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Author(s): I. J. McMullen

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NON-AGNATIC ADOPTION: A CONFUCIAN CONTROVERSY IN SEVENTEENTH- AND EIGHTEENTH-CENTURY JAPAN

I. J. McMULLEN
OXFORD UNIVERSITY

I. INTRODUCTION

LIKE most disseminators of alien religions, the Confucian writers of Tokugawa Japan faced a number of practical problems. One of the most pressing of these concerned the authority and practicability in Japan of the rituals associated with the Chinese Confucian tradition. In this context, "ritual" (*li* 禮, Japanese *rei*) referred broadly to all the religious, social, and political institutions which were the outward expression of a Confucian society. These included rites of passage and those regulations and prohibitions which reflected the social organization of ancient China, the society in which Confucianism had originated. Such rituals were central to classical Confucianism and were recorded in authoritative scriptures, including special compendia such as the *Li chi* 禮記 [*Book of Rites*] and *I li* 儀禮 [*Book of Ceremonial*]. No disseminator of Confucianism, therefore, could lightly disregard them. The problem they presented was the more pressing since, unlike Buddhism, its main rival in Tokugawa Japan, the Confucian tradition was on the whole lacking in popular or vivid doctrinal or emotional appeal and brought with it no rich iconographical or architectural forms. In an age which seemed to Confucian scholars still to be dominated by heterodoxy, ritual was perhaps the chief means by which the Confucian ideal of order and harmony would be objectified in society. Yet many Confucian rituals were at variance with long-established Japanese practice and remained irrational and impractical in terms of the social and economic realities of Tokugawa Japan. It was unlikely that they would inspire widespread voluntary observance. An alternative, of course, lay in

enforcement by political authority. This was attempted to a limited extent by certain idealistic Confucian rulers such as Ikeda Mitsumasa 池田光政 (1609–1682) of Okayama 岡山 and Hoshina Masayuki 保科正之 (1611–1672) of Aizu 會津.¹ Reliance on coercion, however, contradicted the high orthodox Confucian emphasis on suasion and was repugnant to much orthodox Confucian opinion.

The problem outlined here compelled the attention of most Japanese Confucian thinkers of the Tokugawa period, and the literature devoted to various aspects of the theory and practice of Confucian ritual in Japan is extensive and, as yet, little explored. This article will describe the response to one particular Confucian ritual institution where contemporary Japanese practice differed from the high Confucian norm: the prohibition on non-agnatic adoption.

The conflict between Confucian ideological norm and Japanese practice derived, in this case, from differences between the traditional societies of China and Japan. A comparison of these societies is not the main theme of this article. Nevertheless, two major differences between them ensured that the prohibition presented a particularly serious problem to Japanese of the Tokugawa period.

The first difference concerns the organization of the basic unit of Japanese society, the house or *ie* 家. Chinese Confucian kinship ideology, as will become clearer from material presented below, was based on the agnatic principle, and it recognized patrilineal descent as the only legitimate means of perpetuating a family line. It therefore condemned adoption of a non-agnatic heir as immoral. In Tokugawa Japan, also, patrilineal descent was the ideologically preferred method of perpetuating a family line. In practice, nevertheless, in the Japanese *ie*, the agnatic principle was weaker, and membership and succession were more flexibly determined. Accompanying this greater flexibility in internal organization, however, there was less social mobility and a more rigid emphasis on hereditary occupation than in China. The

¹ For Ikeda Mitsumasa's attempts to convert the populace of Bizen to Confucian burial and worship practices, see Mizuno Kyōchirō 水野恭一郎, "Bizen-han ni okeru shinshoku-uke seido ni tsuite" 備前藩における神職請制度について, *Okayama daigaku hōbungakubu gakujutsu kiyō* 岡山大學法文學部學術紀要 5 (1956). 74. For Aizu prohibition of cremation, a practice considered unfilial by Confucians, see Taira Shigemichi 平重道, "Kambun rokunen Yamaga Sokō hairyū jiken no shisōteki igi" 寛文六年山鹿素行配流事件の思想的意義, *Bunka* 文化 20.5 (1956). 798. A list of abbreviations used in the references below is provided following the text.

ie, in fact, was "a corporate rather than a kinship unit," in which value was placed "not so much on the continuity of the 'blood' line from father to eldest son as on the perpetuation of the family as a corporate group through its name and occupation."² The Japanese priorities, in short, were the reverse of Confucian theory: maintenance of its social role across generations was in practice a more important criterion than agnatic descent in the organization of the Japanese *ie*. Thus, in the absence of a competent natural male heir to the family headship or a suitable agnatic candidate for adoption, a Japanese *ie* would not normally be allowed to default on its hereditary occupation or become extinct, as would happen in an exclusively agnatically-organized society. Rather, the Japanese practice was to resort to adoption of a non-agnatic relative, or even a totally unrelated person. Enforcement of the Confucian prohibition on non-agnatic adoption would, therefore, create otherwise avoidable delinquency or extinctions, with attendant suffering for dependents. In samurai society, it would result in confiscation of hereditary office and emoluments. It was, therefore, scarcely likely to be welcomed.

The second difference between traditional Chinese and Tokugawa society affecting Japanese response to the prohibition lies in political structure. Tokugawa Japan was, as contemporary China had long ceased to be, a feudal society. Feudalism affected the problem of adoption in several ways. The most important derives from the serious consequences of the extinction of a feudal house. The samurai of Tokugawa Japan depended for their security on reciprocal obligations to great feudal houses. But should such a house fail to produce an heir, the livelihood of its dependents would also be thrown into jeopardy. They would become *rōnin* 牢人, masterless and dispossessed samurai. Here again, freedom in adoption could provide a means to avert disaster. Thus any restriction, such as was implied by the prohibition, would certainly arouse fear and resentment likely to dis-

² Harumi Befu, "Corporate Emphasis and Patterns of Descent in the Japanese Family," in *Japanese Culture: Its Development and Characteristics*, ed. R. J. Smith and R. K. Beardsley (London: Methuen and Co., 1963), p. 34. See also John C. Pelzel, "Japanese Kinship: A Comparison," in *Family and Kinship in Chinese Society*, ed. Maurice Freedman (Stanford: Stanford University Press, 1970), pp. 227-248; Chie Nakane, *Japanese Society* (London: Weidenfield and Nicholson, 1970), Ch. 1, "Criterion of Group Formation." See also Bamba Masatomo 萬羽正朋, *Nihon jukyō ron* 日本儒教論 (Tokyo: Mikasa shobō, 1939), pp. 150-154.

courage all but the most rigidly dogmatic Confucians. Such fear would be grounded in experience, for in the first half-century of its rule the Tokugawa Bakufu had pursued a restrictive policy toward adoption among its vassals. The large numbers of *rōnin* created by the resulting extinctions had become, as the Yui Shōsetsu 由井正雪 rebellion of 1651 demonstrated, a disaffected and potentially subversive group.

The feudal structure of Tokugawa society made adoption an important and frequently employed procedure for other reasons. First, as hereditary office became increasingly normal, it became also a major aspect of a samurai's duty to his ruler to provide an heir competent in his office. This was particularly important in those offices which demanded special ability such as, ironically, that of Confucianist. Here again, adoption could redeem failure to produce a competent natural heir. Secondly, as in other feudal societies, succession among Tokugawa samurai was mainly through primogeniture. Adoption, therefore, offered potential status and security to otherwise insecure younger sons. For these reasons also, its restriction was likely to be resisted.

The prohibition on non-agentic adoption thus threatened Japanese society in two concentric contexts, its basic unit, the *ie*, and the wider feudal society. At the level of the *ie*, best represented in this article by the Kimon 崎門 school, the problems were mainly restricted to the individual house head and his family; in the feudal context, as can be seen in the discussions of the Kyōhō 享保 memorialists, they were political and social. In both contexts the difficulties presented by the prohibition were probably insoluble on a large scale in Tokugawa society. Yet, like other items of Confucian ritual, the prohibition was also a part of the tradition to which many Japanese thinkers looked for affirmation of the value and permanence of their society. Articulate reaction to the predicament it presented was, in the nature of things, confined to a numerically small though intellectually important minority. Within that minority, however, the response was remarkably varied and intense. Because it offered a threat to the fundamental institutions of Tokugawa society, the prohibition provoked more sustained comment and controversy than other items of Confucian ritual discussed by thinkers of the period, such as burial, mourning, the prohibition on marriage within the same clan, and ceremonial offer-

ing. It frequently caused soul-searching and anguish and, on occasion, even tragedy.

The controversy began in the second half of the seventeenth century with the increasing popularization of Confucian ideas in Japan and continued intermittently until the Restoration of 1868. It was revived in a different historical and intellectual context in the debate on adoption conducted in the press toward the end of the first decade of Meiji. From the standpoint of the history of Confucianism in Japan, however, the most interesting contributions were made roughly between the years 1670 and 1740, and it is on this period that this article focuses. The main contributions to the controversy will be summarized and an attempt made to place them in the context of the intellectual history of the period. In particular, it will be suggested that the debate over the practice in Japan of foreign ritual may have contributed to the awakening of national awareness and the formation of the intellectual climate which was to foster the Kokugaku 國學 movement. Discussion of these themes must, however, be prefaced by a summary of the history of the prohibition in China and a brief account of adoption in Japan. It is necessary to describe in some detail the attitude of Chinese Neo-Confucians both to the problem of ritual and to the prohibition itself. For it was largely their ideas which provoked discussion of the problem in Tokugawa Japan and provided the Tokugawa polemicists with the vocabulary in which to express their views.

The Confucian prohibition on non-agnatic adoption originated in the ancient Chinese cult of ancestor worship. In practice, in both China and Japan, it concerned almost exclusively the adoption of a male heir by families whose line was otherwise threatened. It was, of course, the duty of every filial son to provide a male heir to succeed to the ritual headship of the family and continue sacrifices to his parents after his own death. Where the "great head" (*ta tsung* 大宗) of a clan had no natural heir, it was prescribed in the *I li* that a son from a cadet branch, provided he was not himself heir to the ritual headship of his own branch, could be adopted to succeed the great head. Such adoption, however, was restricted to members of the same *tsu* 族,³ to those descended through the male line from a common ancestor and sharing

³ *I li* (SPPY edition) 11.3a, 18a; *The I-li or Book of Etiquette and Ceremonial*, trans. John Steele (London: Probsthain and Co., 1917), Vol. II, pp. 11-12, 19-20.

the same surname. It was believed that sacrifices offered by anyone not so related would be ineffective and a form of impiety. As stated in the *Tso chuan* 左傳, "The spirits of the dead do not enjoy the sacrifices of those who are not their own kindred, and people only sacrifice to those who are of the same ancestry as themselves."⁴ Confucius himself was believed to have sanctioned the prohibition in the *Ch'un ch'iu* 春秋 [*Spring and Autumn Annals*] where, under the sixth year of Duke Hsiang, it is recorded that "the people of Chü extinguished Tseng."⁵ The Kung-yang and Ku-liang commentaries and their sub-commentaries explain that a daughter of the ruler of Tseng had married into Chü and that a son by this marriage (a non-agnatic grandson to the king of Tseng) had been established as successor to Tseng. The Ku-liang commentary adds that to set up someone of a different surname to perform ancestral sacrifices is "the path of extinction."⁶ The prohibition thus became a part of the Confucian moral code and was given the status of law in dynastic codes from the T'ang on.⁷

In the Neo-Confucian thought of the Sung and later dynasties, the prohibition was discussed against the background of Neo-Confucian theories of ritual and ancestor worship. Here the Chinese Neo-Confucians were faced with essentially the same problem of the relevance of ancient rituals as was to confront their Tokugawa successors. The general tendency among them was toward refinement of ritual as

⁴ *The Chinese Classics*, trans. James Legge, 5 vols. (reprinted Hong Kong: Hong Kong University Press, 1963), Vol. v, p. 157.

⁵ *Ibid.*, p. 428.

⁶ *Kung-yang i-su* 公羊義疏 (SPPY edition) 54.14b; *Ku-liang pu-chu* 穀梁補注 (SPPY edition) 19.6b. The prohibition is also alluded to rather obscurely in a somewhat improbable episode recorded in both the *K'ung-tzu chia-yü* 孔子家語 and the *She i* 射義 book of the *Li chi*. Confucius, "conducting an archery contest in a vegetable garden at Chüeh-hsiang," ordered his disciple Tzu-lu to make, among others, "anyone who (had schemed to be) the successor and heir of another" withdraw from the contest. *K'ung-tzu chia-yü* (SPTK edition) 7.1b; *The Li Ki*, trans. James Legge (Sacred Books of the East, ed. Max Müller, Vol. xxviii; Oxford: Oxford University Press, 1885), pp. 449-450.

⁷ For the T'ang dynasty, see *T'ang-lü su-i* 唐律疏議, comp. Chang-sun Wu-chi 長孫無忌 (*Ts'ung-shu chi-ch'eng* edition) Vol. III, 12.278. For the Ming, see Sorai Monoshige 徂徠物茂, *Teihon Minritsu kokujikai* 定本明律國字解, ed. Uchida Tomoo 內田智雄 and Hibara Toshikuni 日原利國 (Tokyo: Sōbunsha, 1966), p. 175.

a subjective moral and metaphysical concept and toward accommodation of existing ritual practices where these had departed from those of antiquity. Ritual (*li*) was identified with its homonym, Principle (*li* 理), the central concept in orthodox Neo-Confucianism.⁸ Principle was the unchanging organizing and normative agent both transcendent and immanent in the physical world; it governed all phenomena, including natural kinship. This was to provide Japanese Neo-Confucian defenders of the prohibition with a strong metaphysical argument in its favor. While the Principle of ritual was itself unchanging, however, it was generally recognized by Chinese Neo-Confucians that its objective manifestations could alter according to time and place. Chu Hsi 朱熹 (1130–1200), the synthesizer of the Rationalist school and arbiter of Neo-Confucian orthodoxy, remarked that of historical rituals only mourning had survived unchanged since ancient times.⁹ Revival of other rituals, he maintained, was not practicable. "Forced observance would ultimately be profitless. It is better to adopt the rituals of the present and practice them, making adjustments."¹⁰ Thus, though Chu Hsi conducted extensive researches into ancient rituals, this is said to have been an academic interest rather than the basis for a full-scale revival.¹¹ The Idealist branch of Neo-Confucianism was even less interested in the revival of ancient rituals, for it regarded the subjective conscience (*liang chih* 良知) as the basis of moral action. Wang Yang-ming 王陽明 (1472–1529) maintained that the ritual Classics might be read as history like the *Ch'un ch'iu*, for it was the quality of the minds of the sages of an-

⁸ Ch'eng I 程頤, in *Ho-nan Ch'eng-shih i-shu* 河南程氏遺書, ed. Chu Hsi (*Kuo-hsieh chi-pen ts'ung-shu* edition; Shanghai: Commercial Press, 1935) 15.160; *A Source Book in Chinese Philosophy*, comp. Wing-tsit Chan (Princeton: Princeton University Press, 1963), p. 553. For further discussion of Principle, see A. C. Graham, *Two Chinese Philosophers* (London: Lund Humphries, 1958), pp. 8–22.

