

# JAPAN'S UNDER-RESEARCHED VISIBLE MINORITIES: APPLYING CRITICAL RACE THEORY TO RACIALIZATION DYNAMICS IN A NON-WHITE SOCIETY

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## ABSTRACT

Critical Race Theory (CRT), an analytical framework grounded in American legal academia, uncovers power relationships between a racialized enfranchised majority and a disenfranchised minority. Although applied primarily to countries and societies with Caucasian majorities to analyze White Privilege this Article applies CRT to Japan, a non-White majority society. After discussing how scholarship on Japan has hitherto ignored a fundamental factor within racialization studies—the effects of skin color on the concept of “Japaneseness”—this Article examines an example of published research on the Post-WWII “*konketsuji* problem.”<sup>1</sup> This research finds blind spots in the analysis, and re-examines it through CRT to uncover more nuanced power dynamics. This exercise attempts to illustrate the universality of nation-state racialization processes, and advocates the expansion of Whiteness Studies beyond Caucasian-majority societies into worldwide Colorism dynamics in general.

## I. INTRODUCTION: THE TERMS AND THE DYNAMICS: CRITICAL RACE THEORY, EMBEDDED RACISM, AND VISIBLE MINORITIES

### A. *Critical Race Theory*

To analyze societies in terms of social hierarchies and power relations, Critical Race Theory (CRT), an analytical framework that first appeared in American legal academia, may offer fresh insights when applied to other countries. CRT sees racism as a study of power relations within a society, particularly in terms of how people are rendered into hierarchical

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1. The “*konketsuji* problem” is the existence of “mixed-blood children” in Japanese society (mostly from Japanese=Non-Japanese unions during the American Occupation of Japan).

categories of power, social dominance, and wealth acquisition.<sup>2</sup> Fundamental theories synthesizing economic and postcolonial arguments have a long history, going back to W.E.B. DuBois.<sup>3</sup> DuBois linked the abolition of American slavery with the convergence of white economic and postcolonial interests, as opposed to the narrative of American society being convinced by “moral good” and “just society” arguments. CRT first appeared in the 1970s in response to perceived shortcomings within the American Civil Rights Movement, grounded in minority frustrations at being underrepresented within American public discourse and academia.<sup>4</sup> Incorporating various criticisms from Ethnic Studies, Women’s Studies, Cultural Nationalism, Critical Legal Studies, Marxism and Neo-Marxism, and Internal Colonial models,<sup>5</sup> CRT has expanded out of deconstructing legal and judicial processes and into other fields, including deconstructions of education, public discourse, gender, ethnicity, class and poverty, globalization, immigration and international labor migration, hate speech, the meritocracy, and identity politics. CRT has also been expanded beyond America’s borders to examine postcolonialism and power structures in other societies, including Great Britain, Israel, and Europe.<sup>6</sup> This article will similarly expand CRT into Japan.

In terms of analyzing the racialized structural relationships of social power, this research argues that CRT may be applied to any society. CRT starts from the fundamental standpoints that, inter alia, (1) “race” is purely a social construct without inherent physiological or biological meaning, so it is open to the same perceptual distortions and manipulations as any other social convention or ideology; (2) the prejudicial discourses about human categorization and treatment are so hegemonic that they become part of the “normal” in society; that is to say, so embedded in the everyday workings of society that they give rise to discriminatory actions (both conscious and unconscious), resulting in discriminatory public policies

2. Cf. RICHARD DELGADO & JEAN STEFANCIC, *CRITICAL RACE THEORY: AN INTRODUCTION* (1st ed. 2001, 2d ed. 2012). See also *CRITICAL RACE THEORY: THE KEY WRITINGS THAT FORMED THE MOVEMENT* (Kimberle Crenshaw et al. eds., 1995).

3. W.E.B. DUBOIS, *THE NEGRO*, 233–34 (CreateSpace Independent Publishing Platform 2011) (1905).

4. Crenshaw et al., *supra* note 2, at xxii–xxvii.

5. See Daniel G. Solorzano and Tara J. Yosso, *Critical race and LatCrit theory and method: counter-storytelling*, 14 *QUALITATIVE STUDIES IN EDUC.* 471, 471–95 (2001).

6. DELGADO & STEFANCIC (2012), *supra* note 2, at 474. See also *CRITICAL WHITE STUDIES: LOOKING BEHIND THE MIRROR* (Richard Delgado & Jean Stefancic, eds., 1997); Mathias Möschel, *Race in Mainland European Legal Analysis: Towards a European Critical Race Theory*, 34 *ETHNIC & RACIAL STUDIES* 1648, 1648 (2011); Fumi Sakata, *A Critique of Critical Race Theory: A Textual Analysis of the ‘Mr. Gaijin’ Mask* (Aug. 2012) (unpublished M.A. thesis, Queen’s University), available at [https://qspace.library.queensu.ca/bitstream/1974/7387/1/Sakata\\_Fumi\\_201208\\_MA.pdf](https://qspace.library.queensu.ca/bitstream/1974/7387/1/Sakata_Fumi_201208_MA.pdf).

and laws regardless of policymaker intentions; (3) such illusory perceptions of “race” are in fact the central, endemic and permanent driving force behind organizing the scaffolding of human interaction, categorization, and regulation, both at the individual and more poignantly the legislative level; (4) “race” thus fundamentally influences, even grounds, the formation, enforcement, and amendment process of a society’s laws; (5) those who best understand this dynamic and its effects are the people disadvantaged within the racialized structure of power and privilege, and thus are necessarily excluded from the discourse regarding the organization of society; and, consequently, (6) one must also recognize the power of minority narratives as a means to allow more minority voices and alternative insights into the discussion, to expose the realities present for the unprivileged and underprivileged.<sup>7</sup>

The dynamic of racism under CRT is one of power and self-perpetuation of the status quo. Racism is seen as necessarily existing to advance and promote, both materially and psychologically, the interests and privileges of members within the dominant power structure. In America’s case, CRT helped foster “Whiteness Studies” to examine the power and preference (e.g., material wealth, prestige, privilege, opportunity, etc.) that both naturally and not-so-naturally accrues to the White majority or elite.<sup>8</sup> Due to the “normalization” of this dynamic, it becomes self-perpetuating, where even the most well-intentioned members of the elite will have little awareness or incentive to eliminate this system (due in part to “structural determinism”<sup>9</sup> i.e., the milieu in which people have been raised and live their lives necessarily makes them blind to the viewpoints and needs of people who have not). The only time there may be power ceded to non-dominant peoples is when there is “interest convergence,” i.e., when the dominant majority and minorities both stand to gain from a policy shift; then current racial paradigms will be discarded and shifted instead to disfavor another weakened, easily-targeted disenfranchised minority.<sup>10</sup> In this sense, racisms and racialisms will shift

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7. Cf. DELGADO & STEFANCIC (2012), *supra* note 2, at 474; CRITICAL WHITE STUDIES, *supra* note 6; Mari Matsuda, *Looking to the Bottom: Critical Legal Studies and Reparations*, 22 HARV. C. R.-C. L. L. REV. 323, 323–99 (1987). There are, naturally, other tenets in CRT’s very broad spectrum of disciplines, but the above are the tenets germane to this article. Given its roots in dissent and diversity, CRT as a multidisciplinary umbrella theory is flexible enough in its application within academic disciplines to allow for a selection of approaches.

8. DELGADO & STEFANCIC (2001), *supra* note 2, at 75–77.

9. Mark A. Mone, *Structural Determinism*, in INTERNATIONAL ENCYCLOPEDIA OF ORGANIZATION STUDIES 1477, 1478–80 (James R. Bailey & Stewart R. Clegg eds., 2008).

10. Derrick Bell, *Brown v. Board of Education and the Interest Convergence Dilemma*, 93 HARV. L. REV. 518, 518–33 (1980).

over time, but will nevertheless continue to exist and remain a fundamental ordering force within a society.<sup>11</sup> Although these analytical paradigms have been applied primarily to the American example, this research argues that the same dynamics can be seen in the Japanese example by substituting “white” with “Japanese.”<sup>12</sup>

### *B. Overlooked Discrimination Dynamics in Japan: The Need for a New Lens*

Research on discrimination in Japan generally focuses on groups including the *Burakumin* historical underclass caste, the *Zainichi* ethnic Koreans generational “foreigners” born and raised in Japan, the Ainu and Okinawan indigenous peoples, women, the physically and mentally infirm, the elderly, children, former leprosy victims, crime victims, HIV sufferers, the homeless, ex-convicts, foreigners, and victims of human trafficking, North Korean kidnappings, and other forms of bullying and social abuse.<sup>13</sup> This is, of course, a viable categorization of groups who face discrimination in Japanese society. However, the categorization of “foreigners” within, and the research on discrimination against them in Japan, is often flawed because it is not always inclusive of all minorities in Japan.

For example, scholarship on Japan’s minorities tends to focus on *Zainichi* generational foreigners such as Koreans and Chinese “Oldcomers,” and Chinese/Nikkei etc. migrant/immigrant labor “Newcomers.”<sup>14</sup> That focus is more upon discrimination as a function of

11. ROBERT MILES, *RACISM AFTER ‘RACE RELATIONS’* (1993).

12. Mark A. Levin, *Hihanteki Jinshu Riron To Nihonhō: Wajin To Jinshuteki Tokken Ni Tsuite* [*The Wajin’s Whiteness: Law and Race Privilege in Japan*] 80 *HÖRITSU JIHŌ* 80, 80–91 (2008) (Japan), translation available at [https://www.law.hawaii.edu/sites/www.law.hawaii.edu/files/content/events/19765/Levin.Wajin's\\_Whiteness.Horitsu\\_Jiho\\_Feb.\\_2008.English.pdf](https://www.law.hawaii.edu/sites/www.law.hawaii.edu/files/content/events/19765/Levin.Wajin's_Whiteness.Horitsu_Jiho_Feb._2008.English.pdf).

13. See, e.g., Yoshio Sugimoto, *An Introduction to Japanese Society* (1997); John Clammer, *Japan and Its Others* (2001); Ian J. Neary, *Burakumin in Contemporary Japan*, in *Japan’s Minorities: The Illusion of Homogeneity* 59, 59–83 (Weiner ed., 2d ed. 2009); Hideo Aoki, *Buraku Culture*, in *The Cambridge companion to Modern Japanese Culture* 182, 182–98 (Yoshio Sugimoto ed., 2009); *Japan’s Minorities: The Illusion of Homogeneity* (Michael Weiner ed., 2d ed. 2009); Bureau of Human Rights, *H.21 Keihatsu katsudō nenkan kyōchō jikō* [*Points of emphasis for 2009’s “enlightenment” activities*], Ministry of Justice (Aug. 7, 2015), Bureau of Human Rights, *Dai-64 Jinken Shūkan* [Human Rights Week events], Ministry of Justice (Aug. 7, 2015), <http://www.moj.go.jp/JINKEN/jinken03.html>.

