrimination against children born out of wedlock. From this perspective, I wrote a book, Sociology of Children Outside of Marriage (1993), in which I analyzed the process of how birth out of marriage occurred, the history of the discriminating marriage institution

and the logic of discrimination by looking at the history of the marriage system in Western Europe. Also, I discussed the connection between social construction and emancipatory arguments regarding discrimination against children born out of marriage.

At that time, in Europe and the US, cohabitation had already become a part of the culture, and research on cohabitation and alternative lifestyles was actively carried out. But in Japan, cohabitation was regarded as deviant and there were very few studies on it. In the hope of eliminating prejudice and the deviant image of families of non-legal marriage, I published two books, To Live Non-married: Question about discrimination against children born out of marriage (1992), and Beyond Modern Family: Voices of Non-married Couples (1997). Through the books, I dissented from the Japanese family policy that suppressed and discriminated against diverse lifestyles.

The second step I took in my research was to conduct a study on Swedish society, where discrimination against children born out of wedlock had already been eliminated and innovative family policies were developed. I established "The Japan-Sweden Comparative Family Study Group" in 1995, and we conducted a number of comparative studies on the connection between family policy and family relations. The name of the Study Group was later changed to "The International Comparative Study Group on Work Family Balance", and we conducted a study on work and family balance (Yoshizumi ed. 2004; Takahashi et al. 2014). This research group is a valuable asset for my research career.

I identified the third step of my research in a study of custodial regulation after partner separation, and published Joint Custody after Separation: Child's Best Interest in Sweden (2013). As the custodial regulation after partner separation transformed from single custody to joint custody in many other countries, why did the single custody system remain in Japan? If joint custody were legally admitted, would the parents' conflict over a child's custody be resolved? I analyzed court decisions on custody and child rearing in Sweden, where the concept of "the child's best interest" was first introduced in law in the world. Finally, I explored the direction in which Japanese legislation on custody should change.

In Japan, parents' fighting over a child's custody upon divorce seems a common scenario. I have also experienced worrying about this problem. The more I studied cases of children born out of marriage, the more I became critical of the current marriage system in Japan. Feeling deceitful for being protected by that marriage system as a married person, I wished to divorce legally and change the marital relationship to that of common-law marriage. In Japan, such an action is called "paper divorce". However, at the time, our daughters were still young, and I was worried about the struggle for custody with my husband. I could not tell him about "paper divorce". When my daughters became junior high school students, I was prepared to hand over the custody right to my husband, and I broached getting a "paper divorce" with him. He accepted my proposal, but my elder daughter said, with tears in her eyes, "I definitely do not want you to get divorced even if it were just a paper divorce". I didn't think I

should ignore my daughter's wish so as to act in accordance with my own principle, and so I gave up on getting a "paper divorce". Incidentally, my daughter, who shed tears at that time, has chosen to be in a common-law marriage, and has recently given birth to a child born out of marriage.

2. Japanese Family Policy from my Point of View

Looking back at my journey as a researcher once again, it has become clear that I have been interested in Japanese family policy.

2-1. The Definition and Understanding of the "Family Policy"

In recent years, there is an increase in interest in family policy, and many researchers are beginning to use the term "family policy" in their research. Although it is said that the concept of "family policy" originated in Europe, it is difficult to say that if there is an agreed upon definition or concept. Similarly, in Japan, we still have not reached a consensus on "what is a family policy" (Kamerman 1978,1995; Shuru 2006; Tokoro 2012).

Sumitaka Harada (1992) focuses on whether the purpose of family policy is the protection of and support for the family itself, and differentiates between "family policy in a narrow sense" and "family policy in a broad sense". In other words, he defines the policy aimed at protecting and supporting the family itself as "family policy in a narrow sense". "Family policy in a broad sense", in contrast, refers to a policy that reflects the nation's conception of the family as a fundamental unit for sustaining individual lives, reproducing the labor force, and taking on the positions and roles in line with the nation's vision.