⁹ *Chu-tzu yü-lei* 朱子語類, ed. Li Ching-te 黎靖德 (Ying-yüan shu-yüan edition, 1872) 89.5a; quoted in Gotō Toshimizu 後藤俊瑞, "Shushi no rei ron" 朱子の禮論, *Taihoku teikoku daigaku bunseigakubu tetsugakka kenkyū nempō* 臺北帝國大學文政學部哲學科研究年報 7(1941).149.

¹⁰ *Chu-tzu yü-lei* 87.2a; quoted in Gotō, p. 128. Chu Hsi is here speaking with particular reference to the ritual of the "district symposium" (*The I-li*, trans. Steele, Vol. 1, pp. 51–73).

¹¹ Kusumoto Masatsugu 楠本正繼, *Sō-Min jidai jugaku shisō no kenkyū* 宋明時代儒學思想の研究 (Hiroshima: Kōnoike gakuen shuppambu, 1962), p. 273.

tiquity, rather than the objective systems they had instituted,¹¹ that merited emulation.¹² It seems unlikely, therefore, that he would have insisted on observance of the prohibition. This subjective, flexible approach was to prove useful to opponents of the prohibition in Japan.

Chinese Neo-Confucian attitudes to the prohibition itself were influenced further by religious considerations. Chu Hsi's somewhat tortuous rationalizations on this subject are the product of the conflict in him between the rationalist and the revivalist of the Confucian religious heritage. He wished, on the one hand, to preserve the authority of the Classics and provide rational underpinnings for the traditional Confucian practice of ancestor worship. On the other hand, he was also anxious to provide a satisfactory rational explanation of man's fate after death without at the same time suggesting the permanent survival of an individual soul. He believed that on death a man's volatile and dense souls (*hun* 魂 and *p'o* 魄) normally dispersed into heaven and earth respectively¹³ and "no longer existed."¹⁴ However, his descendents shared "the same physical substance," just as the seeds of a large tree dropped to the ground and grew as the same tree,¹⁵ or as successive waves shared the same water.¹⁶ There existed a Principle, consequently, that when a descendent made a sincere ceremonial offering to his ancestors, the dispersed souls would be activated to reunite and return in response.¹⁷ What was thus activated, however, Chu Hsi insists, was not a pre-existing "thing"¹⁸ and would disperse after the ceremony.¹⁹ Could the spirits of the dead respond to those who were not their descendents through

¹² *Ch'uan-hsi lu* 傳習錄 (SPTK edition) 1.14b, 18a; *Instructions for Practical Living*, trans. Wing-Tsit Chan (New York: Columbia University Press, 1963), pp. 23, 27. Thus Wang permitted his family to eat meat during the period of mourning for his father and offered meat to elderly persons who came to offer condolences. For this he was censured by Chan Jo-shui 湛若水 (1466–1560). See Wang's *nien-p'u* under 51 *sui* (1522) in *Wang Yang-ming ch'üan-shu* ||| 全書 (Taipei: Cheng-chung Book Co., 1955), Vol. IV, p. 129. See also Tu Wei-ming, "Subjectivity and Ontological Reality: An Interpretation of Wang Yang-ming's Mode of Thinking," *Philosophy East and West* 23.1–2(1973):195.

¹³ *Chu-tzu yü-lei*, 3.19a.

¹⁴ *Ibid.*, 3.10b.

¹⁵ *Ibid.*, 63.30a.

¹⁶ *Ibid.*, 3.15a.

¹⁷ *Ibid.*, 3.13b.

¹⁸ *Ibid.*, 3.17b.

¹⁹ *Ibid.*, 3.18a.

the male line? In some cases, where there existed an appropriate Principle, they apparently could, as when a ruler sacrificed to an unrelated predecessor in his domain,²⁰ or when sacrifices were offered to Confucius in a school.²¹ Moreover, sacrifices to maternal relatives could also be effective, since "the spirits and volatile and dense souls of those to whom sacrifices are made are always activated."²² This, together with Chu Hsi's professed readiness to modify ancient rituals to accommodate contemporary practices, might suggest that, on religious grounds at least, he would not object too strongly to the practice of non-agnatic adoption. In fact, he seems to have regarded it as an abuse that could not easily be corrected. In reply to a query from one Hsü Chü-fu 徐居甫 he stated that "the setting up as heirs of men with different surnames is indeed an abuse on the part of our contemporaries and is nowadays difficult to correct after it has happened. However, it is all right if, when participating in the sacrifices, the adopted man has a totally sincere attitude of respect and filial piety."²³ Elsewhere, however, Chu Hsi indicated in a letter to Chan Yüan-shan 詹元善 that he considered the ideal course for a man adopted into another clan was to request to return to his original clan (*kuei tsung* 歸宗). "There may be difficulties over one's natural sense of obligation and gratitude, but the relative priorities and the Principles of the matter are very clear."²⁴

Certain of Chu Hsi's friends and disciples also discussed the prohibition. Ch'en Pei-hsi 陳北溪 (1153–1217) in his *Pei-hsi tzu-i* 北溪字義 asserted that adoption of those with different surnames was common among his contemporaries, and he particularly condemned adoption of a daughter's child as "emphatically inadmissible."²⁵ Chang Nan-hsüan 張南軒 (1133–1180) wrote a dedicatory composition entitled *I-le t'ang chi* 一樂堂記 [*Dedication to the Hall of the First*

²⁰ *Ibid.*, 3.20a.

²¹ *Ibid.*, 3.19b.

²² *Ibid.*, 3.20a; Chu Hsi explains that this is because "originally they flow forth from a single source and there is in the beginning no separation between them"—an argument which was to be used by opponents of the prohibition in Japan.

²³ *Chu-tzu wen-chi* || 文集 (Japanese woodblock edition; Kyoto: Jubundō, 1711) 58.33b.

²⁴ *Ibid.*, 46.18a.

²⁵ (Photolithographic reprint of 1883 edition; Taipei: Shih-chieh shu-chü, 1962) 2.32a–33a.

Happiness],²⁶ extolling the exemplary conduct of one Hsü Heng-chung 徐衡仲. Hsü, the dedication reveals, had been adopted into a family with the surname Kung 龔, whose successor he had become. When over fifty, he had had doubts about the morality of his position and, fearing to sacrifice to his deceased adoptive parents, had received permission to return to the Hsü family. There he had found Mencius' "first happiness,"²⁷ for his natural father and mother, their combined ages exceeding one hundred and fifty, and his brothers were all well. Chang's dedication goes on to eulogize Hsü's action and to explain in the language of Neo-Confucianism how kinship was based on an objective and unalterable Principle.

When man first came into being, he shared his position between Heaven and Earth with the myriad creatures. He regarded Heaven as his father and Earth as his mother, and had but one origin. But each person enjoyed the particular affection of his own parents and the love of his own brothers. This applied right down to the remoter relatives in his clan. If you classify and analyze them, the same blood links them all, and though the divisions are distinct, their origin remains in fact one. This is the provision of man's Nature²⁸ and the enactment of Heaven. The sages became active and established surnames to distinguish lineage; they made strict provisions for the clans in order that they should be cautious over their inheritance. This was also in accordance with the properties of man's Nature and was simply an unalterable Principle. If man forces himself from his natural lineage and unites himself with that with which he should not be united, he is surely denying his Nature. For this reason "the spirits of the dead do not enjoy the sacrifices of those who are not their own kindred, and people only sacrifice to those who are of the same ancestry as themselves."²⁹

The essay concludes with an expression of gratitude to Heaven for the good fortune of Hsü. In the absence of a consistently uncompromising or outspoken condemnation of non-agnatic adoption by Chu Hsi, this essay was to provide authority to Japanese opponents of the practice and was often cited by them.

In Japan, where it had been practiced since early times, little sustained attempt seems to have been made to restrict adoption to agnatic relatives. In the Taihō 大寶 code of 701 A.D., those without a

²⁶ Text as quoted by Asami Keisai 淺見綱齋 in his *Yōshi benshō* 養子辨証, *NJS*, Vol. iv, pp. 2-4.

²⁷ *Mencius* 7A:20 (ii); *The Chinese Classics*, Vol. II, p. 459.

²⁸ For Nature (*hsing* 性) in Neo-Confucian thought, see Graham, pp. 44-60.

²⁹ Asami, p. 3.

natural male heir were permitted to adopt from within the fourth degree of kinship.³⁰ The modern legal historian Miura Hiroyuki 三浦周行 explains this to include matrilineal step cousin (*ifu no jufu keitei* 異父從父兄弟), children of wife or concubine by a former consort, and sister's son.³¹ In medieval times, adoption was subject to little restriction among samurai, and by the Tokugawa period it had become extremely common.³² The Confucian scholar Miwa Shissai 三輪執齋 (1669–1744), writing in the first decades of the eighteenth century, claimed that fewer than three out of every ten daimyo were succeeded by their natural heirs, and he suggested that a similar rate of adoption prevailed lower down the social scale.³³ This is probably merely an impressionistic estimate, but that the frequency of adoption among samurai was indeed very high is confirmed by the statistics of Professor R. A. Moore, who quotes an adoption rate of 26.1 percent in the seventeenth century, 36.6 percent in the eighteenth, and 39.3 percent in the nineteenth, on the basis of his random sample of the samurai population in the Hikone 彦根, Kaga 加賀, Owari 尾張, and Sendai 仙臺 domains.³⁴ No figures are available for the percentage of non-agnatic adoptions among these. The edicts of the period, however, even if they cannot provide quantitative data, afford oblique evidence of a sort, since all samurai who wished to adopt had to submit a formal petition to the authorities.³⁵

At the beginning of the period, as already mentioned, the Bakufu

³⁰ *Ryō no gige* 令義解, in *Kokushi taikei* 國史大系, ed. Kuroita Katsumi 黑板勝美, Vol. xxii (Tokyo: Kokushi taikei kankōkai, 1939), p. 94.

³¹ “Yōshi kō” 養子考, *SZ* 6.3(1895).42. There is a contradiction between this apparent sanction of non-agnatic adoption and an item in the Yōrō 養老 Code of 718 A.D. (*Ritsū itsubun* 律逸文 [*Kokushi taikei*, Vol. xxii], p. 112), which stipulates a year's penal servitude for anyone adopting a son from a different clan (*isei* 異姓) and fifty strokes for the person supplying the child. According to Ishii Ryōsuke, the latter restriction was probably not enforced. See his *Nihon hōsei shi gaisetsu* 日本法制史概説 (revised edition; Tokyo: Sōbunsha, 1960), p. 192. It is, however, mentioned in the Court Code of 1615 (*TKKZ*, No. 1, Vol. 1, p. 2).

³² Kumagai Kaisaku 熊谷開作, “Yōshi,” in *Nihon rekishi daijiten* 日本歴史大辭典 (Tokyo: Kawade shobō, 1960), Vol. xix, p. 8.

³³ “Yōshi ben o benzu” || 辨を辨ず, in *Miwa sensei zatchō* 三輪先生雜著, *NRI*, Vol. II, p. 457.

³⁴ “Adoption and Samurai Mobility in Tokugawa Japan,” *JAS* 29.3(May 1970).619.

³⁵ Nakata Kaoru 中田薫, “Tokugawa jidai no yōshi hō” 徳川時代の養子法, *Hōsei shi ronshū* 法制史論集, Vol. 1 (Tokyo: Iwanami shoten, 1926), p. 389.

had as a political measure imposed strict control on adoption among its vassals, prohibiting death-bed and “out of line” (*sujime naki* 筋目なき) adoptions.³⁶ This policy was to some extent relaxed after the Yui Shōsetsu rebellion of 1651, probably because it was realized that samurai dependents dispossessed by the extinction of feudal houses posed a threat to the regime.³⁷ A Bakufu edict of 1663 extended the scope of adoption as follows:

Henceforward selection shall be made of a suitable person from among the following members of the same clan (*dōsei* 同姓): younger brother, brother’s son, father’s brother’s son, brother’s son’s son, or second cousin. In cases where there is no one of the same clan, son-in-law, daughter’s son, sister’s son, younger half-brother by the same mother, depending on the personal qualifications of the father, may be appointed. In further cases, where by some chance there is no potential successor among these, the magistrate’s office should be informed and its instructions complied with. . . .³⁸

Bakufu law, therefore, encouraged the adoption of agnatic kinsmen where possible, but in the absence of these it permitted adoption of non-agnatic relatives and possibly even of totally unrelated persons.³⁹ Other domains probably followed Bakufu practice, though a few Confucian daimyo seem to have been less tolerant: Hoshina Masayuki and Tokugawa Mitsukuni 徳川光圀 (1628–1700) of Mito 水戸, for instance, are both said to have prohibited non-agnatic adoptions among their samurai,⁴⁰ the former possibly under the influence of his

³⁶ “Shoshi hatto” 諸士法度 (issued 1632), *TKKZ*, No. 170, Vol. 1, p. 71. The precise significance of the expression *sujime naki* seems vague, but Nakata (p. 384, footnote g) seems implicitly to understand it to refer to those of a different clan. For a similar interpretation, see Hozumi Nobushige 穂積陳重, *Saishi oyobi rei to hōritsu* 祭祀及禮と法律 (Tokyo: Iwanami shoten, 1928), p. 126. Hozumi also suggests that Hayashi Razan 林羅山 (1583–1657), the Bakufu Confucian advisor, may have been behind this measure.

³⁷ Hozumi Nobushige, *Yui Shōsetsu jiken to Tokugawa bakufu no yōshi hō* 由井正雪事件と徳川幕府の養子法 (Tokyo: Teikoku gakushūin, 1927), *passim*. According to Hozumi’s figures (p. 29), between the years 1602 and 1651 implementation of the Bakufu adoption policy resulted in approximately 105,300 *rōnin*.

³⁸ “Shoshi hatto,” *TKKZ*, No. 172, Vol. 1, p. 75.

³⁹ Moore, p. 626.

⁴⁰ For Masayuki, see Yokoda Kakyū 横田何求, *Hanitsu reijin genkō roku* 土津靈神言行録 (ca. 1682), in *Zokuzoku gunsho ruijū* 續々群書類従 (Tokyo: Kokusho kankōkai, 1907), Vol. III, p. 280; for Mitsukuni, see Azumi Tampaku 安積澹泊, *et al.*, *Tōgen iji* 桃源遺事 (1701), *ibid.*, p. 368.

mentor, the Neo-Confucian fundamentalist Yamazaki Ansai 山崎闇齋 (1618–1682). It is safe, nonetheless, to assume that non-agnatic adoption was quite common among samurai, although contemporary estimates of its frequency vary considerably.⁴¹ Certainly, historical examples are very often encountered even among Confucianists, the group most likely to oppose it on ideological grounds. Perhaps the most ironic example was the perpetuation of the Hayashi 林 family, hereditary Confucian advisors to the Bakufu and champions of orthodoxy, by non-agnatic adoption in the seventh and eighth generations.⁴² In the non-samurai population, which remained on the whole less influenced by Confucianism and where adoption was arranged by contract,⁴³ non-agnatic adoption seems likely to have been, if anything, more frequent. It is clear that those who condemned it were, from a non-Confucian viewpoint, condemning a well-established Japanese practice and one which, for reasons suggested above, must have appeared to contemporaries as a valuable and indeed indispensable feature of their society.

