

Gender, Law, and Honor

*A Comparative Analysis of Gender Norms in
Japanese and Spanish Legal Frameworks*

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ABSTRACT

This thesis applies legal transplantation theory to explore the feasibility of adapting gender equality reforms to the Japanese context, identifying both the cultural obstacles and institutional opportunities involved in cross-cultural legal borrowing. These reforms include mandatory corporate equality plans, equal and non-transferable paternity leave, and the legal recognition of separate surnames for married couples. A comparative legal analysis with Spain, grounded in legal transplant theory and sociocultural context, examines Japan's cultural barriers and institutional openings for adopting such reforms. The study finds that direct transplantation is improbable given Japan's consensus-driven political culture and entrenched gender norms, but that a phased, locally tailored adaptation of these reforms is feasible in the long term. Spain's post-authoritarian transformation demonstrates that even honor-based societies can institutionalize progressive gender norms, suggesting that culturally attuned strategies could gradually advance gender equality in Japan. The thesis highlights the importance of cultural compatibility in legal reform and offers broader insights for implementing gender equality laws in culturally conservative settings.

I. INTRODUCTION

In Japan, a significant shift in women's rights occurred immediately after World War II. Women gained the right to vote, and the new constitution, influenced by the U.S. occupation, enshrined legal equality.¹ This constitutional reform led to sweeping amendments in Japanese law, particularly in the Civil Code and Penal Code, aimed at formal gender equality. Given these legal advancements, along with economic growth and increased access to higher education, women's rights were expected to continue progressing. However, Japan remains far behind in gender equality. According to the Global Gender Gap Index 2024, Japan ranks 118th out of 146 countries overall, 120rd in economic participation and opportunity, and 113th in political empowerment.² Moreover, the gap in political

¹ Both, when Japanese women exercised their right to vote for the first time and when the new Constitution of Japan was promulgated, happened in 1946. April 10th and November the 3rd respectively. For more information, see *THE CONSTITUTION OF JAPAN*. (1946). https://japan.kantei.go.jp/constitution_and_government_of_japan/constitution_e.html. See also Fujita, T. (1968). *Women and politics in Japan. The Annals of the American Academy of Political and Social Science*, 375, 91–95. <https://www.jstor.org/stable/1037894>

² Interesting to note is that Spain has gone up 8 positions from 2023 to 2024 and is now ranked 10th in the world. World Economic Forum (2024). *Global Gender Gap Report* available at <https://www.weforum.org/publications/gender-gap-report-2024/>

empowerment has remained largely unchanged, despite the government's goal of achieving 30% female representation in the public sphere by 2020.^{3 4}

It is against this background that this paper aims to answer the question of how Japanese laws and public policies shape gender norms, and what implications this has for gender equality in Japan. Focusing specifically on family law, workplace regulation, and responses to gender-based violence, this study aims to provide a grounded analysis of how institutional frameworks interact with societal expectations of gender. Furthermore, to develop a better well-rounded understanding of these dynamics, this thesis adopts a comparative approach. Here, comparing Japan with another national context not only helps to illuminate which aspects of gender regulation are culturally or legally specific, but also becomes a tool that helps to better interpret the mechanisms at play in Japan, rather than to generalize beyond them.

With this in mind, Spain, as the chosen point of comparison, offers a particularly insightful contrast. At first glance, this choice may appear counterintuitive: Japan and Spain are geographically distant, embedded in different cultural and religious traditions. However, despite these distinctions, the two countries share key characteristics that make this comparison meaningful and analytically valuable. Both Japan and Spain operate under the civil law tradition, where statutes and codified legal frameworks form the basis of the legal system. This shared legal foundation allows for a more targeted comparison of how gender equality has been advanced (or hindered) through legal reform.⁵

³ Japanese women were granted the right to vote on December 17, 1945, as part of a series of democratic reforms introduced during the Allied occupation of Japan following World War II. This right was formally enshrined in the 1946 Constitution. Despite this early milestone, women's political representation remained extremely low for decades. Although initiatives to improve gender parity in politics began to emerge in the 1980s and 1990s, progress has been very slow. The World Economic Forum's *Global Gender Gap Report*, which provides consistent, data-driven insights on this issue, has only been published since 2006. For this reason, rather than anchoring the statement to a specific time frame, the phrase "has remained largely unchanged" more accurately reflects the broader historical stagnation and slow pace of change. For more information, see Eto, M. (2012). *Women and Politics in Japan*. *Stockholm University, Faculty of Social Sciences, Department of Political Science*.

⁴ Japan's annual index reports on political empowerment: 103/144 (2016); 123/144(2017); 125/149 (2018); 144/153(2020) and 147/156(2021). Initially, the government set a target of achieving 30% female representation in the public sphere by 2020, as outlined in the *Fifth Basic Plan for Gender Equality* (Cabinet Office, 2021, pp. 1, 18). However, in 2021, this goal was postponed to 2030. Additionally, the use of "public sphere" here refers to not only political office but to a broader range of leadership and decision-making roles across various sectors of public life, such as political representation, civil service, judiciary, corporate leadership, academia, and media.

⁵ Japan is generally classified as a civil law system due to its codified legal structure, centered on the *roppō* (six major codes) and rooted in continental European legal traditions. While some hybrid elements exist, especially in commercial and regulatory areas influenced by common law and international legal trends, the system remains fundamentally civil law in its structure and interpretive approach. Therefore, while scholarly debate has emerged around the hybridization of Japanese law, this thesis adopts the conventional and widely accepted classification of Japan as a civil law system. For more information on this, see Taylor, V., Britt, R. R., Ishida, K.,

Furthermore, both societies have historically been described in anthropological and psychological literature as “honor cultures,” where personal and family reputation is central, and gender roles are strictly delineated. In such societies, women are often expected to embody ideals of modesty, and self-restraint, while deviations from these norms may invite social sanction. Although honor culture manifests differently in each national context, it creates a shared logic that informs social expectations and influences how laws, especially those concerning sexuality, violence, and family, are interpreted and enforced.⁶

Important to note is that both countries experienced authoritarian rule in the 20th century, Japan until 1945 and Spain until 1975, and underwent post-authoritarian transitions marked by a constitutional reform and democratization. These parallel moments of institutional rupture and rebuilding provide a common starting point for assessing how gender norms have been addressed through legal and policy mechanisms. On top of that, both countries are highly economically developed OECD members with advanced infrastructure and universal education systems. These similarities help isolate cultural and institutional factors in explaining divergent gender equality outcomes.⁷

Thus, the comparison between Japan and Spain is not based on geographical proximity or surface-level cultural affinity, but rather on a deeper set of structural, legal, and historical parallels. At the same time, the differences between the two countries, particularly in how they have responded to similar challenges, enrich the analysis by revealing how culture, law, and policy interact in context-specific ways.

Now, while there is a substantial body of scholarship on gender inequality in Japan, much of it focuses on economic or sociocultural factors, often overlooking the legal structures that underpin and sustain these disparities.⁸ In addition, there is a notable absence of comparative research that examines how honor-based cultural frameworks, such as those in Japan and Mediterranean societies, shape legal responses to gender inequality.⁹ This thesis addresses these gaps by foregrounding the role of law in constructing gender norms in Japan

Chaffee, J. (Jody), & CCH Japan Limited. (2008). Introduction: Nature of the Japanese legal system. In *Business Law in Japan* (pp. 1–010).

⁶ See Miravalles, J. (2020). La Cultura del Honor. *Gabinete Psicológico*.

<http://www.javiermiravalles.es/Cultura%20del%20Honor/La%20Cultura%20del%20Honor.pdf>.

See also Sugimoto, Y. (2014). *An introduction to Japanese society*. <https://doi.org/10.1017/cbo9781107270107>

⁷ See OECD. (2025). *OECD Members and partners*. <https://www.oecd.org/en/about/members-partners.html>

⁸ See, for instance, Uma Rani. (2006). Economic Growth, Labour Markets and Gender in Japan. *Economic and Political Weekly*, 41(41), 4369–4377. <http://www.jstor.org/stable/4418813>

⁹ See Bark, A. S. H., Escartín, J., & Van Dick, R. (2014). Gender and Leadership in Spain: a Systematic Review of Some Key Aspects. *Sex Roles*, 70(11–12), 522–537. <https://doi.org/10.1007/s11199-014-0375-7>. See also Mosquera, P. M. R., Manstead, A. S. R., & Fischer, A. H. (2002). Honor in the Mediterranean and Northern Europe. *Journal of Cross-Cultural Psychology*, 33(1), 16–36. <https://doi.org/10.1177/0022022102033001002>

and examining the implications it has for achieving gender equality. In doing so, it engages with literature on gender and legal reform in Japan, while also drawing insights from the field of legal transplantation, which is concerned with the adoption of legal principles from one jurisdiction to another.

In light of these research objectives, the current thesis is structured in four main chapters. Chapter 1 explores how gender norms are shaped through law in Japan by exploring the development of key legal frameworks and policies. It focuses on three core areas: family law, employment regulations (including the gender wage gap, maternity leave, and anti-discrimination provisions), and legal responses to gender-based violence, such as rape and domestic violence legislation. Chapter 2 turns to the cultural context in which these laws operate. Drawing on existing anthropological literature, it examines how central features of Japan's honor culture inform gender norms and influence legal interpretations and outcomes. Chapter 3 introduces a comparative perspective by analysing Spain, a country with a similar legal tradition and cultural background, but which has taken a different trajectory in gender reform. It specifically focuses on legal and policy differences in family law, workplace regulations, and gender-based violence protections. Chapter 4 draws these strands together through the lens of legal transplantation by discussing the extent to which elements of Spain's gender-related reforms might be relevant to the Japanese context. Finally, the conclusion summarizes the key findings and reflects on the broader implications of legal and cultural interactions in shaping gender norms.

Before turning to these chapters, however, it is necessary to outline the key bodies of literature and theoretical perspectives that inform this research. Together, these provide the foundation for the analytical framework used throughout the thesis and guide the methodological choices that follow.

II. THEORETICAL FRAMEWORK & LITERATURE REVIEW

Theoretical Framework

As this thesis examines whether elements of Spain's gender-related legal reforms can be adapted to the Japanese context, it draws on the theoretical framework of legal transplantation, which considers how legal principles travel across jurisdictions and whether they can take root in different cultural and institutional settings. At the centre of this framework is a longstanding scholarly debate about the feasibility and limits of transplanting

law from one national context to another. This section outlines the key positions within that debate, focusing in particular on the influential theories of Alan Watson and Otto Kahn-Freund.

Alan Watson's Theory

First, central to Alan Watson's theory is the argument that legal transplants have historically been the primary mechanism of legal development, occurring regardless of the political, social, or economic differences between donor and recipient countries. Unlike scholars who emphasize the deep entanglement of law with the society that produces it, Watson argues that law is relatively autonomous from social structures, thereby meaning that legal rules can be transferred between vastly different contexts without significant difficulty.¹⁰

Watson provides three key justifications for his theory. First, he emphasizes that legal borrowing is an age-old phenomenon, citing numerous instances in which legal systems have successfully adopted foreign rules. Roman law, for instance, provided the foundation for much of Western legal development, while English common law influenced numerous legal systems worldwide. Second, Watson challenges the assumption that a state's legal system is necessarily a reflection of its society, asserting instead that legal norms often develop in isolation from broader social forces. In this view, law functions as a discrete and self-sustaining entity, shaped more by historical accident and institutional needs than by cultural or political realities. Third, he suggests that legal transplants succeed because they represent deliberate legislative choices, based on their perceived utility rather than their alignment with local traditions. Lawmakers, according to Watson, selectively borrow foreign rules that they deem beneficial, making transplants an intentional process rather than an organic evolution.¹¹

Important to his theory is the claim that the transfer of legal rules is relatively effortless. He argues that, despite opposition from certain stakeholders, such as legal professionals or legislators, legal transplants generally face little resistance and are incorporated into the recipient legal system with ease. He dismisses the idea that a country's legal structure is inherently bound to its cultural, political, or economic environment, opposing the so-called "mirror theory" of law, which holds that legal systems are deeply embedded in the societies that produce them. Instead, Watson maintains that laws exist as

¹⁰ See Watson, A. (1975). Legal Transplants: An Approach to Comparative Law. *Stanford Law Review*, 27(4), 1208. <https://doi.org/10.2307/1228215>

