Gender and Law Scholarship in the Law in Japan Field: A Comprehensive Bibliographic Study

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I. INTRODUCTION

This bibliography, inspired by a 1990 journal article by Professor Veronica Taylor titled, Teaching about Law and Society in Japan: Does Gender Matter?,1 and Professor Vera Mackie’s commanding body of work in this field of study, aims to offer a tool for students and researchers interested in issues relating to gender and law in Japan. We started this bibliography by compiling and snowballing from sources in Levin’s office collection and a variety of title word searches in legal journal databases. We shared our findings first to a select list of scholars who kindly shared feedback and advised us of missing items,3 and secondly, on SSRN,4 which also allowed us to obtain additional input.

The bibliography contains more than 150 publications including monographs, book chapters, textbook materials, and journal articles from 1962 to 2019.5

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3 Particular thanks are due here to Professors Daniel Foote, Kyoko Ishida, Mire Koikari, Vera Mackie, Eri Osaka, Veronica Taylor, and Leon Wolff for their insights.


5 JILPT has published much research regarding women and labor. We have not listed all papers in this bibliography, because they are more focused on economics and
Our preliminary criteria for listings were: (1) existing English-language publications, (2) relating to the gendered operations and impact of the law in Japan, and (3) published in an academic journal or in a book as a chapter rather than a mass media source. We eliminated a number of sources that discuss gender and the law in Japan but were primarily directed towards economic, anthropological, political science, sociological, or other social science perspectives on the issue. We then categorized sources with best efforts to make assignments appropriately, but we acknowledge a degree of inevitable arbitrariness in this process more fully explained in the accompanying paper by Levin noted below.

A companion working paper authored solely by Levin analyzing the materials, and with additional exploration of gender and law issues in Japan, has also been posted to SSRN.6

We hope this compilation will inspire more scholars to look into and continue research into how gender has operated and continues to operate in the law in Japan.7

II. TAXONOMY OF TOPICS

1. General
   1. Overview works - multiple topics broadly themed, constitutional history, feminism and law theory in Japan
   2. Roles in instrumentalities of legal authority and power - legal education, legal professionals (lawyers, judges, prosecutors), quasi-legal professionals; governance roles in legislative politics and executive branch administration
   3. Cultural norms with legal implications - imperial succession, sumo, Shinto-based exclusions from places, education, sports (analog to U.S. Title IX), Japan Self-Defense Forces
   4. CEDAW and other international human rights issues

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7 This bibliography is modeled after work by Adam Mackie and Mark Levin regarding social justice reform in Japan. Readers may find this resource valuable as well. Mark Levin & Adam Mackie, Truth or Consequences of the Justice System Reform Council: An English Language Bibliography from Japan’s Millennial Legal Reforms, 14 ASIAN-PAC. L. & POL’Y J. 1 (2013), https://papers.ssrn.com/abstract=2237663.
Intersectionality: overlaps and fault lines over race, ethnicity, class and locality (e.g. Okinawa), nationhood, masculinities, SOGIESC, dis/ability

Employment: economic subordination of women (note, economics of the family writings are placed with family law) and other economic aspects of the law
1. Workplace - gender and sex discrimination and harassment - explicit and implicit / disparate impacts (e.g. part-time labor)
2. Prostitution, “JK” business, and sex trafficking; pornography & freedom of expression (commodified sexuality)
3. Tort law inequities, tax law inequities, etc.

Nation and Family / Sexual autonomy (non-commodified sexuality) / Reproduction
1. Nationality and citizenship laws, especially re. marriage and family
2. Marriage, civil code, family registration laws - ie system, post-war equality provisions, surnames, legitimacy in birth, same-sex relationship recognition (domestic violence issues have been set into crime)
3. Divorce and separation, child custody (including Hague Convention); gender-unequal divorce time frames
4. Inequities in property and inheritance laws
5. Public subsidies for caretaking and other systems for child-rearing, welfare reform, work leave policies, issues relating to household labor and care giving
6. Sexual autonomy (non-commodified) and Reproduction - privacy, contraception, abortion, eugenics, surrogacy and artificial reproductive technologies

Crime and Criminality
1. Crime victimization - rape, sexual consent, domestic violence, stalking
2. Crimes by women - women in the criminal justice system as accused and convicted persons; patricide cases as gender-centered law
3. Male criminality as it affects women (such as can be seen with mass incarceration in the U.S.)

III. MATERIALS FOUND

1.1 Overview works - multiple topics broadly themed, constitutional history, feminism and law theory in Japan


1.2 Roles in instrumentalities of legal authority and power - legal education, legal professionals (lawyers, judges, prosecutors), quasi-legal professionals; governance roles in legislative politics and executive branch administration


EMMA DALTON, WOMEN AND POLITICS IN CONTEMPORARY JAPAN (2015).


1.3 Cultural norms with legal implications - imperial succession, sumo, Shinto place exclusion, education, sports (analog to U.S. Title IX), JSDF

Vera Mackie & Sandra Buckley, Women in the New Japanese State, in DEMOCRACY IN CONTEMPORARY JAPAN 173 (Gavan McCormack & Yoshio Sugimoto eds., 1986).


