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THE CHALLENGE OF THE SINGLE SURNAME SYSTEM IN JAPAN: A BARRIER TO INDIVIDUAL IDENTITY AND GENDER EQUALITY

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Japan remains the only country in the world that legally requires married couples to adopt a single surname. While art 750 of the Civil Code technically allows couples to choose either spouse's surname, societal norms overwhelmingly dictate that women take their husband's name, with over 95% doing so upon marriage. This requirement, rooted in the *ie* family system of the Meiji era, reinforces patriarchal norms and erases women's pre-marital identities. A survey conducted in February 2025 revealed that 63% of voters supported the introduction of an optional dual-surname system, while 21% opposed it. The demand for change has been further amplified by legal activists, and civil society groups advocating for the right of married couples to retain separate surnames. Meanwhile, Japan's Supreme Court continues to uphold the law, despite growing legal challenges. Prime Minister Shigeru Ishiba, who initially expressed support for a selective dual-surname system, has since softened his stance under pressure from conservative factions. This political hesitation underscores how far Japan's leadership lags behind public sentiment.
International bodies have also criticized Japan's refusal to allow separate

surnames. The United Nations Committee on the Elimination of Discrimination Against Women (CEDAW) has repeatedly urged Japan to amend Article 750 of the Civil Code. Despite these admonishes, Japan's government has yet to take decisive action, highlighting a growing divide between international expectations, domestic public opinion, and entrenched political resistance.

The origins of Japan's single surname system date back to the Meiji Restoration (1868–1912), a period of rapid modernization when the government sought to unify national governance under a structured legal framework. Before this era, surnames were primarily a privilege of the aristocracy and samurai class, while commoners were often identified with the land they cultivated (*myō*). Among the aristocratic classes, it was a customary legal practice to adopt distinct surnames upon marriage.
The legal innovations introduced with the Meiji Restoration encompassed, among other aspects, the regulation of surnames and led to the institutionalization of the family registry (*koseki*), which was established by law in 1871. With an act in 1875, for military and tax purposes, it became obligatory for every family to adopt a surname. This new requirement created a divide between social perception and the legal system. In fact, in contrast with the Edo period, Meiji-era legislation no longer allowed couples to retain separate surnames, mandating that each family unit adopt a single surname to be registered in the *koseki*. The new system was definitively consolidated with the enactment of the 1898 Meiji Civil Code, which institutionalized the *ie* system. Under this system, the male head of the household (*koshu*), and all family members were registered under a single surname in the *koseki*. In most cases, this meant that the wife had to take her husband's name upon marriage. Indeed, although the Civil Code did not contain specific provisions regarding the surname of married couples, the combined interpretation of Articles 746 and 788 made it clear that, upon marriage, the wife was fully "absorbed" into the husband's household. The structure of the Code, in fact, revealed a pronounced subordination of women, who lost their legal capacity upon entering marriage.

The persistence of this law has led to numerous challenges, particularly

concerning gender equality and individual identity. Indeed, surnames are not merely legal identifiers; they are deeply tied to social status and professional life. For women, being forced to adopt their husband's surname often results in a sense of lost identity. This is particularly problematic for those working in academia, law, medicine, and corporate industries, where professional achievements, certifications, and publications are often linked to a person's name. A name change can create disruptions in career trajectories, as previous work may become harder to trace, and networks built under a maiden name may not seamlessly transfer to a new identity. Some women attempt to circumvent this issue by informally continuing to use their birth surname in professional settings, while legally adopting their husband's name. However, this creates administrative difficulties, as all official documents, including passports, banking records, and contracts, must reflect the legally registered name.

While women bear the brunt of the law's consequences, men are also affected, albeit in a different way. Social norms dictate that men retain their surname upon marriage, and in the rare instances where a husband takes his wife's surname, he often faces significant stigma. Such men are sometimes viewed as weak or submissive, reinforcing rigid gender norms that prioritize male lineage.

The requirement to adopt a single surname also affects family structures, as some couples who wish to retain their separate surnames opt not to register their marriage at all. This has led to a rise in *de facto* marriages (*jijitsukon*), where couples live together and raise children without formally registering their union. While this allows them to maintain their personal identities, it creates legal complications, particularly regarding inheritance rights, parental authority, and social benefits.

The inconsistencies in Japan's marriage laws become even more evident when looking at international marriages. If a Japanese citizen marries a foreigner, the law permits each spouse to retain their respective surnames. This exception undermines the argument that a shared surname is necessary for family unity, as it suggests that surname uniformity is only required within domestic marriages.

