
Review Essay

From Family to Nation: A Comparative Approach to the Japanese and French Family Systems*

HARADA Sumitaka

Kindai Kokka to Kazoku Modernu (The Modern Nation-State and the Family Model), by Nishikawa Yūko. Tokyo: Yoshikawa Kōbunkan, 2000, 257+18 pp., 2,800 yen (ISBN 4-642-07766-9)

Nishikawa Yūko's *Kindai Kokka to Kazoku Modernu* is compiled from among the various articles the author has written over the past 20 years on 'the relationship between the modern family and a nation-state, and on the possibility of undertaking comparative studies on the subject, and problems involved in such studies' (p. 253). Even though the original articles have been edited, readjusted and reorganized for publication in book form, the subject matters covered are naturally of a very extensive scope. Despite its extensive coverage of diverse topics (including theoretical as well as historical matters, concrete examples of the past and present drawn from Japan and France, and methodological discussions on comparative analyses), the book definitely makes for a very substantial reading. What makes the book so rewarding to the reader seems to be the fact that the author has been consistently carrying out her studies by sticking fast to her basic principles and objectives that are so valid and convincing.

Important among the features characteristic of her approach are: (a) that she defines the modern family very clearly and straightforwardly as the 'family that is deemed to constitute the basic unit of a modern nation-state'; (b) that she tries to capture the salient features of the modern family and its transformation process by approaching them from the standpoint of women's study and women's history, by focusing her attention on the status of women as embedded in the modern family system with its mechanism of hierarchical ranking and differentiation, and by basing herself on solid facts and texts; (c) that in interpreting what she perceives as the salient features of the modern family and its transformation process, she avoids treating them narrow-mindedly as peculiar only to the modern family in a certain nation-state, but always relativizes them by placing them in comparative perspective between Japan and France, and thereby tries to understand them as representing one particular way in which the modern family with its varying typologies or models manifests itself; (d) that, thanks to her effort to demonstrate that the typological differences in the modern family can be explained

HARADA Sumitaka is a professor of the sociology of law at the Institute of Social Science, University of Tokyo. He is the author of *Nihon no Toshihō* (Japanese Urban Law) (Tokyo: Tokyo Daigaku Shuppankai, 2001). He has published several articles on comparative family law including: 'The Ageing Society, the Family and Social Policy' in *The Political Economy of Japanese Society, vol. 2: Internationalisation and Domestic Issues*, ed. Banno Junji (Oxford University Press, 1998): pp. 175–228; and 'Quelques Observations Comparatives Entre le Japon et la France sur le droit Patrimonial de la Famille' (Some Comparative Observations between Japan and France on the Patrimonial Right of the Family) in *La Famille au Japon et en France* (The Family in Japan and France), ed. Alain Benabent (Paris: Société de Législation Comparée, 2002). He can be reached at the Institute of Social Science, University of Tokyo, 7-3-1 Hongo, Bunkyo-ku, Tokyo 113-0033, Japan, or by e-mail at harada@iss.u-tokyo.ac.jp.

*Translated from the Japanese by Moriya Fumiaki.

primarily by the differences in the timing of when a nation-state entered the world system of relations among sovereign states, she manages to maintain the perspective that—by avoiding the various binary oppositions within the nation-state concerned (e.g. oppositions between women and men, women and the family system, women and the state or politics, etc.)—places them on the plain of the world-wide system of sovereign nation-states (where a hierarchical mechanism exists through which various forms of discrimination, suppression, and exploitation are pushed outside the boundaries of certain nation-states and passed down to others of lesser socio-economic status); and (e) finally, that the author shows practical concern about ‘how will it be possible for women’s studies, the women’s liberation movement, and feminism to transcend the nation-state?’