14. See, e.g., Ann B. Cary, *Affiliation, Not Assimilation: Resident Koreans and Ethnic Education*, in *STUDIES IN JAPANESE BILINGUALISM* 98, 98–132 (Mary G. Nogushi & Sandra Fotos eds., 2000); Erin A. Chung, *Korean Voluntary Associations in Japanese Civil Society* (Japan Policy Research Institute, Working Paper No. 69, 2000), available at <http://www.jpri.org/publications/workingpapers/wp69.html>; YASUNORI FUKUOKA, *LIVES OF YOUNG KOREANS IN JAPAN* (2000);

nationality and legal status, not as a racialization process: “In contrast with the dominance of racial categories as in the United States, the Japanese/foreigner binary is salient in Japan.” “Legally, Japanese ancestry is a purely civil, not racial status.”<sup>15</sup> This sometimes engenders a hierarchical mindset towards “foreigners” who “look different” (e.g., Caucasians, non-Asian naturalized citizens etc.), putting them at a rhetorical disadvantage. They allegedly (a) are not *as* discriminated against as other minority groups (such as the Zainichi, who have been in Japan longer),<sup>16</sup> (b) are only temporary workers, not long-term residents or immigrants (again in contrast to the Zainichi), or (c) are in numbers small enough to be negligible; in other words, foreigners who are “visibly different” simply do not count.<sup>17</sup> This approach nevertheless results in hundreds of thousands of people living in Japan, including Japanese citizens, being overlooked or omitted from studies of racism in Japan.

Researchers also tend to overlook issues of racial discrimination by focusing on the international migration of labor into Japan vis-à-vis national migration policies and legal issues. These analyses do offer valuable observations from a comparative international perspective, instructive for scholars and policymakers of international migration (e.g.,

DANIEL T. LINGER, *NO ONE HOME: BRAZILIAN SELVES REMADE IN JAPAN* (2001); JOSHUA H. ROTH, *BROKERED HOMELAND: JAPANESE BRAZILIAN MIGRANTS IN JAPAN* (2002). NAOTO HIGUCHI & KIYOKO TANNŌ, *What's driving Brazil-Japan migration? The making and remaking of the Brazilian niche in Japan*, 12 INT'L J. OF JAPANESE SOC. 33, 33–47 (2003); *SEARCHING FOR HOME ABROAD: JAPANESE BRAZILIANS AND TRANSNATIONALISM* (Jeffrey Lesser ed., 2003); TAKEYUKI TSUDA, *STRANGERS IN THE ETHNIC HOMELAND* (2003); Hiroshi Tanaka and Kim Geduk, *NICHI/KAN “KYŌSEI SHAKAI” NO TENBŌ, KANKOKU DE GENJITSU SHITA GAIOKJIN CHIHŌ SANSEIKEN [A VIEW TO A JAPANESE/KOREAN “COEXISTENCE SOCIETY”]: FOREIGNER LOCAL SUFFRAGE PUT INTO EFFECT IN SOUTH KOREA*, 2006; APICHAÏ A. SHIPPER, *FIGHTING FOR FOREIGNERS: IMMIGRATION AND ITS IMPACT ON JAPANESE DEMOCRACY* (2008); *DIASPORA WITHOUT HOMELAND: BEING KOREAN IN JAPAN* (Sonia Ryang & John Lie eds., 2009); Simon Nantais, *Koreans and the Politics of Nationality and Race during the Allied Occupation of Japan, 1945–1952* (Aug. 2011) (unpublished Ph.D. dissertation, University of Victoria) *available at* [http://dspace.library.uvic.ca/bitstream/handle/1828/3532/Nantais\\_Simon\\_PhD\\_2011.pdf?sequence=5&isAllowed=y](http://dspace.library.uvic.ca/bitstream/handle/1828/3532/Nantais_Simon_PhD_2011.pdf?sequence=5&isAllowed=y).

15. Chikako Kashiwazaki, *The Politics of Legal Status: the Equation of Nationality with Ethnonational Identity*, in *DIASPORA WITHOUT HOMELAND: BEING KOREAN IN JAPAN* 121, 144 (Sonia Ryang & John Lie eds., 2009); William Wetherall, *The Racialization of Japan*, in *TRANSCULTURAL JAPAN: AT THE BORDERLANDS OF RACE, GENDER AND IDENTITY* 264, 281 (David B. Willis & Stephen Murphy-Shigematsu eds., 2008).

16. An example of this mindset was expressed as a question during an interview with the author: “You have described yourself as a ‘human rights’ activist. The term evokes images of previous activists such as Martin Luther King, Jr., Desmond Tutu and Gandhi, to name a few—all disenfranchised that were born and raised as such. Isn’t your descriptive taking it a bit far considering that you are an Ivy-educated, middle-class, white male from the United States who is only feeling a sliver of the discrimination today?” Interview by Japan Review.net with the author, November 17, 2001, *available at* [http://www.japanreview.net/interview\\_dave.htm](http://www.japanreview.net/interview_dave.htm) (accessed Aug. 9, 2015).

17. HARUMI BEFU, *THE HEGEMONY OF HOMOGENEITY* 75 (2001).

how long-term “foreigners” face significant barriers to becoming citizens and/or to becoming more enfranchised members of Japanese society, in contrast to other developed democratic nations tending to enfranchise its permanent-resident non-citizens as “denizens”).<sup>18</sup> However, this tends to overlook how the determination of nationality/citizenship (and the barriers to becoming “Japanese”) is not only a matter of legal status, but also an issue of visual identification at the “micro” levels of society. These analyses also underplay the discourses at the “macro” level, i.e., how racialization is a natural function of the general maintenance of imagined communities and nation-states. As Zachmann notes, “Racism is a venom that poisons the very sources of law.”<sup>19</sup> Thus studies of discrimination in Japan by legal status alone are insufficient and must go deeper, with new terminology.

### C. *The New Lenses: Visible Minorities and Embedded Racism*

In addressing issues of racism, this research is therefore neither a general denouncement of the people of Japan as “racists,” nor does it intend to show that most people in Japan are even conscious “racists.” Instead, this research intends to outline the contours of the conscious and unconscious rules of interaction, and the tacit, “embedded” understandings within Japanese society that lead to differentiated, “othering,” and subordinated treatment of peoples by physical appearance. It will also outline how those rules and understandings are systemically created,

18. Cf. TOMAS HAMMAR, *DEMOCRACY AND THE NATION STATE: ALIENS, DENIZENS, AND CITIZENS IN A WORLD OF INTERNATIONAL MIGRATION* (1990); Takamichi Kajita, *The Challenge of Incorporating Foreigners in Japan: ‘Ethnic Japanese’ and ‘Sociological Japanese’*, in *TEMPORARY WORKERS OF FUTURE CITIZENS: JAPANESE AND U.S. MIGRATION POLICIES*, 120, 120–47 (Myron Weiner & Hanami Tadashi eds., 1998); TAKAMICHI KAJITA, *GAIKOKUJIN RŌDŌSHA TO NIHON* [FOREIGN WORKERS AND JAPAN] (1994); ATSUSHI KONDŌ, “GAIKOKUJIN” NO SANSEIKEN: DENIZUNSHIPPŪ NO HIKAKU KENKYŪ [SUFFRAGE FOR “FOREIGNERS”: COMPARATIVE STUDIES OF DENIZENSHIP] (1996); Tadashi Hanami, *Japanese Policies on the Rights and Benefits Granted to Foreign Workers, Residents, Refugees, and Illegals*, in *TEMPORARY WORKERS OF FUTURE CITIZENS: JAPANESE AND U.S. MIGRATION POLICIES* 211, 211–37 (Myron Weiner & Hanami Tadashi eds., 1998); Chikako Kashiwazaki, *Jus Sanguinis in Japan: The Origin of Citizenship in a Comparative Perspective*, 39 INT’L J. OF COMP. SOC. 278, 278–300 (1998); Chikako Kashiwazaki, *Citizenship in Japan: Legal Practice and Contemporary Development*, in *FROM MIGRANTS TO CITIZENS: MEMBERSHIP IN A CHANGING WORLD* 121, 144 (T. Alexander Aleinikoff & Douglas Klusmeyer eds., 2000); Kashiwazaki *supra* note 15; HIROSHI KOMAI, *NIHON NO GAIKOKUJIN IMIN* [JAPAN’S FOREIGN IMMIGRANTS] (1999); HIROSHI KOMAI, *FOREIGN MIGRANTS IN CONTEMPORARY JAPAN* (2001); and AKIHIRO ASAKAWA, *KINDAI NIHON TO KIKU SEIDO* [NATURALIZATION IN THE [SIC] MODERN JAPAN] (2007).

19. Urs M. Zachmann, *Race and International Law in Japan’s New Order in East Asia, 1938–1945*, in *RACE AND RACISM IN MODERN EAST ASIA: WESTERN AND EASTERN CONSTRUCTIONS* 453–73 (Rotem Kowner & Walter Demel eds., 2012).

normalized, and perpetuated by Japan's social structures (e.g., laws and public policies, and especially in their interpretation and enforcement) and a national discourse (e.g., messages in the media). These dynamics within the social construction of community are found in all societies and are of course not limited to Japan. However, in Japan's case, the racial link between physical appearance and legally-enforced rights as a "Japanese" has a direct impact on Japan's future, particularly on its ability to tolerate and co-opt diversity.

This research calls this theoretical dynamic "Embedded Racism." This term has been adapted from Goldberg and Essed<sup>20</sup> and will be defined for the purposes of this Article as: *The overt, covert, subtle, or implicit expression of a normalized, hegemonic racialized discourse, that is hidden and anchored in daily interpersonal interactions, laws and law enforcement, media, and other public dialogue, which has the effect of differentiating, 'othering,' and subordinating people into a predetermined group or social status within a social order.* This research focuses upon how an Embedded Racism affects "Visible Minorities" in Japanese society.

"Visible Minority" is an established term for societal analysis. Approved by the Canadian Government as an official legal status in 2009, Visible Minorities refer to people who belong to a visually identifiable group as defined by Canada's Employment Equity Act, i.e., "persons, other than Aboriginal peoples, who are non-Caucasian in race or non-white in colour."<sup>21</sup> In Canada, Visible Minorities are mainly people of Chinese, South Asian, Black, Arab, West Asian, Filipino, Southeast Asian, Latin American, Japanese and Korean heritage; in other words, from a performative perspective, these are people who on first glance may not look "Canadian" in terms of physical appearance and "visual identification." Although this governmental definition does not extend beyond Canada's borders, "Visible Minority" has also become an accepted term for rigorous analysis in Canadian academia.<sup>22</sup> This Article will apply it to Japanese Studies. For the purpose of this research, *"Visible Minorities" are residents of Japan who are visually identified as not*

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20. ANATOMY OF RACISM, at xv (David T. Goldberg ed., 1990); Philomena Essed, *Everyday Racism: A New Approach to the Study of Racism*, in RACE CRITICAL THEORIES: TEXT AND CONTEXT 176–94 (Philomena Essed & David Goldberg eds., 2002).

