Legal Analysis of Stepparent-Child Relationships in Japan

: How Many Parents Should a Child Have?

Ayako KOGA (KOMAMURA)²

1. Introduction

Recently in Japan, the issue of the interests of children within stepfamilies has been attracting much attention due to the estimated increase in parental divorce and remarriages. In general, stepfamilies are defined as families in which at least one of the adults has a child(ren) from a previous relationship (Ganon & Coleman, 2004). However, this categorization captures too diverse family compositions within its scope to cover here. Therefore, in this presentation, we mainly feature the relationships between legally married stepparents and minor children, especially living together in the same households. We examine, in particular, how to protect and promote the interests of the children from the legal perspective, which brings the involvement by absent (non-resident) parent outside stepfamilies into our view.

“Should stepparents serve as a substitute for absent or deceased parents?” “How should absent parents be engaged in parenting?” It seems likely that each stepfamily has its own way of approaching these issues. This presentation will discuss that the Japanese current legal system may have limitations in addressing such various ways of practice, especially in terms of the dynamic changes of family relationships following parental divorce and remarriage.

We put a focus on the stepparent adoption system, under which stepparents can adopt children extraordinarily easily. Under the Japanese law system, like many other jurisdictions, the stepparent-child relationship is not granted a legal status as itself. Marriage to the parent of a child does not automatically confer on a stepparent clear legal obligations, rights and powers in parenting the child, including the so-called “parental authorities” (the Japanese counterpart of parental responsibility). Adoption is the only available legal means of giving such rights and duties to stepparents.

From a socio-legal perspective, we introduce the realities of Japanese stepfamilies, mainly by reference to the findings of the survey the presenter carried out in 2010. The

¹ This paper is the first draft and will be revised. Your comments will be welcomed at <ayamervekoma<at>gmail.com>.
² Research Associate, Waseda University, Institute of Comparative Law.
presenter conducted interviews with parents and stepparents in 43 stepfamilies and examined their parenting arrangements. The answers provided for the presenter’s interview, especially on the question of why stepparents adopt/ do not adopt children, reveals not only the uniqueness of the Japanese family law system, including the social context surrounding stepfamilies, but also some challenges to tackle, which you may have in common in the western world.

2. Stepfamilies in Japan: Growing Trend and Invisibility³

It was not until quite recently, around 2000’s, that stepfamilies began to attract attention of academic worlds as well as the Japanese society. One of the reasons we became interested in stepfamilies was the growing trend in their number, whereas one of the reasons they had not long been a popular research topic is thought to be their invisibility in the society. It is argued that the fact they were invisible in the society has been one of the main causes why stepfamilies faced many sorts of difficulties. Such difficulties, especially those concerning care of children, have posed some troublesome issues to be tackled in the judicial and academic levels.

2.1. Growing Trend in Number of Stepfamily Households in Japan

Even though it is estimated that there is a growing trend in the number of stepfamilies, no one exactly knows their actual number. We do not have official statistical data setting out the number of any type of stepfamily households in Japan. This fact itself is indicative of the indivisibility of stepfamilies. Nevertheless, there are some available remarriage and divorce statistics which can help us to some extent (The vital statistics of Japan 2009, volume I by the Statistics and Information Department, Minister’s Secretariat, Ministry of Health, Labour and Welfare, 2009, Tokyo: Health and Welfare Statistics Association Japanese Ministry of Health and Welfare).

First, the data shows the increase in the number of remarriages. In 2009, around one-fourth of Japanese marriages represent a remarriage for at least one spouse. There is no exact information about how many of these remarriages create stepfamily households. However, the data also indicates that divorces with minor children under parental authorities account for almost 60 percent of the total number of divorces. Those parents can bring children into the remarriage, thus forming stepfamily households.