The book’s basic theoretical framework emphasizes that the modern family should be defined as one that is ‘deemed to be the basic unit constituting a nation-state’. Accordingly, each state placed the family under the family-law system of its own choice or adoption, and unified the whole nation by making use of the family. However, in so doing, the state at first joined hands only with the male head of the family (the husband), and left the female (the wife)—both as a citizen and as an individual—buried within the family group and hidden behind the head of the family. According to Nishikawa, in so far as this particular feature is concerned, there is no fundamental difference between the modern family in Japan and that in France. Despite these intrinsic similarities, she points out very convincingly that what difference exists between the Japanese and French model derives from the difference in the institutional framework and norm consciousness with which the family head integrated the family, and from the difference in the ideology that linked the family to the nation-state. Whereas in prewar Japan, the father–son relation and the practice of ancestor worship, which connoted the ‘sense of temporal continuity’, integrated the family from within and linked it directly with the superior group, namely, the state under the emperor system, in France and other nation-states of the West, male citizens ‘horizontally banded together cemented by the sense of fraternity’ which excluded females (or wives) by means of their rights of control and supervision as family heads, while emphasizing inside each family the importance of the ‘permanence’ of the institution of monogamy.

On the basis of this perception, Nishikawa points out that the modern family in Japan manifested itself in two different dual structures: manifesting itself at first in the dual structure between the family as a ‘household’ and the family as a ‘home’, and subsequently into the dual structure between the family as a ‘home’ and individuals. Then she vividly describes the change in the modern Japanese family type in relationship to the corresponding change in the image of the typical house which accommodated the family, i.e. the change from a house with an *irori* (open hearth sunk in the floor) or a house with a *chanoma* (Japanese-style living-and-dining room with a straw-mat flooring), which corresponded to the former dual structure, to a house with a Western-style living room and private rooms for family members, which corresponds to the latter dual structure. These descriptions, which make Nishikawa’s observations unique and intriguing, can be effective in helping the reader to understand how the family home as it actually existed changed during the period from prewar days to the postwar period of rapid economic growth. At the same time, however, these descriptions give rise to certain problems.

First, as Nishikawa herself points out (p. 61), the first keyword that led this change was the ‘home’. Throughout the eras of the prewar years, war years and postwar years—from around the 1920s, when the Japanese-style house with a *chanoma* began to become popular to around 1975, when the house style with a Western-style living room was established (or when the Japanese-type modern family took shape)—the ‘home’ underwent a continuing and undisrupted process of development, being improved upon, reinforced and widely propagated. It must be remembered, however, that the year 1947 saw drastic revisions of the Civil Code as well as the Family Law, as part of the postwar

reforms. Touching on the apparently contradictory relationship between the continuous development of the ‘home’ and the drastic changes in the family-related legal provisions, Nishikawa observes that the old dual-structured family system survived by retaining its ‘home’ portion of the dual structure, and thereby cutting off the ‘household’ portion (p. 38). She then proceeds to assert that the Japanese family system was characterized as being led by the government in the sense that the government-initiated idea of the family system ran far ahead of reality (p. 61). I find this argument less than satisfactory, especially if we compare the developmental process of the Family Law with the corresponding process in France. In describing the relationship between the family system as defined by the law of the state and the way the family and the home actually exist in society, it seems necessary to look at the relationship from several other perspectives as well (discussed below).

Secondly, I have the impression that what Nishikawa regards as the dual structure symbolic of the period from the early postwar years until recently—namely, the dual structure between the family as a ‘home’ and individuals, accompanied by the corresponding contrast between a house with a Western-style living room and private rooms for family members—is somewhat less realistic than the dual structure that she associated with the preceding period. It is easy to see that Nishikawa referred to this dual structure in order to indicate the trend towards ‘deinstitutionalization of the family’, ‘liberation of women from the home’, and, moreover, ‘the end of the modern family’. However, given the fact that the factors underlying the ‘*deinstitutionalization* of the marriage and the family’ in France and other West European countries were increased *de facto* marriages between independent men and women on an equal footing, increased cases of women bearing and rearing children under such a situation and an increase in divorces coupled with an increase in step families (including those based on *de facto* marriages), I wonder whether the use of words such as ‘individuals’ and ‘private rooms for family members’ can really do justice to these developments which characterize the family’s transformation.