¹¹ Ibid

intellectual constructs, capable of functioning independently from their original context. If legal transplants depended on a close relationship between law and society, Watson reasons, they would be far rarer and more difficult to implement. Yet history demonstrates that legal borrowing is widespread and enduring. In his view, the historical prevalence of legal transplants proves that foreign laws can take root in vastly different settings, provided that they are institutionally compatible. Watson illustrates this point with examples such as Japan's adoption of French and German legal codes in the late 19th century, arguing that Japan's willingness to import Western legal norms stemmed from a pragmatic desire to modernize its legal system, rather than from any deep understanding of European political or legal traditions.¹²

Otto Kahn-Freund's Theory

Then, Otto Kahn-Freund's theory is positioned otherwise. Kahn-Freund maintains that legal norms are embedded within political, institutional, and historical contexts. Therefore, not all laws can be easily transplanted, and even those that are, may require significant modifications to function effectively in a different legal system.¹³

At the heart of his theory is the idea that the closer a legal rule is to the political structure of its original country, the more difficult it becomes to transplant it successfully. If a legal rule is relatively detached from political power structures, such as commercial contract regulations or procedural rules, it can often be transferred with little resistance. However, laws governing areas such as constitutional law, labor relations, and public administration tend to be deeply rooted in national governance structures. In these cases, transplanting a legal rule without considering the specific political conditions of the recipient country is likely to result in failure.¹⁴

His skepticism is particularly evident in his analysis of failed legal transplants, where nations have attempted to impose foreign legal norms without adapting them to local conditions. He points to ideological divides between democratic and authoritarian systems, arguing that laws designed for a liberal democracy may not function in a centralized or authoritarian state. Similarly, differences in governance models, such as parliamentary versus presidential systems, affect how laws operate in practice, making direct legal borrowing impractical. Furthermore, he emphasizes the role of organized interest groups, including labor

¹² Ibid

¹³ See Kahn-Freund, Otto, On Uses and Misuses of Comparative Law, 37 Modern Law Review, 1974, 1-27

¹⁴ Ibid

unions and the like, in shaping legal institutions. He posits that when these groups resist imported legal norms, the likelihood of successful transplantation decreases significantly.¹⁵

Another key aspect of Kahn-Freund's argument is that while he acknowledges that the feasibility of legal transplants has evolved over time, due to industrialization and globalization creating more similarities between economies and legal frameworks across nations, he insists that political differences remain the primary obstacle to successful legal adoption.¹⁶

Therefore, to assess whether a legal transplant can succeed, Kahn-Freund outlines a two-step evaluation process. First, one must analyze the extent to which the legal rule is tied to its original country's socio-political environment. If the rule is highly dependent on specific political conditions, transplanting it without modification is unlikely to work. Second, a comparison between the political and institutional conditions of the donor and recipient countries must be conducted. All in all, the greater the similarity between their legal and political systems, the higher the probability of success.¹⁷

Literature Review

Legal Transplants as Problem-Solving Tools: International Case Studies

Although there are other examples of legal transplantation in less relevant contexts to this paper, such as in the domain of medical organ donation.¹⁸ More relevant to the scope and context of this thesis are the following case studies:

First, one clear example of a legal transplant addressing a specific need comes from Colombia. As of January 1, 2002, Colombia transplanted a tax on financial transactions from Brazil into its own tax system. This represents a case where Colombia identified a successful fiscal policy in a neighboring country with a somewhat similar economic context and adopted it to address its own revenue needs. Hereby, the transplant occurred between countries within the same region, potentially facilitating adaptation due to shared regional economic characteristics.¹⁹

A particularly well-documented case study involves the transplantation of community courts from the United States to the Netherlands. This example represents the movement of

¹⁵ Ibid

¹⁶ Ibid

¹⁷ Ibid

¹⁸ See, for instance, Kita, Y., Aranami, Y., Aranami, Y., Nomura, Y., Johnson, K., Wakabayashi, T., & Fukunishi, I. (2000). Japanese Organ Transplant Law: a historical perspective. *Progress in Transplantation*, 10(2), 106–108. <https://doi.org/10.1177/152692480001000206>

¹⁹ See Mosquera Valderrama, I. J. (2003). Legal transplants and comparative law. *International Law: Revista Colombiana De Derecho Internacional*, 361–276. <http://www.redalyc.org/articulo.oa?id=82400207>

an entire judicial institution across different legal traditions. Based on eighteen months of ethnographic fieldwork, Doornbos (2023) found that during the transplantation process, the goals of the institution shifted a little bit. While the original American model emphasized serving neighborhoods, the Dutch adaptation placed greater emphasis on solving defendants' underlying social problems.²⁰ A particularly important aspect of this community court case is that it demonstrates that successful transplants are not necessarily identical copies but rather adaptations that respond to local conditions and values. They are reinterpreted and reshaped according to the receiving country's legal culture and policy goals.

Lastly, Vietnam provides another contemporary example of legal transplantation. Despite being rooted in the civil law tradition, Vietnam announced plans to legalize the use of judicial precedents, a hallmark of the United States, a common law system, by 2020. This decision reflects a strategic attempt to address gaps and uncertainty within its existing legal framework. In this instance, Vietnam's choice to incorporate precedents demonstrates how legal transplants can be used strategically to address specific perceived weaknesses in a legal system. This specific adoption aimed to address issues such as the inadequacy of legal interpretation and the gaps in legislation, thus highlighting how legal transplants can serve as methods for improving national legal systems by borrowing tested solutions from different legal traditions.²¹

The motivations behind these transplants vary but can be grouped into the following key categories. First, authority and prestige often play a role, as legal models from historically influential or institutionally successful jurisdictions carry a symbolic weight that lends them legitimacy. Second, pragmatism and necessity frequently drive adoption, particularly when domestic legal tools are lacking and policymakers seek time-efficient, already-tested frameworks. Third, anticipated efficacy and efficiency influence decisions, with countries selecting legal reforms that have demonstrated success in addressing similar issues elsewhere. Finally, last but not least, political, economic, and reputational incentives often shape the context in which legal transplants occur. International organizations, financial institutions, or trade agreements may pressure or encourage certain reforms, particularly in

²⁰See Doornbos, N. (2023). Community courts as legal transplants: a socio-legal case study from the Netherlands. *International Journal of Law in Context*, 19(4), 437–455. <https://doi.org/10.1017/s1744552323000186>

²¹ See Do, T. M. H., PhD, Hochiminh City Law University, Vietnam, & Ph, D. (2011). TRANSPLANTING COMMON LAW PRECEDENTS: AN APPROPRIATE SOLUTION FOR DEFECTS OF LEGISLATION IN VIETNAM, (part 2). *European Scientific Journal*, 7(No.26), 48–50.

developing countries. The desire to align with global standards, attract investment, or strengthen diplomatic ties can all act as indirect yet powerful motivators.²²

Honor Culture and the Regulation of Gender Norms

In order to understand how gender norms are shaped and sustained in Japan, it is necessary to consider not only legal and institutional factors but also the broader cultural context in which these norms operate. This thesis draws on existing work in cultural anthropology and social-psychology to better understand the role that cultural values play in shaping responses to gender inequality. In particular, it engages with the concept of honor culture as a framework for analysing how social expectations, especially around reputation and shame, influence both individual behaviour and institutional practices.

Honor cultures have long been subject of anthropological and socio-psychological inquiry. Traditionally, they are described as societies in which personal and family reputation are central to social life, often linked to relational morality and public perception. However, recent research has shifted the understanding of honor from a static cultural residue to a dynamic, adaptive system.²³ Üskül's famous tripartite model of honor conceptualizes it as a form of social technology, a psychological infrastructure that governs interpersonal behavior, emotional regulation, and institutional trust. In this framework, honor is not simply a moral ideal but an organizing principle that shapes how individuals navigate social hierarchies, respond to conflict, and define identity within a collective setting. While modern institutions, such as corporate bureaucracies or democratic legal systems, may appear incompatible with honor logic, evidence suggests otherwise. Hybrid models persist, evolving to meet contemporary demands while retaining core functions such as reputation management and boundary enforcement. This is particularly relevant in gendered legal contexts, where honor norms often underlie responses to issues such as sexual violence, family law, and professional conduct.²⁴

Across cultural contexts, including Mediterranean societies, East Asia, and parts of Latin America, honor has consistently been shown to inform emotional responses to perceived status threats, particularly in relation to gendered expectations. As Guerra et al. (2013) demonstrate, concerns for honor predict patterns of behavior ranging from deference

²² See Mosquera Valderrama, I. J. (2003). Legal transplants and comparative law. *International Law: Revista Colombiana De Derecho Internacional*, 361–276. <http://www.redalyc.org/articulo.oa?id=82400207>

²³ See Üskül's paper in greater detail, his literature review is memorable. Uskul, A. K., Cross, S. E., & Günsoy, C. (2022). The role of honour in interpersonal, intrapersonal and intergroup processes. *Social and Personality Psychology Compass*, 17(1). <https://doi.org/10.1111/spc3.12719>

²⁴ Ibid

and concealment to confrontation and punishment. In both Spain and Japan, societies historically categorized as honor cultures, honor norms have shaped not only interpersonal conduct but also institutional practices, including those found in legal systems.²⁵

In Japan, anthropologists such as Ikegami (2003) and Boiger et al. (2014) highlight how honor is operationalized through emotional codes that prioritize social harmony, shame as a tool for self-regulation, and tightly managed expressions of anger. These values are reflected in both informal social dynamics and formal institutional processes, including dispute resolution mechanisms that privilege balance over adversarial confrontation.²⁶ Likewise, in historical Spanish contexts, honor violations carried legal and social consequences, often framed in terms of family reputation and sexual propriety. As Foote-Hudson (2019) notes, both Spanish and Japanese literary and legal traditions have portrayed honor transgressions as matters requiring public restoration and collective accountability, especially in the context of female behavior.²⁷

Institutionally, honor cultures exhibit what Vignoles et al. (2024) term “institutionalized distrust”, a logic wherein social cohesion relies not on interpersonal trust but on clearly defined boundaries, and reputational control.²⁸ In Japan, this can be seen in practices such as discreet resignations in response to scandal, as documented by Pellegrini (2018) in the context of scientific misconduct. Rather than prioritizing transparency or legal redress, institutions may seek to manage reputational fallout internally, reinforcing the primacy of face-saving over procedural accountability.²⁹ Similar dynamics can be found in Spain’s aristocratic legal history, where honor codes often legitimized private forms of justice under the guise of preserving familial integrity.³⁰

²⁵See Guerra, V. M., Giner-Sorolla, R., & Vasiljevic, M. (2013). The importance of honor concerns across eight countries. *Group Processes & Intergroup Relations*, 16(3), 298–318. <https://doi.org/10.1177/1368430212463451>

²⁶ See Boiger, M., Güngör, D., Karasawa, M., & Mesquita, B. (2014). Defending honour, keeping face: Interpersonal affordances of anger and shame in Turkey and Japan. *Cognition and Emotion*, 28(7), 1255-1269.

See also Ikegami, E. (2003). Shame and the samurai: Institutions, trustworthiness, and autonomy in the elite honor culture. *Social Research: An International Quarterly*, 70(4), 1351-1378

²⁷ See Foote-Hudson, L. A. (2019). *Echoes of Honor: A Comparative Analysis of Blood, Honor, and Revenge from Spanish and Japanese Drama to the Digital Age* (Doctoral dissertation, The University of North Carolina at Chapel Hill). Retrieved from <https://cdr.lib.unc.edu/concern/dissertations/m326m654h>

²⁸ See Vignoles, V. L., Kirchner-Häusler, A., Uskul, A. K., Cross, S. E., Rodriguez-Bailón, R., Bossom, I. R., ... & Wohl, M. J. (2024). Are Mediterranean Societies “Cultures of Honor?”: Prevalence and Implications of a Cultural Logic of Honor Across Three World Regions. *Personality and Social Psychology Bulletin*, 01461672241295500

²⁹ See Pellegrini, P. A. (2018). Science as a matter of honour: How accused scientists deal with scientific fraud in Japan. *Science and engineering ethics*, 24(4), 1297-1313

³⁰ See once again Vignoles, V. L., Kirchner-Häusler, A., Uskul, A. K., Cross, S. E., Rodriguez-Bailón, R., Bossom, I. R., ... & Wohl, M. J. (2024). Are Mediterranean Societies “Cultures of Honor?”: Prevalence and Implications of a Cultural Logic of Honor Across Three World Regions. *Personality and Social Psychology Bulletin*, 01461672241295500

Despite this growing body of literature, comparative analyses of honor culture across legal systems remain limited. There has been little scholarly attention to how honor-based moral frameworks shape legal interpretations of gendered behavior in institutional settings, or how these logics differ across cultural contexts with similar legal traditions. This thesis contributes to filling that gap by examining the role of honor in shaping gendered legal norms in both Japan and Spain. In doing so, it explores how honor culture not only informs everyday social expectations but also structures legal responses to gender inequality, and whether these frameworks enable or obstruct reform.