³ This section is basically based on the findings of the prior studies by Shinji Nozawa (For details, for example, see Nozawa, 2008). He also helped me conducting the interview survey which is referred in this presentation.
It is also speculated that there may be not a few de facto stepfamilies, which are even more difficult to count. It is assumed that there are various types of stepfamilies other than de facto stepfamilies. Stepfamilies are far from presenting a uniform figure, because different sex and age combinations among family members yield different relationships.

However, it is worth mentioning that stepfather families may be the predominant form, which is the trend commonly observed in most industrialized countries. Under the Japanese current family law system, only one of the parents acquires parental authorities following parental divorce (Civil Code, sec.819). The Japanese society, as most countries, still favours maternal care, therefore, mothers acquire sole parental authorities and take main care of children at more than 90 percent of the divorced cases with minor children (Annual Report of Judicial Statistics by the Supreme Court of Japan, 2008, Tokyo). Those mothers with children can get married to men, not a few of whom may have no previous marriage experience nor resident children. As we will see in the following sections, the nature and needs of stepfather-child relationships are quite different from those of stepmother-child relationships. We should bear this fact in mind when we analyze the law system.

2.2. Invisibility of Stepfamilies in the Japanese Society: Problems of Terminology and Notion

The most symbolic fact indicating the invisibility of stepfamilies is that for a long time, there has not been a Japanese counterpart to the English word of “stepfamily”, “stepparent” and “stepchild”. Although the word “stepfamily” (as pronounced “suteppufamirii” in Japanese) is getting popular due to its frequent appearance in the media, it will take some time before this word takes root in the society.

Why are stepfamilies so invisible? According to the prior studies, it is in part because they are literally ‘difficult to find’. To sum up, if there is a family containing a couple and a child (children), we cannot discern, at first glance, a stepfamily from a natural family, consisting of a married couple, who are both biological parents of the child (children). More frankly speaking, natural families are still the prevailing form of the family. Therefore, if you see such a family, you may, probably unconsciously, judge them as a normal family.

Such social invisibility of stepfamilies is quite problematic because it can potentially lead to the marginalization of stepfamilies within the society. Such a lack of the term or notion to describe stepfamilies is attributable to difficulties in identifying and accepting their unique experience as well as in setting the norm on the role of
family members, especially concerning the children’s care. In light of the diversity as an inherent feature of stepfamilies, it would be extremely difficult to set a uniform norm on the stepparents’ role and responsibilities. However, the pressure to conform to the model of normal family or natural family would make it difficult for them to make an optimal choice that best suits their realities and carry on their family life.

Lack of information on the unique experience of stepfamilies can also cause ignorance of the necessity to support them. This non-recognition may have prevented the Japanese government and academic worlds from attempting to develop support systems, including the appropriate legal system.

3. Methods

In the following sections, we will look at the statutory framework of the Japanese Civil Code. The Japanese family law system is structured according to the provisions of several related laws, the main one of which is the Civil Code. Part 4 of the Japanese Civil Code, entitled Relatives, provides for legal family relationships and the rights and duties among family members.

From a socio-legal perspective, we also introduce the findings of the qualitative survey on stepfamilies in Japan, which the presenter conducted between August and November 2010. For the purpose of understanding the characteristics of their parenting, the author conducted semi-structured interviews with parents and stepparents in 43 stepfamilies and explored their parenting arrangements, also including contact and support payment by absent parents.

Although the sample size is quite small and heavily biased, this research, as supposedly the first-ever qualitative survey focusing on legal issues concerning Japanese stepfamilies, contributes greatly to our legal studies.

4 Overview of the Japanese Law System on Stepfamilies

4.1 Inclusion of Stepfamilies into the Adoption Law

It would be controversial whether adopted families should be counted as stepfamilies, because stepparents have already become parents as an effect of adoption. However, in Japan, adoption is quite a common practice for the reality of stepfamily life. Therefore, in this presentation, we will include such adopted families into the category of stepfamilies.