Japan’s refusal to amend this law has drawn increasing international scrutiny. The United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which Japan ratified in 1985, explicitly recognizes a woman's right to choose the family name. The Committee has repeatedly urged Japan to reform its laws to align with international human rights standards: in last concluding observations in October 2024, it once again called for reform, stating that Japan’s single surname requirement violates international human rights standards. Despite these repeated calls, Japan’s government has yet to take any concrete action to address the issue.

However, international obligations have led to some developments at the domestic level. Indeed, the female representatives of the Japan Federation of Bar Associations, in conjunction with Japan's ratification of the CEDAW, conducted investigations into Japanese family law aimed at identifying discriminatory aspects. Based on the findings of these studies, they organized a public symposium focusing on the single-surname rule, advocating for a reform of the system. This call for reform received official support from the Japan Federation of Bar Associations, which submitted a legislative proposal to the government specifically addressing the issue of the single-surname requirement. As a result, numerous local groups were established, which, through meetings and the dissemination of newsletters, raised public awareness on the matter. In response to societal and international demands, the Japanese government, particularly the Legislative Council of the Ministry of Justice, initiated a process to review the Civil Code in 1991. In 1996, these investigations culminated in the submission of a legislative proposal to the Diet, titled Proposal to Amend a Part of the Civil Code. This reform included an amendment to Article 750 of the Civil Code, aiming to allow couples to choose whether to adopt a common surname or retain their original surnames. However, conservative factions within the ruling Liberal Democratic Party (LDP) blocked the initiative, arguing that it would weaken traditional family structures.

Most recently, Prime Minister Shigeru Ishiba initially voiced support for introducing a selective dual-surname system, a compromise that would

allow couples to choose whether to share a surname. However, he later backtracked due to pressure from conservative party members, illustrating the ongoing struggle between progressive and traditionalist forces within the government.

The push for reform has also been sustained by grassroots advocacy movements, feminist organizations, and legal professionals who continue to challenge the law's legitimacy. The *fūfubessei* movement, advocating for the right of married couples to retain separate surnames, has gained significant traction in recent years. Activists have organized petitions, public demonstrations, and legal challenges to increase awareness and pressure lawmakers into action. The fight against Japan's single surname law has also been sustained through strategic litigation by legal activists and civil society groups. The Supreme Court of Japan has issued two rulings on the matter. While in both instances the majority upheld the constitutionality of the single-surname requirement, these decisions warrant careful analysis, particularly considering the numerous dissenting opinions.

The first ruling came in 2015, when five women filed a lawsuit challenging Article 750 of the Civil Code on the grounds that it violated constitutional protections for gender equality. The Supreme Court ruled against the plaintiffs, stating that while the law "causes inconvenience" to women, it does not violate the Constitution. The majority opinion clarified that matters of marriage and family fall within the legislative authority of the Diet. However, the Court also specified that, in exercising its mandate, the legislature should consider various factors, including national traditions, family structures, and social perceptions, while also assessing their evolution over time. Although the justices upheld the constitutionality of the current legal framework, they nevertheless acknowledged that the legislature could adopt a different and less restrictive system. Moreover, a minority of justices (including all three female justices serving at the time) dissented, arguing that the law disproportionately burdened women and conflicted with modern human rights principles. Despite this setback, civil society movements have continued to challenge the law through new lawsuits. And, as mentioned, a second case reached the Supreme Court in

2021. This time, the Court acknowledged that public attitudes were shifting, but reaffirmed its previous ruling that legislative action, not judicial intervention, was the appropriate path to reform. The ruling included four concurring opinions and three dissenting opinions. Notably, two of the dissenting justices invoked a violation of international obligations, specifically referring to the CEDAW.
Currently, new cases are pending in the Supreme Court, thanks to the persistence of civil society movements employing strategic litigation as a tool to force the government's hand. Specifically, a group of 12 individuals filed a lawsuit on March 8th, 2024, before the Sapporo and Tokyo District Courts. By repeatedly challenging the law in court, activists aim to increase public awareness, generate media attention, and create legal precedents that could eventually compel legislative action.

To conclude, the ongoing debate over Japan's surname law underscores the conflict between deeply rooted traditions and the evolving expectations of modern Japanese society. Legal professionals, scholars, and activists continue to push for reforms that align with principles of gender equality and individual rights. The government's reluctance to act despite mounting evidence of societal support for change illustrates the challenge of balancing cultural heritage with progressive reforms. With strategic litigation placing increasing pressure on the courts, and civil society movements intensifying their advocacy efforts, change seems inevitable. However, the timeline for reform remains uncertain. The ability to retain one's surname after marriage is not just a bureaucratic issue, it is a fundamental matter of identity and gender equality. Until Japan's government acts, civil society and legal activists will continue their fight, ensuring that the debate over marital surnames remains a central issue in the country's evolving legal landscape.