III. METHODOLOGY

To do so, this paper adopts a qualitative, interdisciplinary methodology that combines legal analysis, comparative public policy, and cultural anthropology. This approach was chosen to capture the complexity of gender inequality in Japan, where legal norms are deeply entangled with cultural expectations and historical developments. A purely legal or policy-based analysis would fall short of explaining how laws, particularly those related to gender-based violence, sexual assault, and employment, are interpreted, implemented, and experienced in everyday life. At the same time, a solely cultural perspective would risk overlooking the formal legal structures and institutional frameworks that shape, enable, or constrain those experiences. It is precisely in the intersection of law, policy, and culture that this thesis situates its inquiry.

In addition, to contextualize Japan's experience, a comparative element with Spain is included. As briefly mentioned, Spain, which also is considered to historically belong to an honor culture, has undergone significant gender-related legal reform in recent decades. Through this comparison, the thesis applies legal transplantation theory to explore the feasibility of adapting such reforms to the Japanese context, identifying both the cultural obstacles and institutional opportunities involved in cross-cultural legal borrowing.

Primary sources for this study include legal texts, constitutional provisions, policy documents, and official statements from government bodies in both Japan and Spain. These were accessed through official databases such as e-Gov (Japan), Boletín Oficial del Estado (Spain), and institutional websites of ministries and gender equality agencies. Secondary sources consist of peer-reviewed academic literature, historical and legal analyses, and anthropological studies. These were retrieved primarily through academic databases including JSTOR, Smartcat, the University of Tokyo's academic library catalog, CiNii

Articles (for Japanese academic publications), APA PsycNet, and Google Scholar. Additional context was drawn from policy reports by international organizations such as the OECD, the United Nations, and the World Economic Forum. By integrating these diverse materials, this paper aims to provide a holistic and well-contextualized understanding of gender inequality and legal reform in Japan.

CHAPTER 1

Gender and Law in Japan

I. HISTORICAL & CONSTITUTIONAL DEVELOPMENT

The Pre-War Legal System: The Ie and Koseki System

Prior to Japan's post-war legal transformation, the family system (*ie*) formed the foundation of legal identity and gender roles. Codified in the 1898 Civil Code, the *ie* defined the household as a patriarchal unit under the authority of the *koshu* (male head). Legal capacity, property rights, and family decisions were structured through this model, where individual autonomy, particularly for women, was severely constrained.³¹ Upon marriage, women were legally removed from their natal family and integrated into their husband's *koseki* (family registry), losing not only their surname but also any legal recognition as independent agents.^{32 33}

The *koseki* system remains today, albeit revised, still registering individuals by household and sustaining administrative practices shaped by the legacy of *ie*-based authority. Important to note is that this system was not simply a reflection of cultural tradition; it was a legal structure that formalised gendered subordination. Women's legal identities were embedded in their roles as wives and mothers, their capacity to own property or initiate divorce severely limited. The continuity and centralisation offered by the *ie* suited the Meiji state's broader project of social order and imperial loyalty, but it came at the cost of institutionalising female dependency within law.³⁴

Post-War Reform and the 1947 Constitution

Following defeat in World War II, Japan underwent a series of reforms under the Allied Occupation (1945–1952), including the promulgation of a new Constitution in 1947.

³¹ Women were particularly constrained to their households. As they had no rights to participate in the state, parliament, and voting system under the 1898 Civil Code. See Midori, *supra note 22*, at 22 (“Women were carefully excluded from the state system, notably from the parliamentary system”).

See also Sasamoto-Collins, *supra note 15*, at 287 (noting the prohibition of women from publishing newspapers and from joining a political organization under the Civil Code).

³² See Chapter 5 in Colin P.A. Jones & Frank S. Ravitch (2018), *The Japanese Legal System*, West Academic Hornbook Series

³³ Under the pre-war *koseki* and *ie* system, women were also legally regarded as perpetual minors, with their legal identities defined through their relationships to fathers or husbands. This legal infantilization meant that women could not act independently in matters of property, marriage, or divorce, reinforcing their dependency and subordination within the patriarchal household structure. For more information, See White, L. (2018). *Gender and the koseki in contemporary Japan: Surname, power, and privilege* (1st ed.). Routledge. <https://doi.org/10.4324/9781315561349>

³⁴ *Ibid.*

Under the previous Constitution, sovereignty resided with the Emperor, who was described as sacred and inviolable.³⁵ In the new Constitution, that power was transferred to the people, and the new legal order placed greater emphasis on individual dignity, the separation of powers, and civil liberties.³⁶

Among the most notable developments was the inclusion of gender equality as a constitutional principle. Article 14 introduced a general equality clause, prohibiting discrimination on the basis of “race, creed, sex, social status or family origin”.³⁷ Article 24 extended this principle to the family, stating that marriage must be based on the mutual consent of both parties and maintained through mutual cooperation and equal rights between husband and wife.³⁸ These clauses represented a departure from the *ie* system and the Civil Code that had once defined women by their relationship to the household and the male head of the family.

However, the constitutional text has not always been translated into practice. One example lies in the slow pace of change within the judiciary itself. While gender equality was enshrined in 1947, the institutional structure of the judiciary has remained male-dominated. A 2003 action plan set a target for women to comprise 30 percent of Supreme Court justices. Nevertheless, as of 2023, only four women have ever served on the bench.³⁹

³⁵ See Article 3 of the Constitution of the Empire of Japan (1889) in National Diet Library. (n.d.). *The Constitution of the Empire of Japan | Birth of the Constitution of Japan*. <https://www.ndl.go.jp/constitution/e/etc/c02.html>

³⁶ See Article 1 of the Constitution of Japan (1947) in *THE CONSTITUTION OF JAPAN*. (n.d.). https://japan.kantei.go.jp/constitution_and_government_of_japan/constitution_e.html

³⁷ Full art. 14 states that: “All of the people are equal under the law and there shall be no discrimination in political, economic or social relations because of race, creed, sex, social status or family origin. Peers and peerage shall not be recognized. No privilege shall accompany any award of honor, decoration or any distinction, nor shall any such award be valid beyond the lifetime of the individual who now holds or hereafter may receive it.” *THE CONSTITUTION OF JAPAN*. (n.d.). https://japan.kantei.go.jp/constitution_and_government_of_japan/constitution_e.html

³⁸ *Ibid.*, art. 24. Important to note is that in the 2012 Draft Constitution proposed by the Liberal Democratic Party (a comprehensive revision of the existing Constitution that has not been adopted), Article 24 was substantially amended. The draft removed key terms from the original, including “only” in reference to mutual consent, as well as references to the “choice of spouse,” “choice of domicile,” and to “marriage and the family” as distinct concepts. In their place, the draft introduced language framing the family as “the natural and fundamental unit of society,” with an added provision that “family members must support each other.” While the original article focused on individual dignity and equality between the sexes in matters such as property, inheritance, and divorce, the proposed revision shifted emphasis toward familial cohesion and responsibilities. The draft thus serves as a reminder that even gender equality provisions such as Article 24 are subject to reinterpretation and remain politically and ideologically contested. For more information, See Liberal Democratic Party of Japan, *Draft for the Amendment of the Constitution of Japan, 2012*, Article 24. Available at https://projects.iq.harvard.edu/files/crrp/files/ldp_2012_draft_voyce_eng.pdf

³⁹ See Ejima, A. (2023). Achievements and Challenges of Japan’s Gender Constitutionalism: Consolidating Constitutional Law and International Human Rights Law. *University of Cambridge*, 27–54. <https://doi.org/10.5040/9781509941940.ch-002>

Article 24, in particular, was drafted by Beate Sirota Gordon,⁴⁰ the only woman working in the Government Section of the Occupation. Being a non-jurist, Sirota brought to the task a background shaped by personal experience and critical observation. Drawing from European constitutional models and her own observations of gender inequality in Japan, she helped craft a clause that was, at the time, unprecedented in its scope and ambition. The problems she identified were women being forced into marriage at an early age, facing divorce due to infertility, being denied property rights within marriage, and experiencing widespread marginalisation in both law and society.⁴¹

All in all, her contribution remains an example of how legal reform can be shaped by those outside the formal structures of legal expertise. That she successfully introduced a provision as foundational as Article 24 suggests that constitutional reform does not always require doctrinal fluency. Her method, diagnosing local injustices and connecting them with broader human rights principles, offers a model for how gender-sensitive reform might proceed in other contexts as well.⁴²

II. FAMILY LAW

A defining feature of Japan's legal system is its deference to precedent.⁴³ In the domain of family law, that deference has often served to moderate, or even blunt, the effects of constitutional reform.⁴⁴ Legislative discretion is interpreted broadly, and the judiciary tends to view family matters as belonging to the sphere of evolving social sentiment rather than constitutional command.⁴⁵ The result is that while the legal text has changed, the structures underpinning family life have not shifted with equal speed. If one is to understand how

⁴⁰ Hereafter referred to as Sirota, her maiden name.

⁴¹ Very recommended to See B. Gordon, *The Only Woman in the Room* (Kodansha, 1997) 107.

⁴² *Ibid.*

⁴³ Even though the Japanese legal system is based on legal provisions, the precedent law plays an essential role in Japan. For more information, See Yamada, Y. (2018). The role of Judicial precedents in Japanese Law-Making Process – on the Japanese Civil Code (Law of Obligation) reform. *Studia Iuridica Lublinensia*, 27(1), 83. <https://doi.org/10.17951/sil.2018.27.1.83>

⁴⁴ As said by the Supreme Court of Japan: “The family court is capable of using the knowledge and experience in domestic dispute resolution that they had accumulated since their establishment also in litigation proceedings [...]”. See the Supreme Court of Japan. (2023). *GUIDE to the FAMILY COURT of JAPAN*.

https://www.courts.go.jp/english/vc-files/courts-en/Material/Guide_to_the_Family_Court_of_Japan_2023.pdf

⁴⁵ *Ibid.* For instance: “[...] to have the contents of the law better match the demands of modern society, the new Act increased the provisions that contribute to procedural guarantees for the parties and introduced new systems for making the procedures easier to use.”

precedent continues to shape gender norms in contemporary Japan, it is necessary to turn to the case law.⁴⁶

Supreme Court Judgements: Constitutional Equality in Principle, Continuity in Practice?

2015 saw two landmark decisions by the Supreme Court of Japan on gender and family law. Both examined long standing provisions in the Civil Code that had, for decades, drawn domestic criticism and repeated recommendations for reform from international bodies such as the Committee on the Elimination of Discrimination against Women (CEDAW).⁴⁷ While one decision led to a partial adjustment of the law, the other confirmed the status quo. Taken together, they illustrate how constitutional equality can be affirmed in principle, yet narrowed in application.