Adoption is the only available legal means of conferring on stepparents a formal

---

4 For the details of the methods and findings of this survey, see Komamura, 2011a & 2011b.
5 Some self-help group of stepfamilies, mainly including the SAJ, Step Family Association of Japan, helped the presenter greatly find participants.
status as the children’s carer. It is estimated that not a few stepparents adopt children, although we have no official statistics confirming this presumption.

Whether or not the adoption took place is crucial to the existence and degree of their duties, rights and powers concerning parenting. Therefore, we now put under the scrutiny the legal relationships of stepfamilies when there is stepparent adoption, as well as when there is no adoption, making occasional references to their state of existence. First, we look at the case there is no stepparent adoption, because it is the standard form envisaged by law.

4.2. When There Is No Stepparent Adoption

First, we have to make it clear that there is a lack of legal concept describing step relationships in the Japanese law system. In Japan, like in many other jurisdictions, the law does not provide stepparents with an automatic parental status upon marrying the children’s parents.

In fact, before World War II, under the old Civil Code, step-relations were taken as parent-child relationships when they belonged to the same “House” (“Ie” in Japanese) through the stepparents’ marriage to the parent. This legal stepparent-child relationship system granted stepparents a parental status, with some limitations as to their parental authorities under the control of the “House”. This “House” is a Japanese feudalistic pre-modern family system and means a patriarchal household led by the house-head. It used to work as a medium for succession of the house property as well as a unit to be recognized and managed by the state. However, this legal stepparent-child system was abolished by the law reform just after World War II. It was because the system was seen as a part of the “House” System, which was to be eradicated for the purpose of promoting the rights and welfare of an individual.

It seems highly likely that, as a matter of fact, most stepparents take substantial part in parenting children in the same households, although the degree of the involvement differs from case to case. The data from the presenter’s interview survey as well as some prior studies indicates that not a few children are financially dependent on stepfather, whereas stepmothers tend to be mainly engaged in physical care of children. The classical division of labor by gender role, which is deeply rooted in the Japanese society, can be observed in stepfamily households.

Nevertheless, no matter how much do stepparents contribute to children’s daily care and support, this cannot be recognized in official terms. As a general rule, stepparents do not have parental authorities nor primary financial responsibilities toward children. Stepparents and child are considered as the first degree relative by
affinity, which confers them only few rights and duties (Civil Code, sec. 725).

The most noteworthy feature may be that stepparents do not have parental authorities. Some critics argue that daily care by stepparents, including making some instant decisions about children's education and healthcare, can be explained as legal acts of exercising custodial rights delegated by the parent. Certainly, according to the data from the presenter's interview surveys, schools and medical services do not dare to question the official status and powers of stepparents because of their parent-looking appearance, and thereby stepparents have experienced little or no difficulties by cause of the lack of parental authorities. However, of practical importance is that their parenting is not enforceable nor can be protected from the interference by the parent.

With respect to financial responsibilities, stepparents have no legal obligations to support children, except the less rigid liabilities to support them under the exceptional circumstances on account of their affined relation (Civil Code, sec. 877 Ⅱ). These liabilities are imposed by the order of the court, although the degree of the liabilities and the scope of the exceptional circumstances are rather unclear. It is also controversial whether the cost for rearing the stepchild should be included in the expenses of marriage life to be shared by the couple of parent and stepparent. The precedent cases have been inconsistent on this issue.

In addition, stepchildren do not qualify as stepparents' successors and do not have intestate inheritance rights. However, in case stepparents have no other relatives and the property would otherwise revert to the state, stepchildren can be considered eligible for inheritance on account of the special relationships with stepparents (Civil Code, sec.958-3). Stepparents can make a will ensuring there is a gift to the child, although it is rather difficult to make a legally valid will subject to the strict formalities.

Regarding social security, the recognition of step relationships is inconsistent among the different systems. Although some schemes recognize their de facto dependency as eligible enough, others, including many private company schemes do not.

