

“IE”-Family as an administrative unit

1. Definition of “IE”-Family: ***“All the relatives in a same household”***
2. The status of “Head of family” may be compared to a ***“commanding officer”*** in a smallest unit of military troop.
3. Some of the basic human rights of other family members than “Head of Family” had to be severely limited:
 - A. Selection of ***Domicile***
 - B. ***Marriage*** or ***Adoption***;
 - a. A Consent of the Head of Family was always required.
 - b. A next successor to the Head of Family might not leave his or her house and enter another family for marriage or adoption.
4. All other properties than such ones as explicitly belong to an individual member of a family assumed to belong to the Head of Family alone.
5. In the succession of the ***“Patrimony”***, ***a legitimate, eldest, male person*** alone had always priority over other members of the family. It was strictly forbidden to partition the Patrimony.

The Types of “De facto Marriage”

1. Cohabitation during “Testing Period”

Legal possibility to marry in future

→ *Protection of cohabitation with “Tort Liability” or “Doctrine of Engagement”*

2. Pure Cohabitation due to “Legal Hindrances”

No legal possibility to marry in future

→ Only partial protection of cohabitation were possible;

A. Both persons were in charge to succeed to Head of Family

B. Head of Family rejected his consent to the marriage

C. One party of the couple was already married

→ *There was no possibility to protect the rights or interests of other party*

The Paradox of the moralistic protection of official marriage

After the 2nd World War, The Supreme Court of Japan developed the “*Doctrine of Quasi-Marriage*” in order to protect the social relationship during pure cohabitation.

Even if one party is already married, the Court will apply this doctrine insofar as the official marriage is already broken down.