Before proceeding to the controversy itself, it is necessary to say a word about the terminology employed by Tokugawa Confucians in discussing the prohibition. Unfortunately, this is not without am-

⁴¹ Nakai Chikuzan 中井竹山 (1730–1804) claimed in 1789 that “things have now reached such a pass among the daimyo that it is even rare to find a daimyo house that has remained entirely free from adoption from other clans from the time of its founder” (*Sobō kigen* 草茅危言, *NKT*, Vol. xxiii, p. 397). This seems certain to be an exaggeration. Amano Shinkei 天野信景 (1661–1733), writing in the Hōei 寶永 period (1704–1710), listed eight court families and thirty military houses with incomes over 10,000 *koku* which had been perpetuated by adoptions from other clans. See his *Zuihitsu chimpon shiojiri* 隨筆珍本鹽尻, ed. Inoue Yorikuni 井上頼圀, et al. (Tokyo: Teikoku shoin, 1907), Vol. I, pp. 520–521. A vaguer estimate is given by the Chu Hsi Neo-Confucian Arai Hakuseki 新井白石 (1657–1725), who admitted that Tokugawa tolerance of the practice was based on precedents that had occurred “occasionally” in recent times. See his *Shinrei kukai* 新令句解, a commentary on the *Buke shohatto* 武家諸法度 of 1710. (*NKT*, Vol. iv, p. 273. I am indebted to Professor Donald H. Shively for this reference.) Hakuseki disapproved of non-agnatic adoption on religious and rational grounds and seems likely to have wished, if anything, to minimize its incidence. See his *Kishinron* 鬼神論 in *Arai Hakuseki zenshū* 全書, ed. Arai Takichi 新井太吉 (Tokyo: Kokusho kankōkai, 1905–1907), Vol. vi, p. 7.

⁴² See Suzuki Miyao 鈴木三八男 (ed.), “Seidō monogatari” 聖堂物語, *Shibun* 斯文 55 (1969) 21, 24.

⁴³ Nakata, p. 457.

biguities. In a Chinese context, it seems generally to have been held to apply to those who bore different surnames (*hsing* 姓), since “the surname indicated the line of origin, and it was believed that persons with the same surname were related by blood.”⁴⁴ In Tokugawa Japan, however, *hsing* (Japanese *sei*) was understood in several different ways, the product of the persistent Japanese desire to impose Chinese categories on their own evolving society and at the same time preserve earlier usages. With the *kun* reading *kabane*, it referred to the hereditary occupational status characteristic of early Japanese society. In the Tokugawa period, however, this interpretation seems to have been confined to purists.⁴⁵ It was more commonly used, frequently in the compound form *honsei* 本姓, to mean clan name. In this sense *sei* often referred to the aristocratic clans of the Heian period such as the Minamoto, Taira, Fujiwara, and Tachibana 源平藤橘, from which the samurai of the Tokugawa period liked to claim descent. A samurai’s clan name, however, was not necessarily the same as his surname (*myō* 苗 or 名), and contemporary biographical literature commonly supplies both *sei* (or *honsei*) and *myō*. Finally, *sei* seems sometimes to have been used also in its Chinese or modern Japanese sense of surname, like the more correct *myō*.⁴⁶ The context often clarifies the sense in which *sei* is intended, but where it does not, the word has, for the purposes of this article, generally been translated “surname” when it occurs in a Chinese or Kambun context, and “clan” or “clan name” in a Japanese context. It should be stressed, however, that except in the archaic sense of *kabane*, possession of the same *sei* reflected, in theory at least, an agnatic relationship.

⁴⁴ T’ung-tsu Ch’ü, *Law and Society in Traditional China* (Paris: Mouton and Co., 1961), p. 91.

⁴⁵ E.g., Ise Sadatake 伊勢貞丈 (1715–1784), *Teijō zakki* 貞丈雜記 (*Shintei xōho kojitsu sōsho* 新訂増補故實叢書, Publication No. 16; Tokyo: Meiji tosho, 1952), pp. 69–70.

⁴⁶ This seems to be particularly the case with authors writing in Kambun 漢文, as might be expected. It is, however, difficult to prove conclusively; to do so would require a case where *sei* unambiguously refers to surname, and where clan name and surname were different and demonstrably both known to the author. Usages such as the following, however, suggest that *sei* and *myō* could be thought of as practically synonymous: “I have searched among those with the same surname (*dōmyō* 同苗) as myself, but there is no one of the same *sei* who is suitable.” (Ono Kakuzan 小野鶴山, “Negaitatematsuru kōjō no oboe” 奉願口上之覺 [ca. 1763], Uchida, II, p. 6).

These ambiguities are reflected in the different terms used by Japanese Confucians to refer to non-agnatic adoption: *tasei yōshi* 他姓養子, *isei* 異姓 *yōshi* (adoption of a son from a different clan or with a different surname); *tanin* 他人 *yōshi* (adoption of an outsider); *izoku wo motte onore no ko to nasu* 以異族爲己子 (adoption of a son from a different family). Another common term denoting a type of non-agnatic adoption is *muko* 婿 *yōshi* (adoption of a son-in-law by *muko iri* 婿入 or *irimuko*, induction of a son-in-law). This corresponds to the Chinese *chui-hsü* 贅婿 and was particularly frequent. In all these cases, the adopted son assumed his adoptive father's surname and acquired the status of a natural heir.⁴⁷ Adoption agreements, however, could be revoked on grounds of sickness, adoptive father's dissatisfaction, or mutual agreement between the families concerned.⁴⁸

II. THE KIMON SCHOOL

A discussion of the Japanese response to the prohibition on non-agnatic adoption may conveniently take Yamazaki Ansai as its point of departure. Ansai was probably the first scholar to make the prohibition the cause of public controversy and, through his large and disciplined following, was a more influential upholder of it than contemporaries such as Yamaga Sokō 山鹿素行 (1622–1685) or Kaibara Ekken 貝原益軒 (1630–1714), who shared similar views on the subject.⁴⁹ Simultaneously a Shinto-Confucian syncretist and champion of Neo-Confucian orthodoxy, Ansai professed absolute faith in Chu Hsi himself, whose word he regarded with fundamentalist reverence.⁵⁰ He dominated his disciples with his aggressive and autocratic personality, to the extent that even a major disciple could speak of his trepidation, “like descending into a dungeon,” each time he entered Ansai's house.⁵¹ The Kimon school, as it is called, was nonetheless enor-

⁴⁷ Nakata, p. 391.

⁴⁸ *Ibid.*, p. 394.

⁴⁹ For Sokō, see *Yamaga gorui* 山鹿語類 (preface, 1666), in *Yamaga Sokō zenshū*, *shisō hen* |||| 全集思想編, ed. Hirose Yutaka 廣瀬豊 (Tokyo: Iwanami shoten, 1940–1942), Vol. vi, pp. 305–306; for Ekken, see *Kadō kun* 家道訓 (printed 1712), in *Ekken zenshū* || 全集 (Tokyo: Ekken zenshū kankō bu, 1910–1911), Vol. iii, p. 435.

⁵⁰ Yamada Zōsai 山田健齋 (fl. ca. 1810), *Ansai sensei nempu* |||| 年譜, entry for Tenna 天和 2 (1682), *NJS*, Vol. iii, p. 10.

⁵¹ Inaba Mokusai 稻葉默齋, *Sendatsu iji* 先達遺事 (preface dated 1767), *NJS*, Vol. iii, p. 3; quoted in Inoue Tetsujirō, *Nihon Shushū gakuha no tetsugaku* 日本朱子學派之哲學 (Tokyo: Fuzambō, 1924), pp. 396–397.

mously popular, constituting, according to one eighteenth-century source, three-tenths of the world of learning.⁵² Perhaps, as Professor Bitō Masahide 尾藤正英 suggests, its rigorous and unadventurous adherence to orthodoxy was an intellectual expression of “a kind of feeling of spiritual deadlock within the *bakuhan* 幕藩 samurai society in the period immediately preceding Genroku 元祿.”⁵³ At any rate, Ansai set a pattern of dogmatic rigidity that was to have lasting influence among Kimon scholars. Over the problem of adoption, the school often exhibits an intolerance which should not preclude sympathy for the difficult predicament faced by many of those involved. A description of the Kimon reaction to the prohibition will illustrate how the challenge it posed was worked out at the level of individual followers of the tradition. It will also give some insight into the thinking and organization of one of the most extensive schools of Tokugawa Confucianism.

According to his disciple Miyake Shōsai 三宅尚齋 (1662–1741), Ansai believed in expressing opposition to non-agnatic adoption only when questioned,⁵⁴ an attitude probably intended to conform with the spirit of Chu Hsi’s pronouncements on the subject. An answer to just such a query has been preserved, and it provides an excellent illustration of the Kimon method.⁵⁵ Ansai’s reply does no more than document the prohibition by supplying references to the works of Chu Hsi: to his replies to the questions of Hsü Chū-fu and Chan Yüan-shan cited above, expressing basic disapproval of the practice, and to entries for the year 890 in Chu’s *T’ung-chien kang-mu* 通鑑綱目 [*Outline and Digest of the General Mirror*], in which the description *yang-tzu* 養子 (adopted son) is used apparently as a term of opprobrium with reference to Li Ts’un-hsiao 李存孝 and Li Ssu-yüan 嗣源,

⁵² Nawa Rodō 那波魯堂 (1727–1789), *Gakumon genryū* 學問源流, in *Nihon bunko* 日本文庫, Vol. vi (Tokyo: Hakubunkan, 1891), p. 14; quoted in Bitō Masahide, *Nihon hōken shisōshi kenkyū* 日本封建思想史研究 (Tokyo: Aoki shoten, 1961), p. 96.

⁵³ Bitō, p. 96.

⁵⁴ *Shizoku benshō furoku, jo* 氏族辨証付録, 序 (1693), *NJS*, Vol. iv, p. 1.

⁵⁵ “Aru hito no gimoku ni kotau” 答或人疑目, in *Zoku suika bunshū* 續垂加文集, compiled by Atobe Yoshiakira 跡部良顯 and Tomobe Yasutaka 伴部安崇 (first published 1715), *Yamazaki Ansai zenshū* (Tokyo: Nihon koten gakkai, 1936–1937), Vol. ii, p. 784.

adopted sons of the Turkish leader Li K'o-yung 克用.⁵⁶ A supplementary reply rejected Ch'en Pei-hsi's *Pei-hsi tzu-i* on the grounds of superficiality and referred to the conduct of Hsü Heng-chung, the subject of the dedicatory essay by Chang Nan-hsüan already quoted, as providing a suitable procedure for those immorally adopted.⁵⁷ These references, Ansai evidently believed, constituted in themselves authoritative validation of the prohibition and needed no elaboration. He himself had no children and, in accordance with the prohibition, died without making provision for a successor.⁵⁸ This fact alone, in an age when a teacher's life-style established norms for his disciples, must have greatly strengthened the authority of the prohibition among Ansai's disciples.

The Kimon school split early into two branches, reflecting the dual nature of Ansai's interests. The orthodox Neo-Confucian branch (*Junju-ha* 純儒派) perpetuated his approach to adoption, while the Shinto-Confucian branch (*Shinju-kengaku-ha* 神儒兼學派), doubtless on account of its greater sympathy with native tradition, tended to reject it. Ansai's three major disciples, Asami Keisai 淺見綱齋 (1652–1711), Satō Naokata 佐藤直方 (1660–1719), and Miyake Shōsai, belonged to the former branch, and all wrote treatises or made statements upholding the prohibition. The earliest dated work extant is by Keisai, a man whose severity to his disciples and rigorous adherence to orthodoxy resembled Ansai's.⁵⁹ He appears to have taken Confucian ritual prescriptions very seriously, for he edited the *Wen-kung chia li* 文公家禮 [*Domestic Ritual of Chu Hsi*], a ritual handbook attributed to Chu Hsi and popular throughout East Asia;⁶⁰ and he is

⁵⁶ Chu Hsi and Chao Shih-yüan 趙師淵, *Tzu-chih* 資治 *t'ung-chien kang-mu* (Ch'un-ming t'ang edition, 1630) 52.56ab. According to Nakamura Shūsai 中村習齋 (1720–1800) in his *Doku* 讀 *Shizoku benshō* (unpaginated MS in Hōsa bunko), a useful commentary on Asami Keisai's *Shizoku benshō* (see below, p. 150), Chu used the term *i-tzu* 義子 for legitimate adoptions among those sharing the same surname.

⁵⁷ *Yamazaki Ansai zenshū*, Vol. II, p. 784.

⁵⁸ Uchida, I, 11–12.

⁵⁹ For Keisai's character as assessed by a contemporary, see Miyake Shōsai, *Mokushiki roku* 默識錄 (preface 1715), *NRI*, Vol. VII, pp. 517–518.

⁶⁰ Keisai's postface is dated 1697 (woodblock edition; Kyoto: Akita Yaheizaemon, *et al.*, 1792). For a discussion of the *Wen-kung chia li*, see Abe Yoshio 阿部吉雄, "Bunkō karei ni tsuite" 文公家禮について, *Hattori sensei koki shukuga kinen rombunshū* 服部先生古稀祝賀記念論文集 (Tokyo: Fuzambō, 1936), pp. 25–40.

said to have broken off his friendship with his fellow disciple Naokata when the latter accepted employment while still in mourning for a parent.⁶¹

Keisai's contribution to the literature on adoption consists in a short work, the *Shizoku benshō* 氏族辨證 [*Proofs on the Family*], postface 1692.⁶² This work had originally been entitled *Yōshi* 養子 *benshō* [*Refutation of Adoption*], but the title was subsequently changed, according to Shōsai's preface to an appendix to the work, in deference to Ansai's caution against "talking indiscriminately about people's errors to their faces." It was designed, Shōsai tells us, so that "the reader could, with a quiet mind, gain enlightenment for himself, aware only of the ancients' views and oblivious of the existence of a compiler."⁶³ It is likely that this opportunity was widely shared, for a printed edition of the work is listed in booksellers' catalogues from 1698.⁶⁴

Like much Kimon writing, the *Shizoku benshō* is compilatory in character, a selection of material bearing on non-agnatic adoption, principally from Sung dynasty sources. It includes selections from historical works and their attendant commentaries, including the *Ch'un ch'iu* incident referred to above and Chu Hsi's *T'ung-chien kang-mu*, which Keisai was sufficiently fond of to read some forty-two times.⁶⁵ Among non-historical works, Keisai included: the full text of Chang Nan-hsüan's *I-le t'ang chi*; a postface, also by Chang Nan-hsüan, to a manuscript in the hand of the Sung exemplar Fan Chung-yen 范仲淹 (989–1052), praising in Fan conduct similar to that of Hsü Heng-chung;⁶⁶ Chu Hsi's letter to Chan Yüan-shan; the passage from Ch'en Pei-hsi's *Pei-hsi tzu-i* already mentioned;⁶⁷ three

⁶¹ Inaba Mokusai, *Sendatsu iji*, p. 12.