4.3. When there is a stepparent adoption

The Japanese Civil Code provides for two types of adoption: ordinary adoption (Civil Code, sec.792 to sec 817) and special adoption (Civil Code, sec.817-2 to 817-11). Special adoption is the complete adoption, which is specially designed to give a new set of parents to aid-requiring children. It may be similar to minor child adoption systems of most jurisdictions in the industrialized world. However, the overwhelming majority of adoptions in Japan, including stepparent adoption, are ordinary adoption. (In 2009, there were around 85,000 ordinary adoptions in total, whereas there were only
around 300 adoptions in total (Annual Report of Judicial Statistics by the Supreme Court of Japan, 2008, Tokyo). Therefore, this section will focus on the system of ordinary adoption by stepparents.

Minor child adoption as an ordinary adoption would be quite different from minor child adoption in most jurisdictions of industrialized world, in terms of both the process of adoption and its effect. We will now examine them step by step.

4.3.1. Requirements and Process of Adoption

Statutory Framework of the System

Stepparents can adopt children more easily than in other cases, where the adoptive parent is a third person. The current system is rather lax in terms of the requirements and process of adoption. It is not an exaggeration to say that the Japanese adoption system provides for the easiest possible way in the world of acquiring a legal status for stepparents, excluding those jurisdictions that automatically confer a parental status, if there are any. The details are as follows (See the Japanese Civil Code, sec.792 to sec.801).

First, adoption takes effect only by submitting an adoption notification to the municipal office. It is necessary that there is a mutual consent regarding the adoption between the parties when submitting the adoption notification (Civil Code, sec.799).

If the child to be adopted is under the age of fifteen, his or her legal representative, in most cases, parents with parental authorities give consent to adoption on his or her behalf. In this instance, there is no occasion to make sure that the child himself or herself wishes to be adopted. The child is given neither rights to veto his or her own adoption nor a chance to be informed of the effects of adoption.

Another party interested is the absent parent of the child outside the stepfamily households. As explained above, under the Japanese current law system, only one of the parents acquires sole parental authorities after parental divorce. No consent to adoption is required if the parent does not have parental authorities nor shares physical custody of the child. Such a parent needs not so much as to be notified or consulted about his or her own child's adoption.

The second important feature of the requirements of stepparent adoption under the Japanese law is that the leave from the family court is not required. In general, adoption of a minor child requires permission from the family court, for the purpose of safeguarding the interests of to-be-adopted children. However, this rule does not apply to stepparent adoption for the reason that a stepchild is a lineal descendant of the adopter's spouse (Civil Code, sec. 789). This exception is said to be based on the
assumption that adoption between close relatives is much less likely to harm the interests of the children.

Lastly, the eligibility requirement for adoption is also quite lenient. There are no requirements as to the age of stepparents and children. Nor is confirmation required that stepparent has lived with the child for a certain period of time.

The Realities Concerning Conclusion and Establishment of Adoption

Although we have no official statistics, it is estimated that there are not a few stepparent adoptions in Japan. According to the data from the presenter’s survey, there were stepparent adoptions in around half of the households, where stepparents and children live together. More specifically, adoptions took place in 18 stepfather households out of the total 26 households, whereas in 12 stepmother households out of the total 26 households.

Such prevalence of stepparent adoption appears to have much to do with the easiness of conclusion, as well as it being the only available legal means of giving stepparents an official status. Keeping it in mind, the presenter asked the participants who concluded stepparent adoptions, at the interview survey, how the interested parties were involved in the process of adoption.

Most of them answered that stepchildren and their absent parents without parental authorities had indeed been left out of the decision process. Some of the resident parents went so far as to say that there would not have been adoption especially if they had had to obtain the consent of the absent parents. In contrast, regarding children, almost all the respondents said they did not intend to ignore children’s wishes and interests in concluding adoption, although, in fact, they did not explain to them about adoption for the reason that they thought children were too young to understand.

Hence, for the majority of the cases, all that is needed for adoption to be duly concluded is simply the joint wishes of the couple6 of the stepparent and the parent. All they have to do is just to sign an adoption notification and submit it to the municipal office.