In developed Western countries, "family policy in a narrow sense" has become a driving force for the enhancement of social security systems and is even now an essential element of a welfare state. On the other hand, while in Japan "family policy in a broad sense" had existed before the Second World War, "family policy in a narrow sense" was not established until the introduction of a "comprehensive family policy" in the 1990s. The family policy which I have studied corresponds to "family policy in a broad sense".

Michihiko Tokoro (2003) identifies six areas in family policy, as follows:

① Policies on birth (population policy, such as that for increasing or suppressing the number of births, including abortion)
② Economic support for family, especially families with children (family allowance, tax deduction)
③ Support for child rearing (nurseries, childcare leave, education)

④ Laws governing family formation and relations (family law, such as marriage law, divorce law, family support law, inheritance law, and so on)

⑤ Measures to support and strengthen the family with respect to specific family functions and relationships (support for child rearing and nursing care, mandatory support)

⑥ Measures related to gender (policies related to equal opportunity for men and women, gender equality, and so on)

Situating my work in these six areas, I would say that my research relates to the fourth area, on the laws governing family formation and relations.

In addition, focusing on the functions of family policy, Yoshiya Soeda (2000) divides modern Japanese family policies into the following four categories and provides examples for each.

① Survey/Understanding: Family registration, resident registration, and foreigner registration policies; census, family income survey.

② Regulation: civil policies (policies on marriage, divorce, adoption, support, inheritance, and so on).

③ Support/consolidation: Social security policies (social security, child allowance, public aid policies), social welfare policy, and public health policy.

④ Dependence: tax policy, population policy (human resource security policy), and labor force policy.

He places my work in his scheme, writing: "in relation to civil policy, there is the research on non-married couple and children born out of marriage by Kyoko Yoshizumi, which attempts to introduce the viewpoint of the individual as a unit".

Although there are various definitions and understandings of family policy, my research on family policy pertains to "family policy in a broad sense", especially in relation to the "regulatory" function of civil policy. In the next section, I would like to discuss Japanese civil policy from a viewpoint based on the many years of research I have taken so far.

2-2. "Legal Marriage Family" regarded as a Family Model in Japan

In Japan, the view and norm that childbirth should take－place within marriage remain strong today.Further, the legal system sustains such popular attitudes and norms. Hiroko Fujisaki (1993 b: 262) points out that the family policy in each era explicitly or implicitly assumes a "desirable" family model, and that it uses various policies to influence family groups such that actual family life approximates the "desirable" model. In my view, the current "desirable" family model in Japan is the "legal marriage

family" formed by the filing of a marriage registration form.

Under the family registration system ("Koseki"), the Japanese Government keeps track of individuals' changes in status in their lifetime from birth through marriage, childbirth, and death as each individual is required to file any change in status to the municipal government office. In the Meiji period, the family registration system was established and the procedure of marriage registration was adopted. Until then, de facto marriage had been the practice. By holding a wedding ceremony or starting to live together, two persons would be regarded as a married couple. The maintenance and strengthening of the family registration system explains and lies at the basis of privileges given to legal marriage today.

Yoko Shouji (1998) identifies two different aspects of family policy: "the regulation of families" and "support for families". "Regulation" and "support" are closely related, and the effectiveness of "regulation" is achieved through providing "support" for families.

Various policy measures are indeed used in order to popularize the "legal marriage family" model. One example of such a use of policy is giving privileges to married couples and discriminating against non-married parents and children born out of marriage. Marital relations are overwhelmingly superior in status to other male-female relationships. The direct connection between getting married and receiving better treatment by the Government induces individuals to go through a legal marriage. A case in point is the discrimination against a child born out of marriage, which can be found in the inheritance provision of the Civil Code Article 900. The provision stated in the fourth paragraph that "the share in inheritance of a child out of wedlock shall be one half of the share in inheritance of a child in wedlock" was abolished in 2013. Before this provision was abolished, the Japanese government had received numerous recommendations for revision from the UN Commission on Human Rights and the Convention on the Rights of the Child. In response to such criticisms, the Japanese government had explained that "a distinctive treatment of illegitimate children is necessary for the protection of families constituted by legal marriage" (Mainichi Shimbun October 29, 1993). This remark brilliantly shows that the discrimination against children born out of marriage is a means to protect the legal marriage system.