Thirdly, in contrast, because the modern family in Japan manifested itself successively in two different dual structures as mentioned above, ‘the modern Japanese woman was charged, from the outset, with the dual task of escaping from the family in the sense of the “household” that was presided over by the father and escaping from the family in the sense of the “home” that was presided over by the husband; and she could establish herself as an individual only after completing her struggle on these two fronts’ (p. 242). I do not have any objection to this. However, we must remember that it is not appropriate to draw a clear line between the former and the latter parts of the dual task, regarding the former as peculiar to the prewar period and the latter to the postwar period. To be sure, the former task involved the question of denying the patriarchy that was central to the ‘household’ system, but—as a matter of fact—the latter question was also integral to the ‘household’ system which vested the husband with a legal status superior to that of the wife, and the unequal legal treatment of the husband and the wife was partially succeeded to by the postwar Family Law. It should be kept in mind that much the same problem was inherent in the way the French Civil Code of 1804 treated the family, as it vested the patriarch (i.e. *chef de famille* or *pere de famille*), in the latter sense, simultaneously with strong husbandly authority (*puissance maritale*), and that it was not until the family system, especially the matrimonial property system, was radically reformed consequent upon the reform efforts of the 1960s and the 1980s that the French woman (or wife) became fully liberated from this legal constraint.

Moreover, even if the modern Japanese woman successfully carried out the dual task mentioned above, this would not automatically mean that she also managed to liberate herself as an individual from the nation-state. This is synonymous to the fact that the man, though having been regarded from the outset as a citizen in his capacity as the head of a household and as the husband, was

not free from the nation-state. Nonetheless, the problem for the woman takes on more complex proportions because its solution involves a paradox, in the sense that so long as she tries to realize through the intermediation of the state her aspirations to become free and independent in her relationships with the patriarch, the home and the husband, she is now bound to be captured and subsumed by an ‘invisible framework’ of new constraints imposed by the state itself. In Chapter 2 ‘Feminism and the State’ of Part I ‘The Era of the Family’, and Chapter 2 ‘Total War and Women’ and Chapter 3 ‘From the Resolution to Oppose the War to the Resolution to Thank the Imperial Army’ of Part II ‘Turning Women into Citizens’, the author re-examines in a very honest and self-conscious manner how this difficult question unfolded and how it was dealt with by the women’s liberation movements and in the debates over feminism in prewar, wartime, and postwar Japan. She confirms that the women’s movements during the war and their opinion leaders—regardless of whether they were advocating the extension of women’s rights to give them suffrage on an equal footing with men or were adhering to feminism with its emphasis on ‘motherliness’ and the blood relation between a mother and children—ended up justifying their co-operation and support of the nation-state and its commitment to total war. She also verifies that, despite this bitter experience during the war, participants in the second debate on the feminist movement in the post-war ‘remained surprisingly silent about the state’ (p. 87).

In contrast, in Chapter 1 ‘The French Revolution and Women’, Part II the author re-reads the more than 200-year-old ‘Declaration of the Rights of Woman and Female Citizen’ from the present-day standpoint, postulates a hypothetical case where the equality between men and women is given top priority and the nation-state is formed through the horizontal *association politique* among all its male and female citizens who are equal to each other, and then proceeds to examine what this nation-state and the modern family under it could have been like. She confirms that if the state had acknowledged the woman as a *citoyenne* (citizen) just like the man, it would by necessity have had to address the question of what should be the ideal relationship between marriage and the family. On the one hand, this observation reveals that the principle governing the relationship between the nation-state and the modern family in France was different from that in Japan (and therefore that the route by which women were turned into members of the nation and by which they were liberated in France was somewhat different from that in Japan). At the same time, on the other hand, this observation reminds us once again of the fact that the origin of the common problem faced by the family and women of advanced countries today dates back to the time of the emergence of modern nation-states.