21. See *Visible Minority of Person*, STAT. CAN. (Apr. 22, 2015), available at [www.statcan.gc.ca/concepts/definitions/minority-minorite1-eng.htm](http://www.statcan.gc.ca/concepts/definitions/minority-minorite1-eng.htm).

22. See Mai Stafford, Bruce K. Newbold, & Nancy A. Ross, *Psychological Distress Among Immigrants and Visible Minorities in Canada: A Contextual Analysis*, 57 INT'L. J. SOC. PSYCHIATRY 428 (2010).

*“looking Japanese”* (e.g., Subcontinental Indians, the African Diaspora, Caucasians, Middle-Easterners, non-Nikkei South Americans, some South Asians etc.), *and are thus treated as “not Japanese.”*

## II. PLUGGING THESE TERMS INTO RESEARCH ON JAPAN: “BLIND SPOTS” VIS-À-VIS RACISM BY VISUAL IDENTIFICATION IN JAPAN

Research that does recognize discrimination against “foreigners” beyond purely legal status also tends to overlook (if not dismiss) racialized visual identification as a factor, focusing instead on ethnic identification, ethnic self-identification, and/or broader issues of culture and belief systems. Clammer includes in his analysis of Japan’s “Others” even “cognitive minorities” (e.g., discrimination against *Sōka Gakkai* religious group members), and avoids visual identification altogether—stating tersely that “ethnic differentiation is in many ways simply an epiphenomenon.”<sup>23</sup> Komai, despite extensive research on the lives of non-Japanese minorities in Japan, offers no rigorous treatment or even a clear definition of “racism” in his earlier analysis of Japan’s treatment of migrant workers; his later work eschews “race relations” in favor of “ethnic relations.”<sup>24</sup> Lie (rightly) eschews “race” as a scientific concept (preferring instead to focus upon the existence of ethnicities and the interplay of multi-ethnic groups in Japan), but then under-analyzes how visual identification plays a part in separating people into those multi-ethnic groups (or, more to the point of this research, how it separates people, including multiethnic Japanese children, into the binary of Japanese and Gaijin).<sup>25</sup> Befu’s influential work on Japanese identity also construes “racism” in Japan as a matter of ethnicity rather than visual identification: “Because the large numbers of Koreans and Chinese who live in Japan are racially indistinguishable from Japanese, the prejudicial attitude Japanese have toward them is more a case of ethnic prejudice and discrimination, that is, ethnocentrism, rather than racial prejudice. . . .”<sup>26</sup>

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23. CLAMMER *supra* note 13, at 7.

24. HIROSHI KOMAI, *GAIKOKUJIN RŌDŌSHA TEIJŪ E NO MICHİ* [THE PATH TO FOREIGN WORKER SETTLEMENT] (1993); HIROSHI KOMAI, *MIGRANT WORKERS IN JAPAN* (1995); HIROSHI KOMAI, *NIHON NO GAIKOKUJIN IMIN* [JAPAN’S FOREIGN IMMIGRANTS] (1999); HIROSHI KOMAI, *FOREIGN MIGRANTS IN CONTEMPORARY JAPAN* (2001).

25. See *DIASPORA WITHOUT HOMELAND: BEING KOREAN IN JAPAN*, *supra* note 14, at 1–5.

26. See BEFU *supra* note 17, at 75. There of course are many other books on specific ethnic and social-origin minorities in Japan. See, e.g., Chung, *supra* note 14; *MULTICULTURAL JAPAN: PALEOLITHIC TO POSTMODERN* (Donald Denoon ed., 1996); *DIASPORA WITHOUT HOMELAND: BEING KOREAN IN JAPAN*, *supra* note 14; *DIVERSITY IN JAPANESE CULTURE AND LANGUAGE* (John C. Maher & Gaynor Macdonald eds., 1995); YOSHIO SUGIMOTO, *THE CAMBRIDGE COMPANION TO MODERN*



Although all of the above analyses have correctly identified root causes of several types of discrimination in Japan, they overlooked what happened at “Japanese Only” establishments, where “foreigners” have been excluded based on sight-identification alone.<sup>27</sup> Ethnocentrism, ethnic self-identification, or even legal status were not factors in the visual identification of excluded customers at, for example, Yunohana public hot spring baths in Otaru City, Japan.<sup>28</sup> That is to say: bathhouse managers undertook no “ethnocentric” survey of customers’ ethnicity—they just identified and kicked out the *gaijin* (“foreign”-looking people) based upon their instant visual identification of biological markers. The canon remains blind to this strand of discrimination towards Visible Minorities, with deleterious effects on otherwise sound research on racism and minorities in Japan.

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JAPANESE CULTURE (2009); TSUDA, *supra* note 14; ROTH, *supra* note 14; SHIPPER, *supra* note 14, also including works authored and edited by Chung, Denoon et al., Ryang & Lie, Lie, Linger, Maher & MacDonald, Sugimoto, Tsuda, Roth, Shipper, etc. While each of these works deserves inclusion in a review in terms of its approach to racism in Japan, for the sake of brevity, this Article shall let the examples above and below suffice to illustrate some basic analytical shortcomings in the canon.

27. See, e.g. Debito Arudou, *On Racism and Xenophobia in Japan*, (report submitted to United Nations Special Rapporteur Doudou Diene, July 6, 2005), available at <http://www.debito.org/rapporteur.html#july2005>; Debito Arudou, *Gaikokujin' Nyūten Kinshi to iu Jinshu Sabetsu* [“No Foreigners Allowed”: Racial Discrimination], in *NIHON NO MINZOKU SABETSU: JINSHU SABETSU TEPPAI JŌYAKU KARA MITA KADAI* [ETHNIC DISCRIMINATION IN JAPAN: ISSUES FROM THE PERSPECTIVE OF THE UN CERD TREATY] 218, 218–29 (Okamoto Masataka ed., 2005); DEBITO ARUDOU, *JAPANĪZU ONRĪ: OTARU ONSEN NYŪYOKU KYŌHI MONDAI TO JINSHU SABETSU* [JAPANESE ONLY: THE OTARU HOT SPRINGS CASE AND RACIAL DISCRIMINATION IN JAPAN] (2d ed. 2006); DEBITO ARUDOU, *JAPANESE ONLY: THE OTARU HOT SPRINGS CASE AND RACIAL DISCRIMINATION IN JAPAN* (2d ed. 2006); DEBITO ARUDOU, “EMBEDDED RACISM”: JAPAN’S VISIBLE MINORITIES AND RACIAL DISCRIMINATION (2015); Otaru Lawsuit Website Archive, *Background to the Otaru Onsens Case (1993-Dec 31, 2000)*, available at [www.debito.org/lawsuitbackground.html](http://www.debito.org/lawsuitbackground.html) (specifically the exhaustive vault of all collectable non-tabloid (and some tabloid) media regarding the Otaru Onsens Case from its inception on September 19, 1999 to its end on April 8, 2005); Debito Arudou, *Chapter 2: Race and Nationality-based Entrance Refusals at Private and Quasi Public Establishments*, in *NGO Report Regarding the Rights of Non-Japanese Nationals, Minorities of Foreign Origins, and Refugees in Japan* (compiled by Solidarity Network with Migrants Japan for the 76th United Nations Committee on the Elimination of Racial Discrimination February 2010 meeting), available at [http://www2.ohchr.org/english/bodies/cerd/docs/ngos/SNMJ\\_Japan\\_76.doc](http://www2.ohchr.org/english/bodies/cerd/docs/ngos/SNMJ_Japan_76.doc); Debito Arudou, *Rogues' Gallery of Exclusionary Establishments*, DEBITO.ORG (2011), [www.debito.org/roguesgallery.html](http://www.debito.org/roguesgallery.html); Debito Arudou, *An Introduction to Japanese Society's Attitudes Towards Race and Skin Color*, in *THE MELANIN MILLENNIUM: SKIN COLOR AS THE 21ST CENTURY INTERNATIONAL DISCOURSE* 49, 49–70 (Ronald E. Hall ed., 2012).

28. ARUDOU, *JAPANĪZU ONRĪ*, *supra* note 27; ARUDOU, *JAPANESE ONLY*, *supra* note 27; ARUDOU, *EMBEDDED RACISM*, *supra* note 27.

A. *Case in Point: Weiner's Japan's Minorities*

To demonstrate what these “blind spots” do to otherwise sound research, let us focus on an influential book in this field: Michael Weiner’s *Japan’s Minorities*.<sup>29</sup> Weiner’s introduction refers to Japan’s “principal minority populations” specifically as Ainu, Koreans, *Burakumin*, Chinese, Okinawans, and *Nikkei* South Americans.<sup>30</sup> Although indeed minorities in Japan, note that they are not Visible Minorities, in that they are generally of “Asian” roots and can “pass” as “Japanese” in many social interactions, including the veto gate at Otaru’s Yunohana.<sup>31</sup> Although Weiner’s second edition includes a new chapter by John Russell on “Blacks” in Japan and their “otherness,” Blacks are neither included under Weiner’s “principal minority population” nor made a part of the non-Asian minority population in Japan.<sup>32</sup>

This raises the question: What of the people of darker skins or differently-colored physical characteristics? In a book covering racial and ethnic discrimination in Japan, there is no reference either to the Ana Bortz Case (1998–99) or Otaru Hot Springs Case (1993–2005), two significant lawsuits that determined the Japanese judiciary’s position on the constitutionality of racial discrimination (*jinsbu sabetsu*) in Japan. Instead, Weiner argues that Japan, unlike other nations, has been able to carry on racism “without reference to the colour stigmata”<sup>33</sup> (which logically should have precluded the Russell chapter on “Blacks”). After more than two decades of influx of visually-distinct migrant/immigrant laborers, increased international marriage, and unprecedented levels of “Newcomer” Permanent Residents, it is an oversight of scholarship to omit examples of racialized stigmata repeatedly certified in Japan’s judiciary.