The first case involved Article 733(1) of the Civil Code, which prohibited women from remarrying within six months of divorce. Important to note is that the provision did not apply to men. The ostensible rationale for this provision was to prevent confusion over paternity, given the legal presumptions regarding the status of children born shortly after divorce (Articles 772 and 774). However, with the advent of DNA-based paternity testing, this justification had become increasingly untenable.⁴⁸ In its 2015 decision, the Supreme Court of Japan held that the portion of Article 733(1) requiring women to wait more than 100 days before remarrying was unconstitutional, but it upheld the constitutionality of a 100-day waiting period, reasoning that some restriction remained justifiable to avoid disputes over paternity.⁴⁹ Notably, the majority opinion did not address the advances in medical technology, despite their direct relevance to the issues at hand. Only in a dissenting opinion did Justice Yamaura reference a 1997 South Korean Constitutional Court ruling and recommendations

⁴⁶ See Yamada, Y. (2018). The role of Judicial precedents in Japanese Law-Making Process – on the Japanese Civil Code (Law of Obligation) reform. *Studia Iuridica Lublinensia*, 27(1), 83. <https://doi.org/10.17951/sil.2018.27.1.83>

⁴⁷ The CEDAW Committee made recommendations on this issue on multiple occasions. For more information, See Committee on the Elimination of Discrimination against Women. (2009, August 7). *Concluding observations of the Committee on the Elimination of Discrimination against Women: Japan* (CEDAW/C/JPN/CO/6), para. 18. <https://undocs.org/en/CEDAW/C/JPN/CO/6>. See also Human Rights Committee. (2014, August 20). *Concluding observations on the sixth periodic report of Japan* (CCPR/C/JPN/CO/6), para. 8. <https://undocs.org/en/CCPR/C/JPN/CO/6>

⁴⁸ See *Noticeable Judicial Precedents No. 3 “The case in which a part of Article 733(1) of the Civil Code, stipulating a prohibition period for remarriage specific to women, was ruled as unconstitutional”* (Associate Professor Takashi KANAZAWA, Faculty of Law). (2017, March 29). Institute of Comparative Law, Waseda University. <https://www.waseda.jp/folaw/icl/news-en/2017/03/29/5722/>

⁴⁹ See Judgment of 16 December 2015, SCJ (GB), 69(8) Minshu 2427.

from the CEDAW, contending that even the 100-day restriction was incompatible with constitutional guarantees of equality.⁵⁰

Later that same year, the Court ruled on Article 750 of the Civil Code, which requires married couples to adopt a single surname. Although the statute is gender-neutral in its wording, permitting either spouse's surname to be chosen, in practice, it is almost always the wife who assumes her husband's surname.⁵¹ The petitioners contended that this requirement contravened constitutional guarantees of equality before the law (Article 14), respect for individual dignity (Article 13), and freedom of marriage (Article 24). Nevertheless, the Court upheld Article 750, finding that the provision did not infringe upon constitutional protections of equality or personal dignity.⁵² While the majority opinion recognized that compulsory name changes could harm and undermine individual identity, particularly for women with established professional reputations, it concluded that any resulting disadvantage was not so severe as to warrant judicial intervention in legislative policy.⁵³ This position was reaffirmed in a 2021 decision, despite the increasing public support for a selective dual-surname system and repeated recommendations from the United Nations Committee on the Elimination of Discrimination against Women urging reform.⁵⁴

Taken together, these rulings reveal a pattern. Even where the courts recognise the individual impact of outdated legal provisions, institutional responses tend to favour continuity over disruption. Rather than fully embracing the constitutional framework introduced in 1947, family law continues to reflect a blend of post-war principles and pre-war assumptions, held in place through precedent and legislative caution.

However, change has been seen with the system of post-divorce custody in Japan. Until 2026, only one parent is granted custody after divorce, almost always the mother. While this may appear to favour women, it is in fact rooted in assumptions about caregiving and domestic roles that reflect gendered expectations more than legal principle. Fathers who seek continued involvement in their children's lives often find themselves excluded, as Japan does

⁵⁰ See Judgment of 16 December 2015 (n 86) 2466 – 68.

⁵¹ Notably, in the past 40 years, 96% of married couples have taken the husband's surname. See Osaki, T. (2015, December 16). Japan's top court upholds same-name rule for married couples, overturns remarriage moratorium for women. *The Japan Times*. <https://www.japantimes.co.jp/news/2015/12/16/national/crime-legal/japans-top-court-strikes-rules-divorcee-remarriage/#.VnEKrFIT9r5>

⁵² The Court further emphasized that matters of family law, including the choice of marital surname, fall within the legislature's policy discretion, and that the aim of preserving family unity through a shared surname constitutes a legitimate legislative objective. See BBC News, "Japan Top Court Upholds Law on Married Couples' Surnames," December 16, 2015, <https://www.bbc.com/news/world-asia-35109455>.

⁵³ See Judgment of 16 December 2015 (n 86) 2466 – 68.

⁵⁴ As to the recommendations, See n. 85. See again BBC News, "Japan Top Court Upholds Law on Married Couples' Surnames," December 16, 2015.

not recognize joint custody after divorce. The system presumes a clean legal break, regardless of the social or emotional realities of co-parenting. Consequently, this reinforces the idea that caregiving is a woman's domain, an assumption that reappears in employment law, where one might argue that women are more often than not indirectly penalised for their caregiving responsibilities. Nevertheless, a new law allowing joint custody will take effect in 2026, signaling a shift toward shared parenting.

III. EMPLOYMENT LAW

Maternity Leave and The M-Curve

Japan's employment law guarantees maternity and childcare leave, yet its protections are unevenly distributed. While all female employees are legally entitled to maternity leave before and after childbirth, access to paid benefits is conditional on participation in the Employees' Health Insurance (EHI) scheme. Under this system, eligible employees receive a maternity allowance equivalent to approximately two-thirds of their base salary.⁵⁵ However, women outside the EHI system, such as part-time, casual, or self-employed workers covered instead by National Health Insurance, can take the time off but do not receive the standard maternity cash benefit. This eligibility gap means that in practice a segment of women (those in non-regular employment) have access to unpaid leave only, which may influence whether they remain in or exit the labour force at around childbirth.⁵⁶

The introduction of childcare leave legislation in 1991 marked another step toward institutional support for working parents. Yet at the time, eligibility was restricted to employees on open-ended contracts with at least one year of tenure, thereby excluding many fixed-term and part-time workers.⁵⁷ Recent reforms, however, including amendments effective from April 2025, have broadened eligibility: Now, employees can generally access childcare leave regardless of their length of service, and exclusions based on contract type have been reduced, thus aiming to include more non-regular employees. Nevertheless, to be

⁵⁵ See Japan Management Consulting. (2024, July 19). *Maternity leave in Japan | Compensation during maternity leave*. JMC. <https://japanconsult.com/japan-maternity-leave/#:~:text=During%20maternity%20leave%2C%20an%20employee%E2%80%99s,thirds%20of%20their%20base%20salary>

⁵⁶ See Nakazato, H., Nishimura, J., & Takezawa, J. (2020). Japan country note. In Koslowski, A., Blum, S., Dobrotić, I., Kaufmann, G. and Moss, P. (Ed.), *International Review of Leave Policies and Research 2020*. https://www.leavenetwork.org/fileadmin/user_upload/k_leavenetwork/country_notes/2020/PMedited.Japan.with_supplement.31aug2020.pdf#:~:text=%E2%80%A2%20All%20female%20employees%20are,System%20contributions%20for%20four%20months

⁵⁷ The law in question being *Ikuji Kaigo Kyūgyō Hō*, 育児・介護休業法 (translated to Japan's Child Care and Family Care Leave Act in English). For more information on this law, See Ikeda, S. (2019). *Japan labor issues: Vol. vol.3* (Issue no.14) [Journal-article]. <https://www.jil.go.jp/english/jli/documents/2019/014-04.pdf>

eligible for paid parental leave benefits, a parent must have contributed to employment insurance for a sufficient period and not be on a short or part-time schedule. Which ultimately signifies that workers in unstable or part-time positions, who are disproportionately women, often cannot take long childcare leave while keeping their employment.⁵⁸

This uneven application has tangible effects on career continuity. The resulting pattern of female labor force participation is often described as the M-shaped curve (illustrated in Figure 1): high in a woman's early 20s, dipping sharply through the childrearing years, and rising again in her 40s. Though legal reforms since the 1990s have sought to flatten this curve, the M-shaped pattern is not gone entirely.⁵⁹ A major reason is the dualism in Japan's labor market. Many women who are not in stable, career-track jobs still leave the workforce at motherhood because they either don't qualify for leave or doubt their prospects upon return. For these women, often non-regular employees in the private sector, the old pattern remains: They exit in their late 20s/30s and some re-enter in their 40s in part-time roles (hence completing the second half of the "M").

This trend is further illustrated in Figure 2, which shows the employment type breakdown by age group. While 70% of women in secure employment now resume work after childbirth, only about 25% of women in non-regular positions do.⁶⁰ In overall terms, it is estimated that almost one in two women still do not return to work after their first child, and of those who do come back, the vast majority (around 77%) return in part-time or lower-paying non-regular jobs rather than their original career track. This indicates that a significant share of women are still essentially "dropping out" of full-time employment in the childrearing phase, the very dynamic that creates the M-shaped curve.⁶¹

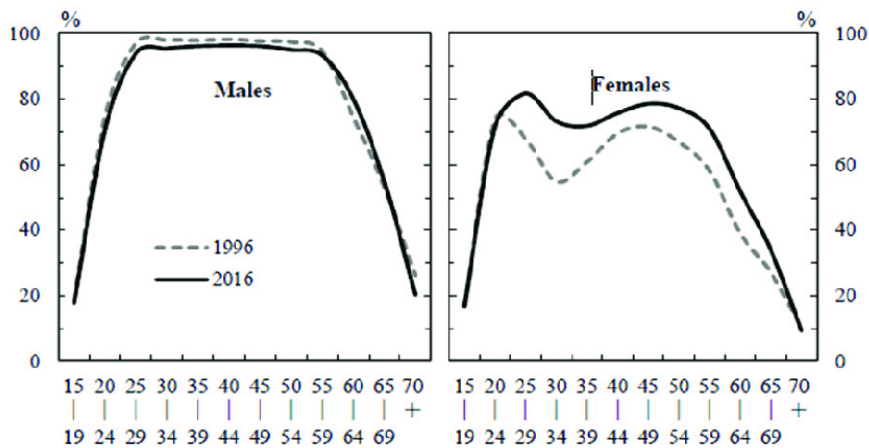
Figure 1. Labour Participation by Gender: Japan's M-Curve

⁵⁸ See BIPO Japan. (2025). *2025 Amendment to the Childcare and Caregiver Leave Act*. <https://www.biposervice.com/wp-content/uploads/2025/03/BIPO-JP-Newsletter-24-March-2025-EN.pdf>.

⁵⁹ See National Women's Education Center. (2024). *Gender Statistics of Japan at a glance*. In *Gender Statistics Leaflet*. <https://www.nwec.go.jp/research/cb4rt20000001kqy-att/nwecgenderstatistics2024eng.pdf>

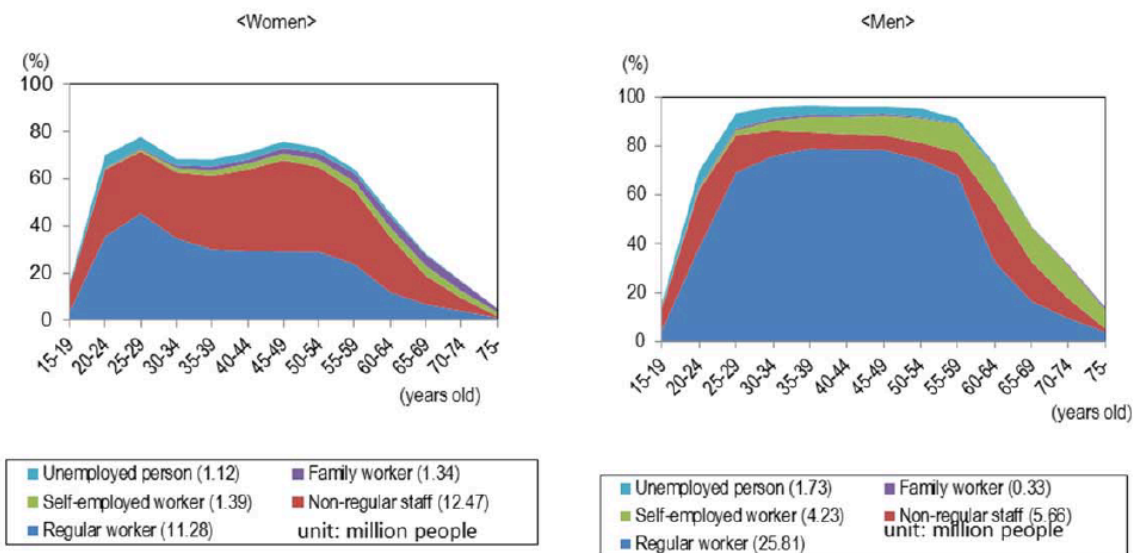
⁶⁰ See Ikeda, S. (2019). *Japan labor issues: Vol. vol.3* (Issue no.14) [Journal-article]. <https://www.jil.go.jp/english/jli/documents/2019/014-04.pdf>

⁶¹ See AXA Investment Managers. (2019). *Gender equality in Japan: Can 'Womenomics' deliver?* AXA IM Corporate. <https://www.axa-im.com/gender-equality-japan-can-womenomics-deliver>



Source: Statistics Bureau (2017), Tokyo.