When looked at in connection with the last point, the comparative analyses of societies and women of Japan and France today offered in Chapter 1 ‘Osaka in the 1980s’ and Chapter 2 ‘Provence in the 1990s’ of Part III ‘The Perspective of Comparative Analysis’ may be read as an attempt to highlight the point that the tasks confronting both countries are essentially the same, while simultaneously paying close attention to the tendencies towards their inherent diversity. Chapter 2 can be regarded as a ‘narrative of comparison’, in which Nishikawa’s analytical technique of dissecting a general problem on the basis of a specific case study or a specific symbol is at its best.

In lieu of a conclusion, I should like to comment on the research agenda which needs to be addressed in the future in order to further develop the discussions and issues raised in this book. To begin with, among the subjects for future scrutiny that the author herself has started tackling, it seems important to develop further features (d) and (e) of her research methodology pointed out above: in other words, to develop further the methodology that emphasizes the importance of always taking into account the world system of relationships among sovereign nation-states, by applying it to concrete case studies, testing its viability, and refining and improving it further. It is also indispensable to

re-examine radically the conventional approach to issues such as the family, women, and gender. Whereas these issues have been dealt with primarily as belonging to the ‘private domain’, they have in fact dimensions that are inseparably related to or that potentially belong to the ‘public domain’. It is, therefore, imperative to take a fresh look at these issues from a much broader and holistic perspective.¹

Among the subjects for further inquiry, I should like to draw greater attention to the question of articulation between the family system as presumed by the law of the state and the family in actual existence. The relationship between the two, including the distance between them, varies so significantly from one country to the next that, in looking back at the historical developments from the perspective of a comparative study, it is necessary to pay due consideration to the salient features of each instance of articulation. In the case of modern Japan, for example, both the prewar ‘household’ system and the new Family Law of 1947, as pointed out already, were formulated and institutionalized at the government’s initiative and were imposed on the people from above. At their inception, they were rather academic and idealistic, in the sense that they strongly reflected the government’s notion of what the family system should be like and were mostly out of touch with reality. However, such was not the case with the French family system. Many of the laws concerning the family that were instituted during the period of the Great Revolution (especially in its early part) were idealistic and out of touch with reality, but the Family Law of the 1804 Civil Code was legislated in due consideration of the way the family and the Family Law had been developing under the *ancien regime* (or, in the words of Jean-Etienne-Marie Portalis, it was legislated ‘with the spirit of the middle way, and with the view to linking the present to the future, with the present taken in its natural form as manifested by various relationships that are formed in the society on the basis of the past’). It is noteworthy that when the Family Law entered a process of thorough reform beginning in the latter half of the 1960s—after going through a long and gradual process of reform from the end of the 19th century until the 1950s (remember that the French Family Law did not undergo a radical post-war reform as in Japan)—steps were taken to examine meticulously how the actual family was changing and in what direction. On this basis, a series of reform legislation was drafted in order to adapt to the ongoing changes. This fact suggests a number of points. For one thing, it points to the fact that there have been considerable differences between the modern Family Laws of Japan and France in terms of their characteristics and functions as legal systems. For another, it also points out that, in order to inquire successfully into the ‘origin of the modern family’, it is by no means sufficient merely to look into the ‘origin of the nation-state’, but is imperative to consider the question from a standpoint that can properly take into account the chronological developments that preceded the emergence of the nation-state.²

Reference

Harada, Sumitaka. 1997. ‘Kazokuhō no Shiteki Hensen: Kojin to Komyunitī no Shiten kara’ (Historical Changes in the Family Law: From Standpoints of an Individual and a Community). *Hōritsu Jibō* 62(2): 20–28.

-
1. A symposium on ‘*Les Japonaises et Française entre la sphere privée et la sphere publique*’ was held in Maison Franco-Japonaise in Tokyo in July 2003 to address this question, with Nishikawa herself making a presentation on ‘The Shifts of the Border and Crevices between the Two Spheres’. The publication of the proceedings of the symposium is forthcoming.
 2. For a brief explanation of my own view about a comparative historical analysis of the developments of the Japanese and French Family Laws, see, for instance, Harada (1997).