Other scholars in Weiner’s book, even when acknowledging color stigmata in Japan, tend to overlook or downplay the racialization process both interpersonally and in the public policy arena. For example, Robert Fish in his section on “mixed-blood Japanese” offers an excellent overview of the national debate on how children of American soldiers in Japan during The Occupation (1945–52) were to be “treated” as they

29. JAPAN’S MINORITIES: THE ILLUSION OF HOMOGENEITY (Michael Weiner ed., 2d ed. 2009).

30. Michael Weiner, *Introduction* to THE ILLUSION OF HOMOGENEITY, at xvii (Michael Weiner ed., 2d ed. 2009).

31. ARUDOU, JAPANESE ONLY, *supra* note 27, at 14–45.

32. *Id.*

33. *Id.* at xiv.

reached school age in Japan—i.e., as official objects of pity, as “cute,”<sup>34</sup> or as potential bullying cases in school that required attention for special policies for proper care and assimilation. However, Fish states that this is not a racialization process, saying “‘race,’ *per se*, did not create consistent problems for students.”<sup>35</sup> Instead, he argues *inter alia* that the behavior of the students themselves was to blame: “Overwhelmingly, the children who had difficulties in school had extreme difficulties in their home life, and those who found themselves isolated often behaved in relatively antisocial ways that would have created problems for the children regardless of physical appearance.”<sup>36</sup> He cites Ministry of Education data that much of the bullying was “because of their rough personalities,”<sup>37</sup> or due to socio-economic issues, such as parental connections with Japan’s sex trades, or being raised by single mothers with unstable father figures.<sup>38</sup> Fish also claims Japan was in fact “ahead of the curve at actively encouraging equality”<sup>39</sup> compared to, for example, the contemporary United States with segregation.

However, this demonstrates a fundamental misunderstanding of the racialization processes in every society. What of the perennial and cyclical bullying problems (still in existence today) that drive enormous numbers of students to mental illness and suicide in Japan?<sup>40</sup> What of the “microaggressions” that alienate, psychologically drain, and grind people down because they are seen as “different”?<sup>41</sup> Could these constant alienations and “otherings” conceivably be the cause of the “rough personalities,” not an effect? Regarding Fish’s comparison with the United States, I agree that the element of “hypodescent” in the American example (e.g., *Plessy vs. Ferguson*, and the “one drop rule,” meaning a person who

34. Robert Fish, “Mixed-blood” Japanese: A Reconsideration of Race and Purity in Japan, in JAPAN’S MINORITIES: THE ILLUSION OF HOMOGENITY 40, 48 (Michael Weiner ed., 2d ed. 2009).

35. *Id.* at 55.

36. *Id.*

37. *Id.* at 54.

38. *Id.* at 51–52.

39. *Id.* at 53.

40. See Brian J. McVeigh, *Education Reform in Japan: Fixing Education or Fostering Economic Nation-statism?*, in GLOBALIZATION AND SOCIAL CHANGE IN CONTEMPORARY JAPAN 76, 76–92 (J.S. Eades, Tom Gill, & Harumi Befu eds., 2000). See also Jeff Kingston, *Exploring the Pathologies of Japan’s Youth*, JAPAN TIMES (May 20, 2012), [http://www.japantimes.co.jp/culture/2012/05/20/books/book-reviews/exploring-the-pathologies-of-japans-youth/#.VYI20\\_IViko](http://www.japantimes.co.jp/culture/2012/05/20/books/book-reviews/exploring-the-pathologies-of-japans-youth/#.VYI20_IViko) (reviewing A SOCIOLOGY OF JAPANESE YOUTH: FROM RETURNEES TO NEETS (Roger Goodman, Yuki Imoto, & Tuukka Toivonen eds., 2012)).

41. Derald W. Sue & David Rivera, *Racial Microaggressions in Everyday Life*, PSYCHOLOGY TODAY, (Oct. 5, 2010), <https://www.psychologytoday.com/blog/microaggressions-in-everyday-life/201010/racial-microaggressions-in-everyday-life>.

had one drop of African-descent blood was classified as a “black person”) was not present in Japan’s policymaking—“mixed-blood” children were still officially “Japanese” in public policy.<sup>42</sup> However, is the existence of racism in a society thus deniable when it is allegedly less pronounced in that society than in other societies?

What Fish overlooks is Japan’s policymaking process of embedding racism through “typifying race.” That is to say, how the acceptance and normalization of differentiation (i.e., the assumption that “mixed-blood children” *are* different because they *look* different) in fact legitimizes and systematizes racism (this is why scholars of racism generally do not use generic racialized categorizations such as “Black”, “White”, “Asian” etc. without proper problematization and contextualization). In fact, as argued earlier, the racialization process need not involve biological “race” at all: the act of differentiating, “othering,” and subordinating can be due to any physical marker that has a social stigma attached to it (e.g., hair textures, narrower eyes, cleft palates, skin blemishes). Notwithstanding the Japanese government’s (constructive) postwar attempts to enforce equality for “mixed-blood children” at the Japanese elementary school level, the fact that “mixed-blood children” were officially categorized, “othered,” and singled out for differential treatment on an official level in fact invited more attention to the issue of blood in Japanese society.<sup>43</sup> In effect, especially in an atmosphere of impressionable youths like a schoolyard, this typification could in fact have created and reinforced mixed-bloodedness as a stigma, creating a self-fulfilling prophecy that encouraged the very racialization that government policies were trying to avoid. Thus the sociology of racism itself should have been more fully problematized and discussed in Fish’s research.

I would argue that Visible Minorities are the “canary in the coal mine” regarding Japan’s openness to “outsiders.” This research will now take the first steps to outline the contours of Japan’s racialization dynamic, showing how Japan’s structuralized social patterns contain racialization processes so embedded in space and time that they contribute to the differentiation, “othering,” and subordination of people by phenotype, even when it is detrimental to Japanese society as a whole.

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42. See MICHAEL OMI & HOWARD WINANT, *RACIAL FORMATION IN THE UNITED STATES: FROM THE 1960S TO THE 1990S* (1986); Cynthia L. Nakashima, *An Invisible Monster: The Creation and Denial of Mixed-Race People in America*, in *RACIALLY MIXED PEOPLE IN AMERICA* 162, 162–80 (Maria P.P. Root ed., 1992).

43. Robert A. Fisk, “Mixed-blood” Japanese: *A Reconsideration of Race and Purity in Japan*, in *JAPAN’S MINORITIES: THE ILLUSION OF HOMOGENEITY* 40, 42 (Michael Weiner ed., 2d ed. 2009).

### III. JAPAN'S RACIALIZATION DYNAMIC

#### A. "Looking Japanese": The Importance of Skin Color

Although it is difficult to quantify specifically how one "looks Japanese" (e.g., skin color, shape of epicanthic fold of the eye, contours of facial features (*rinkaku*), acculturated behaviors, fashion sense, etc.), the dynamic of how physical appearance fundamentally defines membership in racialized societies is well researched even in the canon of Japanese Studies.<sup>44</sup> Notions of "Self" in a society are crafted by sociological factors without a great deal of individual agency, and are fundamental in deciding who becomes part of the "Other." Skin color in Japan, as in all societies that make visual distinctions between people depending on melanin content, is a defining factor as to how one "looks Japanese."<sup>45</sup> One skin tone that is held in high social esteem in Japan is Whiteness.<sup>46</sup> According to Ashikari, in her study of the material culture of the Japanese cosmetics industry, argues that skin is an avenue for conveying "Japaneseness," because Japan's middle class believes that "Japanese as a race share the same skin tone, and the notion of Japanese skin works as one medium to express and represent Japaneseness."<sup>47</sup> Being "white" is a common symbol of culturally-valued "purity" and "cleanliness," thus lighter skin is preferable to darker as it looks "cleaner," meaning darker skin is considered "less Japanese."<sup>48</sup> Although the material culture of Japanese cosmetics and fashion reproduces and reinforces this high value towards

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44. Cf. Mikiko Ashikari, *Cultivating Japanese Whiteness: The 'Whitening' Cosmetics Boom and the Japanese Identity*, 10 J. MATERIAL CULTURE 73, 73–91 (2005); CLAMMER, *supra* note 13; EIJI OGUMA, *TAN'ITSU MINZOKU SHINWA NO KIGEN* (1995); Sabine Frühstück, *Treating the Body as a Commodity: "Body Projects" in Contemporary Japan*, in CONSUMPTION AND MATERIAL CULTURE IN CONTEMPORARY JAPAN 143–48 (Michael Ashkenazi & John Clammer eds., 2000); Richard M. Siddle, *The Ainu: Indigenous people of Japan*, in JAPAN'S MINORITIES: THE ILLUSION OF HOMOGENEITY (Michael Weiner ed., 1st ed. 1997); JAPAN'S MINORITIES: THE ILLUSION OF HOMOGENEITY (Michael Weiner ed., 1st ed. 1997); KŌSAKU YOSHINO, CULTURAL NATIONALISM IN CONTEMPORARY JAPAN 115–21 (1992); Kōsaku Yoshino, *The Discourse on Blood and Racial Identity in Contemporary Japan*, in THE CONSTRUCTION OF RACIAL IDENTITIES IN CHINA AND JAPAN 199, 199–211 (Frank Dikötter ed., 1997).

45. Cf. YOSHINO, CULTURAL NATIONALISM IN CONTEMPORARY JAPAN, *supra* note 44, at 115–21.

46. *Id.*

47. Ashikari, *supra* note 44, at 79.

48. *Id.* See also, e.g., Jöel Assogba, *Book is behind bullying of mixed-race children*, JAPAN TIMES (Apr. 10, 2012), <http://www.japantimes.co.jp/community/2012/04/10/voices/book-is-behind-bullying-of-mixed-race-children/>; Rotem Kowner & Walter Demel, *Modern East Asia and the Rise of Racial Thought: Possible Links, Unique Features and Unsettled Issues*, in RACE AND RACISM IN MODERN EAST ASIA: WESTERN AND EASTERN CONSTRUCTIONS 20–21 (Rotem Kowner & Walter Demel eds., 2012).

lightness and beauty, there is a racial component: “the preference for white skin, which is linked to a massive consumer culture, appears to be a matter of both beauty and race.”<sup>49</sup>

Sterling might concur, noting that the omnipresence and normalization of “Whiteness” (in contrast to the “objectification” of Blackness) in Japanese society has perhaps “made it possible to miss the presence of racial thinking in Japan.”<sup>50</sup> This conceit may explain why so much emphasis has been placed upon a Japanese self-image as “Caucasian”, as seen in the historical “body projects” for the “improvement of the [Japanese] race” via interbreeding with Occidentals, and the “ideal body” as “Western.”<sup>51</sup> It may be used to substantiate theories that the Japanese are in fact, among other far-flung peoples, “Aryan”—given that contemporary historical rankings of the “races” (*cf.* “social Darwinism”) put White people on top.<sup>52</sup> It may also explain why Japan lobbied for (and received) “honorary white” status in Apartheid South Africa.<sup>53</sup>

Let us now turn our attention to the historical roots of the performative aspect of Japan’s racialization paradigms:

### *B. Historical Roots of Japan’s Racialized Approach to “Outsiders” as a Colonizer*

Much research on “race” and its conceits in Japan has focused on how Western concepts of racism were exported to Asia, due to contact with and replication/fetishization of “foreignness” in Japan’s mass media or subcultures, or due to the influences on Japan being a colonial power.<sup>54</sup> As

49. Ashikari, *supra* note 44, at 76.

50. MARVIN D. STERLING, *BABYLON EAST: PERFORMING DANCEHALL, ROOTS REGGAE, AND RASTAFARI IN JAPAN* 25 (2010).

51. *See, e.g.*, EIJI OGUMA, A GENEALOGY OF “JAPANESE” SELF-IMAGES 143–55 (2002); Sabine Frühstück, *Treating the Body as a Commodity: “Body Projects” in Contemporary Japan*, in CONSUMPTION AND MATERIAL CULTURE IN CONTEMPORARY JAPAN 143–48 (Michael Ashkenazi & John Clammer eds., 2000); *Id.* at 144; John Russell, *The Other Other: The Black Presence in the Japanese Experience*, in JAPAN’S MINORITIES: THE ILLUSIONS OF HOMOGENEITY 84, 97 (Michael Weiner ed., 2d ed. 2009).