⁶² Text in *NJS*, Vol. IV, under original title of *Yōshi benshō*.

⁶³ Miyake, *Shizoku benshō furoku*, jo, p. 1.

⁶⁴ Maruya Gembei 丸屋源兵衛, *Zōeki shoseki mokuroku taizen* 増益書籍目録大全 (1698), photolithographically reproduced in *Edo jidai shorin shuppan shoseki mokuroku shūsei* 江戸時代書林出版書籍目録集成, ed. Shidō bunko 新道文庫 (Tokyo: Inoue shobō, 1963), Vol. II, p. 387.

⁶⁵ Inaba Mokusai, *Bokusui itteki* 墨水一滴 (preface 1766), *NJS*, Vol. III, p. 8.

⁶⁶ Fan lost his father at the age of two. His mother remarried into the Chu 朱 family, and it was under this name that Fan was brought up. Later, however, he left his mother and resumed his original surname.

⁶⁷ There are, however, minor differences in wording between the text quoted by

excerpts from discussions by Chu Hsi of the historical distinction between the terms *hsing* 姓 and *shih* 氏 and the propriety of sacrificing to maternal relatives; and, finally, the epitaph of one Chang Te-lin 張德林 (1258–1321) of Chen-ting 眞定, who, though the husband of an heiress to a wealthy family, had shown exemplary self-denial by buying a concubine for his wife's uncle and yielding his wife's estate to a son born by this arrangement.⁶⁸ The import of this material for Keisai is summed up in his own postface:

The abuse of adoption persists. Some men join the ranks of the offenders by advancing the theory that all men share the same substance and physical constituent. They are quite unaware that there pre-exist within this substance and physical constituent the shapes of father and son and forms of elder and younger brother. Thus relative statuses are sharply defined and may not be confused. The Principles governing human relationships have always been so. Thus the inadmissibility of taking a child from another family (*zoku* 族) as one's own may be compared to the inadmissibility of a child changing his father or a younger brother switching elder brother. If distinctions are confused with identities, then identities can also be denied and treated as distinctions, and men will no longer abstain from lawless and dissolute misconduct. Is this not a serious mistake? Accordingly, I have written this postface to the *Proofs*.⁶⁹

Keisai's attitude and method were followed by his fellow disciple Miyake Shōsai, a Confucian of particular inflexibility even by Kimon standards. Shōsai's father, it is interesting to note, had been adopted into a family by the name of Hirate 平手. He himself had grown up with this name, but resumed the original family name of Miyake when, three years after his father's death, he entered the Kimon school at the age of nineteen.⁷⁰ Shōsai compiled a supplement to Keisai's work, the *Shizoku benshō furoku* [Appendix to Proofs on the

Keisai and that referred to above. Moreover, perhaps in deference to Ansai's doubts about its authenticity, Keisai omits a passage quoted by Ch'en from Tung Chung-shu's 董仲舒 *Ch'un ch'iu fan-lu* 春秋繁露.

⁶⁸ This epitaph, which appears in its full form in *Kuo-ch'ao wen lei* 國朝文類 (SPTK edition) 56.24b–27a, is the work of Sung Pen 宋本 (1281–1334), who is erroneously identified by Nakamura Shūsai with Sung Ching-lien 宋景廉 (i.e., Sung Lien, 1310–1381).

⁶⁹ Asami, p. 7. The view attacked in this passage is attributed by Shūsai to Kumazawa Banzan. See below, pp. 170–174.

⁷⁰ Tsunoda Kyūka 角田九華, *Kinsei sōgo* 近世叢語 (woodblock edition; Tokyo: Izumiya Shōjirō, et al., 1828) 2.4a.

Family], preface dated 1693.⁷¹ This consists of further quotations from the *Yü-lei* 語類 of Chu Hsi, his commentary on the *I li*, the *T'ung-chien kang-mu*, and its sequel, the *Hsü* 續 *T'ung-chien kang-mu*, and other Sung dynasty works. Two items of Japanese origin are also included: Yamazaki Ansai's "Answer to a Query" discussed above and a passage from the *Azuma kagami* 東鑑 which chronicles Ōe Hiromoto's 大江廣元 resumption in 1216 of his original surname after adoption into the Nakawara 中原 clan.⁷² A short postface by Shōsai's disciple Aoki Keichū 青木敬忠, dated a few days after Shōsai's preface, restates the principles of the permanence of human relationships in terms similar to those used by Keisai.

Shōsai did not stop at condemnation of non-agnatic adoption. He sought also to apply the Confucian principle of "the rectification of names" to adoption and condemned the use of the term "son" in this context. In a work written in 1712, the *Dōsei nochī to nasu shōko no setsu* 同姓爲後稱呼説 [*Essay on the Term for a Successor Bearing the Same Surname*],⁷³ he contended that this practice could become the thin edge of the wedge of insubordination and anarchy. In a supplement, however, he was forced to admit that the words "son" and "father" had been used in the context of adoption in the *I li* and *Wen-kung chia li*, but denied the admissability of the former as evidence and asserted that in the latter Chu Hsi was "only speaking in accordance with popular terminology." Nor, he claimed, could the fact that the Sage Emperor Shun 舜 had worn the three years' mourning for his predecessor Yao 堯 be taken as evidence that he considered himself Yao's son, since the three years' mourning was worn by feudal princes for the Emperor as well as by a son for his father.⁷⁴ Shōsai's views on adoption thus appear more radical than those of

⁷¹ Text of this work and its preface in *NJS*, Vol. iv.

⁷² *Azuma kagami*, ed. Yosano Hiroshi 興謝野寛, et al. (*Nihon koten zenshū* 日本古典全集 edition; Tokyo: Nihon koten zenshū kankōkai, 1926), Vol. iv, pp. 242–245.

⁷³ Text in *NJS* iv, where the pagination is continuous with Shōsai's *Shizoku benshō furoku*.

⁷⁴ *Ibid.*, p. 10. Shōsai goes on to express disagreement with the principle and implications of Chu Hsi's somewhat unhappy acceptance of the contemporary practice of lowering an adopted son's mourning obligations to his natural parents (*Chu-tzu yü-lei* 89.7b). An adopted son, Shōsai felt, could only be a son in a metaphorical sense. Finally, however, he confesses to uneasiness at dissenting from the views of the Classics and his Confucian predecessors.

Chu Hsi himself. Something of the rigidity of his approach is suggested by the numerous anecdotes told of him in this connection, of which the following is representative:

Shōsai was unrelenting in his repudiation of the practice of assuming a different surname. There was a menial employed in his household. This man had a grown-up son and was too poor to afford the necessities of food and clothing. A merchant in his village took pity on him and adopted the son as his heir. The menial also derived some slight benefit from this arrangement. Overjoyed, he reported the matter to Shōsai, who, however, made no response. When the menial left his presence, Shōsai, deeply pained, said, "the man has lost his son."⁷⁵

The third of Ansai's major disciples, Satō Naokata, was a man of superficially milder disposition than Ansai or Keisai.⁷⁶ Like them, however, he upheld the prohibition, writing a brief note as a postface endorsing a work on the subject by his disciple Inaba Usai 稻葉迂齋 (1684–1760).⁷⁷ Naokata was said to have had a gift for analogies, and it may well be to him that the silvicultural analogy often used in discussion of the prohibition owes its popularity.⁷⁸

⁷⁵ Inaba Mokusai, *Sendatsu ijī*, p. 21.

⁷⁶ Inaba Mokusai, *Bokusui itteki*, p. 21.

⁷⁷ "Batsu *Yōshi ben*" 跋養子辨, in *Unzō roku* 韞藏錄, comp. Inaba Usai, *Satō Naokata zenshū* (Tokyo: Nihon koten gakkai, 1941), p. 15; Uchida, v, 4. For the text of Usai's *Yōshi ben* (postface 1715), see Uchida, vi, 2–10. The work is basically a restatement of Kimon views in answer to questions from a friend. Usai lived up to his principles. His father had been adopted into a Suzuki 鈴木 family, but Usai reverted to his paternal grandfather's surname of Inaba (*ibid.*, p. 1).

⁷⁸ Miyake, *Mokushiki roku*, p. 518. The analogy, however, appears not to have originated with Naokata. The earliest use I have found is in an exchange of poems between Satake Yoshinori 佐竹義仁 (1399–1462) and his enemies. Yoshinori was born the son of Uesugi Norisada 上杉憲定 but was adopted by Satake Yoshimori 義盛, whose daughter he married. The poems involve a play on the words *take* (bamboo) and *sugi* (*Cryptomeria*, a genus of conifer), which occur in Yoshinori's adoptive and original names respectively. To the enemies' taunt:

Momo no ume	Plum is grafted
yanagi ni nashi wa	to peach, and
tsugu mono o	pear to willow;
take ni ki tsugu wa	but to graft a tree
fusōō nari	onto bamboo is incongruous,

Yoshinori replied:

Mono no fu no	The catalpa bow
toritsutaetaru	passed down by

Question: There is nothing wrong with adoption. . . . Since a pear can be grafted onto a plum, even those of a different clan should respond to ceremonial offerings from their adopted successors.

Answer: You claim this as evidence in favor of adoption, but I take it as evidence the other way. . . . That a pear can be grafted onto a plum is probably because there is some physical constituent common to both. Such things are beyond human knowledge. For these particular trees there seems to be no problem, but there is no reason to believe that all trees should make good cuttings for grafting. . . .⁷⁹

The unanimity of Ansai and his three major disciples necessarily carried weight among their followers. It is among third- and fourth-generation Kimon disciples that the casuistical problems raised by the prohibition are most vividly dramatized. The biographical and anecdotal literature of the school contains many references to men, most apparently lower samurai or commoners, whose lives were affected by the prohibition. At least three are known to have refused to adopt heirs, and some nine who had been non-agnatically adopted before joining the Kimon school reverted to their former surnames. An exhaustive search through Confucian biographical literature would almost certainly reveal more. For reasons already suggested, the rigidity of Tokugawa society made neither course easy. Where refusal to adopt was concerned, in addition to the great value placed on the perpetuation of a family line, there were strong pressures on samurai to provide heirs competent in their office. In contemporary thinking, this was expressed as an imperative to repay the debt incurred by a ruler's protection by providing continuity of service through the generations. A vivid example of how this pressure could be brought to bear can be seen in the protracted correspondence dealing with the request of Ono Kakuzan 小野鶴山 (1701–1770), a second-generation disciple of Asami Keisai, for permission not to adopt a successor.⁸⁰ Kakuzan, a Confucianist in the Obama 小濱 Domain, had three daughters but no natural male heir. The normal Japanese practice

azusayumi	men of war grafts
take ni ki o tsugi	wood to bamboo
yo oba osamuru	and rules the world.

Quoted in Takeo Tsuguharu 竹尾次春, *Yōta kō 養他考* (1825), in *Chitei sōsho 池底叢書* (unpaginated MS in Shoryōbu), Vol. LXXXVIII.

⁷⁹ *Unzō roku*, p. 32.

⁸⁰ This correspondence, which Uchida dates from 1763, is printed in Uchida, II, 5–13.

here would have been to find a competent successor, adopt him, and marry him to a daughter (*muko iri*). This, as a conscientious Confucian and member of the Kimon school, Kakuzan felt unable to do. Advised by the authorities of his domain that he was expected to adopt a successor, he submitted a memorial to the effect that inquiries among those bearing the same surname as himself had yielded no suitable candidate. He therefore requested permission to follow the precepts of the school to which he owed his employment and to be excused from adopting a successor. Instead, he gave the name of a competent disciple who could perform his duties in the event of his death.⁸¹ This plea met with an unfavorable response. A communication from the authorities to the disciple concerned explained that Kakuzan's request was unprecedented, and that the domain had a young ruler and was determined to adhere to established practice.⁸² In a second memorial, Kakuzan acknowledged that his conduct constituted a departure from established custom, but he restated his case.⁸³ To this the domain Senior Council replied that domain law counted for more than the precepts of a Confucian school; the request was turned down and Kakuzan ordered to petition for a successor.⁸⁴ Undaunted, Kakuzan reiterated in a third memorial that he had been unable to find anyone suitable. He had consulted with his fellow disciples, who were unanimous in upholding the prohibition on *tasei yōshi*. His teachers, Yamazaki Ansai, Asami Keisai,⁸⁵ and Waka-

⁸¹ "Negaitatematsuru kōjō no oboe," *ibid.*, pp. 5–6.

⁸² Letter from Watanabe Sezaemon 渡邊瀬左衛門 to Ariga Saburōbei 有賀三郎兵衛, *ibid.*, p. 6.

⁸³ "Kōjō no oboe" 口上之覺, *ibid.*, p. 7.

⁸⁴ Letter from Watanabe to Kakuzan, *ibid.*, p. 9.

⁸⁵ According to Uchida (II, 13), Keisai was succeeded by his elder brother's second son, Bunjirō 文次郎, who, however, died young and without issue. According to Miyake Shōsai (*Mokushiki roku*, pp. 547–548), there was in fact a controversy in the Kimon school over Keisai's arrangements for his succession. Some of his disciples claimed that he had adopted Katsutarō 勝太郎, his elder brother's eldest son, who was chief mourner after his death, and wore three years' mourning for him. This claim worried both Satō Naokata and Shōsai. As Shōsai pointed out, it would have been a very dubious procedure, since, for one thing, Katsutarō was already an heir to a senior line of the family. Shōsai preferred, on the strength of the testimony on Keisai's death given by the Kimon scholar Yamamoto Fukusai 山本復齋 (1680–1730), which he felt confirmed by his own knowledge of Keisai's moral scrupulousness, to believe that Keisai had in fact made no arrangements for an heir before his death.

bayashi Kyōsai 若林強齋 (1676–1732),⁸⁶ had all died without natural heirs and their family names had become extinct. If he broke the school precepts, he would be expelled by his fellow disciples from the very school to which he owed his employment in the domain.⁸⁷ This tenacity was finally successful, though at a cost. In a final communication, the domain allowed Kakuzan his request, but relieved him from his post as Preceptor to the Daimyo on the grounds of his “willfulness.”⁸⁸

Obligations to ruler and adoptive parent made it difficult also for a Japanese to return to his former surname. Adoption agreements could be dissolved, but, in the nature of things, this seems likely to have been done more often by dissatisfied adoptive parents than by adopted sons. For a son to request annulment against the wishes of his adoptive parents would contravene accepted ideas on the father-son relationship and would probably be considered gross filial ingratitude. Thus, when Nagai Inkyū 永井隱求, a pupil of Satō Naokata 土浦, learned that this was immoral, he ran away rather than confront his adoptive father, leaving all his possessions and savings to be discovered by the latter, who “ceaselessly sought after him.”⁸⁹ Tada Tōkei 多田東溪, a disciple of Shōsai who had been similarly adopted, only succeeded in overcoming the opposition of relatives to the resumption of his original surname after three years.⁹⁰ Others, for whom a change of name would have had serious financial consequences, resorted to subterfuge. Ōki Ginsai 大木闇齋, a merchant, “resumed his original surname of Sakuragi 櫻木, but continued as formerly to use the surname Ōki for his shop sign,” while Akashi Sōhaku 明石宗伯 reverted to the surname Yanagida 柳田, but similarly “as before used the name Akashi privately to earn his living by medicine.”⁹¹ Yet other Kimon disciples, such as Emura Manzō 江村萬藏⁹² and Onozaki Toneri 小野崎舍人, acknowledged the prohibition in principle but

⁸⁶ Kyōsai had four daughters, but no son (Uchida, II, 4).