Another example of how the government popularizes or protects the "legal marriage family" through policy is its treatment of divorced couples. In Japan, households registered in the resident registration system are regarded as the fundamental family units of society. Further, the theory of the Japanese model of social welfare emerged in the 1980s placed the family as "latent assets", emphasizing the expectations of family members to fulfill familial responsibility, based on the self-help principle. It was believed that the maintenance of the "legal marriage family" without divorce contributes to the stability of society, and as a result the Government has tried hard to suppress divorce and has not actively supported divorced families and individuals.

Currently, Japanese single mothers face severe economic hardship. Miyuki Shimoebisu, who has done research on child support for divorced mothers' household for many years, identifies the characteristics of Japan in this respect as follows: The government virtually leaves a child's financial support problem unattended. In major European countries and the United States, administrative agencies implement a system to collect and provide advance payment for child support expenses, but in Japan the system to directly address such problems is not established. In other words, the solution to the child financial support problem is left to the parties involved (Shimoebisu 2015:ii). She criticizes that the Government does not show any commitment to sustaining the life of the mother-and-child household and does not confront the fathers who do not pay any child support. She also says that Japanese measures toward mother and child households cannot be regarded as a family policy. Shimoebisu's way of thinking about such family policy reflects engaging with a narrow sense of "family policy". In my interpretation, "not actively supporting divorced families" is exactly a character of Japanese family policy.

Such government attitudes are also reflected in not admitting joint custody after divorce and not actively supporting the separated parent's visitation rights. Furthermore, such attitudes can also be seen in the case of presumption of legitimacy after divorce. Under Article 772 of the Civil Code, it is stipulated that a child born 200 days after marriage or within 300 days after a divorce is presumed to have been conceived during marriage. The Meiji Civil Code prescribed it. However, currently, because biological paternity can be easily determined by DNA appraisal, this provision has been abolished in other countries. As a result, there are actually many cases where children born after divorce are not considered the biological children of the ex-husband. On the other hand, in Japan, with the increase in childbirth within 300 days after divorce, there is also an increase in the number of people troubled by this provision.

2-3. Martha Albertson Fineman Criticizes the Government Policy of Preferential Treatment of Married Couples

In USA and some other Western countries, partnership laws have been enacted, alternative lifestyles are accepted and the discriminatory provisions against children born out of marriage have also been abolished. However, there are still many systems favoring legally married couples.

Martha Albertson Fineman (1995), an American jurist, criticizes such systems. She argues that a marriage institution that is designed to give privilege to married families should be abolished, and that the concept of a family should be redefined from the viewpoint of a mother-child relationship in terms of "the bond of care" rather than marital relations or "sexual bond". Moreover, she argues that the reform to include in the definition of family common law marriage or same-sex marriage would only

strengthen the concept of "sexual family" and replicate the privileged family form. She proposes to redefine a family that is centered on dependents and carers and advocates legal protection for such families.

I agree with Fineman's assertion that the fundamental unit of family law or policy should be converted from one based on "sexual bond" to one on the "bond of care". At the same time, I find her argument problematic in a few points, including the interpretation of "the gender that provides care" as "motherhood". Her argument with regard to children's best interests is also weak. For example, she regards the rights of children as being consistent with the rights of their fathers, and treats lightly the idea that children need to communicate intimately with both of their parents, as stipulated in the Convention on the Rights of the Child.

As explained in this section, through my own research so far, I have critically examined Japanese family policy, especially in relation to civil policy. In the next section, I would like to discuss how family sociology has considered "family policy", and how the results of such research are evaluated.

3. Research on Family Policy in Japanese Family Sociology

3-1. Contribution to Family Policy Research by Family Sociologists

Currently, research on family policy is being conducted not only from a family sociological approach, but also from approaches of economics (social policy and social security), law (family law), social welfare, and so on (Yamagata 2013).