52. *See* Frühstück *supra* note 51, at 147–48.

53. Masako Osada, *Sanctions and Honorary Whites: Domestic Policies and Economic Realities*, in RELATIONS BETWEEN JAPAN AND SOUTH AFRICA (2002).

54. *See, e.g.*, THE CONSTRUCTION OF RACIAL IDENTITIES IN CHINA AND JAPAN (Frank Dikötter ed., 1997); Hiroshi Wagatsuma, *The Social Perception of Skin color in Japan*, 96 DAEDALUS 407, 407–43 (1967); HIROSHI WAGATSUMA & GEORGE DEVOS, JAPAN’S INVISIBLE RACE: CASTE IN CULTURE AND PERSONALITY (1966); TAYLOR E. ATKINS, BLUE NIPPON: AUTHENTICATING JAZZ IN JAPAN (2001); IAN CONDRIY, HIP-HOP JAPAN (2006); KAREN KELSKY, WOMEN ON THE VERGE: JAPANESE WOMEN, WESTERN DREAMS (2001); John G. Russell, *Race and Reflexivity: The Black Other in Contemporary Japanese Mass Culture*, 6 CULTURAL ANTHROPOLOGY 3, 3–25 (1991);

Koshiro notes, “the Japanese colonial empire operated within its own racial constructions.”<sup>55</sup> However, I wish to focus more on how racism in Japan is more endogenous than exogenous, having been created and replicated at the structural level through Japan’s construction of nation-state narrative and national policymaking. Gluck has noted how Meiji Japan used “foreigners” (including the metaphorical sense) as a perpetual means of contrast to justify its national unification and catch-up industrialization programs.<sup>56</sup> Its programs for “modernizing” as a nation-state and industrial power were based upon contemporary Western models of education that created and promoted notions of citizenship as a civic duty, fostered a media to constantly reify it, and constructed a military-industrial complex to enrich and protect it.<sup>57</sup> Regarding national narratives, Gluck uses the term “modern myths” to describe the discourses implemented to define and unite the “Japanese people” behind an imperial system that at its core defined itself in contrast with the outsider; even social deviance and other thoughts inimical to current State goals (such as individuality and socialism) were attributed to being “foreign” (as in, significantly, “not Japanese”), thereby discounted or excluded.<sup>58</sup> Furthermore, Sterling notes that “Japan’s very birth as a nation was largely defined by the adoption of Western institutions and ideologies—including racial ones—that remain with Japan even today.”<sup>59</sup> As Dikötter notes: “Racial discourse. . . in Japan thrived and evolved over time because it reconfigured pre-existing notions of identity and simultaneously appealed to a variety of groups, from popular audiences to groups of scientists.”<sup>60</sup>

Let us first apply one of these “modern myths” to later Meiji-Era Japan, when Japan’s goal of industrialization under a unified Japanese state was expanded and adapted to incorporate colonization of non-

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RUSSELL *supra* note 51; STERLING *supra* note 50. For a discussion of the influence of colonialism *see, e.g.*, Kevin Doak, *Building National Identity through Ethnicity: Ethnology in Wartime Japan and After*, 27 J. JAPANESE STUDIES 1, 1–39 (2001); Robert Eskildsen, *Of Civilization and Savages: The Mimetic Imperialism of Japan’s 1874 Expedition to Taiwan*, 107 AM. HISTORICAL REV. 388, 388–418 (2002); Mariko Asano Tamanoi, *Knowledge, Power, and Racial Classification: The “Japanese” in “Manchuria”* 59 J. ASIAN STUDIES, 248, 248–76 (2000); MICHAEL WEINER, *RACE AND MIGRATION IN IMPERIAL JAPAN* (1994).

55. *See* Yukiko Koshiro, *East Asia’s “Melting Pot”: Re-evaluating Race Relations in Japan’s Colonial Empire*, in RACE AND RACISM IN MODERN EAST ASIA 475 (Rotem Kowner & Walter Demel eds., 2012).

56. *See* CAROL GLUCK, JAPAN’S MODERN MYTHS: IDEOLOGY IN THE LATE MEIJI PERIOD 38–39, 135 (1985).

57. *Id.*

58. *Id.* at 38.

59. *See* STERLING, *supra* note 50, at 24.

60. *See* THE CONSTRUCTION OF RACIAL IDENTITIES IN CHINA AND JAPAN, *supra* note 54, at 8.

Japanese under a unified Japanese empire. There is a common belief held both inside and outside of Japan that Japan's "insular spirit" (*shimaguni konjō*) and "homogeneous race" (*tan'itsu minzoku*) has existed "from time immemorial", due to Japan's ocean-bounded geography and political isolation (*sakoku*) during its Tokugawa Era (1603–1868).<sup>61</sup> However, abundant scholarship demonstrates that Japan's insular homogeneity narrative was a Post-WWII creation.<sup>62</sup> As per the nation-state building process, there was the need to unify the people under a shared history and imagined communality (in Japan's case, behind the Emperor myth).<sup>63</sup> But when Japan became a colonial power between 1905 and 1945, it advocated a "multicultural, hybrid" model, in order to proclaim a universalist approach towards the Asian brethren it wished to colonize.<sup>64</sup> Koshiro writes, "The Japanese as colonial masters also understood that they were not a "pure" race but rather an amalgam of races of Asia and the Pacific."<sup>65</sup> Oguma notes that Japan even claimed, in contrast to the other colonial powers in the early 20th Century, that it was *ideologically unable to practice racial discrimination* because it was unifying its neighboring brethren of the same Asian race (as opposed to the Europeans, who were colonizing faraway places of non-White peoples).<sup>66</sup> Japan, ironically, as the first non-White imperial power, was the first country in the League of Nations to advocate a proposal for a racial equality clause in its Covenant (1919), albeit unsuccessfully.<sup>67</sup>

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61. See THE INVENTION OF TRADITION 2 (Eric Hobsbawm & Terence Ranger eds., 1983). See also BEFU, *supra* note 17.

62. Cf. OGUMA, *supra* note 51 and JAPAN'S MINORITIES: THE ILLUSION OF HOMOGENEITY (Michael Weiner ed., 2d ed. 2009).

63. Cf. OGUMA, *supra* note 44; GLUCK, *supra* note 56.

64. See YUMIKO IIDA, RETHINKING IDENTITY IN MODERN JAPAN 142–43 (2002); OGUMA, *supra* note 44; SVEN SAALER & J. VICTOR KOSCHMANN, PAN-ASIANISM IN MODERN JAPANESE HISTORY: COLONIALISM, REGIONALISM, AND BORDERS 6–14 (2007); Hwaji Shin, *Colonial Legacy of Ethno-racial Inequality in Japan*, 39 J. THEORY & SOC'Y 327 (2010).

65. Koshiro, *supra* note 55, at 476.

66. OGUMA, *supra* note 44, at 332–33. Fujitani also put it eloquently when he noted how Koreans within the Japanese Empire faced a rhetoric that was a transformation in the type of racist discrimination . . . a movement from what might be called an unabashed and exclusionary 'vulgar racism' to a new type and inclusionary and 'polite racism' that denied itself as racism even as it operated as such. Fujitani Takashi, *Right to Kill, Right to Make Live: Koreans as Japanese and Japanese as Americans during WWII* 99, REPRESENTATIONS 17, 33 (2007).

67. Cf. PAUL GORDON LAUREN, POWER AND PREJUDICE: THE POLITICS AND DIPLOMACY OF RACIAL DISCRIMINATION (1988); REGINALD KEARNEY, AFRICAN AMERICAN VIEWS OF JAPANESE: SOLIDARITY OR SEDITION? (1998); see THE CONSTRUCTION OF RACIAL IDENTITIES IN CHINA AND JAPAN, *supra* note 54. Even then, as Russell notes, "[Japan's] rhetoric of racial equality left much to be desired, for not only did Japan's racial equality clause not question the right of League members to possess colonies (at the time Japan was also seeking [a new colony in China]) but its demand for "fair and equal treatment" applied only to "civilized nations" (*bunmei koku*) and League member states—



### C. Japan's Historical Roots of Social Hierarchy and Skin Color

However, as Oguma et al. note, the fundamentals of Japan's unequal approach towards outsiders was still extant even under the universalist, anti-racism official stances. For example, Fukuzawa Yūkichi, a Meiji-Era intellectual (currently gracing Japan's ¥10,000 note) with great influence over Japan's development as an imperial power, wrote *An Outline of a Theory of Civilization (Bunmei-ron no Gairyaku, 1875)*.<sup>68</sup> Within it, Fukuzawa borrowed from contemporary Western eugenics science on racial hierarchies while diverging from the classical definition of "civilization" to offer an updated, static concept including a spiritual element, i.e., one where a society attains "both material well-being and the elevation of the human spirit . . . abundance of daily necessities and esteem for human refinement."<sup>69</sup> Fukuzawa also offered Japan's nascent Post-Feudal society (a time when Japanese systems for universal literacy and tertiary education were being established) an overall political purpose: establishing a Japan that could deal with the outside world on its own terms. *Outline* was an argument for societies as a whole to emulate and learn from more "civilized" lands, in this case a model upon which Japan would create a sovereign nation-state.<sup>70</sup>

However, undergirding Fukuzawa's philosophy was a racial component. He couches his analysis of social behavior in terms of skin color, for example, "young men of the Caucasian race (persons of white skin)," with hierarchical rankings. According to Fukuzawa, societies composed of "persons of white skin" (i.e., the United States and Europe) were at the highest stage of fully-developed "civilization," followed by Asian countries ("semi-civilized" (*hankai*), e.g., Turkey, China, and Japan, with Japan ranked highest), and at the bottom ("barbaric" (*yaban*)) were people of dark skin, such as Africans or Australian aborigines.<sup>71</sup> This

not to their colonies and subject peoples. Japan's ruling elites were less interested in securing equality for non-whites than in ensuring that Japan, as a sovereign nation and member of the League, would be afforded the same privileges as Western nations . . ." see Russell, *supra* note 51.