However, some critics question the current system that in no way is the process subject to checks by the outsiders, including absent parents and the courts and other

6This speculation is based on the comparison of the number of adoptions under the leave of the family court and the number of the adoptions without the leave. For instance, in 2009, there were only almost 1,000 adoptions under the leave of the family court, most of which are thought to be adoptions of a minor child according to Civil Code, sec, 798. In contrast, there were around 84,000 adoptions without the leave of the family court, a substantial part of which are thought to be stepparent adoption.
welfare authorities, on whether the adoption really serves the interests of the children. This concern may be fuelled by realizing the fact that a substantial proportion of stepparent adoptions, especially stepfather adoptions, were concluded simultaneously with the marriage between stepparents and parents. That is to say, they conclude adoption at the very beginning of the development of their relationships. This has much to do not only with the legal effects of adoption but also the psychological impact associated with those effects, which are to be discussed in the following sections.

4.3.2 Effects of Stepparent Adoption

Status, Rights and Duties Offered to Stepparents and Children by Adoption

Upon adoption, the adopted child acquires the status of a legitimate child of his or her stepparent (Civil Code, sec.809). The “parent” and “children” status the status-holder a broad set of rights and duties as follows.

First, stepparents acquire parental authorities. They exercise joint parental authorities with his or her spouse, who retains the parental status for all purposes even following adoption, during their marriage as if they were both the children’s biological father and mother (Civil Code, sec. 818).

Second, stepparents become legally obliged to support children. Their legal obligations are as rigid as those of biological parents, to guarantee children the same living standards as their own. Such officially recognized dependency qualifies stepchildren to be eligible enough to benefit from the whole package of the social security systems, including those which they would not otherwise be entitled to.

Third, if stepparents die, children will qualify as their issues and have automatic rights of intestate succession.

Fourth, children necessarily take the surname of stepparents, although this is not associated with substantive rights and duties. Accordingly, they are registered on the same book of the family register as the stepparents (Civil Code, sec.810).

The Japanese Family Register System is unique in that it is structured based on the marriage family model, not on the individual member himself or herself. The marriage family model consists of the family head, his or her spouse and children of the family head and/or his or her spouse, all of whom take the family head’s surname as the single surname. Namely, when a couple gets married and makes a new registration book together, one of them has to change his or her surname in order to take the same surname together. In Japan, the overwhelming majority of the couples choose to take the husband’s name and make a registration book whose head is the husband.

Therefore, the effect regarding the surname and the family register are especially
significant in stepfather households. That is to say, upon remarriage, the mother’s surname changes to that of her spouse’s: stepparent’s, and thereby, it is only the child from her previous relationship who takes a different name within the stepfamily household. Adoption can unify the family’s surname by changing the child’s surname to that of the stepfather’s. It is indeed against this backdrop that many adoptions were concluded at the same time as the parents’ remarriage took place, as noted above.7

As referred above, the sole act of submission of adoption notification can bestow a comprehensive status on stepparents and children. However, this does not always last for good. Ordinary adoption, including stepparent adoption, can be dissolved at any time under a mutual agreement between the parties. Stepparents can abandon their responsibilities toward children at any time they like to do so. Even if one party is against dissolution, judicial dissolution can be admitted on such a ground as making it difficult to continue the adoptive relation (Civil Code, sec. 814).

Effects on the Relationships between Children and Absent Parents

The effect of adoption can go as far as to affect the legal link between the other parents and children, if the parents are still alive. Of particular importance here is that adoption does not sever completely their legal link and the children can enjoy dual parenthoods.

The rights and duties of the absent parents with regard to parenting are somehow affected, although most absent parents may have already lost their parental authorities at that time. However, adoption makes it practically impossible for the absent parent to make a claim for recovery of parental authorities. The judicial precedents have denied such a claim by prioritizing the stability of the new adoptive family.