⁸⁷ “Negaitatematsuru kōjō no oboe,” *ibid.*, pp. 9–10.

⁸⁸ Letter of judgment from the Senior Council to Kakuzan, *ibid.*, p. 13.

⁸⁹ Inaba Mokusai, *Sendatsu iji*, p. 18.

⁹⁰ Uchida, III, 2–3.

⁹¹ Inaba Mokusai, *Koshō zenkō* 孤松全稿 (n.d.), in Uchida, VII, 11.

⁹² Inaba Mokusai, *Sendatsu iji*, p. 25.

felt unable to follow it in practice. Onozaki was, significantly, a senior vassal of the Satake 佐竹, daimyo of Akita 秋田, and the father of twelve children whose names he sometimes forgot. He maintained that the responsibilities of his office and family were such that the only way in which he could resume his original surname would be by absconding from his domain, a course he was apparently unwilling to take. For this, he earned the severe censure of Miyake Shōsai.⁹³

The best-documented case of resumption, however, is that of Rusu Kisai 留守希齋 (1705–1765). Kisai's case is particularly interesting, since it involved an unusually complex conflict of principles. A samurai of the Ichinoseki 一之關 Domain in Northern Japan, Kisai pursued advanced studies in Confucianism under Yusa Bokusai 遊佐木齋 (1658–1734), Confucianist in the Sendai Domain and member of the Shinto branch of the Kimon school. This, as already mentioned, disagreed with the orthodox branch on the question of the prohibition. Bokusai, who himself had no natural heir, had, so his diary informs us, in 1704 adopted the second son of Yusa Shigenori 重矩,⁹⁴ presumably an agnatic kinsman. The boy, however, turned out to be academically incompetent. In 1718, Bokusai dissolved this adoption and the following year adopted the brother-in-law of a kinsman.⁹⁵ It is an index of the strong pressure toward the hereditary transmission of office, however, that in a case such as Bokusai's it was difficult for an official to retire until the arrangements for the transmission of his office to a competent successor were entirely secure. Thus in 1726 Bokusai, now aged sixty-nine and uncertain of the future, annulled this second adoption on the grounds that his son, then aged seventeen, had not yet proved his academic competence, and that he, Bokusai, could not be sure of living the three further years necessary before final assessment of the youth's capabilities could be made. Instead, he was granted permission to adopt Kisai, who had been in his school five years and was of known competence.⁹⁶ The story of Kisai's subsequent vacillation, attempted suicide, and final flight in 1732 is best told in the words of his *Fukusei jitsuroku* 復姓實錄 [*Veritable Record of the*

⁹³ Inaba Mokusai, *Bokusai itteki*, p. 20.

⁹⁴ *Bokusai kinen roku* || 紀年錄, in *Sendai sōsho* 仙臺叢書 (Sendai: Sendai sōsho kankōkai, 1922–1926), Vol. IV, pp. 60–61.

⁹⁵ *Ibid.*, pp. 76–77, 78.

⁹⁶ *Ibid.*, pp. 81–82.

Resumption of My Clan Name],⁹⁷ which he wrote in that year as an apology to his elder brothers. This eccentric document deserves study, for more than any analysis it dramatizes the complex clash of values occasioned by the prohibition between the Confucian ritual imperative, filial piety, and loyalty to ruler and teacher. It also provides an unusually vivid example of the influence of Neo-Confucian doctrine on the personal life of a Confucian scholar.

At the age of seventeen I left Ichinoseki for Sendai and studied Confucianism under the teacher Yusa Bokusai. At that time, however, my late father, Seisōken 清操軒, became dangerously ill, and I returned to Ichinoseki. When I was tending him day and night, a proposal came from Master Yusa to adopt me as his successor. My relatives and close friends all discussed the matter, and my father, now on his deathbed, decided in favor, saying that the most important part of filial piety was to dispel and assuage a parent's anxiety over his child, and that if one did not, one would be guilty of filial impiety. He lectured me with great severity, and I consented. In due time I returned to Sendai and became Mr. Yusa's heir, received an appointment from the ruler of the domain, and attained the

⁹⁷ Text in Uchida, iv, 10–21, with prefaces by Ampuku Yoshizumi 安福好純 (1754) and Kume Junri 久米順利 (1737). The word *sei* as used in the title to this work refers not to Kisai's father's surname, which was Sakuma 佐久間, but to the family's clan name of Rusu, as is clear from the father's epitaph (Uchida, iv, 4) and Kisai's letter to his elder brother (*ibid.*, p. 8). The *Fukusei jitsuroku* falls into three parts. First, Kisai summarizes the arguments for non-agnatic adoption. Ironically, this is among the most lucid and cogent statements of the case for the practice in the literature of the controversy. Kisai then rejects this, basing his case mainly on the material assembled by Asami Keisai and Miyake Shōsai in their respective works. The final section consists of the account of Kisai's resumption of his clan name, quoted in part below. The work exists also in another version entitled simply *Kakioki* 書置 (MS in Miyagi 宮城 Prefecture Library). Taira Shigemichi, in a useful bibliographical note, suggests that the *Kakioki* is the original text sent to Kisai's brothers, and that the *Fukusei jitsuroku* is a version somewhat rewritten to explain Kisai's conduct to those unfamiliar with his circumstances. See Taira Shigemichi, *Kinsei Nihon shisōshi kenkyū* 近世日本思想史研究 (Tokyo: Yoshikawa kobunkan, 1969), pp. 314–316.

Yet another account of the resumption, even more eccentric and hyperbolic, is to be found in Kisai's autobiographical *nemfu* (selections in Uchida, iv, 1–10). From this we learn the additional details that Kisai's sickness was a pretext for mourning his father and gaining time to reflect on his predicament. Further, before his attempt at self-starvation, Kisai had written a suicide note and sat up all one night in front of his father's table intending to dispatch himself at daybreak. In the small hours, however, Kisai's brother-in-law, aroused from a deep sleep by a voice calling Kisai's name, rushed to the scene and dissuaded him.

status of an official. In course of time, my scholarship progressed and my knowledge blossomed. However, I became afflicted with a protracted sickness and decided that, with good fortune, I might exploit this to leave Mr. Yusa's family and resume my own clan name. For it had become my belief that the relationship between father and son was first among the five relationships. . . .

Since my adoptive father was growing old and hoped to retire before long, I could not postpone action many more years, and my situation became one of serious difficulty. So I went to the residence of my elder sister's husband, Satō Sadashizu 佐藤定静. Under the pretext of convalescing from my illness, I decided to stop eating and starve myself to death. For fifteen days I did not eat a grain of rice, and my strength gradually ebbed away. I pleaded that I had an illness that prevented me from swallowing and took only soup. Just when I felt the moment of destiny to be pressing close at hand, it occurred to me one night that if I died in this way, when it came time for my death to be entered in the archives, it would be recorded that "the adopted son Yusa Takeuchi Yoshizane 遊佐武内好實 died of a sickness."⁹⁸ In that event, I would not avoid going down forever as an adopted son and would not derive the slightest merit from having suffered the agony of starving myself to death. . . .

I changed my mind. The next day I said that my appetite had begun to come back and tried a meal of buckwheat gruel. In a few days, I had resumed my normal diet.

I considered that the greatest Confucian man of wisdom in the land was Miyake Shōsai. I determined to go to Kyoto, question him about this matter, and follow his teachings. I resolved, if he said that Confucianism required that I commit suicide, calmly to proceed to my death. Day after day between lectures I questioned him closely on this matter and, through private consultations with my fellow student Kume Junri,⁹⁹ finally decided on a course of action. After completing my year's study in Kyoto, I returned to Sendai. . . .

Not long after my return from study in Kyoto, my adoptive father retired, pleading old age to the authorities, and was on the point of leaving the family office to me. The memorial recommending this had already been delivered to the authorities. By domain law, anyone who absconds after inheriting his father's stipend and office will forfeit his family stipend. With this weighing on my mind, at dead of night on the eighteenth day of the sixth month, I deposited an explanatory letter with my adoptive father, together with a copy of the *Proofs on the Family*, and left under cover of darkness without taking leave of him. I went straight to Kyoto.

⁹⁸ Takeuchi was a name taken by Kisai in 1729 (*Bokusai kinen roku*, p. 83); Yoshizane appears to have been a personal name assumed after his adoption by Bokusai.

⁹⁹ A disciple of Miyake Shōsai, who married Shōsai's daughter and died in 1784, aged 84.

My action was in no way prompted by impulsiveness or prejudice. It is my heartfelt desire that you should understand that I have spent several years planning this and received the wise counsel of Miyake Shōsai of Kyoto, and further, that my action was inevitable and would meet with the approval of any sage or worthy. Nevertheless, there will be people who say that to cross a border into another domain and leave one's own is strictly prohibited, and that no Confucian should commit the offense of breaking domain laws. I once asked my teachers and friends about this problem, too. It is an example of a "peculiar exigency."¹⁰⁰ A person who secretly leaves his domain immorally and with selfish intent is indeed guilty of a grave offense. But I, had I remained in my own domain, would still have been guilty of immorality and would, moreover, have been useless to my ruler. Because the only way I could avoid this offense was by leaving the domain, I did so, acting so as to preserve the laws of the ancients. For me, in this serious crisis, the domain prohibition was actually a blessing in disguise. This is why I refer to it as a "peculiar exigency." Surely I am in no way whatsoever comparable to a man who absconds immorally.¹⁰¹

Kisai's apology continues at some length, supported by Confucian precedents and quotations from the Classics. His flight, he insists, was not inspired by disloyalty to his domain or its ruler. He has great pride in and respect for both, and his actions, if widely known, will bring credit to Sendai and to himself. Nor, though it might appear otherwise to some, was he guilty of filial ingratitude, for parting from his parents had left him broken-hearted. Rather, confronted with a conflict between the demands of Principle and of the human heart, he had chosen, correctly, to follow the former. He had turned his back on the high status and stipend of 150 *hoku* enjoyed by his family and embraced poverty. Nor was he insensitive to his debt to his adoptive father and teacher, for to abandon him had caused him deep anguish.¹⁰²

Yusa Bokusai learned of Kisai's disappearance the following morning from a man-servant who reported that Kisai had not returned from a night errand in the neighborhood. Bokusai "sought in all the places where he would be likely to have gone, but no one knew of his whereabouts." Inquiries as far afield as Ichinoseki in the north and Kosugō 越河 on the southward road to Edo also failed to trace him. Later, Bokusai found Kisai's letter, which he summarized impartially

¹⁰⁰ Ken 權: contravention of a ritual imperative justified by circumstances. See *Mencius* 4A:17.

¹⁰¹ Uchida, IV, 19–21.

¹⁰² *Ibid.*, pp. 21–22.

in his diary.¹⁰³ Not long after, Bokusai made his fourth and final adoption.¹⁰⁴ He died two years later in 1734. Meanwhile, after a period of residence in Kyoto, where Miyake Shōsai paid him a visit,¹⁰⁵ Kisai established himself as a private Confucian teacher in Osaka.¹⁰⁶

The attitude of the orthodox branch of the Kimon school to the prohibition may, in summary, be described with little exception¹⁰⁷ as one of unquestioning acceptance. Its rigid conservatism precluded development. Intellectually, it derived from the metaphysically grounded belief that natural kinship was based on absolute and unalterable Principles and was a part of the order of nature. This argument was taken from the thought of Chu Hsi and his contemporaries, whom Kimon scholars regarded with fundamentalist awe, and whose beliefs they attempted to apply to their own lives with an inflexibility perhaps foreign to the spirit of the original. This dogmatic rigidity, the obverse of a lack of originality, was reinforced by the school's authoritarian structure and solidarity. Neither Keisai nor Shōsai, for instance, permitted his disciples to see other teachers.¹⁰⁸ As a result, the Kimon

¹⁰³ *Bokusai kinen roku*, p. 85. Domain officials sent to confiscate Kisai's property a few days later discovered nothing left. Bokusai conjectured that Kisai had "probably sold it all during his illness to provide himself with money for the journey." (*Ibid.*)

¹⁰⁴ *Ibid.*, p. 86.

¹⁰⁵ Uchida, iv, 8–9.

¹⁰⁶ *Ibid.*, p. 1. For a further discussion of Kisai, his Confucianism, and his relationship with Bokusai, see Taira, *Kinsei Nihon shisōshi kenkyū*, Part iv, section 3 (pp. 299–317), "Ōsaka no Kimon gakusha Rusu Tomonobu no gakumon to jimbutsu" 大阪の崎門學者留守友信の學問と人物.

¹⁰⁷ The main exception seems to be Fujii Raisai 藤井懶齋 (1628–?1706). Raisai distinguished adoptions made from motives of gain or from insensitivity to the feeling of parents from adoptions made "due to unavoidable circumstances," involving foundlings, orphans, or the orders of a ruler. The latter, he evidently felt, should be countenanced. "Recently there was a man who had, since childhood, been someone else's heir. One day, at the instigation of a literal-minded Confucian, he suddenly abandoned the debt of many years of affectionate upbringing, and returned to his original family (*honzoku* 本族). His aged adoptive parents were senile and, moreover, had no kinsmen. In tears, they restrained him, but he paid them no attention. What kind of attitude is this?" See his *Kansai hikki* 閑際筆記 (printed 1715), in *Nihon zuihitsu taisei* 日本隨筆大成, Series 1 (Tokyo: Yoshikawa kōbunkan, 1927–1928), Vol. ix, pp. 175–176. It is significant that Raisai's intellectual interests, which included such texts as *Tsurezuregusa* 徒然草, were broader and probably more sympathetic to the native tradition than those of most Kimon scholars.