Noritaka Mitomi highly appreciates the contribution of Japanese family sociology in his paper. Summarizing Japanese research trends related to family policy, he notes that Japanese researchers on social policy have focused on workforce policy or labor policy and have taken little interest in family policy. On the other hand, the family policy research undertaken by family sociologists emerged much earlier than that conducted by social policy researchers. In 1980 there were already studies dealing broadly with nursing care in addition to childcare, and such studies continue to be conducted (Mitomi 2011: 49).

Naho Sugita has examined the genealogy of family policy in Japan, and pointed out that Taizo Toda, who is widely known as the founder of family sociology, had made remarks on some population problems during the era of population decline controversy in the Taisho and early Showa periods. This places Toda in the center of the genealogy of family policy discussions in Japan (Sugita 2010: 109). It is hardly known that Toda dealt with population problems in the early days of his research activities. It is noteworthy that studies by family sociologists were deeply connected with family policy since its creation.

However, in family sociology, "family policy" itself has been discussed since the latter half of the 1970s (Iida 1990). The term "family policy" became prominent after the mid 1980s. In 1990, a book entitled Family Policy and Regional Policy was published by Iida and Endou. Following that, Yoshiya Soeda et al., who wrote Modern Family and Family Policy in 2000, analyze the reasons why family sociologists did not take up "family policy" per se earlier.

Family sociologists in Japan have been interested in policies related to family life, and have yielded excellent results by accumulating researches affecting various policies. Nevertheless, they have failed to consider their own research as family policy research. The reasons are the absence of conditions to make apparent the consistent characteristics of family policy as well as the positive evaluation of postwar reforms as "modernization" and "democratization". These points have prevented them from recognizing the regulatory function of civil policy" (Soeda et al. 2000).

In the latter half of the 1980s, under the influence of historical family research and gender research, there emerged a new perspective recognizing the relationship among nation, family and the individual, and the term "family policy" became more widely used. However, at that time, there was a focus on policies related to elderly care. Since the 1990s, the declining birthrate has been regarded as an important social problem. As a result, we could see more research addressing family policy through analysis of policies supporting parenting.Moreover, in the 2000s, research on family policies was conducted in relation to gender equality and work-life-balance.

3-2. The Controversy about Family Policy

Much excellent research on family policy has been conducted in every field, but let me focus here on summarizing the discussions of the target and unit of family policy that are deeply related to the concept of the family.

In Japan, while the provisions related to marital and parental relationships in civil law have changed little since the Meiji Civil Code was established, actual family forms in society are diversifying. Since the 1980s, some researchers of family sociology started to critique the "collectivistic paradigm", in which the nuclear family based on gender role division of labor is regarded as the standard family and other family forms are treated as family problems and social pathology. Recently, alternative lifestyles such as dual working families, single-parent families, couples not in legal marriage, and singles are taken positively, in connection to the ideology of individual choice and needs.

Hisaya Nonoyama (1992) proposes a new concept of family welfare that would collectively, directly and actively support and give benefits to various family lifestyles selected by individuals. Meanwhile, Hiroyuki Ida (1995,1998) advocates a theory of a singles unit society and asserts a "society (nation)－single individual model", where society (nation) gives substantial welfare directly to

individuals. In response, Yoko Shouji highlights the importance of the task of making individuals the unit of family policy.

Yoko Shouji (1998) sees that family functions exist in the terrain of the opposition between "personal desire" and "societal demands". From this point of view, she classifies family functions into three types: "functions related to life and living" (shared consumption, support/care), "functions related to personhood" (related to the development of personhood, emotional satisfaction, and so on), "functions connected to kin relations" (imposing order on sexuality and reproduction, assigning individuals statuses in family relations). In the light of these functions, she shows how the Japanese family policy that apparently treats housewives very well through the pension system and tax deductions actually restrains women from working outside. Similarly, the distortion of family relations is seen through the application of the "principle of the household units" in social welfare (i.e. members of the same household must provide financially before seeking help from the government). All this points to the significance of making individuals the units of policy.