Figure 2. Employment Type Breakdown of Labour Force Participation Rate by Age Group (By Sex in 2012)



(Notes)

1. Based on "Labour Force Survey (Detailed Tabulation)" (2012) by the Ministry of Internal Affairs and Communications
2. "Regular worker" is the sum of "Regular staff" and "Executive of company or corporation".

Source: Potosky (2016).⁶²

Part-Time Work and Tax Disincentives for Women

On top of that, current tax and pension regulations unintentionally reinforce a system wherein women are discouraged from increasing their work hours or income beyond a certain point. In particular, many women carefully limit their annual earnings to avoid crossing key income thresholds where taxes or social insurance contributions sharply increase. These thresholds effectively create a “part-time trap” by reducing the net financial gain from working more, thereby disincentivizing women from pursuing higher-paid and full-time jobs

⁶² For more information, See Potosky, E. (2016, June 30). *How the Tax Code can Harm Women: A Japanese Case Study*. Tax Foundation. <https://taxfoundation.org/blog/how-tax-code-can-harm-women-japanese-case-study/>

that are frequently stepping stones to positions of power.⁶³ To exemplify, Japan's tax system is individualized (has no joint filing), but it offers a special spousal deduction to a primary earner (usually the husband) if the spouse's income stays below a certain limit. In practical terms, a part-time working wife pays no national income tax on earnings up to roughly ¥1.03 million due to basic deductions.⁶⁴ Above that, she begins to owe income tax, and her husband's spousal deduction gradually diminishes, slowing the growth of the household's after-tax income. Notably, because the tax benefit phases out (rather than ending all at once), there is no sudden tax cliff at ¥1.03-¥1.5 million, which means taxes alone create only a modest disincentive to earning more.⁶⁵

Instead, a much stronger effect comes from Japan's social insurance system, which includes employee pension and health insurance programs. If a part-time worker's income remains below a certain threshold (approximately ¥1.06 million annual income for those working more than 20 hours per week in a large firm, or about ¥1.3 million in smaller companies),⁶⁶ she is treated as a dependent spouse for social insurance purposes.⁶⁷ As a dependent (Category III insured), she pays no pension premiums or health insurance fees out of her own paycheck. However, once her income exceeds the threshold, she will then have to enroll in the employee pension and health insurance (Category II insured), contributing roughly half of the total premiums.⁶⁸ ⁶⁹ This abrupt spike in effective tax (in the form of insurance contributions) creates a strong incentive to stay below the enrollment threshold. This is illustrated in the following graph:

Figure 3. Distribution of salary income among married women (with positive salary income, aged 25 to 60)

⁶³ See Potosky, E. (2016, June 30). *How the Tax Code can Harm Women: A Japanese Case Study*. Tax Foundation. <https://taxfoundation.org/blog/how-tax-code-can-harm-women-japanese-case-study/>

⁶⁴ ¥1.03 million translates to approximately 6300 Euro as of 2025.

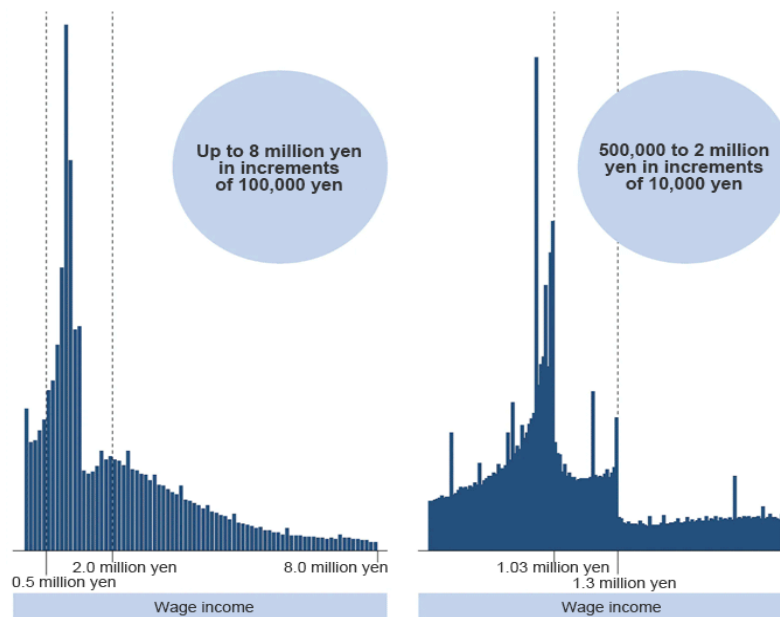
⁶⁵ Ibid. See also *Making work pay for Japanese women: Toward a smarter approach to tax and social security reform | Research | The Tokyo Foundation*. (2023, October 6). The Tokyo Foundation. <https://www.tokyofoundation.org/research/detail.php?id=946>

⁶⁶ Which translates to roughly an annual income of 6000 to 8000 euros as of 2025.

⁶⁷ See *Japan welfare ministry eyes permanent eased income measure for dependents*. (2025, January 18). The Mainichi. <https://mainichi.jp/english/articles/20250118/p2a/00m/0na/006000c>

⁶⁸ For instance, moving from just under ¥1.06 -¥1.3 million to just over it causes an estimated drop of about ¥160,000 in annual net income due to the newly imposed premiums. A part-time working wife in that situation would need to earn roughly an extra ¥270,000 just to recoup the lost take-home pay.

⁶⁹ See *Making work pay for Japanese women: Toward a smarter approach to tax and social security reform | Research | The Tokyo Foundation*. (2023, October 6). The Tokyo Foundation. <https://www.tokyofoundation.org/research/detail.php?id=946>



Notice the concentration of women just below the ¥1.03 million and ¥1.3 million thresholds (vertical dotted lines), and a sharp drop in the number of women earning above these levels. This pattern suggests that many women deliberately limit their earnings to avoid crossing the tax and social insurance barriers. The first peak (around ¥1.0 million) corresponds to the income tax exemption range, and the second drop-off occurs after ¥1.3 million, where pension and health insurance contributions kick in. Source: Kondo (2023) from the 2018-2022 resident tax record (annual income between 2017 and 2021) of 16 municipalities participating in a project on utilizing local government tax data to promote EBPM (evidence-based policymaking) at the Center for Research and Education in Program Evaluation, The University of Tokyo.⁷⁰

Glass Ceilings and Lack of Representation

Lastly, even though anti-discrimination laws have been in place for decades, Japan still continues to struggle with pronounced glass ceilings. Women remain severely underrepresented in positions of leadership across the labour market, particularly at its highest levels. As of 2024, only 8.4% of Japanese companies are headed by a female president, and among firms listed on the Tokyo Stock Exchange, women accounted for just 11.4% of executives as of mid-2022.⁷¹ These figures fall far short of the Japanese government's long-standing objective of achieving 30% female leadership by 2020.⁷²

⁷⁰ For the original paper, See Kondo A. (2023). 「年収の壁」問題の視点「103万円の壁」過剰に意識. *Nihon Keizai Shimbun*. <https://www.rieti.go.jp/jp/papers/contribution/kondo-ayako/01.html>. For the translated version in English, See Kondo A. (2023). 「RIETI - 年収の壁」問題の視点「103万円の壁」過剰に意識. *Nihon Keizai Shimbun*. <https://www.rieti.go.jp/en/papers/contribution/kondo-ayako/01.html#:~:text=Except%20for%20the%20prominent%20population,3%20million%20yen>

⁷¹ See Beattie, E. (2024, December 2). 8.4% of Japanese companies led by women in 2024. *The Japan Times*. <https://www.japantimes.co.jp/business/2024/12/02/economy/japan-women-presidents/#:~:text=The%20percentage%20of%20companies%20led,released%20Friday%20by%20Teikoku%20Databank>

⁷² See *Aiming to increase women's leadership in corporate Japan* | Crawford School of Public Policy. (n.d.). Crawford School of Public Policy.

Importantly, explicit discrimination and bias persist in Japanese workplaces despite the formal legal prohibitions. One illustrative example is the continued prevalence of maternity harassment (*matahara*), a term that refers to the unfair treatment of women who become pregnant or take maternity or childcare leave. Between 2014 and 2017, a Japanese nonprofit documented 238 cases of *matahara*, revealing that over half of the women involved faced direct workplace reprisals, demotions, dismissals, or forced resignations, upon announcing their pregnancies. With another 37% reporting verbal abuse and psychological pressure from employers or co-workers.⁷³

Japan's legal framework has undergone gradual reform in response to these issues. The Equal Employment Opportunity Act, in force since 1986, prohibits gender discrimination in hiring and promotion. Complementary legislation, such as the 2015 Act on the Promotion of Women's Active Participation, requires large firms to set internal targets for increasing female leadership. However, these initiatives heavily rely on voluntary compliance by employers and there are no penalties for failing to meet these goals. The 2023 "Key Policy" aiming for 30% female executives is no exception: its ambitions are voluntary, its impact aspirational.⁷⁴ All in all, despite a formal legal ban on gender discrimination and decades of reform efforts, women in Japan continue to face a multifaceted glass ceiling. Cultural expectations, inflexible work practices, and weak implementation of equality policies collectively ensure that discrimination, both subtle and overt, still limits female representation in the upper echelons of Japan's economy. In theory, women may reach the top. In practice, the ladder is missing several rungs.

<https://crawford.anu.edu.au/australia-japan-research-centre/content-centre/article/news/aiming-increase-womens-leadership#:~:text=According%20to%20A0Cabinet%20Office%20data%2C%20the,of%20women%20in%20leadership%20positions>

⁷³ See マタニティーハラスメント:NPO相談被害のうち「降格・解雇」が54%にも. (2020, June 1). nippon.com. <https://www.nippon.com/ja/japan-data/h00610/>. For the summarized translated to English version, See *Study assesses "Maternity harassment" in Japanese workplaces*. (2023, July 1). nippon.com. <https://www.nippon.com/en/japan-data/h00610/study-assesses-maternity-harassment-in-japanese-workplaces.html>. See also McCurry, J. (2017, November 29). Japanese women suffer widespread "maternity harassment" at work. *The Guardian*. https://www.theguardian.com/world/2015/nov/18/japanese-women-suffer-widespread-maternity-harassment-at-work?CMP=gu_com for another survey of attitudes towards working women who become pregnant or take time off to have children.

⁷⁴ See *Aiming to increase women's leadership in corporate Japan* | Crawford School of Public Policy. (n.d.). Crawford School of Public Policy. <https://crawford.anu.edu.au/australia-japan-research-centre/content-centre/article/news/aiming-increase-womens-leadership#:~:text=According%20to%20A0Cabinet%20Office%20data%2C%20the,of%20women%20in%20leadership%20positions>

CHAPTER 2

Honor Culture and Gender Norms in Japan

Historical Origins of Honor Culture in Japan

Japan's honor culture is rooted in historical value systems that merged indigenous and imported ideals. The samurai code of Bushidō, which crystallized during the feudal era, placed utmost importance on loyalty, duty, and honor among the warrior class.⁷⁵ Samurai ethics, influenced by Confucian teachings, enforced a rigid hierarchy and patriarchal order: men were the unquestioned heads of family and society, while women's roles were confined to support and obedience. Female chastity and subservience were highly prized as matters of family honor, and women of the samurai class were expected to be loyal and modest house managers. Meanwhile, male honor was defined by strength, courage, and willingness to defend one's lord and family name, even to the death.⁷⁶ The practice of *seppuku* (ritual suicide) exemplifies how deeply honor was ingrained: rather than live with dishonor or failure, a samurai would take his own life to expunge shame and restore family reputation.⁷⁷

During the Edo and Meiji periods, these honor-driven norms became codified in broader society. Neo-Confucian ideology and the traditional *ie* system idealized a strict gender division: men as public figures and providers, women as caretakers of home and virtue. The Meiji-era slogan of "good wife, wise mother" (良妻賢母, *ryōsai kenbo*) encapsulated the expectation that a woman's honor lay in domesticity, being a faithful wife and devoted mother, while men's honor was to be the family's economic pillar and decision-maker.⁷⁸ Notably, the Meiji legal codes even criminalized adultery only for wives, reflecting the notion that a husband's honor could be tarnished by a "disloyal" woman, a

⁷⁵ These values were central to the samurai identity and were codified in texts such as "Hagakure" and "The Book of Five Rings" by Miyamoto Musashi. See Nitobe, I. (1900). *Bushido: The Soul of Japan*. <http://files.seishinkyokushin.webnode.com.pt/200001850-df210e01b3/bushido.pdf>