¹⁰⁸ Miyake, *Mokushiki roku*, p. 557.

scholars possessed such uniformity of mind that they appeared to a contemporary to be "identical, like printings of calligraphy or of a painting."¹⁰⁹ It was as though they had bound themselves together for security, half aware of the incongruity of many of their beliefs and practices with those of the overwhelming majority of their countrymen, but lacking the intellectual disposition to change them. They derived legitimation of these beliefs almost exclusively from Chinese authority and, at least in respect of such questions as the prohibition, did not seriously question the relevance of Chinese norms to their own country. Many of them, it should also be noted, were, like Ono Kakuzan and Rusu Kisai, provincial career Confucianists and teachers, men who must have felt a professional interest in exemplifying Confucian ritual in their domains. An exemplary resumption might enhance their reputation as Confucians; Rusu Kisai's hopes in this respect were undoubtedly genuine. It was probably this aspect of Kimon practice that led the fourth generation Kimon scholar Inaba Mokusai 稲葉默齋 (1732–1799), somewhat of an iconoclast who criticized the severity of Kimon discipline, to make the rather sweeping claim that "there is practically no member of our school who sincerely aspires to observance of the prohibition. Most are simply anxious to acquire fame."¹¹⁰

III. THE KYŌHŌ MEMORIALISTS

The Kimon scholars had tended to respond to the prohibition on the personal level. Their observance had been, in a sense, voluntary, and their actions had for the most part little repercussion beyond their immediate households. Their response illustrates the difficulties occasioned by the prohibition at the level of the *ie*. But the prohibition, it was suggested, also presented a problem in the context of feudal society. It has already been mentioned that the Confucian daimyo Hoshina Masayuki and Tokugawa Mitsukuni insisted on observance of the prohibition among their samurai. They seem, however, to have left little discussion of the background of this measure, though Mitsukuni's generosity to the dependents of vassals who died without heirs is recorded.¹¹¹ The problem of the prohibition in the feudal

¹⁰⁹ Nawa Rodō, *Gakumon genryū*, p. 14.

¹¹⁰ *Koshō zenkō*, in Uchida, vii, 11.

¹¹¹ Azumi Tampaku, *Tōgen ijī*, p. 340. Mitsukuni's views on adoption may also be

context is better illustrated by a small group of scholars active a generation later, who were distinguished not so much by sectarian allegiance as by proximity to political power. These men shared the religious objection of the Kimon school to non-agnatic adoption, but their association with political power added another dimension to their thinking. They saw the prohibition also in terms of the contemporary political and economic situation of the military class and, in contrast to the doctrinaire approach of the Kimon school, couched their discussion of it also in these terms. In short, they advocated enforcement of the prohibition as a political policy and justified it by appeal to contemporary Japanese conditions as well as to dogma. As a result they were confronted with a range of problems which the Kimon scholars had mostly ignored, including the consequences of extinctions among the feudal houses.

The more empirical and political attitude of this group reflects the intellectual climate of the period of the Kyōhō reform, when the eighth Tokugawa Shogun, Yoshimune 吉宗 (*Shōgun* 1716–1745), consulted leading Confucian scholars in the formulation of policies of retrenchment. The memorials and treatises written in response represent an attempt to apply Confucian principles to government: to create by political power the society that the more orthodox Confucian method of suasion had signally failed to achieve. Here Confucianism became predominantly an external method of political control. Its concern with self-cultivation as the chief means to achieving the ideal order became attenuated or lost and was replaced by an interest in institutions and administration. This emphasis was, of course, given powerful intellectual expression in the thought of Ogyū Sorai 荻生徂徠 (1666–1728), who eliminated dependence on self-cultivation from his reformulation of Confucianism. For most orthodox

reflected in a work entitled the *Shizoku kō* 氏族考, a short collection of documentary material from the Mito Domain on adoption and related matters (*Sugiyama sōsho* 杉山叢書, unpaginated MS in Kokkai Toshokan, Vol. viii). This work includes a short quotation from the *Seisan iji* 西山遺事 (an alternative title for the *Tōgen iji*) condemning adoption from another clan as “senseless,” and quoting in support *Analects*, II, 24: “The Master said, ‘For a man to sacrifice to a spirit which does not belong to him is flattery’ ” (*The Chinese Classics*, Vol. I, p. 154). This particular passage does not appear to be in the printed text of *Tōgen iji* consulted, but it seems likely, nonetheless, to reflect Mitsukuni’s own views.

Neo-Confucians also, whatever the theoretical tensions that resulted, dependence on coercive political power was in practice not incompatible with belief in the primacy of self-cultivation. Thus Muro Kyūsō 室鳩巢 (1658–1734), an orthodox Neo-Confucian, and Ogyū Sorai, who held sharply different theoretical assumptions on the nature of Confucianism, came to advocate similar policies in respect to non-agnatic adoption. Both were aware of the practical difficulties of enforcing the prohibition in contemporary society and especially of the potentially serious danger from dispossessed dependents of extinct feudal houses.

Muro Kyūsō submitted a series of memorials in response to questions on administration and related matters from the Shogunate during the years 1722 and 1723.¹¹² These were subsequently collected and published under the title of *Kenka roku* 獻可錄 [*Collected Memorials*]. In them he discussed among other things the question of adoption in relation to the contemporary system of hereditary increases in stipend and rewards for service, which he believed responsible for the Bakufu's financial difficulties. To remedy this, he urged limitation of increases in stipend to the period of tenure of office, and a tightening of the adoption law, presumably to increase the number of extinctions among Bakufu vassals whose income would then revert to the Bakufu. He suggested several ways in which the latter could be done, including following the prescription in the *I li*, which he understood to restrict adoption to agnatic third cousins. He was inclined to think, however, in view of the lack of solidarity prevalent among those of the same clan in contemporary times, and the resulting uncertainty over genealogies, that to restrict adoption to agnatic first cousins, as was already the procedure with mourning obligations, would be in accord with the times. Or, even though it conflicted with the law of the sages, membership of the same clan might be waived as a requirement, and daughter's or sister's son might be petitioned for as heirs.¹¹³

This proposal must have interested the Bakufu, for Kyūsō received a further inquiry on the subject. He reiterated his plea for restriction of adoption to agnatic cousins. Adoption of an outsider's son, he

¹¹² For this dating of these memorials, see Nikkō Tōshogū shamusho 日光東照宮社務所, *Tokugawa Yoshimune kō den* |||| 公傳 (Nikko: Nikkō Tōshōgū shamusho, 1962), p. 262.

¹¹³ *NKT*, Vol. vi, pp. 182–184.

argued, was contrary to the law of the sages; to inherit as the son of an outsider was like grafting a sweet chestnut onto a peach tree. Since they did not share the same lineage, they would not take, and it was pointless to try to force them. If a man had no natural son and there was no one in the same clan whom he could adopt, this was the Decree of Heaven and it would be wrong artificially and forcibly to arrange a succession. Thus the laws of the sages and worthies had excluded the adoption of outsiders and had allowed families which could not find heirs within their own clan to become extinct. Implementation of this system by the authorities would be in accordance with reason. Restriction of adoption to cousins would be greeted with relief by non-hereditary Bakufu vassals (*shinza* 新座), who were worried about adoption under the present regime. And grants of government rations to the dependents of those whose families became extinct under these provisions, to prevent starvation or exposure, would also occasion gratitude.

Ideally, Kyūsō continued, there would be no discrimination between hereditary (*fudai* 譜代) and non-hereditary vassals, though the former might be given somewhat more lenient or preferential treatment at the government's discretion. Hereditary vassals with incomes of more than ten thousand *koku* should, however, be allowed a wider scope of adoption because of the serious consequences of extinction. It was unlikely that in such cases they would fail to find an heir from the same clan; but should this happen, their houses would become extinct. It was, however, Kyūsō contended, difficult to generalize about these categories, and the decision should rest with the government.¹¹⁴

A similar approach, though perhaps with greater sensitivity to political and social aspects of the problem, is demonstrated by Ogyū Sorai. In his *Seidan* 政談 [*A Discourse on Government*], an important treatise offered to the Shogunate in 1727, Sorai attacked the practices of *tamyō yōshi* and *muko yōshi*. These had not existed in ancient times, but had originated in the time of the Hōjō 北條 regents with the practice of permitting settlement of land on women, as a result of which successions by men bearing different surnames became possible. In consequence, the Hōjō had perpetrated their plot of having a Fujiwara 藤原 succeed Minamoto Yoritomo 源頼朝 (1147–1199) and

¹¹⁴ *Ibid.*, pp. 184–187.

gaining control of Japan. Thereafter, in the Sengoku 戦國 period, ruses had been employed like that of giving a son to another house in order to gain its territory; or, in order to acquire the loyalty of the retainers of an extinct house (otherwise presumably threatened with dispossession), a son had been given as adopted heir to the extinct line and his surname changed accordingly. In this way, *tamyō yōshi* and *muko yōshi* had become so firmly established that there was no alternative to tolerating them.¹¹⁵ Another reason for this, Sorai explained elsewhere, was the custom that in the event of a daimyo family becoming extinct, its retainers became *rōnin*, or masterless samurai. As samurai, they could not pursue the occupations of townsmen or peasants, and so, having no means to support themselves, sometimes got up to mischief. Thus adoption and *muko yōshi*, by reducing extinctions, promoted social harmony. "However, artificially to succeed to a family that is being destroyed by Heaven arouses fears of the supernatural."¹¹⁶

In contemporary society, Sorai argued, *tamyō yōshi* and *muko yōshi* were only prevalent among the *fudai daimyō* and *hatamoto* 旗本, where they were the means of various types of commoner buying into *hatamoto* families, and so should be prohibited. It was wrong that stipends awarded for an ancestor's services should pass into an outsider's hands. No self-respecting man would become a *muko yōshi*. Moreover, this practice was a cause of misconduct among samurai wives.¹¹⁷ Nonetheless, Sorai, in whom awareness of the difficulties of enforcing the prohibition seems to have caused vacillation, thought that the Shogun might at his discretion grant dispensations to his own retainers to adopt someone with a different surname, if there was no suitable candidate for adoption in their own clan. "In such cases, in accordance with ancient precedent, the adopted person should be made to assume his adoptive father's surname, but retain his original clan affiliation. In general, it is the law of the sages and a matter of profound import not to permit successions by persons bearing different surnames."¹¹⁸

¹¹⁵ *NKT*, Vol. ix, pp. 156–157.

¹¹⁶ *Ibid.*, p. 158.

¹¹⁷ It is not clear whether Sorai means offenses such as adultery, or merely the kind of conceit against which Miwa Shissai warned in such cases ("Yoshi ben o benzu," *NRI*, Vol. ii, p. 459).

¹¹⁸ *Seidan*, p. 157. For a partial English translation of the passage summarized here,

The political and economic appeal of the prohibition for Sorai lay, indirectly, in its use in the implementation of his well-known plan to resettle samurai on the land.¹¹⁹ He suggested that where a daimyo house became extinct for reasons other than treason or crime, all its samurai retainers with incomes of more than one hundred *koku* should be offered estates as *gōshi* 郷士 (landed samurai) with an income of fifty *koku* each. The land left over by this redistribution, some eighty percent, would revert to the Bakufu. "The implementation of this policy by the Shogun out of pity for dispossessed samurai would be an act of the greatest humanity. If it were done, even in the event of a daimyo house becoming extinct, few would be dispossessed, and the effect on the domain administration would be beneficial."¹²⁰ Enforcement of the prohibition would also make it difficult for daimyo to put out their younger sons for adoption and would thus promote division of large fiefs, which Sorai considered inappropriate to a small country like Japan.¹²¹

Views based on assumptions similar to those of Sorai were expressed in more leisured and academic style by his disciple Dazai Shundai 大宰春臺 (1680–1747). Shundai, who was something of a purist in matters of ritual, was interested in the application of the "rectification of names"¹²² to kinship. In 1725 he published a popular work, the *Shinzoku seimei* 親族正名 [*Rectification of Kinship Terminology*], and was also said to have planned a work on violations of the prohibition on non-agnatic adoption, to be called *Ranzokuden* 亂族傳 [*Annals of Immoral Families*].¹²³ He died, however, before fulfillment of this project. In his *Keizairoku* 經濟錄 [*Treatise on Government*], completed in 1729, he sharply condemned the practice of adopting from a different clan, asserting that failure to produce an agnatic heir meant the extinction of the family by Heaven, which should not be

see J. R. McEwan, *The Political Writings of Ogyū Sorai* (Cambridge: Cambridge University Press, 1962), pp. 53–54.

¹¹⁹ For this policy, see McEwan, pp. 59–63.

¹²⁰ *Seidan*, pp. 158–159.

¹²¹ *Ibid.*, pp. 159–160.

¹²² For a recent and sensitive study of Shundai's attitude to ritual see Noguchi Takehiko 野口武彦, *Edo jidai no shi to shinjitsu* 江戸時代の詩と眞實 (Tokyo: Chūōkōron-sha, 1971), pp. 173–208, "Dazai Shundai no kodoku" 大宰の孤獨.

¹²³ *Yuasa Jōzan* 湯淺常山 (1708–1781), *Bunkai zakki* 文會雜記 (n.d.), in *Nihon zuihitsu taisei* (series 1), Vol. vii, p. 586.

resented. Like Sorai, always interested in the Chinese experience, he noted that non-agnatic adoption was a barbarian custom which, despite isolated earlier instances, had only gained a hold in China at the end of the Han dynasty. In modern times, although still rare among the official classes, it had become frequent among commoners. Under the Ming, however, which "conformed with the precepts of the sages and attached importance to human relationships," it had been made a punishable offense. Turning to Japan, Shundai saw a similar spread of the practice, until it had become "extremely frequent" under the contemporary regime. "There is," he asserted, "nothing more destructive of human relationships or more detrimental to the administration of the state than this."¹²⁴ Like Sorai, he saw the practice as undermining society.

In particular, the military class nowadays is suffering from impoverishment, so that when they adopt an outsider they invariably look for money. By this means, rich men of low birth take advantage of the times to offer money to have their sons adopted by the official classes. They take possession of the households of stipended members of the official classes for several hundreds in gold. There have been countless hundreds or thousands of cases where households which had, as a reward for military prowess and loyal service, enjoyed an income over the generations from the foundation of the state have been allowed to pass into the possession of men of base birth.¹²⁵

Surely the rulers of Japan, Shundai suggested, would never follow the practice themselves. He asked rhetorically: "If in the remote future there were to be no heir to the Shogunate, would someone other than a member of the Tokugawa house be appointed heir? If the lords of Owari, Kii 紀伊, or Mito had no sons, would someone from a different clan be made to succeed them?"¹²⁶ The Tokugawa adoption law should, he advocated, be modified and adoption of members of other clans prohibited. Those who had already been wrongly adopted should be returned to their original clans.¹²⁷

In a supplement to the *Keizairoku*, Shundai discussed adoption further in relation to the problem of the proliferation of daimyo

¹²⁴ *Keizai roku*, *NKT*, Vol. ix, pp. 627–628.

¹²⁵ *Ibid.*, p. 629.

¹²⁶ *Ibid.*, p. 634. Owari, Kii, and Mito were the domains of the *gosanke* 御三家 or three main branches of the Tokugawa family collateral with the Shogunal line.

¹²⁷ *Ibid.*, pp. 633–635.

families. He tacitly accepted the suggestion of an interlocutor that the contemporary practice of putting younger sons of daimyo out for adoption to avoid the expense of educating and enfeoffing them could lead, in the event of the incompetence, sickness, or death of the eldest son, to a father having no heir. The solution lay rather, Shundai claimed, in demoting the younger sons of daimyo to the status of subjects from birth and prohibiting the adoption of persons from different clans. This would eliminate the increase in families of daimyo rank and the attendant financial burden.¹²⁸ Like Kyūsō and Sorai, therefore, Shundai saw the prohibition not only as a religious imperative, but also as a useful policy to alleviate the financial difficulties of the feudal rulers of Japan.