68. YUKICHI FUKUZAWA: AN OUTLINE OF A THEORY OF CIVILIZATION (David A. Dilworth trans., 2009); see Russell, *supra* note 51.

69. *Fukuzawa borrowed from Western eugenics*: see Russell, *supra* note 51, at 95; see YUKICHI FUKUZAWA, *supra* note 68, at 42. Regarding the concept of "civilization," the classical definition of it to writers of this time period probably meant a society with a written language—as seen in the very word for "civilization" (*bunmei*) in Chinese and later Japanese, with characters meaning "clear script"—through which its history is recorded for posterity (*cf.* Webster's Dictionary et al.).

70. See FUKUZAWA, *supra* note 68, at xv and xxv.

71. For more information on skin color and herarchical ranking, see FUKUZAWA, *supra* note 68, at 57. This hierarchy is claimed to continue into present-day Japanese society, with the ranking as

philosophy, grounded in imported Western science, justified not only a further “othering” of minorities but also the assimilation of “lesser” peoples. As Russell notes, “The ascription of barbarity, backwardness and squalor to Japan’s minorities served these ambitions [of a forging of national identity] well, since it not only confirmed the relative closeness of Japan to the West but also provided Japanese with a civilizing mission of their own, one that aimed both to elevate the primitive Other and themselves as well.”<sup>72</sup> These racialization and subordination processes were seen as a means to reproduce the conditions that were presumed necessary by Japan’s Meiji oligarchs for a rise to power as seen in the West.<sup>73</sup>

Fukuzawa’s memes of racialized hierarchy and mission were soon visible within Japan’s empire.<sup>74</sup> People within Japan’s colonies (Taiwan, Korea, and later parts of China, Russia, and Oceania) faced a very uneven approach to their legal status within Japan.<sup>75</sup> For example, during Japan’s administration of their societies, Koreans, Chinese, and Taiwanese were considered Japanese subjects with Japanese citizenship.<sup>76</sup> They were granted certain Japanese-citizen privileges, such as the option to reside and work in Japan indefinitely without a visa (notwithstanding those who came to Japan or its colonies as forced laborers) and to serve in the Japanese military.<sup>77</sup> These were not full Japanese subject privileges, however. Taiwanese and Koreans did not, for example, have the right to

“Western/Asian/Black/guest worker/Nikkeijin” (see CLAMMER, *supra* note 13), with Japan in second place below “Western” but above “Asian,” see BEFU, *supra* note 17.

72. See Russell, *supra* note 51, at 95. See also Fish, *supra* note 34, at 43.

73. See Russell, *supra* note 51, at 96.

74. A thorough history of Japan’s linkage of nationality and ethno-national identity, and how it differs from the European colonial experience, may be found in Kashiwazaki. See Kashiwazaki, *supra* note 15. A thorough history of how case-by-case bureaucratic reactions to individual foreign applicants for Japanese naturalization (before provisions were formally encoded in Japan’s Nationality Law) may be found in Asakawa (2007), with particular emphasis on the precedent-setting treatment of “foreign” residents in the newly-annexed Ogasawara Islands in 1878. See ASAKA, *supra* note 18.

75. Cf. THE JAPANESE COLONIAL EMPIRE 1895–1945 (Ramon H. Myers & Mark R. Peattie eds., 1987); see generally LEO T. S. CHING, BECOMING JAPANESE: COLONIAL TAIWAN AND THE POLITICS OF IDENTITY FORMATION (2001).

76. See The Japanese Colonial Empire, *supra* note 75; Tessa Morris-Suzuki, Borderline Japan: Foreigners and Frontier Controls in the Postwar Era (2010).

77. See CHING, *supra* note 75; OGUMA, *supra* note 44, at 321–41; Chen notes: “Holding virtual monopoly of higher positions in the colonial government [of Taiwan and Korea] and managerial and skilled positions in colonial finance and industry, [Japanese] opposed integration, fearing that it would eventually wipe out the political and economic advantages they enjoyed. To protect their interests, Japanese turned to the colonial government, a move which often resorted to such measures that could only be construed as a thinly disguised form of racial discrimination.” Edward I-te Chen, *The Attempt to Integrate the Empire: Legal Perspectives*, in THE JAPANESE COLONIAL EMPIRE 1895–1945 273 (Ramon H. Myers & Mark R. Peattie eds., 1987).

move their Family Registry (*honseki*) to Japan Proper (*naichi*), vote their own colonial representatives to the Diet, create their own legislatures, standing militaries, or police forces, or administratively become an additional prefecture of Japan as, for example, Hokkaidō did.<sup>78</sup> Although eventually the express goal of colonization was full assimilation (*dōka*), Japan's fifty years as a colonial power was perhaps insufficient time for the colonizer to overcome the reflexive self-preservation of their privilege over the colonized, experience an "interest convergence" (such as a civil war) that would compel colonizer to cede privileges to the colonized, or develop a concept of the colonized as having equal rights as the colonizer.<sup>79</sup> Further, this colonial experience would establish a template for systematic treatment of "others" and foreigners (including the

78. *Id.*

79. Oguma would probably argue that equality between Japanese and colonial subjects would not have happened under any circumstances, since Japan's concept of "brotherly relations" was built upon hierarchical concepts within the *Ie Seido* (Family System). OGUMA, *supra* note 44, at 334–41. Under this hierarchy, Japanese would reserve the "elder brother" status (with near-absolute rights of family title, inheritance, etc.) whereas the "younger brother" colony would be subordinated, waiting for a theoretical equality that would in reality never come (this is, of course, where the "family" metaphor breaks down, as people are more mortal than nation-states, meaning the power relations are perpetual). *Id.* at 338–39. Oguma cites an illustrative speech from the Korean Governor-General Minami Jirō dated 1942 to a Korean audience, when he was advocating Korean conscription in the Japanese war effort. Oguma notes that Koreans expected the trade-off would be political enfranchisement in return for possibly sacrificing their lives for the Empire. However, Minami was clear that demanding one's rights was a "selfish" Western conceit, anathema to the essence of being loyal imperial subjects:

Generally speaking, the essence of imperial subjects is fundamentally different from the Western belief that one should "start" by demanding one's rights. All imperial subjects are part of a great family that consists of a single sovereign (*ikkun banmin*), where the relationship is that between liege and lord but where the emotional ties are those of a father and his children. In interacting with the family head, family members do not talk in terms of rights and obligations. Rather, the elder brother acts as befits an elder brother, while the younger brother acts as befits a younger brother. It is natural and fundamental that all should cooperate in harmony to help the family flourish and move up in the world.

In any family, parents look forward to their children growing up and, when they are old enough, they take all the steps that are needed to ensure that they are educated. This is a consequence of the parents feelings and love. It is not the custom in Japanese families for children to start ranting about their right to an education simply because they are old enough to attend school. Those who shamelessly practice what is not the custom in Japanese families are delinquents, and it must be said that this in and of itself disqualifies them from becoming imperial subjects.

*Id.* Thus the political dimension of the "nation as family" structure is quite clear: The child never becomes a "father" (because the father never dies), and the child's expecting a say (or even raising the very question about a say) in the way "the family" is run is neither "loyal" nor even "Japanese." It was a perpetual status of differentiation and subordination based upon borders delineated under Japan's nation-state, and, despite Japan's "brotherhood" rhetoric, was at the core anti-equality and performatively racializing. GLUCK, *supra* note 46, at 189.

newfound “foreigners” as Japan shed its empire) during the immediate Postwar Era and beyond.<sup>80</sup>

*D. Postwar Decolonization and the New “Homogeneous Japan”  
Discourse*

In the immediate years following Japan’s defeat in WWII and under the eye of the U.S. Occupation (hereinafter SCAP, for Supreme Command Allied Powers), McVeigh et al. note how American reforms of Japan left essential parts of nation-state generating apparatus fundamentally unaltered, due to the exigencies of smooth bureaucratic maintenance of public order, and due to the contemporary political vicissitudes ensuring Japan did not fall into the Communist Bloc after revolutions in China and North Korea.<sup>81</sup> Crucial to Japan’s future was the status of education of Japan’s youth, and McVeigh pays particular attention to “educational nationalism.”<sup>82</sup> SCAP’s failure to fundamentally reform the Ministry of Education (*Monbushō*) allowed an extremely-centralized “monopoly of legitimate education” to promote exclusivist notions of “Japaneseness.”<sup>83</sup> Establishing the hegemony of Japan’s “homogeneous society” national narrative from primary school age, and then leaving it fundamentally unreformed to the present day, McVeigh portrays the Postwar regime of inculcated “Japaneseness” as a “stealth ideology,” one with unclear goals and concepts, yet so pervasive that it became hard to see other alternatives in Japanese society.

The “Japaneseness” described by McVeigh merges three types of national identity—“ethnocultural, statist, and racial”—into “habitual and unconscious sentiments” that became tautological and mutually-defining.<sup>84</sup> Simply put: “The merging of these concepts forms a logic of tautological equivalencies: ‘one looks Japanese because one is ethnically Japanese because one possesses Japanese citizenship’” (emphasis mine).<sup>85</sup> This phenotypically-based requirement for national membership in Japanese society would thus become an inescapable doctrine for the overwhelming majority of people living in Japan, because compulsory education in Japan is fundamental to social mobility, acculturation, and even normatively

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80. OGUMA, *supra* note 44; Shin, *supra* note 64, at 327.

81. McVeigh, *supra* note 40.

82. *Id.* at 78.

83. *Monopoly of legitimate education*: ERNEST GELLNER, NATIONS AND NATIONALISM 34 (1983).

84. McVeigh, *supra* note 40, at 89–92.

85. *Id.* at 90.

being seen as a “good Japanese.”<sup>86</sup> Fukuoka would probably agree, as he uses Japanese schooling as a qualification for “Japaneseness” in his scholarship (more below).<sup>87</sup>

That was how “good Japanese” were to be socially conditioned as part of the ‘self’ in Postwar Japan. However, regarding the “Other,” the Postwar Japanese Government (GOJ) enacted policies that would perpetually influence its policy towards “foreign” residents.<sup>88</sup> First, under the terms of surrender, former Imperial subjects in Japan’s colonies lost their Japanese citizenship.<sup>89</sup> Under pressure from SCAP, Japan gave former subjects (seen as potential enemy nationals under emerging Cold-War polarities) who were still within Japan’s borders a choice: (a) to return to their homelands as non-Japanese or (b) go through the (often humiliating) process of naturalization to become Japanese citizens.<sup>90</sup> Historians differ as to whether Japan ‘stripped’ citizenship from or enforced a “voluntary de-naturalization” upon its former colonists, or whether it was a matter of “lapsing out of an ambiguous state,” due to the terms of the 1952 San Francisco Peace Treaty, and a lack of mutual recognition of the rights of sovereign nationalities.<sup>91</sup> In either case, only Japanese of “Japanese blood” (from a Japanese male) were permitted to retain their Japanese citizenship after WWII (with the exception of

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86. *Id.* at 91–92.