⁷⁶ See Tonomura, H., Walthall, A., & 脇田晴. (1999). *Women and class in Japanese history*. <https://doi.org/10.3998/mpub.18550>

⁷⁷ See again Nitobe, I. (1900). *Bushido: The Soul of Japan*. <http://files.seishinkyokushin.webnode.com.pt/200001850-df210e01b3/bushido.pdf>

⁷⁸ See again Tonomura, H., Walthall, A., & 脇田晴. (1999). *Women and class in Japanese history*. <https://doi.org/10.3998/mpub.18550>

pattern paralleled in other honor cultures like early modern Spain.⁷⁹ ⁸⁰ By the early 20th century, Japan's state and society had firmly entrenched a patriarchal honor ideology in which deviating from one's prescribed gender role was seen as a disgrace to one's family.⁸¹

Contemporary Society and Gender Norms under Honor Culture

These traditional honor-bound gender norms continue to influence Japanese society even today. Postwar legal reforms granted women equal rights on paper, but cultural expectations have proven slower to change. Deep-rooted beliefs persist that a "proper" family involves a male breadwinner and a female homemaker. From a young age, individuals are socialized into these roles: boys learn that their worth is tied to career success and being a stoic provider, while girls are often taught to prioritize marriage, and supportive roles over personal ambition.⁸² As a result, and as previously mentioned, Japan still has one of the widest gender gaps among economically developed nations, ranked 118th out of 156 countries in the World Economic Forum's gender parity index as of 2024.⁸³

At the same time, even though women in Japan are highly educated, with nearly half of Japanese women having attained college education, they face cultural and institutional glass ceilings in the workforce. Many employers, infamously even medical schools, have operated under an assumption that women will "quit once they have children," thus overtly or covertly limiting female recruitment and advancement.⁸⁴ For instance, in 2018, Tokyo Medical University admitted to systematically sabotaging the entrance exam scores to limit the number of female students admitted. Since at least 2006, the university had been deducting points from female applicants' scores to keep female enrollment below 30%, based on the belief that women were more likely to leave the medical profession due to marriage or

⁷⁹ Article 353 of the 1880 Criminal Code stated: "A wife guilty of adultery shall be punished by imprisonment for no less than six months and no more than two years. The paramour shall be subject to the same punishment." For more information, See SASAMOTO-COLLINS, H. (2017). The Emperor's Sovereign Status and the Legal Construction of Gender in Early Meiji Japan. *The Journal of Japanese Studies*, 43(2), 257–288. <http://www.jstor.org/stable/26448192>

⁸⁰ See Taylor, S. K. (2008). *Honor and violence in Golden Age Spain*.

⁸¹ See Nitobe, I. (1900). *Bushido: The Soul of Japan*. <http://files.seishinkyokushin.webnode.com.pt/200001850-df210e01b3/bushido.pdf>

⁸² See *Dividing the Sexes: The modern evolution of Japanese gender roles in marriage*. (2023, July 1). nippon.com.

<https://www.nippon.com/en/features/c05604/dividing-the-sexes-the-modern-evolution-of-japanese-gender-roles-in-marriage.html#:~:text=Eighth%20century%20Emergence%20of%20the,Japanese%20Constitution%3A%C2%A0Stipulates%20that%20marriage%20is>

⁸³ See World Economic Forum (2024). *Global Gender Gap Report* available at <https://www.weforum.org/publications/gender-gap-report-2024/>

⁸⁴ See McCurry, J. (2018, August 8). Tokyo medical school admits changing results to exclude women. *The Guardian*. <https://www.theguardian.com/world/2018/aug/08/tokyo-medical-school-admits-changing-results-to-exclude-women>

childbirth. Such incidents exemplify how honor-based gender bias remains embedded in modern institutions, rationalized by the notion that a “respectable” woman’s primary duty is to family, not career.⁸⁵

Then, within the home, traditional honor culture also continues to shape expectations. Women are widely seen as responsible for maintaining the household, raising children, and caring for elderly parents. Fulfilling this nurturing, self-sacrificing role is still held up as the feminine ideal by many. Men, conversely, are expected to work long hours and prioritize their jobs to honorably support their family.⁸⁶ This dynamic creates a double burden on women who do pursue careers, as they are often still expected to handle the majority of domestic duties, a reflection of the enduring view that a “good” wife and mother puts family first. In addition, it also places enormous pressure on men to succeed professionally at any cost.⁸⁷ Here, the legacy of Bushidō valorization of loyalty and endurance is evident in Japan’s intense work culture: employees routinely sacrifice personal time and health for their company, reluctant to leave the office before the boss or take needed breaks, lest they “lose face” or appear disloyal. Consequently, Japan has suffered high rates of *karōshi* (also known as death by overwork), extreme cases where individuals work themselves to fatal exhaustion in order to avoid the shame of failing their duty.⁸⁸ The honor ethic of self-denial thus affects both genders in different ways.

In addition, the persistence of honor culture also helps explain why gender inequality in Japan has proven resistant to change. It is not merely a matter of the legal system, it also encompasses the social ethos. When top political leaders make remarks suggesting women should bear more children or stay home (as in one 2019 incident where a Japanese minister claimed, “*those who don’t give birth are the problem*”, blaming women for low birth rates),⁸⁹ they are tapping into these traditional narratives. Such comments reveal that the “crystallization of traditionally held narratives” is still alive in modern Japanese culture, perpetuated by those in power.⁹⁰ Consequently, progress toward equality, while existent, has

⁸⁵ Ibid.

⁸⁶ See Lee, G. (2016, January 1). *The Ideal of Self-Sacrificing Women in Japanese Culture: The Wives in Ozu and Mizoguchi’s Films*. <http://scholarworks.calstate.edu/handle/10211.3/174799>

⁸⁷ See Lam, A., & Brinton, M. C. (1993). Women and the Economic Miracle: Gender and work in Postwar Japan. *Monumenta Nipponica*, 48(4), 513. <https://doi.org/10.2307/2385304>

⁸⁸ See M, M. (2024, May 9). *Bushido: The Hidden Downsides of Samurai Honor*. Welcome. <https://sengokuchronicles.com/unveiling-bushido-the-hidden-downsides-of-samurai-honor/#:~:text=Confucianism%2C%20imported%20from%20China%2C%20became,of%20bureaucrats%20and%20educated%20governors>

⁸⁹ See Chang, S. (2025, April 16). *Japan’s Centuries-Long cultural rot: gender inequality*. HANABI. <https://hanabi.asij.ac.jp/features/japans-centuries-long-cultural-rot-gender-inequality/#:~:text=makes%20it%20important%20as%20ever%2C,modern%20mind%20with%20its%20insensitivity>

⁹⁰ Ibid.

been slow and halting. Younger generations are increasingly critical of rigid gender roles, and activism for women's rights is growing. However, many women still encounter the expectation to "marry by 30, have children by 35", or to give up career advancement for the sake of family honor. Many men still feel they must prove their masculinity through professional success and stoic endurance, rather than embracing a more balanced life. These norms carry tangible demographic consequences as well. For instance, Japan's fertility rate remains low in part due to women's hesitation to marry or have kids under such unequal conditions.⁹¹

⁹¹ See *Dividing the Sexes: The modern evolution of Japanese gender roles in marriage*. (2023, July 1). nippon.com.
<https://www.nippon.com/en/features/c05604/dividing-the-sexes-the-modern-evolution-of-japanese-gender-roles-in-marriage.html#:~:text=Eighth%20century%20Emergence%20of%20the,Japanese%20Constitution%3A%C2%A0Stipulates%20that%20marriage%20is>

CHAPTER 3

A Comparative Analysis: The Case of Japan and Spain

In assessing how Japan might strengthen its gender equality framework, it is valuable to examine reforms undertaken in culturally analogous contexts. Spain offers a particularly instructive comparison. Like Japan, Spain is an honor culture where traditional gender roles were long embedded in both social structures and legal systems. Under Francoist rule, Spanish women faced significant legal and societal restrictions that curtailed their participation in public life, mirroring, in many respects, the structural barriers faced by women in post-war and contemporary Japan. Following the end of authoritarian rule, Spain implemented a series of reforms aimed at dismantling these legal constraints and advancing gender equality, particularly in family and employment law. These reforms occurred within a cultural context that, like Japan's, had long resisted changes to gender norms. The purpose of this section is to evaluate some of the key reforms, explaining their content in Spain, and their outcomes. This will be followed by an evaluation of how they could fit in Japan, and in the next Chapter an assessment of their feasibility based on transplantation theory will take place.

Equal and Non-transferrable Parental Leave for Fathers

First, Spain has established one of the world's most progressive parental leave regimes, giving fathers and mothers equal, non-transferable, fully paid leave. As of 2021, each parent is entitled to 16 weeks of paid leave at 100% of salary, with a portion of that leave being compulsory right after the birth for both parents. In the father's case, 6 weeks must be taken immediately after the birth, to ensure the father is present in the critical newborn phase, and the remaining 10 weeks can be taken during the baby's first year in flexible increments.⁹² This policy was implemented through successive reforms (gradually increasing fathers' leave from just 2 days in the 1980s to 2 weeks in 2007, then to 4 weeks, 8 weeks, etc., and finally 16 weeks by 2021). Crucially, one parent cannot give their weeks to the other. Here, the Spanish Social Security covers the cost, relieving employers of the direct burden. All in all, the aim of this reform is to break the norm that childcare is solely the mother's domain, encouraging fathers to bond with and care for their children, and employers

⁹² See "A Guide to Maternity and Paternity Leave in Spain – Parakar," n.d., <https://parakar.eu/knowledge/sp/maternity-paternity-leave-spain#:~:text=In%20Spain%2C%20fathers%20are%20entitled,leave%20is%20structured%20as%20follows.>

to see both male and female staff as potential caretakers, thus reducing hiring discrimination against women of childbearing age.⁹³

The outcome of this regulation was that the uptake of paternity leave by men skyrocketed as the entitlement expanded. After the 16-week leave became available, roughly 90% of new fathers took some parental leave, and most took the full period or close to it.⁹⁴ This was a drastic change from prior decades when only a tiny fraction of men took the earlier shorter leaves. In addition, this reform has increased Spanish fathers' involvement in early childcare and has had positive effects on gender norms, as fathers who take leave tend to remain more engaged in parenting thereafter, which aids mothers in having an easier time returning to work.⁹⁵ Over time this is expected to contribute to a more equal sharing of unpaid labor. Importantly, because the leave is mandatory for 6 weeks, it removes any "stigma", it is simply expected that all fathers will be absent for a period, which helps change workplace culture. Employers in Spain have adjusted; knowing that young male employees will also take baby leave, not just young women, has begun to level the playing field in hiring and promotion decisions by reducing the incentive to favor men on the assumption women will step out for child rearing.⁹⁶

Japan already has a legal framework for parental leave (one of the longest in the world on paper, up to 12–18 months), and the government has in recent years voiced strong support for increasing fathers' uptake. The challenge in Japan is cultural and practical uptake, not the absence of a leave law. Thus, here, Spain's reform offers a strategy to boost utilization: by making part of the leave mandatory and by framing it as a short, well-compensated period rather than a lengthy absence. For instance, 4–6 weeks of leave that every new father is required to take immediately after childbirth, paid at a high replacement rate (ideally 100% by employment insurance or government funds), could normalize paternal absence and signal management to plan for it.

Currently, although Japanese law was recently adjusted to create a fraternal birth leave, it is not mandatory. Making it obligatory would be a bigger step, but not an implausible one if framed as ensuring father-child bonding and maternal health. Additionally, Japan could

⁹³ See Center for Economic Policy - EsadeEcPol. "What Do We Know About the Use of Paternity Leave in Spain? - Center for Economic Policy - EsadeEcPol," April 2, 2024. <https://www.esade.edu/ecpol/en/publications/que-sabemos-sobre-el-uso-de-los-permisos-de-paternidad-en-espana/>

⁹⁴ "What Do We Know About the Use of Paternity Leave in Spain? - Center for Economic Policy - EsadeEcPol."

⁹⁵ See Lam, Alice, and Mary C. Brinton. "Women and the Economic Miracle: Gender and work in Postwar Japan." *Monumenta Nipponica* 48, no. 4 (January 1, 1993): 513. <https://doi.org/10.2307/2385304>.

⁹⁶ "What Do We Know About the Use of Paternity Leave in Spain? - Center for Economic Policy - EsadeEcPol."

also consider adopting the non-transferability principle more strongly: Japanese parental leave is already individual, but, in practice, families often have the mother use most or all of the allowed period while the father uses none. Enforcing that a certain portion is exclusively for fathers and cannot be deferred or transferred could positively encourage families to take advantage of both parents' leaves, as it was the case in Spain.