Another remarkable point is diminishment of their financial liabilities towards children. As they still hold their parental status, their obligations to support children are not to be extinguished. However, the obligations become inferior to those of the stepparents and their spouses. In a word, their obligations are regarded supplementary, the absent parents can claim for the reduction in the amount of support payment.

On the other hand, contact with children, which used to be restrained or denied by the family court on account of the children’s adoption, has increasingly become admitted even after the adoption taking place in the family mediation and other judicial

---

7 What is noteworthy here is that the children of the spouse of the family head, who are not adopted but take the same surname with the family head, are registered on the same register book. Therefore, the child of the resident father and his spouse are registered on the same book, even though they are not recognized as parents and children in legal terms. However, during the survey, some respondents were misunderstanding that if registered in the same book, all stepparents automatically acquire a legal parental status.
4.3.3. The Practical Benefits of Adoption: For What Do Stepparents Adopt Children

As referred above, adoption confers on stepparents a parental status for all purposes. From the legal perspective, to acquire parental authorities is of crucial importance, for parental authorities represent all the duties and rights concerning parenting children. However, if we attempt to analyze the step adoption system in detail for the purpose of considering a desirable form of the law system on stepfamilies, it should indeed be helpful if we can figure out which effect or benefit associated with adoption has actually led stepfamilies to conclude adoption. In this section, we examine the findings from the presenter’s interview survey, supposedly the only available source of information on this issue in Japan.

Beyond the Legal Effect: Under the Normal Family Model

According to the answers provided for the presenter’s interview, on the question of what was the most significant effect of adoption to the participants and their family, revealed that the effect of changing the surname of the children was crucial in almost all the stepfather adoption concerned.

There appeared to be a pressing need for the unification of their family name. One respondent, a resident mother, answered that she was eager to pretend being a natural family by unifying the surname. It was for the purpose of protecting her children and family from the eyes of neighbors and school that were directed towards a minority family, full of curiosity. Another respondent, also a resident mother, said that she did not want to isolate her child by leaving her alone at the old registration book from which she had already left upon remarriage.

The Japanese family system may be unique in that the Family Register System, including the surname as its component, rather than the legal status itself, has a decisive influence in the society as an official status representing our family relationships and leads our ways of family life so as to come under the model of standard marriage family.

Thus, it may well be said that the benefit of adoption goes beyond the issue of its legal effect. It can be argued that unifying the family name and registration book, presumably coupled with acquiring the “parent” and “child” status and substantive rights and duties following from the status, provide stepfather families with the psychologically important sense of security and belonging together as a family unit.
Parental Status Accessory to Marriage?

The fact that adoption took place simultaneously with the marriage of the stepparent and parent is indicative of the fact that the benefit of adoption is closely related with, or rather, accessory to the marriage relationship. At the presenter’s survey, some mothers implied that stepfathers proposed to adopt children with a view to winning the mothers’ trust by securing the children’s financial stability through assuming responsibilities and admitting the children’s inheritance rights.

Even if not regarded as far-reaching to be accessory to marriage relationships, quite a few respondents took adoption as a natural outcome of remarriage. It is in part due to the issue of the surname, as noted above. In addition, one mother expressed a different perspective regarding this issue, as follows.

In light of the fact that my spouse is living with my children and somehow getting involved in their parenting, my spouse and I felt it unnecessary to draw a line which in effect will consolidate the fact of my spouse being my children’s parents.

It is imperative to note that the tough realities facing minority families are lying behind this state of things, namely the fact that they have to confront many sorts of difficulties under the pressure to conform to the standard family model. The symbolic model of marriage family, which constitutes the basis of the Family Register Book compilation, appears to be taken as the natural family of one couple, that is, two parents and “their” children, although it is not necessarily correct. To pretend being the standard family consisting of a couple and ‘their’ children can be regarded as the most esteemed benefit bestowed by adoption, although whether it is appropriate is another issue.