However, family sociologists have subsequently raised various questions with respect to the "singles unit model" Ida proposed. Masahiro Yamada (2004) considers family changes since the 1980s according to the "individualization of family", and points out that the further development of the "essential individualization of family" would mean the "freedom to select family members or quit", and subsequently the issue would emerge as to how to protect the impoverished who cannot form and maintain their families.

Miyuki Shimoebisu (2008) argues that in the midst of individualization in the family, the welfare state should see the asymmetry of a strong nation and weak individuals and provide support for families and individuals in the era of individualization through interventionist policies. Similarly, Hiroko Fujisaki (2014) points out that while the elderly care policy is designed based on the individual as the unit, in reality, elderly nursing care cannot be accomplished without family members' nursing care labor. The increasing difficulty faced by family care givers means that we need to consider the dimension of the family that lies between the nation and the individual.

Hiroyuki Kubota (2011 a, b) explores solutions from the approach of the segmentation of family concepts and family needs. Understanding changes in the current family situation as a process of "double segmentation of family functions" － the "segmentation from family structure" and "segmentation of reciprocal functions of family" － he analytically disconnects what have been seen as necessary family functions, namely, care, collectivity of living and intimacy. He then reconceptualizes the traditional family as an overlapping area of the three functional spheres, such as the spheres of care, living, and intimacy.

As can be seen above, in the midst of growing family diversification and individualization, and

disparities, family policy research has identified the important issues of who would do "care work for dependents" (Kittay 1999), and on what basis it should be carried out.

4. My Hope for Japanese Family Sociology and Sociology Researchers in the Future

It is my hope that future research of family sociology would further advance investigations of civil policy and family law. In post-war Japanese family sociology, there were many discussions on the radical institutional changes from the Ie system to a democratic family system after the war. Since the 1970s, family sociologists have shifted their concern to the internal structure of the family and shown little interest in the institution of the family (Muta 1998). Consequently, not much research on civil policy was done. However, I believe that research on civil policy is important. For example, if a partnership law or a same sex marriage law were enacted, people would definitely change their views regarding LGBT. It is necessary to understand how such family laws as marriage or divorce laws affect people's normative consciousness.

A second hope for future research is that based on the viewpoint of "child's best interests". Kinya Nagahisa and Tetsuya Iida (2014) published a book called Sociology on childcare, in which they insist on the importance of "ideas centered on children". When I was a graduate student, it was advocated that a gender perspective should be introduced in family sociology. Now, it has become a taken-for-granted perspective. In the same way, I consider it important to introduce a perspective based on the "child's best interests" in all research going forward.

Finally, based on my research experience, let me express what I desire for the young generation of researchers.

First, please value your awareness of current issues and carve out your own field in family sociology. When I first started researching children born out of marriage, people thought discrimination against them was only natural. When I went to the department responsible for the protection of human rights in the City Hall to ask them to raise awareness about discrimination against children born out of marriage, the staff refused to heed my demand, saying "we cannot take it up when ordinary people do not regard the treatment of children born out of marriage as discrimination". The situation was the same in research. I proceeded in my research with a sense of loneliness, without fellow researchers around me with whom to discuss the issue. If you embark on an undeveloped field, people might not understand the significance of your research, but I hope that you would overcome the sense of loneliness. Don't follow the trend of the times, but keep believing in your sense of the issues and persevere in your research with firm conviction.

Secondly, I want you to learn not only from extant research but also from field experience that

allows you to come into contact with the people concerned. I participated in activities as a member of an association fighting discrimination against children born out of marriage and learned many things. For example, I learned from a woman who sought help from the association about the problems of the "presumption of child in wedlock", which stipulates that a child born within 200 days after marriage and within 300 days after divorce is presumed to be a legitimate child. We can learn a lot from the people directly impacted by the issues we research on.

Third, I would like you to actively disseminate your research to society and give policy recommendations that can lead to social reform. Society will not change anytime soon. It took more than 30 years to eliminate the discriminatory provision about inheritance affecting children born out of marriage. If we continue the struggle for reform, we will receive more support for our cause. Please continue to influence policies and contribute to social reform through the results of your own research.

Notes

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