87. FUKUOKA, *supra* note 14.

88. Shin, *supra* note 64.

89. MORRIS-SUZUKI, *supra* note 76; THE JAPANESE COLONIAL EMPIRE, *supra* note 75; *see generally* CHING, *supra* note 75.

90. *Pressure from SCAP*: Shin, *supra* note 64, at 328. *Humiliating naturalization processes*: *Cf.* MORRIS-SUZUKI, *supra* note 76; and the author’s own experience with naturalization 1997–2000.

91. *Historians differ*: *cf.* YUJI IWASAWA, INTERNATIONAL LAW, HUMAN RIGHTS AND JAPANESE LAW: THE IMPACT OF INTERNATIONAL LAW ON JAPANESE LAW (1998); Levin, *supra* note 12, at 500; OGUMA, *supra* note 44, at 341; Shin, *supra* note 64. *Lack of mutual recognition*: Nantais (forthcoming) would argue that the “othering” of Japan’s Non-Japanese former imperial subjects was not entirely due to the Japanese government. Barely two months after the Japanese surrender and American Occupation, the former imperial subjects, as *sangokujin*, were already designated (under SCAP’s JCS 1380/15, November 3, 1945) as “liberated peoples,” therefore not Japanese, but they were given the choice of being “repatriated” as foreigners or remaining in Japan as enemy nationals. Many of the *sangokujin* chose to side with the victors and receive preferential treatment, driving wedges that would be exploited by Japanese in authority when the Occupation ended. However, with the onset of the Cold War in China and the Korean Peninsula, the Occupation’s view dramatically shifted to view *sangokujin* as potential communist “subversives;” this intensified SCAP’s push for “repatriation,” which was problematic until the *sangokujin* had their status of registered Japanese national formally removed. That was accomplished by the GOJ by 1950, shortly before the Occupation ended, although the “repatriation” remained voluntary: the *Zainichi* were still allowed to voluntarily remain in Japan—as non-citizens—instead of being forcefully sent “home” to war-torn lands. Nantais, *supra* note 14.

aborigines within Japan's current sovereign borders, i.e., the Ainu of Hokkaidō; and later the Ryūkyūans of Okinawa).<sup>92</sup>

This in fact made the postwar narrative of “homogeneous Japan” easier to accomplish.<sup>93</sup> Intellectuals and policymakers stressed the need for Japan's “reconstruction” by demolishing Japan's former colonial tendencies, enabling the government to “reinforce their exclusionary policy against the colonial immigrants during their democratic transition.”<sup>94</sup> Thus the ethnically-hybrid Pan-Asian empire narrative was quickly replaced by an ethnically-homogeneous one. According to Shin, “This postwar self-image in turn justified their further exclusion and discrimination against their remaining colonial subjects.”<sup>95</sup> New national polices established foreign registry systems for all resident non-nationals to track their whereabouts as “foreigners” (1947, put into effect in 1952), with measures that were not otherwise enforced upon law-abiding Japanese citizens: e.g., fingerprinting and identification cards that to the present day must be carried at all times under criminal penalty, enabling lawful police identity checks that did not require probable cause.<sup>96</sup> This would set the agenda for future treatment of all “foreigners” and “migrant workers” to Japan, controlling possible future choices both for policymakers and for incoming foreign residents of Japan.<sup>97</sup>

#### *E. Postwar Invisible and Visible Minorities in Japan: Scholarly “Blind Spots” Emerge*

Japan has long claimed that there are no “minorities” (*shōsū minzoku*) at all within its borders, and for a long period of its history did not see “race” (*jinshu*) as the ultracentrifuge of human classification.<sup>98</sup> Scholarship on Japan shared this view:

According to Fish, during the worldwide expansion of empires through the Tokugawa Era, conceits regarding issues of “race” were not of the “light/dark” polarity, but rather of the “we Japanese/others” binary, i.e., who is “Japanese” and who is not. Phenotype-based racism, according to Fish, was exogenous, coming from the Western Enlightenment and the

92. MORRIS-SUZUKI, *supra* note 76; THE JAPANESE COLONIAL EMPIRE, *supra* note 75; *see generally* CHING, *supra* note 75.

93. OGUMA, *supra* note 44; Shin, *supra* note 64.

94. Shin, *supra* note 64, at 328.

95. *Id.*

96. *See* ARUDOU, EMBEDDED RACISM, *supra* note 27, at chapter 5.

97. *Id.*

98. *Id.* at chapter 8.

intellectual need to categorize and classify everything.<sup>99</sup> According to Fish, during the Meiji (1868–1912), Taishō (1912–1926), and early Shōwa (1926–1989) Eras, this would change little: People adjudged as “mixed blood” (*konketsu*, defined as “people who appear to be the offspring of one parent of East Asian origin and one parent of non-East Asian origin”<sup>100</sup>) belonged at the time to well-regarded classes (e.g., children of missionaries, leading businessmen, teachers and scholars), and were small in number so as to have little need to be “othered.”<sup>101</sup>

However, it should be noted that there were other less visually-identifiable (therefore “invisible”) minorities being brought into the Japanese empire, who were nonetheless being treated significantly differently. As mentioned above, during Japan’s Meiji-Era Imperial expansion, Japan’s colonized peoples were officially seen as fellow members of the same Japanese race under Pan-Asian tenets of Asian brotherhood. But people who were not considered part of the group of “dominant Japanese,” be they a historical underclass (the *Burakumin*), citizens of empire (e.g., Koreans, Taiwanese, or Chinese) or indigenous peoples of new Japanese territory (the Ainu and Ryūkyūans), were under government policy to be assimilated (*dōka*) into cultural invisibility—or even isolated and eradicated (e.g., native Formosans), as subjects to the Emperor.<sup>102</sup> Thus Japan’s Invisible Minorities, by definition, were phenotypically similar enough to Japanese in most cases to “pass” as “Japanese.” As Fish acknowledges, “Japan had dealt with issues of diversity throughout its colonial period, but rarely involving people with such stark phenotypical difference [as “mixed-blood” children]. After all when looking at a pre-war photograph, one would often be hard-pressed to pick out the Chinese or Korean living in Japan based on facial features alone.”<sup>103</sup> However, as seen above, this also encouraged scholarship that misunderstood nation-state racialization processes, by arguing that because Japan’s minorities were not visible, there was no “color stigmata,” therefore Japan’s discrimination was ethnic, not racial.

Even after Japan shed its empire in the Postwar Era, many Invisible Minorities in fact continued to “pass” in Japanese society: most Zainichi Koreans adopted Japanese *tsūshōmei* (names for public use), while others,

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99. Fish, *supra* note 34, at 41–43.

100. *Id.* at 42.

101. *Id.* at 44.

102. “Dominant Japanese”: Aoki, *supra* note 13, at 185; *Isolated and eradicated*: cf. CHUN-CHIEH HUANG, HUMANISM IN EAST ASIAN CONFUCIAN CONTEXTS 52 (2010); Shin, *supra* note 64, at 60.

103. Fish, *supra* note 34, at 45.

such as entertainers, “passed” as Japanese in order to establish and maintain careers in Japan.<sup>104</sup> Burakumin were often not uncovered and discriminated against until background checks were carried out before employment or marriage to a non-Burakumin.<sup>105</sup> Some minority children did not consider themselves “foreign” until they were required to register as *gaikokujin* with the ward office at the age of fourteen (later sixteen), to give their fingerprints like potential criminal suspects, and to carry their registry cards on their person at all times—thus being socially “othered” from their peers at a delicate age.<sup>106</sup> Thus most minorities in Japan were not only phenotypically “invisible” as they “passed” within Japanese society, but were also officially “invisible” within the national discourse of a minority-free “homogeneous Japan.” This homogeneity was further reified and made hegemonic under *nihonjinron* (“theories of Japaneseness”)<sup>107</sup> discourse fostering superiority complexes. The narrative gained further currency during Japan’s intellectual and popular debate discussing the alleged causes of its high-speed growth in the 1960s, 1970s, and 1980s, and percolated through worldwide scholarship and media discourse on Japanese society as an emerging economic giant.<sup>108</sup>

#### IV. TESTING THE PARADIGM OF EMBEDDED RACISM

##### A. *Managing Immediate Challenges to Japan’s New Postwar “Homogeneity” Narrative: The “Konketsuji Problem”*

It is instructive to discuss how Japanese society handled an early challenge to the Postwar domestic discourse of homogeneity: the existence of mixed-blood children (*konketsuji*). Although Yoshino declares, “one will always be Japanese by virtue of blood,” Japanese intermarried and had international children with Japanese blood, but who were visually identifiable as “foreign.”<sup>109</sup> They were quickly linguistically differentiated through racialized epithets: *konketsuji* (“mixed-blood child”), *ainoko* (“alloyed child,” with overtones of “bastard”), *hāfu*, *kuwātā* (“half,” “quarter,” specifically indicating blood quanta) etc.<sup>110</sup> As Fish notes,

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104. *Tsuushoumei*: cf. Cary, *supra* note 14, at 98. “Passed” as Japanese: cf. JOHN LIE, *MULTIETHNIC JAPAN* (2001); STERLING, *supra* note 50, at 51.

105. Cf. Neary, *supra* note 13, at 59 and 80–81.

106. See FUKUOKA, *supra* note 14, at 46 and 230–31.

107. See, e.g., BEFU, *supra* note 17.

108. See BEFU, *supra* note 17; IIDA, *supra* note 53; OGUMA, *supra* note 51; STERLING, *supra* note 50, at 48–50.

109. Yoshino, *supra* note 44, at 211.

110. JOHN DOWER, *EMBRACING DEFEAT: JAPAN IN THE WAKE OF WORLD WAR II* (1999).



“most people could identify a “mixed-blood” child with relative ease,” and “the emphasis on and perception of difference is not at all surprising.”<sup>111</sup>

The immediate Postwar years (1945–1953) would fundamentally influence the debate on how those Visible Minorities (even those of “Japanese blood”) were to be treated. I agree with Shin’s conclusion that these policy precedents became the template for the social treatment of people who “looked American” yet were “mixed-blood Japanese” from the lower classes.<sup>112</sup> But more importantly, these policies determined how future Visible Minorities in Japan (regardless of economic class) who were “fully foreign” (i.e., without “Japanese blood”: e.g., Caucasians, Middle-Easterners, South Americans, Africans and African-Americans, Subcontinental Indians, and South Asians, coming to Japan to live and work) were to be treated in Japanese society. Moreover, as the number of Visible Minorities who were in fact Japanese citizens grew through international marriages, the dominant discourse of clear lines between Japanese and Gaijin began to blur.<sup>113</sup>

Despite this blurring, Japan sought to keep the line between Japanese and Gaijin intact. Japan’s paradigms for determining “self” and “Other” offers an instructive example of the patterns for social “othering” that continue to the present day. Fish describes how Japan’s policymakers and media dealt with Japan’s immediate Postwar *konketsuji*:<sup>114</sup>

Step One: Politicians and bureaucrats drew attention to a looming “problem” (*mondai*) that would soon need addressing; in the case of the *konketsuji*, Japan’s Postwar national narrative involved a return to Japan’s “peaceful, tranquil homogeneous state”, and that homogeneity would allegedly create problems for those children who were not themselves “homogeneous” (by lacking “pure” Japanese blood).<sup>115</sup>

Step Two: The GOJ drew up a policy proposal itemizing specific problems to be addressed, with high-level contributions from intellectuals,

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111. Fish, *supra* note 34, at 45.