Benefits for Stepmother Cases

In contrast, stepmothers tended to take adoption not as the matter of the marriage family unit as a whole but as the matter of the stepmother-child relationship itself. According to the data of the survey, not a few adoptions took place in stepmother households, although the rate of adoption was a little lower than that in stepfather households. They often took some time before adoption. Some stepmothers responded that they decided to adopt children only after they had experienced struggles concerning parenting children and finally got prepared to assume primary
responsibility towards the children as their “mother”\(^8\). In charge of main care of the children and through many struggles (Kikuchi, 2012), stepmothers tend to concentrate on their own one-to-one relationship with children.

However, we can also catch a glimpse of the influence of the standard family model represented by one couple and “their children” here. That is to say, those mothers appeared to have the idea that the most natural course of things in which they would be able to express and solidify their love and responsibility towards children is to become their “parent” : mother.

5. Discussion: Limitations of the Standard Family Model?

So far, we have seen that stepparent adoptions can take place quite easily and that they are taken as a natural outcome or a necessary part of process of solidifying stepfamilies. These findings lead us to the impression that it is rather unnatural for stepparents to choose not to adopt children. Keeping this question in mind, we go on further to look at the findings of the survey, which explains the reason why some parents do not adopt children. Another question here is whether adoption is actually enough for solidifying stepfamilies. We will introduce some ex-stepfamily cases, where adoptions were dissolved at the dissolution of the remarriage. Tackling these questions reveals some limitations of Japanese family law system in addressing the dynamics of family relationship changes following parental divorce.

5.1. Why Some Stepparents Do Not Adopt Children

Because They Do Not Love Children?

What comes first to our mind may be the hypothesis that stepparents do not want to become the parents simply because they do not love stepchildren as their own children and they do not like to be responsible for stepchildren. At the survey, such responses stood out, exclusively among stepmothers. Harsh may it sound, but it is too hasty to blame those stepmothers. Some studies indicated that the fact that they have to join parenting from the middle of the childhood or teens fuels the difficulties which stepparents, especially stepmothers, have to confront concerning parenting the children, who had lost their mothers once(Kikuchi, 2012). The report by not a few stepmothers at the presenter’s survey supported this finding. However, it is sometimes the matter of time. Through such struggles, some stepmothers got firmly determined to become mothers, and for a long time until that moment, their relationships cannot be officially recognized.

\(^8\) It took from months to years before stepmother adoption.
Because of The Presence of the Other Parent

Even more remarkable is that some other stepparents, both stepfathers and stepmothers, referred to the presence of the other biological parents, when they explain about the reason for not having adopted children.

According to the findings of the presenter’s survey, the children’s relationships with absent parents were quite limited and distant in most cases\(^9\). However, some families, though limited in number, were making an attempt to share parenting with the absent parent. Certainly, adoption does not terminate the legal link with the absent parents nor replace the absent parents with the stepparents. Nevertheless, adoption, whereby stepparents assume the primary responsibility towards children as if stepparents and parents were both the natural parents, sometimes coupled with the influence of the standard family model associated with clear family boundaries, appears somewhat incompatible of the idea and practice of shared parenting.

One stepfather explained to me that he has not adopted the children so as to avoid the diminishment of the amount of support payment by the absent father. The stepfather regarded financial liabilities as an essential part of the contributions possible towards children by the absent father. Therefore, the stepfather was considering adopting the children after they became mature, although his spouse was concerned what would become of the relationships between her children and spouse when she accidentally dies during their childhood.

In contrast, some stepmothers focused on the psychological aspects. One stepmother told the presenter that if their biological mother were not living in the neighborhood and had not had a substantial involvement with the stepdaughters, she would have adopted children. She said the fact that the stepdaughters did not want her to replace the mother was crucial to her decision not to become their mother, in spite of the attachment between them.