All in all, given that Japan is trying to raise its birth rate and encourage men to participate in childcare (the government has set a goal for 85% of fathers to take leave by 2025, albeit for any length of time), a policy like Spain's could be pitched as pro-family and pro-child.⁹⁷ The main implementation consideration is cost: However, since Japan's system already provides payment via social insurance, covering, for instance, 6 weeks at full pay for all fathers should be financially manageable, especially against the backdrop of much longer leaves already budgeted. Culturally, seeing essentially all new fathers take a leave, even if relatively short, could begin to erode the stigma and, over time, this could potentially shift workplace norms to where taking leave is routine for both genders.⁹⁸

Corporate Gender Equality Plans and Transparency

Secondly, to tackle workplace inequalities, such as hiring biases, promotion gaps, and gender pay gaps, Spain's 2007 Equality Law requires medium and large companies to proactively establish Gender Equality Plans. An Equality Plan is a strategy within a company that assesses the current status of gender equality (e.g. representation of women at different levels, presence of harassment, etc.) and sets out concrete measures and targets to improve equality within the organization.⁹⁹ Initially, the law applied to firms with more than 250 employees; subsequent amendments (2019) extended the obligation to firms with over 50, phased in over a few years.¹⁰⁰ These plans are negotiated with employee representatives and filed with a public registry. They often include measures such as setting goals to increase

⁹⁷ See The Asahi Shimbun. "Paternity Leave Remains Complex, Difficult Decision for Many Fathers | the Asahi Shimbun Asia & Japan Watch," n.d. <https://www.asahi.com/ajw/articles/15008881#:~:text=PROMOTING%20LEAVE&text=About%20119%20companies%20and%20organizations,85%20percent%20by%20fiscal%202030>.

⁹⁸ See Nakayama, Mao, and Yumi Ishikawa. "Effects of Paternity Leave Take-up Rate in Fathers' Industry of Work on Mothers' Employment and Health." *Japan Labor Issues*. Vol. vol.9, 2025. <https://www.jil.go.jp/english/jli/documents/2025/051-02.pdf>.

⁹⁹ See "What Do We Know About the Use of Paternity Leave in Spain? - Center for Economic Policy - EsadeEcPol," Center for Economic Policy - EsadeEcPol, April 2, 2024, <https://www.esade.edu/ecpol/en/publications/que-sabemos-sobre-el-uso-de-los-permisos-de-paternidad-en-espana/>

¹⁰⁰ See Ramos, Karessa. "Gender Equality Measures to Ensure That Men and Women Are Treated Equally." *Progreso*, June 19, 2019. <https://www.fundacionmicrofinanzasbbva.org/revistaprogreso/en/gender-equality-measures/#:~:text=,essentially%20extends%20the%20requirement>.

women in management, reviewing recruitment and promotion processes for bias, and addressing any gender pay gap through regular audits. In addition, Spain has recently implemented pay transparency regulations requiring companies to keep gender-disaggregated pay records and justify pay differences for equal work, with employees having the right to information about pay levels by gender. Non-compliance with these obligations can result in fines or other sanctions from the labor inspectorate, and it also exposes companies to reputational risk.¹⁰¹

Consequently, the requirement for Equality Plans has had a few effects. It has forced companies to gather data on gender issues, making problems visible. Many companies, upon their first audit, found significant pay gaps or glass ceilings that had not been formally acknowledged.¹⁰² According to Spain's Ministry of Equality, thousands of companies have registered equality plans, and sectors that traditionally had wide gaps, such as finance, have seen gradual improvement in metrics as a result. While enforcement varies, the fact that companies know they could be inspected or named for failing to comply provides incentive. Essentially, Equality Plans institutionalized the pursuit of gender equality at the organizational level, rather than leaving it to ad hoc goodwill.¹⁰³

Japan has a similar concept in embryo: the 2015 Act on Promotion of Women's Participation requires companies with over 300 employees to submit a "General Employer Action Plan" with gender-related statistics. However, the Japanese requirement is comparatively light, it might involve a single target and minimal detail, and enforcement is lax.¹⁰⁴ Spain's model is more comprehensive and could be incrementally introduced in Japan. For example, Japan could mandate that large companies conduct a gender equality assessment and publish an annual report on indicators such as gender composition by level, promotion rates, average pay by gender and level, etc. This transparency can spur competition and public pressure, a bit like how some Japanese companies started advertising

¹⁰¹ See L&E Global. "Pay Equity Laws & Requirements in Spain | L&E Global," January 21, 2025. <https://leglobal.law/countries/spain/employment-law/employment-law-overview-spain/05-pay-equity-laws/#:~:text=Three%20key%20measures%20offer%20protection%3A,6%2F2019%20of%201%20March.>

¹⁰² See "Equality Plans in Companies > Legal Services Spain," n.d., <https://www.mariscal-abogados.com/equality-plans-in-companies-come-into-force-in-spain/>.

¹⁰³ See Jan Jordana, "Mandatory Equality Plan: How to Comply With Spanish Labour Law," Adlanter, May 28, 2025, <https://www.adlanter.com/en/blog/mandatory-equality-plan-spain-companies/>.

¹⁰⁴ See "Act on the Promotion of Female Participation and Career Advancement in the Workplace -Japanese/English - Japanese Law Translation," 2015. <https://www.japaneselawtranslation.go.jp/en/laws/view/3188>.

themselves as woman-friendly to attract talent.¹⁰⁵ Building on that, requiring a formal action plan with defined measures, not just numerical goals, would push companies to think holistically about what barriers in their culture or policies hinder women. This parallels Japanese corporate governance codes that require companies to have policies on diversity and disclose them.¹⁰⁶ The key difference is making it a legal obligation with oversight.

Taking into consideration Japan's wariness of strict quotas, a Japanese adaptation could start with larger corporations and gradually extend to mid-sized ones, similar to Spain's phased approach. To avoid it being toothless, the government could tie compliance to incentives or very mild penalties. For instance, public recognition for those who excel with rankings or awards, which has shown to work well in the Japanese context, and public listing for those who ignore the law.¹⁰⁷ Culturally, this leverages Japan's preference for internal consensus: rather than the government imposing one-size-fits-all rules, it asks each organization to figure out what works best to utilize female talent.¹⁰⁸ Over time, as seen in Spain, this can lead to more women being promoted and a narrowing of pay gaps, outcomes that Japan dearly needs to improve.

Marital Naming Flexibility and Identity Rights

Lastly, when it comes to marital naming flexibility and identity rights, which are symbolic but meaningful, Spain does not force a single family name; it allows individual identity retention and children carry both parents' surnames by tradition.¹⁰⁹ While this might seem minor legally, it has a larger symbolic resonance for equality, a woman does not lose her family identity upon marriage, which subtly affirms that marriage is a union of equals

¹⁰⁵ For instance, companies such as Japan Post or Obayashi Corporation. For more information, See JAPAN POST INSURANCE Co., Ltd. "Promoting Diversity and Flexible Work Styles - JAPAN POST INSURANCE Co., Ltd.," n.d. <https://www.jp-life.japanpost.jp/english/aboutus/sustainability/social/diversity.html>.

¹⁰⁶ See Hiroyuki Watanabe, "The 2021 Japanese Corporate Governance Code," *Oxford Law Blogs* (blog), July 26, 2021, <https://blogs.law.ox.ac.uk/business-law-blog/blog/2021/07/2021-japanese-corporate-governance-code>.

¹⁰⁷ See Wresearch, "Japan Social Employee Recognition Systems Market (2025-2031) Trends, Outlook & Forecast" 6 Wresearch, n.d., <https://www.6wresearch.com/industry-report/japan-social-employee-recognition-systems-market>.

¹⁰⁸ Japanese corporate and policy environments are shaped by a strong preference for internal consensus-building, known as *nemawashi* (informal groundwork) and the *ringi* system (formal circulation of proposals for approval). Rather than imposing uniform, top-down rules, Japanese institutions often encourage each organization to develop its own tailored solutions to policy goals, including gender equality and the utilization of female talent. For more information, See Satoshi Kawaguchi, "The Effect of Cultural Norms on Group Decision-Making in Japanese Corporations," *Frontiers in Management Science* 3, no. 5 (October 1, 2024): 70–75, <https://doi.org/10.56397/fms.2024.10.07>.

¹⁰⁹ The Spanish Civil Code, at. 109 and at. 104 states that "El apellido de los hijos será el primero del padre y el primero de la madre..." ("The surname of the children will be the first of the father and the first of the mother...") See "BOE-A-1889-4763 Real Decreto De 24 De Julio De 1889 Por El Que Se Publica El Código Civil.," July 24, 1889, [https://www.boe.es/eli/es/rd/1889/07/24/\(1\)/con](https://www.boe.es/eli/es/rd/1889/07/24/(1)/con).

rather than the wife's absorption into the husband's family.¹¹⁰

This naming practice has always been part of Spanish (and many Spanish-speaking countries') customs, so Spain did not have to reform it post-Franco. But its relevance here is as a contrast: it is one less legal barrier women face in public life. For instance, in professional settings women in Spain (and men) continue with the same surnames pre- and post-marriage, avoiding confusion in credentials or career continuity. This arguably supports women's professional identity. It also means children automatically have a visible connection to both parents, which can reinforce the notion of shared parenting roles.¹¹¹

As previously mentioned, changing the married surname law to allow separate surnames is a reform that has been debated in Japan for decades.¹¹² From a pragmatic standpoint, allowing optional separate surnames would remove a practical obstacle for those who dislike changing names. Moreover, it is a relatively simple legal amendment: it does not force anyone to change their practice, it just provides freedom. In terms of gender equality, it would be a symbolic leap, acknowledging that a woman's individual identity is not subordinate to marital unity. And, while symbolic, it can have concrete effects such as making it easier for women in academia or business to maintain name recognition.

Notably, given that recent surveys show a majority of Japanese population, especially younger people, favor allowing different surnames, and that the Supreme Court has upheld the current law but also hinted the Diet could change it, it is really a matter of political will.¹¹³ Adopting this nearly universal practice is plausible in that it requires no huge structural change, just a cultural acceptance from the Diet that a family can still be a family with two surnames.¹¹⁴ It might be best introduced as an optional system to defuse conservative fears, since doing so would remove one of the legal vestiges of old honor ideology; the idea that

¹¹⁰ See Morcillo, Aurora G. *The Seduction of Modern Spain: The Female Body and the Francoist Body Politic*, 2010. <http://ci.nii.ac.jp/ncid/BB05406761>.

¹¹¹ Ibid.

¹¹² See Judgment of 16 December 2015 (n 86) 2466 – 68.

¹¹³ Multiple polls from 2024 and 2025 indicate majority support for the option of separate spousal surnames. For example, an Asahi Shimbun survey in February 2025 found that 63% of respondents supported allowing separate surnames, and an NHK survey in May 2024 found 62% in favor. See Allen, Jay. "Poll: Over Half of Married Japanese Women Wanted to Keep Their Maiden Names." *Unseen Japan*, March 7, 2025. <https://unseen-japan.com/poll-separate-spousal-surnames-women-support/>. On young people, See KYODO NEWS. "Japan Surname Law Cited in 30% of Common-law Unions: Survey." *Kyodo News+*, May 4, 2025. <https://english.kyodonews.net/news/2025/05/dfd4aceede4b-japan-surname-law-cited-in-30-of-common-law-unions-survey.html>.

¹¹⁴ Interesting to note is that Japan is the only country in the world where married couples are legally required to share the same surname. In the vast majority of other countries, couples have the option to keep their individual surnames or to adopt a shared surname. See Waka Ikeda, "The Land Where Single Surnames Are the Only Option," *The Japan Times*, March 18, 2025, <https://www.japantimes.co.jp/commentary/2024/02/07/japan/japan-single-surnames-marriage-change/>.

husband and wife must be “one unit” with the husband as de facto head.¹¹⁵ In sum, this reform in combination with the joint custody amendment underway, would be of great help in modernizing the family law framework.

¹¹⁵ Despite these legal reforms in the 1947 Constitution, some cultural expectations and practices rooted in the old honor ideology persist, such as the idea of marital unity and the husband's de facto leadership in family matters. For more information, See “Japanese - Family,” Cultural Atlas, 2021, <https://culturalatlas.sbs.com.au/japanese-culture/japanese-culture-family>.