112. Shin, *supra* note 64; Fish, *supra* note 34, at 45.

113. There have of course been many people in Japan’s media who would be classified as *konketsuji* (albeit called “half”), including currently baseball star Yū Darvish, Enka singer Jerome Charles White Jr. (a.k.a. Jero), Miss Japan 2015 Ariana Miyamoto, and TV stars Rebecca Eri Ray Vaughan (a.k.a. Bekki), Umemiya Anna and Miyazawa Rie. Although all are famous and acclaimed for their Japanese roots (in a phenomenon called “They’ll claim us if they’re famous” in Whiteness Studies), they are still socially asterisked as “half” Japanese if they are visually identifiable as “Gaijin.” A case in point is Miyazawa Rie, who is so completely identifiable as “Japanese” only (despite her selling point as a “half” in a 1991 nude pictorial) that she can “pass”: today’s youth (according to my classroom surveys 2008–2011) are largely unaware of her foreign roots.

114. Fish, *supra* note 34, at 45–53.

115. For examples of *Peaceful, tranquil homogeneous state*, see OGUMA, *supra* note 51, at 299.

politicians, bureaucrats and specialists in special deliberation councils (*shingikai*). In the case of the *konketsuji*, the *shingikai* policy conclusions were constructive: make sure that these children were educated properly in the Japanese school system as any other Japanese, and treat them equally as “Japanese.” In this case, the “problems” included (a) the apparent shame of *konketsuji* being visibly identifiable as sired by American soldiers, (b) the apparent disabilities of being raised in a single-mother family (under a phenotypically-based presumption of a mother being involved in prostitution), (c) the anticipation of probable stigmatization and non-acceptance by one’s school peers, and (d) the inability to function in Japanese society due to phenotype.

Step Three was public debate: Politicians in the Diet and prefectural level offered ponderous musings on how Japan’s “character” and “Japaneseness” would be affected by this apparent dilution of Japan’s race/ethnicity. The media and the public discourse repeatedly cited (according to Fish (46), erroneous) statistics of 100,000 (and growing) “mixed-blood children”, offering a metaphor of the remnants of the American Occupation through its prostitutes (46–50). This stereotype would be propagated through popular culture, including films, newspapers, memoirs, poetry, and even school speeches and essays.

However, instead of an original, inclusive narrative (i.e., that these heterogeneous children were a positive part of Japan’s future), the homogeneous society narrative (under which these heterogeneous children were a remaining aberration of Japan’s past) became predominant. Nevertheless, since these heterogeneous children were blameless for their existence, official dictum from the Ministry of Education et al. portrayed *konketsuji* as objects of pity, as children “who carry the destiny of misfortune on their backs.”<sup>116</sup> The national narrative concluded that these unfortunate children were from irresponsible relationships on the parents’ level.

Step Four, the collection of data that substantiated the anticipated status quo, was soon completed and disseminated through the media to confirm the expectation that *konketsuji* in fact did not do as well in school as their “regular,” “pure-blooded” counterparts.<sup>117</sup>

Finally, over time, Step Five embedded the racialized mindset into the national narrative. As the stigmatized and unstigmatized children grew up together, the perpetually-conjectured causes of their putative blood-based

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116. Fish, *supra* note 34, at 53.

117. *Id.* at 54.

differences would be attributed to, for example, actual racism and racial discrimination, socio-economics, difficulties fitting into Japan's homogeneous society, social opprobrium associated with being abandoned by foreign fathers, or, as the Ministry of Education officially claimed, the "rough personalities" of the differentiated children themselves.<sup>118</sup>

*B. Implicit Power Relations: Viewing the "Konketsuji Problem" Anew through the Lens of "Embedded Racism"*

However, Fish's excellent historical research was perhaps unaware of the racism embedded within this daisy chain of policy drives. Fish himself oddly concluded that "race, *per se*" was not the source of consistent problems (he instead attributes it to social reactions both by and towards the people being stigmatized, in an apparent confusion of cause and effect).<sup>119</sup>

I would suggest a different lens for viewing the *konketsuji mondai*. Let us reexamine the data above through the lens of Embedded Racism, considering the structural interplays of power and its effects over the dominant discourse and mindsets in Japanese society:

First, consider the assumptions of the Postwar "peaceful homogeneous Japan" narrative as noted by Oguma: The converse association implicitly became that "heterogeneity" (as seen in the *konketsuji*) would not be peaceful or tranquil—i.e., that "non-homogeneous" people would be "trouble" and create "problems" for assimilation due to their obvious and unquestioned "differences."

Second, without any scientific basis or evidence, overcautious policymakers made an *a priori* assumption that phenotypical differences would automatically result in different behavior and treatment on both sides. In other words, contrary to Spickard's argument that "races are not types," and confirming Freire's argument that, "In order to exist, one must be named. . . . Saying *haafu* existed meant this group existed," the GOJ officially created and named a "mixed-blood *type* of Japanese."<sup>120</sup> This gained immediate public legitimacy and hegemony in the national narrative because it came from the Ministry of Education.

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118. Fish *supra* note 34, at 45–56.

119. *Id.* at 55–56.

120. Paul Spickard, *The Illogic of American Racial Categories*, in *RACIALLY MIXED PEOPLE IN AMERICA* 12, 20–22 (Maria P.P. Root ed., 1992); Theresa K. Williams, *Prism Lives: Identity of Binational Amerasians*, in *RACIALLY MIXED PEOPLE IN AMERICA* 280, 302 (Maria P.P. Root ed., 1992).

Third, the phenotypical difference itself then became entangled in public narratives of shame, pity, and parental irresponsibility—which also made it impossible for people visually identified as *konketsuji* who were *not* products of unions of prostitutes and soldiers to escape the stigma.

Fourth, although official claims were that *konketsuji* were the same as “Japanese,” it was still a differentiation as a “type” of Japanese—a “sameness” with an asterisk: *konketsuji* were *supposed* to be the same, but were, due to unfortunate birth-determined circumstances beyond their control, *not* the same. This then became folded into a national narrative of pity and victimization that made asterisking these children not an act of scorn or hatred, but *an act of kindness*. That made it difficult for anyone to protest this differentiated treatment as unnecessary or ill-intentioned (for who would be so cruel as to pretend that putative differences did not exist?).

Fifth, although there was positive enforcement of publicly-stated equality for *konketsuji*, there is no clear indication in the historical record of an enforcement mechanism in cases of people (such as bullies) who would not respect that equality—to deter or punish racists found in every society. Because there is no law specifically against racial discrimination in Japan, there was then, as now, no protection for these children—for they were, like everyone else, not officially a minority in Japan. They were supposed to be “Japanese” (albeit with caveats and asterisks), even if their asterisked status was as clear as the “foreignness” of their face.

Thus, by being differentiated by even well-meaning authorities, *konketsuji* could neither “pass” due to blood conceits, nor were they allowed “multiple identifications” due to the binary nature of “Japaneseness” under the “homogeneous Japan” narrative also being reinforced by a new Postwar *jus sanguinis* Nationality Law.<sup>121</sup>

In sum, the policymaking apparatus for dealing with Postwar *konketsuji* Japanese further embedded restrictions in the concept of “Japanese”—to not only *jus sanguinis* blood ties to citizenship, but also “pure-blooded” ties.<sup>122</sup> This official treatment of a generation of *konketsuji* who could not

121. See ARUDOU, EMBEDDED RACISM, *supra* note 27, at chapter 4.

122. Also note that because Japan’s Nationality Law (*Kokuseki Hō*) was not amended to allow Japanese citizenship to pass through the Japanese mother until 1985, this had the effect of compounding issues of blood ties with gender. Until 1985, liaisons between Japanese women and non-Japanese men could not produce Japanese citizens. Not only did this inconveniently associate Japanese mothers of international unions with prostitutes, but it also denied the civil rights afforded by citizenship to their otherwise “Japanese” children. See ARUDOU, EMBEDDED RACISM, *supra* note 27, at chapter 4, particularly 80–87, and footnote 5. The official English translation of the Nationality Law of Japan is on the Ministry of Justice website at [www.moj.go.jp/ENGLISH/information/tnl-01.html](http://www.moj.go.jp/ENGLISH/information/tnl-01.html).

“pass” as “Japanese” during the during the 1950s, 1960s, and 1970s set the tone for treatment of people who came to Japan during the 1980s, 1990s, and 2000s. These future workers and immigrants included people of color would be visually identified, typified, and “othered” as full Gaijin without even the asterisk of Japanese blood. Thus unlike many of the *konketsuji*, they were placed in an even more powerless situation in Japanese society, as they lacked official government policies protecting them as Japanese citizens.

Thus, viewing Fish’s research through the lens of Embedded Racism provides a different and more powerful insight into an array of structural power relations, coupled with a more effective analysis of the dynamics of public policy that enfranchised racist mindsets towards “foreigners” in Japanese society.

#### V. CONCLUSION

This Article has attempted to demonstrate how prominent scholarship on Japan has systematically elided a fundamental process of discrimination, omitting skin color and phenotypical markers from their analysis that indicate that racialization processes occur within Japanese society as elsewhere. By proposing and applying an analytical paradigm of Embedded Racism inspired by Critical Race Theory, this Article finds that a form of Colorism exists in Japan despite the claims that “homogeneous, monoethnic Japan” has no “races,” therefore no racial discrimination. Looking at hitherto flawed analysis on Japan through this paradigm reveals more performative insights on a newfound discriminated group in Japan, the Visible Minorities, are treated, and how racialization processes are normalized to the point of hegemony within Japanese identity, to the point where one must “look Japanese” in order to be treated as one. This has significant implications for Japan’s future, for if Japan cannot create “new Japanese” through legal and social processes without phenotype voiding their equal treatment, its future as a young, dynamic society, as its birthrate continues below replacement levels, its population continues to decrease, and its demographics continue to grey, is in jeopardy. This is not sustainable, and acknowledging that both Visible Minorities and an Embedded Racism exist in Japan as in any other society is a crucial first step.