We would like to make sure again that adoption does not extinguish the parental status of the other parent. Nevertheless, the presence of the other parent outside the

---

\(^9\) With regard to the degree of contact with absent parents, there were no more than around 10 cases (out of 37 households, excluding the case the other parent are already deceased) where children maintained substantial contact with absent children. In the rest, they had no contact or sporadic one at best (for example, once or twice a year), although some of such parents continued paying financial supports. Some resident mothers said that they do not know even father’s current address. What is more noteworthy is that almost all the absent parents were involved in the decision of important issues concerning the child’s education and life; for instance, choosing high school. The sample is too small to examine whether there is a significant difference from the non-remarriage cases or the difference between the adopted case and non-adopted case. In any event, it is difficult to decide that re-partnering of the resident parent may reduce the involvement of the absent parent or vice versa.
stepfamily prevented stepparents from becoming another parent. The decisive influence which the Family Register System appears to have among other stepfamilies, as indicated above, may help us understand the gap between the legal effect and the sense of some stepparents. Under the pressure of the standard family model, with clear family boundaries, the image of a parent may be associated with some exclusiveness and self-containment.

5.2. Adoptions Do Not Help Solidifying Stepfamilies

As explained in the previous section, adoption can be dissolved at any time. Also as argued above, adoption may be accessory to, or closely related with, the marriage relationships of the stepparents and parents. The dissolution of the marriage couple of stepparents and parents may well be considered as the most typical occasion of the dissolution of adoption. It is estimated that the breakdown rate of the couple is higher in stepfamilies than in natural families because of the inherent difficulties and complexities of stepfamilies, although there are no official statistics on the rate of breakdown of remarriage.

At the presenter’s survey, there were 4 participants from the ex-stepfamilies where the couple had already got divorced. Certainly, all of them reported that stepparent adoptions were dissolved and that no stepparents, except one stepmother, had contact with the stepchildren nor paid financial support to them since then. Hence, even if they adopted children with the intention of solidifying stepfamily relationships, it cannot make up for their fragility. What is more, adoption cannot secure the responsibility towards children, once assumed by stepparents with firm determination. Nonetheless, the issue of financial security of the children after the breakup of remarriage and stepparent adoption has been scarcely discussed.

5.3. Parent Or Not? Beyond Time and Boundaries

This presentation will end by arguing that the issues indicated so far in this section, although presenting quite different appearances, have one issue in common. That is to say, the Japanese law system has limitations addressing the dynamic changes of family relationships following parental divorce. Children can have more than one adult, including parents, involved in their parenting during the course of their parent’s divorce and remarriage. From the perspective of the stability of parenting, such adults should continue to share parenting responsibilities.

The relationship of stepfamilies may change over time. However, adoption takes place under the one-time agreement and often takes place at the beginning of their
family relationships.

Before brought into stepfamilies, the children have already experienced the previous family life, which may mean that stepparents have to share the children with the member of the previous family, such as the other parent. However, adoption sometimes appears to make it more difficult than it really is.

In light of the fragility of remarriage, it is also noteworthy that stepparents themselves can become this member of the previous family for the child. However, adoption system does not grasp the issue of parenting children after the remarriage breakup within its scope.

Thus, there would be room for further consideration on whether we should adhere to the stepparent adoption system. In exploring this issue, we will have to consider seriously the significance of becoming a legal “parent”. In terms of legal technique, we should attempt to figure out the specific problem caused by the adoption system and make sure that we cannot resolve it under the adoption system. In terms of concept and framework, we should explore whether we can cut the concept of “parent” out from the standard family model.

Last but not least, these approaches may imply the limitations of the standard family model, in spite of the power of this model in Japan. When a child parted with one of the biological parents and lives with a stranger on account of his or her marriage to the child’s resident parent, the family boundaries become quite blurred. At this instance, the standard family unit may not always perform as a guardian of the children as it is expected to. Therefore, it would be quite significant for the Japanese juridic worlds to study the law system of western jurisdictions. They are going ahead in addressing this issue, especially from the context of promoting shared parenting following parental divorce. We should take every trouble to safeguard and promote the interests of the child as a respectful individual, through the course of dissolution and reconstruction of the marriage families.

REFERENCES