There is no clear evidence that these proposals influenced Bakufu policy on adoption. There was a limited and largely temporary tightening of the Bakufu law on non-agnatic adoption in 1735 and 1736,¹²⁹ but nothing that could be called a full-scale implementation of the proposals summarized above. Probably the changes involved would have been too radical. Attractive though the prohibition may have appeared on economic grounds, the Bakufu may have felt it no longer had the political power to implement it on a large scale, or to face the unpopular consequences of an increased rate of extinctions among its vassals as it had in the first fifty years of its history. Full-scale enforcement of the prohibition remained a remote ideal. It was advocated by Nakai Chikuzan (1730–1804) in his *Sōbō kigen* [*Urgent Memorials from an Obscure Rustic*], a treatise offered to the reformer Matsudaira Sadanobu 松平定信 in 1789.¹³⁰ And in the Bakumatsu period, the Mito scholar Aizawa Seishisai 會澤正志齋 (1782–1863), in his *Kagaku jigen* 下學選言 [*Popular Primer*] of 1847, also strongly upheld the prohibition, though he stopped short of suggesting its enforcement by law.¹³¹

IV. OPPONENTS OF THE PROHIBITION

The two approaches discussed above attempt to resolve, by different methods and in different contexts, the conflict between the prohibi-

¹²⁸ *Keizai roku shūi* 拾遺, *ibid.*, pp. 682–686.

¹²⁹ Nakata Kaoru, “Tokugawa jidai no yōshi hō,” pp. 380–381.

¹³⁰ *NKT*, Vol. xxiii, pp. 397–399.

¹³¹ *Kokumin dōtoku sōsho* 國民道德叢書, comp. Inoue Tetsujirō, *et al.*, Vol. II (Tokyo: Hakubunkan, 1911), pp. 669–670.

tion and Japanese usage in favor of the former. Yet it is clear from the material presented that, however implemented, at the most subjective and personal level, the prohibition could never be an attractive or indeed acceptable doctrinal feature of Confucianism. To Japanese who had been accustomed to relative freedom in the scope of adoption and were sensitive to the consequences of the extinction of a family line, it must indeed have appeared an oppressive element of the tradition. In an age when there were other intellectual choices available, the fear of one advocate of the prohibition that "weak-minded men are alienated from Confucian learning by this one problem"¹³² was almost certainly well-grounded. It was probably inevitable that sooner or later its place in Confucianism would be questioned and an attempt made to excise it from the tradition; and it was likely that those to attempt this would be the advocates of the universal diffusion of Confucianism. This negative response to the prohibition by those within the tradition is of particular interest to the intellectual historian, for it suggests the possibility of development within Confucianism itself.

The first thinker to advocate resolution of the conflict between the prohibition and Japanese practice in favor of the latter appears to have been Kumazawa Banzan 熊澤蕃山 (1619–1691), a samurai whose experience of poverty as a *rōnin* in youth may have made him particularly sensitive to the suffering caused by dispossession attendant on the extinction of a feudal house. Banzan, whose later thought is an attempt to synthesize some of the ideas and techniques of Chu Hsi and Wang Yang-ming, believed that the universal practice of Confucian morality offered the best cure to the ills of society. Experience of office in the Okayama Domain during the years 1645 to 1657 probably also encouraged him to think in terms of social and economic realities rather than dogma. His belief in a universal Confucianism, or, as he called it, "the Great Way,"¹³³ led him to see many Confucian rituals as deterrents to the spontaneous and voluntary practice of Confucian morality. He therefore attempted a reformulation of Confucianism that eliminated dependence on Chinese Confucian rituals. Here he

¹³² The opinion of one Nozawa 野澤, quoted in Inaba Mokusai, *Koshō zenkō*, Uchida, VII, 8. Nozawa is almost certainly to be identified with Nozawa Hiroatsu 弘篤, described as a "thorough" student in Mokusai's *Bokusui itteki* (*NJS*, Vol. III, p. 19).

¹³³ *Shūgi Washō* 集義和書, *NRI*, Vol. I, pp. 337–338.

drew heavily on the thought of Nakae Tōju 中江藤樹 (1608–1648), with whom he had studied briefly in 1641 and 1642, and to a less obvious extent on the thought of Wang Yang-ming.

Tōju had early been confronted with the difficulty of realizing in his own life the formal objective aspects of sagehood as described in the Confucian Classics. To solve this difficulty, he had proposed a distinction, reminiscent of Paul's between the letter and the spirit of the Mosaic law, between the "mind" (*kokoro* 心) or moral import of the sages' ritual activities and their objective manifestations or "tracks" (*ato* 跡). It was not necessary, he maintained, to attempt to emulate the latter, for these were prescriptive only for the time in which they had been created. Rather, the modern Confucian should strive to understand the former and adjust his conduct to the threefold conditions of his own "time, place, and rank."¹³⁴ This doctrine was essentially a sophisticated attempt to accommodate Confucianism to contemporary Japanese conditions by preserving its spirit but discarding the encumbrances of impracticable ritual. In Weberian terms, it was an attempt to rationalize Confucianism.

On the basis of Tōju's doctrine and with the support also of his own theories of history and geography, Banzan argued that contemporary Japan was an environment quite different from the China of the period in which Confucian rituals had originated. The latter, therefore, were only applicable to their own time. The only absolute and unchanging aspects of Confucianism, in fact, were its moral norms—the Three Bonds and Five Norms—and these were a part of the order of nature.¹³⁵ Ritual prescriptions, on the other hand, were "the dregs of the sages."¹³⁶ Prohibitions such as that on non-agnatic adoption were not binding on contemporary Japanese; to attempt to enforce them was detrimental to the spread of Confucianism. Banzan

¹³⁴ *Rongo kyōtō heimō yokuden* 論語郷黨啓蒙翼傳 (ca. 1639), in *Tōju sensei zenshū*, ed. Katō Seiichi 加藤盛一 (Tokyo: Iwanami shoten, 1940), Vol. 1, pp. 405–406, 410. The theory is applied and elaborated in Tōju's best known work, *Okina mondō* 翁問答 (1640), *ibid.*, Vol. III, pp. 57–296.

¹³⁵ *Shūgi gaisho* 集義外書 (compiled ca. 1680; first printed 1709), *NRI*, Vol. II, p. 77. The "three bonds" (*sankō* 三綱) were the relationships between ruler and subject, father and son, and husband and wife. The "five norms" (*gojō* 五常) were the principles of benevolence (*jin* 仁), righteousness (*gi* 義), ritual propriety (*rei* 禮), wisdom (*chi* 智), and good faith (*shin* 信).

¹³⁶ *Ibid.*, p. 198.

was willing to listen sympathetically to complaints such as the following:

It is argued by contemporary scholars that adoption is wrong. However, it is pitiable when a house becomes extinct suddenly to dispossess all its dependents. This has led many people in the world at large to conceive an aversion for Confucian learning. This may be the law of the sages, but it would seem emotionally intolerable.

Banzan's reply is a typical plea for flexibility:

. . . If there is no one with the appropriate aptitudes in one's own clan, one should use one's own authority to devise a plan to prevent the extinction of ancestral sacrifices. The Minamoto, Taira, Fujiwara, Tachibana, and other clans are extensive. A thorough search would be sure to discover someone of the same clan. The adoption of someone from the same clan was the ancient law. . . . If there is no one from the same clan, even someone from a different clan is permissible. Men are all the progeny of Heaven and Earth; all belong to the same clan. . . . Adoption and *irimuko* and so on have become the custom of Japan now, and people are content with them. The superior man should not denounce others' faults, but establish himself alone before Heaven. Nor are the customs and usages of the empire the responsibility of those in subordinate positions. Even were an enlightened ruler to appear, he would not suddenly establish a law. There would be a gradual transformation following the spread of the influence of his virtue.¹³⁷

Elsewhere Banzan was confronted with an objection to *irimuko* on the grounds that the marriage of an adopted son to the daughter of the

¹³⁷ *Shūgi Washo*, pp. 448–449. Banzan also argued that contemporary scholars who upheld the prohibition based their case on the episode in the *K'ung-tzu chia-yü*, mentioned above (footnote 6). But Confucius' action here, he maintained, was not that of a sage. Even in modern Japan, no one of any sensitivity would do anything so inhumane as to inflict such public disgrace on others; much less would a disciple of Confucius do such a thing. The *K'ung-tzu chia-yü*, he asserted, contained interpolations and was not entirely reliable (*Shūgi Washo*, pp. 449–450; *Shūgi gaisho*, p. 80).

Elsewhere, Banzan suggested an alternative procedure to adoption, which he called *yuzuri* 譲り. This procedure, he explained, involved the successor preserving his own family name (*uji* 氏) but performing sacrifices to the man he had succeeded, just as Shun had to Yao (*Shūgi gaisho*, p. 80). Banzan himself used something like this method when in 1656 he adopted Ikeda Terutoshi 池田輝録 (1649–1713), the third son of Ikeda Mitumasa, and the following year, on his own retirement from office, yielded Terutoshi his income of 3,000 *koku*. The Ikeda family genealogy (*Kōsei Ikeda uji keifu* 校正 系譜) records that Terutoshi kept the family name of Ikeda at Banzan's request. See *Banzan zenshū*, ed. Masamune Atsuo 正宗敦夫 (Tokyo: Banzan zenshū kankōkai, 1940–1943), Vol. vi, Appendix, p. 97.

house would be incestuous. He replied that it could also be argued that any marriage was incestuous, since a daughter-in-law owed to her parents-in-law the same obligations in mourning as to her natural parents before her marriage.

However you express it in terms of reason, objections present themselves. Even if there is something slightly at variance with Confucianism, if it is the universal practice in society, one should not denounce it. "On entry into a state one does not denounce its officials." Still less should one denounce its customs. If there is an abuse to be reformed, when the evolution of history reaches a certain stage of cultivation and enlightenment, it will be reformed then. Even if reform were to remove the external abuse, what profit would there be in this if people's attitudes did not conform with those of the sages and worthies? It is the unregenerate habits in one's own heart that one should make efforts to reform. Modern scholars attack the customs of society and endeavor to establish rules of conduct without cleansing themselves of their unregenerate habits. Their hearts are in some cases worse even than those of the rest of society. People are aware of this and mock at them. Such men are hardly likely to revive Confucianism, since the rules which they hold it to consist of run counter to the forces of history, and real Confucianism is held in contempt by society.¹³⁸

Banzan was in Kyoto during much of the Kambun 寛文 period (1661–1672), precisely the years when Ansai's school, which was centered there, attained its overwhelming popularity.¹³⁹ There is little doubt that his attack in the above passage is directed against the Kimon school. Elsewhere, he labeled members of this school "formalists" (*kakuhōsha* 格法者) and accused them of what might be called Confucian pharisaism. Their major offense, in his eyes, was that of destroying the universality of Confucianism and making it a private sect. "Divorced from society, theirs has become an isolated Way, only contending with heterodoxies."¹⁴⁰

Banzan's blunt and often intemperate attacks on the "formalists" do not constitute a direct philosophical refutation of their doctrines, for he nowhere disproves their basic assumptions. Rather, he views

¹³⁸ *Shūgi gaisho*, p. 80.

¹³⁹ Kawaguchi Seisai 河口静齋, *Shibun genryū* 斯文源流 (1750); quoted in Bitō, p. 98, footnote 21. Banzan's views were certainly formed by 1672, for earlier versions of the passages summarized and quoted above are found in the first edition of his *Shūgi Washo*, published in that year. See *Banzan zenshū*, Vol. 1, pp. 177–181, 342–346 (the 1672 edition printed on upper section of the page).

¹⁴⁰ *Shūgi Washo*, p. 345.

the prohibition in terms of the practical difficulties of encouraging Confucianism in Japan. There is in him a growing sense of the particularity of his own country, doubtless intensified by his studies in the native literary tradition.¹⁴¹ He believed, however, that the factors setting Japan apart from China were the universal and rational laws of history and geography, and while he extolled Japan's excellence, he also acknowledged the cultural hegemony of China.¹⁴² There is absent in his thought the irrational claim for the preeminence of Japan that was to be characteristic of the Kokugakusha 國學者. For him, Chinese society of the age of the sages is still ultimately normative.¹⁴³

There is little evidence that Banzan's views received much support among his immediate contemporaries. Two important essays from the first decades of the eighteenth century, however, suggest that arguments against non-agnatic adoption developed in two different, historically significant directions, both implicit in Banzan's thought. Miwa Shissai (1669–1744), in his *Yōshiben no ben* 養子辨辨 [*The Refutation of Adoption Refuted*], made more explicit the emphasis on flexibility and moral action rather than conformity with formal requirements, while Atoke Terumi 跡部光海 (1669–1729), in his *Nihon yōshi setsu* 日本養子説 [*Treatise on Adoption in Japan*], developed Banzan's views on the particularity of Japan in the direction of religious belief.

Miwa Shissai, the son of a doctor, had lost both parents by the age of fourteen and was brought up thereafter in a *chōnin* family, a fact which may help to account for his views on Confucian practice. Later he became the heir to a family by the name of Mano 眞野.¹⁴⁴ He began his Confucian studies under Satō Naokata, a circumstance which caused him to resume his original clan name of Miwa.¹⁴⁵ In 1701, at the age of thirty-two, he embraced the doctrines of Wang Yang-ming

¹⁴¹ Banzan was the author of a commentary on the *Tale of Genji*, the *Gengo gaiden* 源語外傳, *Banzan zenshū*, Vol. II, pp. 419–553.

¹⁴² *Shūgi gaisho*, p. 34.

¹⁴³ *Shūgi Washo*, p. 408. "If we establish sincerity and conform with time, place, and rank, we would all be the people of Fu Hsi." (Fu Hsi was a legendary Chinese Sage Emperor, believed to have reigned 2852–2736 B.C.).

¹⁴⁴ Inoue Tetsujirō, *Nihon Yōmei gakuha no tetsugaku* 日本陽明學派之哲學 (Tokyo: Fuzambō, 1900), p. 246.

¹⁴⁵ *Ibid.*, p. 248.

and was expelled from the Kimon school.¹⁴⁶ After several restless years, he eventually settled in Edo, where he drew a large following from among daimyo, samurai, and *chōnin* alike,¹⁴⁷ thus practicing the universalism advocated by Kumazawa Banzan. He acquired considerable wealth and, according to a contemporary source, even engaged in moneylending,¹⁴⁸ a most un-Confucian activity. His life suggests, in fact, an unusual degree of accommodation of Confucianism to the social and economic realities of eighteenth-century Japan.

These facts, together with the emphasis on the voice of conscience that was the common inheritance of Wang Yang-ming scholars, suggest that Shissai might be tolerant of non-agnatic adoption. Such was indeed the case; he himself put out at least one of his sons for adoption, to the Ōmura 大村, a *chōnin* family. For this, he earned the censure of the ever-vigilant Miyake Shōsai.¹⁴⁹

Shissai's *Yōshiben no ben*¹⁵⁰ was an explicit refutation of Asami Keisai's *Shizoku benshō*. In it, Shissai accused Keisai and his school of confounding the secondary (formal rules) with the primary (the basic moral mind or conscience). Even the Sage Emperor Yao had adopted Shun as his son-in-law (*irimuko*), and Shun had observed the three years' mourning for him.¹⁵¹ Most scholars who condemned adoption

¹⁴⁶ See Koishikawa Hakuzan's 小石川白山 1716 preface to Shissai's *Nichiyō shimpō* 日用心法, *NRI*, Vol. II, p. 367.