CHAPTER 4

Legal Transplantation and Cultural Adaptation

In evaluating whether Spain's gender equality reforms in employment and family law could take root in Japan, it is crucial to consider the debate in legal transplant theory between Alan Watson and Otto Kahn-Freund. As previously mentioned, Watson argues that law is relatively autonomous from society, making legal transplants broadly feasible even between very different contexts. Under Watson's view, lawmakers can deliberately import foreign laws based on utility, and such transplants often face little resistance if the legal rules are technically compatible. Meanwhile, Kahn-Freund cautions that legal norms are deeply embedded in their original institutional and social context. In his view, successful transplantation requires careful evaluation of how the donor and recipient contexts compare. The more divergence in political structure or social norms, the more any imported law must be modified to survive. Because our inquiry concerns gender equality, an area deeply enmeshed with social norms and institutional practices, this analysis favors Kahn-Freund's context-sensitive approach. Ignoring Japan's unique institutional and cultural context could lead to merely transplanting words of the law without achieving the intended social change. Thus, the following evaluation stresses alignment with Japan's institutional and social context, per Kahn-Freund's theory, rather than assuming a transplant will function simply because it worked in Spain.

First, a direct, unmodified transplant of Spanish gender laws into Japan is likely infeasible or ineffective, because, as Kahn-Freund would predict, the areas of law in question (family roles, employment equality) are deeply embedded in social context, precisely the kind of "closely tied" legal rules that do not travel well without adjustment. To exemplify, simply legislating "equal representation of women in managerial positions" in Japan (as Spain effectively did through mandates and quotas) might result in a formal policy but little change, unless Japan's corporate promotion practices and attitudes shift in tandem. Transplanted laws could remain largely symbolic. In fact, Japan already has many formal guarantees of gender equality, but the outcomes lag far behind Spain's; tellingly, the World Economic Forum's 2024 Global Gender Gap Index ranks Japan 118th of 156 countries, whereas Spain now sits in the top.¹¹⁶ This gap underscores that formal laws alone, which

¹¹⁶ See "Spain - Global Gender Gap Index 2024."

Japan has had for decades, did not suffice to produce equality in the absence of supportive institutional and cultural conditions.

That said, Kahn-Freund's approach does not imply that legal transplants are impossible, only that they must be carefully adapted to the host context. If Japan were to draw inspiration from Spain, a feasible path would involve a layered adaptation of reforms, combining legal change with efforts to shift institutional practices and public attitudes.

For instance, under Kahn-Freund's framework, a Spanish-style paternity leave could feasibly be introduced in Japan, provided it is framed in a manner that resonates with prevailing cultural norms. In this case, the primary barriers to implementation are cultural rather than legal. Given Japan's consensus-oriented policymaking, securing the support of businesses and senior management is essential. Here, Kahn-Freund's emphasis on institutional compatibility is particularly relevant: if executive leadership remains resistant to male childcare leave, legal mandates may be routinely disregarded in practice. Addressing this challenge may therefore require supplementary initiatives, such as public recognition schemes for "family-friendly" firms and managerial training programs, as seen in Spain, to shift workplace attitudes.¹¹⁷ Over time, as a growing number of Japanese fathers take parental leave and successfully reintegrate into the workforce without professional setbacks, social norms surrounding gender and caregiving could gradually evolve. Notably, early adopters in Japan have described how seeing peers take months of leave made them realize "it's OK for men" to do so.¹¹⁸ In this context, a formal leave mandate could serve as a catalyst to accelerate this peer normalization process.

Then, in evaluating the feasibility of transplanting corporate gender equality reforms such as Spain's equality plans, Japan's distinctive industrial relations context must be taken into account. Traditionally, Japanese companies have favored internal, consensus-based solutions to labor issues, with strong norms of employee loyalty and weak external enforcement of labor laws. Labor unions in Japan tend to be enterprise-based, rather than industry-wide, which means they are less likely to push aggressively for gender equity measures unless management supports them. Furthermore, Japanese management practices

¹¹⁷ See "TOWARDS EQUALITY: Equal Parental Leave Prompts Spanish Men to Care for Children | the Asahi Shimbun Asia & Japan Watch," The Asahi Shimbun, n.d., <https://www.asahi.com/ajw/articles/14855605#:~:text=The%20conversation%20then%20turns%20to,%E2%80%9D>.

¹¹⁸ See "More Taking Paternity Leave Despite Archaic Office Attitudes | the Asahi Shimbun Asia & Japan Watch," The Asahi Shimbun, n.d., <https://www.asahi.com/ajw/articles/15514588#:~:text=In%202023%2C%20he%20joined%20a,even%20took%20a%20full%20yearhttps://www.asahi.com/ajw/articles/15514588#:~:text=In%202023%2C%20he%20joined%20a,even%20took%20a%20full%20year>.

(such as seniority-based promotion and transfers, and long working hours) have historically been ill-suited to retaining women, yet these practices change slowly. In this context, simply importing a foreign mandate could face quiet resistance or superficial compliance. A lesson from Kahn-Freund's theory is apt: if a transplanted rule clashes with entrenched institutional practices, the rule may remain a dead letter.

Therefore, adopting these equality plans in Japan would require gradualism and customization. A sudden imposition of rigid quotas or binding obligations could provoke pushback from both corporate actors and policymakers wary of top-down regulation. However, gradual implementation, mirroring the phased strategy used in Spain, may prove more effective. Measures such as public disclosure requirements and reputational incentives, including “naming and shaming” underperforming firms, could leverage Japan's honor-based cultural sensitivities. Integration with existing frameworks like the “Kurumin” and “Eruboshi” certification programs would further enhance institutional fit.¹¹⁹ In essence, rather than framing the reform as an external imposition, it could be presented as an extension of Japan's own Womenomics policy, sharpening it to produce tangible results. If successful, the impact could be significant: as seen in Spain, making companies systematically examine and act on gender disparities yields tangible improvements, from narrower pay gaps to more women in leadership. For Japan, whose gender equality lag has been partly attributed to weak corporate accountability, a well-adapted transplant of Spain's Equality Plan regime offers a promising route to embed gender reform in the workplace fabric.

Finally, introducing an option for separate surnames in Japan is arguably the simplest transplant of the three reforms, legally, it requires a brief amendment to the Civil Code, yet it is laden with cultural symbolism. Kahn-Freund's emphasis on context is instructive here: the surname issue touches on Japan's notion of the *ie* and social order. However, the context itself is changing, which improves the reform's viability. Unlike some legal transplants that fail due to deep incompatibility, the dual-surname reform increasingly aligns with prevailing Japanese social norms: most citizens see it as reasonable, and many couples are already informally

¹¹⁹ See “Certification/Recognition,” Office for Promotion of Equality and Diversity, Waseda University, n.d., <https://www.waseda.jp/inst/diversity/en/about/certification-recognition/>. See also “‘Eruboshi’ Certification Empowers Working Women in Japan | Japan up Close,” Japan up Close, n.d., https://japanupclose.web-japan.org/policy/p20221118_1.html.

adopting that practice or suffering the consequences of the lack of it.¹²⁰ In this sense, the cultural soil in Japan is becoming fertile for the seed of this reform.

The key resistance is political-bureaucratic, not a broad societal rejection. As public opinion continues to favor change and as more influential voices speak out, such as legal activists, civil society groups, and business leaders, the political calculus is likely to shift. The feasibility therefore is high in the medium to long term: one can envision that with sufficient consensus-building, perhaps through intra-LDP dialogues or coalition deals, a selective dual-surname bill could pass in the near future. Some LDP lawmakers have hinted at compromise solutions, such as allowing dual surnames but requiring one family name for children.¹²¹ Any enacted reform in Japan might include such conditions, which would be a culturally tailored adaptation. From a transplant perspective, this is a mild modification that does not undermine the core principle, spouses would regain the right to their own names, while the family registry system could still designate a single surname for the household or offspring. All in all, this kind of compromise resonates with Kahn-Freund's idea of modifying imported norms to fit local values.

I. CONCLUSION

While the above conclusions are optimistic about feasibility, this study recognizes several limitations. Firstly, predictive uncertainty: Assessing legal transplants involves forecasting social and political reactions that are complex and evolving. Public attitudes and political will in Japan can change in response to events not captured in this analysis. For example, an economic downturn or a shift in government could reorder policy priorities, stalling equality initiatives. The study's feasibility assessments assume a continuation of current trends (e.g. growing support for dual surnames), which may not hold true in all scenarios.

Secondly, the scope of analysis: The thesis focused on three specific reforms from Spain, which necessarily excludes other potentially relevant measures due to word count constraints, such as electoral gender quotas or childcare infrastructure improvements. The

¹²⁰ See KYODO NEWS, "Japan Surname Law Cited in 30% of Common-law Unions: Survey," *Kyodo News+*, May 4, 2025, <https://english.kyodonews.net/news/2025/05/dfd4aceede4b-japan-surname-law-cited-in-30-of-common-law-unions-survey.html#:~:text=,>

¹²¹ See KYODO NEWS, "Japan Diet Begins Debate on Dual Surname Bill for 1st Time in 28 Yrs," *Kyodo News+*, May 30, 2025, <https://english.kyodonews.net/news/2025/05/e2b2cc1d7eec-japan-diet-begins-debate-on-dual-surname-bill-for-1st-time-in-28-yrs.html#:~:text=Among%20the%20vocal%20supporters%20of,names%20their%20children%20will%20use.>

effectiveness of the transplanted reforms in isolation might be limited if complementary policies are missing. For instance, paternity leave uptake might remain low if working hours norms are not addressed. This narrowed scope means the study may overestimate what these transplants alone can achieve for gender equality.

Thirdly, while cultural factors (consensus-building, honor, traditional gender roles, etc.) have been discussed as part of feasibility, the analysis did not delve into regional variations within Japan. Japan is not monolithic, attitudes in urban centers versus rural areas, or among different generations, can diverge. A more granular cultural analysis might reveal pockets of resistance or support that a high-level view cannot.

Lastly, data limitations: The evaluation drew on recent reports and scholarly work up to 2025 to gauge context. There is a limit to the data available on how Spanish reforms have fared in the long run (since some, like the paternity leave expansion, are quite recent). Likewise, projecting their impact in Japan required some assumption that similar outcomes would occur, which may be an oversimplification given subtle contextual differences. In sum, while the study offers a carefully reasoned prognosis, it cannot provide a guarantee, real-world policy transplantation often involves trial and error, and this analysis can only partially anticipate that dynamic.

Therefore, building on this thesis, further research could pursue several avenues. One recommendation is a comparative implementation study: if any of these reforms (or similar ones) are adopted in Japan, scholars should analyze the implementation process, identifying what facilitators or obstacles emerge. Such a study could compare, for example, how companies actually respond to a new equality plan mandate versus how Spanish companies did, yielding practical insights for policy refinement. Another valuable direction is to broaden the comparative lens beyond Spain, by examining cases of gender-equality legal transplants in other countries. Research on those lines could help distinguish which challenges are Japan-specific and which are common to patriarchal societies adapting to modern norms. Additionally, longitudinal social attitude research would be beneficial. This could involve surveying Japanese employers, employees, and young families before and after a reform is introduced, to measure shifts in mindset. For instance, does mandating paternity leave actually reduce stigma in five years? Lastly, given that Kahn-Freund's theory guided this assessment, it would be fitting to conduct a post-hoc evaluation if Japan does implement these reforms: was Kahn-Freund's caution validated? Did the transplants "take" because context was sufficiently considered, or were there surprises that theory did not predict? Answering these questions would not only inform Japan's gender policy journey but also

contribute back to comparative law scholarship, refining the understanding of how context influences the fate of transplanted laws.

In conclusion, Japan's encounter with Spanish-inspired gender equality reforms illustrates both the challenges and opportunities of legal transplantation. A sensitive application of foreign ideas, one that respects Japan's institutional character and cultural sensibilities, holds promise for accelerating gender equality. Each reform examined can be a piece of the puzzle. Taken together, these changes could reinforce each other and move Japan closer to better egalitarian outcomes. Yet, as this chapter has argued, success will depend on careful adaptation and genuine commitment to enforcement. Legal change, no matter how well-intended, must penetrate everyday norms to be impactful. The hope, grounded in both theory and comparative evidence, is that Japan can implement these reforms not as mere legal transplants on paper, but as living policies that gradually reshape behavior and beliefs, ultimately fostering a more gender-equal society.