

Abstract of Doctoral Thesis

Title: Reorienting Family Law in Respect to the Evolution of the French Civil Code

Doctoral Program in Law
Graduate School of Law
Ritsumeikan University
マツモト カオルコ
MATSUMOTO Kaoruko

The French Family Law has achieved reforms which Japan has failed to achieve. How was it possible for France to accomplish such reforms?

This paper will examine the evolution of the French Civil Code from the Ancien Régime period, which preceded the establishment of the French Civil Code, to the current legal system; vertically in terms of the passage of era and horizontally in terms of the following areas: 1. freedom of marriage, 2. legal status of wives, 3. marital property system, 4. divorce, 5. marriage and parent-child status, 6. parental rights, 7. inheritance, 8. family name.

The purpose of this study is to trace the development of French Civil Code, analyze the structure and characteristics of French marriage law, and reorient marriage laws in order to clarify the issues of Japanese marriage law.

In conclusion, we will reorient the French marriage law. By shifting from the previous concepts of marriage and parent-child relationship by completely separating the two, the protection of children has become ensured solely within the framework of parent-child law. As a result, marriage law has achieved to expand its approach from exclusively hierarchical bonds between heterosexuals bearing children to bonds between equal individuals, including same-sex couples, bearing children.

Today, the individual is free to make his or her own choice of union with mutual consent but the relationship is presumed to be that of trust and mutual care for each other's daily needs based on the recognition of both party's history and background. Marriage developed into a form of union with greater obligations and rights to support communal life, with its mechanism equivalent to that of any other ties, and has been reoriented to provide the options to those who seek such relationships.