1.4 **CEDAW and other international human rights issues**


1.5 **Intersectionality: Overlaps and fault lines over race, ethnicity, class and locality (e.g. Okinawa), nationhood, masculinities, SOGIESC, dis/ability**


ENCOUNTERS WITH POSTMODERNITY 95 (Jóhann Páll Árnason & Yoshio Sugimoto eds., 1995).


Vera Mackie, Genders and Genetics: The Legal and Medical Regulation of Family Forms in Japan, 14 AUSTL. J. ASIAN L. 1 (2013).

CAROLYN S. STEVENS, DISABILITY IN JAPAN (2013).


Shûhei Ninomiya, The Koseki and Legal Gender Change, in JAPAN’S HOUSEHOLD REGISTRATION SYSTEM AND CITIZENSHIP: KOSEKI, IDENTIFICATION AND DOCUMENTATION 169 (David Chapman & Karl

2.1 Workplace - gender and sex discrimination and harassment - explicit and implicit / disparate impacts (e.g., part-time labor)


VERA MACKIE, FEMINISM IN MODERN JAPAN: CITIZENSHIP, EMBODIMENT AND SEXUALITY (2003).


YOSHIE KOBAYASHI, A PATH TOWARD GENDER EQUALITY: STATE FEMINISM IN JAPAN (2004).


Yukiko Tsunoda, Sexual Harassment in Japan, in DIRECTIONS IN SEXUAL HARASSMENT LAW 618 (2004).


Setsuo Miyazawa, *Glass Ceiling for Female Professionals, Executives, and Managerial Employees in Japan: 30th Anniversary of the EEO and
2.2. Prostitution, JK, and sex trafficking; pornography & freedom of expression (commodified sexuality)


2.3 Tort law inequities, tax law inequities, etc.


3.1 Nationality and citizenship laws, esp. re. marriage and family

Vera Mackie, Women, Citizenship and the State in Modern Japan, 14 JAPANESE STUD. 34 (1994).


3.2 Marriage, civil code, family registration laws—i.e., system, post-war equality provisions, surnames, legitimacy in birth (domestic violence set into crime?), same-sex relationship recognition


Tomoko Nakamatsu, “*Part-Timers*” in the Public Sphere: Married Women, Part-Time Work and Activism, in *Feminism and the State in Modern Japan* 75 (Vera Mackie ed., 1995).


Vera Mackie, Family Law and Its Others, in JAPANESE FAMILY LAW IN COMPARATIVE PERSPECTIVE 139 (Harry N. Scheiber & Laurent Mayali eds., 2009).

MARK D. WEST, LOVESICK JAPAN: SEX, MARRIAGE, ROMANCE, LAW (2011).


Vera Mackie, Genders and Genetics: The Legal and Medical Regulation of Family Forms in Japan, 14 AUSTL. J. ASIAN L. 1 (2013).


**Carl F. Goodman, The Rule of Law in Japan: A Comparative**


3.3 Divorce and separation, child custody (incl. Hague Convention); unequal divorce time frames


Vera Mackie, *Family Law and Its Others*, in *JAPANESE FAMILY LAW IN COMPARATIVE PERSPECTIVE* 139 (Harry N. Scheiber & Laurent Mayali eds., 2009).


**Mark D. West, Lovesick Japan: Sex, Marriage, Romance, Law** (2011).


3.4 **Inequities in property and inheritance laws**

Vera Mackie, *Family Law and Its Others*, in *JAPANESE FAMILY LAW IN COMPARATIVE PERSPECTIVE* 139 (Harry N. Scheiber & Laurent Mayali eds., 2009).

Colin P. A. Jones, *Legitimacy-Based Discrimination and the Development of the Judicial Power in Japan as Seen through Two
Supreme Court Cases, 9 E. ASIA L. REV. 99 (2014).


SATOSHI MINAMIKATA, FAMILY AND SUCCESSION LAW IN JAPAN (2d ed. 2017).


3.5 Public subsidies for caretaking and other systems for child-rearing, welfare reform, work leave policies, issues relating to household labor and care giving

Etsuko Yuhara, Incidents of Homicides or Murder-Suicides by Family Caregivers in Japan and Challenges for Prevention, in CRIME AND JUSTICE IN CONTEMPORARY JAPAN 51 (Jianhong Liu & Setsuo Miyazawa eds., 2018).

3.6 Sexual autonomy (non-commodified) and Reproduction - privacy, contraception, abortion, eugenics, surrogacy and artificial reproductive technologies

Vera Mackie & Sandra Buckley, Women in the New Japanese State, in DEMOCRACY IN CONTEMPORARY JAPAN 173 (Gavan McCormack & Yoshio Sugimoto eds., 1986).


Rachel Brehm King, Redefining Motherhood: Discrimination in Legal


Vera Mackie, Genders and Genetics: The Legal and Medical Regulation of Family Forms in Japan, 14 AUSTL. J. ASIAN L. 1 (2013).


4.1 Crime victimization - rape, sexual consent, domestic violence, stalking


4.2 Crimes by women - women in the crim. justice system as accused and convicted persons; patricide cases as gender-centered law