¹⁴⁷ Inoue, *Nihon Yōmei gakuha*, p. 260.

¹⁴⁸ *Ibid.*, p. 259, quoting Ōoka Tadasuke 大岡忠相 (d. 1751), *Impi roku* 隠秘録.

¹⁴⁹ Miyake, *Mokushiki roku*, p. 517.

¹⁵⁰ Text in *NRI*, Vol. II, pp. 456–461, under the title “*Yōshi ben o benzu*”; also in *NJS*, Vol. IV, under the title *Yōshi ben no ben*, by which it is more commonly known. There are slight differences between these two texts, and one whole line (*NRI* text, p. 460, lines 8–9, “shikai mina . . . gosei ni shite tatsu” 四海皆 . . . 五世にして斬) has slipped out of the *NJS* text. I have therefore used the *NRI* text. The work is undated and contains no internal evidence by which its date of composition may be precisely determined. Since it embodies the teachings of Wang Yang-ming, it must postdate Shissai's conversion to that persuasion in 1701. A further hint may be provided by the fact that the claim made by Shissai (p. 457) that “Shun . . . became the adopted son of Yao” is rejected by Atobe Terumi in his *Nihon yōshi setsu* of 1722 (p. 3b). I have, therefore, tentatively dated Shissai's essay between 1701 and 1722, though the latter piece of evidence must be regarded as slender, since assertions similar to Shissai's can be found elsewhere, e.g., Kumazawa Banzan, *Shūgi gaisho*, p. 79.

¹⁵¹ Shissai also sought to prove that Yao and Shun were in fact members of the same clan, being both descended from the Yellow Emperor. He thus, rather illogically,

of those with a different surname did not take the original clan affiliation into account. One should consider the realities of the situation and, as the Chinese Sage Emperors had done, follow one's conscience. Confucius himself had refrained from calling Duke Chao immoral although he had broken the prohibition on marrying a wife with the same surname.¹⁵² To attempt to enforce the Chou ritual law now would be grossly immoral and would have deleterious consequences in proportion to the rank of those affected. This did not mean that men should be permitted indiscriminately to adopt for unworthy reasons; what mattered was that one should have the attitude of a Yao or Shun.¹⁵³

Perhaps as a tendency of our degenerate age, not three out of every ten contemporary daimyo are succeeded by their natural sons. No wonder it is also prevalent among the numerous *hatamoto*, countless samurai, and numberless commoners! Those who put their sons out for adoption send them as guests to other families which have no sons, since they themselves have many extra sons who have no chance of establishing their own profession. To have them succeed to a family commensurate with their abilities in this way is perfectly in harmony with Principle. If there is a daughter in the family, there is, of course, no harm in the adopted son marrying her. Such, after all, was the action of Shun.¹⁵⁴

Ever the Confucian moralist, Shissai added a caution against the resentments and frictions that could occur in a household with an adopted son-in-law.

Because of the frequency of adoption in recent centuries, he continued, the facts of kinship were often obscure. It was, therefore, in accordance with Principle for families without heirs to make virtue rather than kinship the basis for their selection of an adopted heir. In any case, mankind was originally one, and all men were brothers. However important they might be, the bonds of natural kinship did not apply after five generations. Principle, in short, overrode kinship. Here Shissai, perhaps with more boldness than cogency, claimed for

claimed Shun to have committed simultaneously the offenses against strict Confucian orthodoxy of becoming an adopted son, *muko iri*, and contravention of the Confucian prohibition on marrying in the same clan (p. 457). For the last-mentioned prohibition, see Legge, *The Li Ki*, Vol. 1, p. 78.

¹⁵² *Analects* 7:30; *The Chinese Classics*, Vol. 1, pp. 204–205.

¹⁵³ Summarizing “*Yōshi ben o benzu*,” pp. 456–459.

¹⁵⁴ *Ibid.*, p. 459.

his own argument the very concept on which the Kimon scholars had based their case for observing the prohibition.¹⁵⁵

Turning to the Kimon school itself, Shissai attacked the hypocrisy of a Kimon teacher who had expelled a disciple for putting a son out to adoption, but had subsequently himself taken service with a daimyo house which had been perpetuated by adoption for two generations.

Further, there is a teacher in the same school who is sick from dipsomania. Someone, feeling sorry for him, asked the senior teacher in the school about him. The teacher replied that to be sick and an alcoholic was bad enough, but in this case it was particularly distressing. Asked why, he explained that when the sick man was a child, someone had observed that he had ability and had requested him from his father. The father had assented and made a contract. When the child grew up, he had entered the Kimon school and had learned there that it was immoral to assume another clan name. He had then disobeyed his father's injunctions. The father was an extremely hard man and tried various ways of persuading the son to keep the contract, but the latter firmly refused and continued to disobey him. The person who had earlier made the contract was under the impression that they were going to revoke the agreement because of something of a decline in his own family fortunes. Resenting this, he persecuted the father so that the latter, under strain, eventually committed suicide. The son grew up to develop great academic ability, attracted many disciples, and vigorously expounded the learning of the school. Early on he had had no predilection for wine, but as the years went by, he remembered the events of his past. He was deeply distressed, for it seemed to him that it was his fault that his father had committed suicide. Intending to dispel his depression, he had made himself drunk and later became an alcoholic.¹⁵⁶

The essay concludes with a final appeal to trust to the conscience. "Whatever the circumstances, one must practice introspection and listen to one's inner mind and conscience. One must scrutinize carefully whether or not one's proposed course of action is inspired by a base attachment to profit or reputation and act in accordance with the knowledge resulting from this introspection."¹⁵⁷

The interest of this essay lies mainly in the way in which Wang Yang-ming's doctrine of the subjective conscience (*ryōchi*) is accorded priority over objective norms. Shissai, as is clear from other writings, was deeply sympathetic to the efforts of even the humblest

¹⁵⁵ *Ibid.*, pp. 459-460.

¹⁵⁶ *Ibid.*, pp. 460-461.

¹⁵⁷ *Ibid.*, p. 461.

to pursue Confucianism. His emphasis on conscience, which is reminiscent in many ways of the “inner light” of the Quakers, should be seen, in part at least, as an attempt to endow Confucianism with a flexibility that would facilitate its practice by all sectors of Japanese society. Shissai, however, seems to have lacked Banzan’s strong sense of history. He justified his plea for flexibility mainly with arguments from Chinese sage history and was not interested in exploring the historical and other factors that set Japan apart from China and rendered the latter’s rituals impracticable.

Shissai’s relative indifference to this dimension of the problem was supplemented by the argument of his contemporary Atobe Terumi. Atobe’s first studies were with the Kimon Shintoist Shibukawa Shunkai 澁川春海 (1639–1715); but in middle life he associated with Naokata, Keisai, and Shōsai. Later, however, these men expelled him from their school on the grounds of his Shinto convictions.¹⁵⁸ As apparently with Yusa Bokusai, whose friend he was, Atobe’s interest in Shinto seems to have led him to reject the orthodox Kimon acceptance of the prohibition. In his *Nihon yōshi setsu* (1722),¹⁵⁹ Atobe appeals to Japanese rather than Chinese history as a legitimating principle, to Tenshō daijinn 天照大神 (Amaterasu) rather than Yao and Shun; and there is a conscious belief that kinship prohibitions “should not be discussed in terms of Chinese customs.”¹⁶⁰ In early Japanese history, he argued, Oshihomimi no Mikoto 忍穗耳尊 and his four brothers, and later the emperors Chūai 仲哀, Kenzō 顯宗, Ninken 仁賢, and Keidai 繼體, could all be considered cases of adoption. In more recent times, owing to the decline in fertility since antiquity, adoption had become indispensable.

For preference, according to the precepts of the age of the gods, men of the same lineage should be sought out as successors. Should no one of the

¹⁵⁸ For these and other details, see the biographical summary by Itakura Katsuaki 板倉勝明 (1809–1857), in *Kokugakusha denki shūsei* 國學者傳記集成, comp. Ōkawa Shigeo 大川茂雄 and Minami Shigeki 南茂樹, revised by Ueda Kazutoshi 上田萬年 and Yoshiga Yaichi 芳賀矢一 (reprinted edition; Tokyo: Meicho kankōkai, 1967), Vol. 1, p. 260.

¹⁵⁹ Text in *Kan’utei sōsho: besshū* 甘雨亭叢書別集, comp. Itakura Katsuaki (woodblock edition, 1856). I am grateful to Mrs. Akemi Kobayashi 小林明美 for transcribing the *sōsho* 草書 original for me.

¹⁶⁰ *Ibid.*, p. 4a. Atobe is here referring particularly to the Confucian prohibition on marriage with someone of the same surname.

same lineage survive, someone from a different clan should be adopted and the inheritance passed on to him. This is like grafting plants or trees. When a Small Plum [*prunus mume* var. *microcarpa*] is used as a stock to graft a Bungo 豊後 Plum [*prunus mume* var. *Bungo*], the physical substance of the stock is passed on, grows, and becomes part of the latter. Of course, the stock does not flower or produce fruit, but there is no doubt that its whole physical substance is inherited by the Bungo Plum. Adopting a son from a different clan is similar to this.

Question: Grafting is successful when a plum is grafted onto a plum or a peach onto a peach. But other trees will not take. This suggests that those of the same clan would graft, while those of different clans would not.

Answer: Your doubt sounds right, but it is based on ignorance of the essentials. Adoption of any person born in Japan with a Japanese endowment of *yin*, *yang*, and the five elements is like grafting a plum tree onto a plum tree. But to adopt a person from a foreign country is like, for example, grafting a persimmon onto a peach. Certainly it would not take.¹⁶¹

If it was possible to sacrifice successfully to Confucius in Japan on the basis of scholarly lineage, Atobe continued, it was certainly possible to sacrifice effectively to a fellow Japanese to whose house and stipend one had succeeded and whom one regarded with gratitude and filial respect. The moral motives of those involved, in fact, overrode considerations of kinship. To prohibit subjects from non-agnatic adoption would be an inhumane measure. Keisai's *Shizoku benshō* had thus been wrong to condemn all but agnatic adoption.¹⁶²

Atobe's argument is at once a narrowing and a reversal of Banzan's. Where Banzan had justified non-agnatic adoption with a general reference to men's common ancestry in Heaven and Earth, Atobe spoke rather of the separateness and homogeneity of the Japanese people. Similarly, Banzan had seen Japan merely as a rationally accessible condition which imposed certain modifications on the practice of Confucianism. For Atobe, on the other hand, Japan has become an *a priori* principle determining ritual practice and is not subordinated to any other factor. Clearly his approach, while perhaps still nominally Confucian, is precariously close to the religious belief in the metaphysical preeminence of Japan which was to become characteristic of Kokugaku.

Further arguments against the prohibition are found in two essays

¹⁶¹ *Ibid.*, pp. 2ab.

¹⁶² *Ibid.*, pp. 2b-3a.

dating from early in the last quarter of the eighteenth century. The first, *Shishi no ben* 子嗣の辨 [*On the Distinction between Son and Successor*],¹⁶³ dated 1778, is by the Kyūshū philosopher Miura Baien 三浦梅園 (1723–1789) and is mainly devoted to a solution of the semantic problems posed by adoption. But Baien also justified adoption from different families (*tazoku* 他族), on the grounds that it was a Japanese custom. Sorai's position on the problem, he claimed, was "not the view of a far-sighted man," while Banzan's claim that men were all descended from Heaven and Earth was "a penetrating solution to an intractable problem." Baien also pleaded for allowing women to succeed in the absence of natural male heirs, arguing that this was a question of man-made law rather than of nature and was a practice that had begun in Japan with Amaterasu herself.¹⁶⁴ The former argument may well reflect the influence of Ogyū Sorai's belief that social institutions were man-made rather than part of the order of nature.

A somewhat similar argument occurs in an essay entitled *Isei o irete shi to nasu no ron* 納異姓爲嗣論 [*Essay on the Induction as Heir of a Man with a Different Surname*],¹⁶⁵ dated 1780, by Fukutomi

¹⁶³ Text in *Baien shūyō* || 拾葉, *NRI*, Vol. x, pp. 364–370.

¹⁶⁴ *Ibid.*, pp. 364–365. Later still, Banzan's views on adoption were to be endorsed also by the Confucian canonical scholar, Igai Keisho 猪飼敬所 (1761–1845). Keisho's father had been adopted into the Igai family. Keisho himself entertained but rejected the idea of resuming his father's original name, and he later adopted an heir with a different surname. According to his correspondence (*Keisho sensei shokan shū* ||| 書東集, *NJS*, Vol. III, p. 36), Keisho wrote a treatise entitled *Isei saishi o tsukasadoru no ben* 異姓主祭祀辨, which I have been unable to trace. His views on adoption are, however, expressed in a critical commentary on the *Shōjikai* 姓氏解 of Uno Meika 宇野明霞 (1698–1745). This work, first published in 1740, advocated the reform of Japanese names to conform with the single-character surnames of China. It also suggested that where circumstances prevented the resumption of original clan names by those non-agnatically adopted, the original clan name should be used for literary purposes and on the tombstone. Rejecting these suggestions, Keisho argued that the uncertainty over genealogies made resumption a profitless exercise. Japanese should follow their indigenous practice. "To be ashamed at dissimilarities from China in the matter of clan names and surnames is not true learning" (MS commentary on *Shōjikai* [woodblock edition; Kyoto: Kasai Ichirōbei, 1795], Vol. II, 49a, copy in the writer's possession). Banzan's views on adoption, like his tolerance of marriage within the same clan, was "the farsighted knowledge of a great man" (Commentary on *idem*, 51a).

¹⁶⁵ Text in *Tosa no kuni gunsho ruijū* 土佐國群書類從 (unpaginated MS in Kyoto University Library). Fukutomi's views did not go unchallenged. The *Tosa no*

Takasumi 福富孝澄, apparently a samurai in the Tosa 土佐 Domain in Shikoku. Fukutomi reiterated the old argument about the common parentage of men and blithely dismissed or reinterpreted the classical Confucian texts sanctioning the prohibition. He asserted, for instance, that in the familiar incident recorded in the *Ch'un ch'iu* Confucius had intended to condemn not agnatic succession itself, but the ambition of Chü in marrying into Tseng. He also found support for non-agnatic adoption in the lines from the *Shih ching* 經詩 [*Book of Odes*], "The mulberry insect has young ones / And the sphex carries them away,"¹⁶⁶ adding, "How much more would it do so with its own species." Tokugawa Ieyasu had, therefore, been right not to prohibit adoption of those with different surnames. Fukutomi, however, remained sufficiently respectful of Confucian tradition to uphold the principle that, in adoption, potential heirs with the same surname should have preference over those with different surnames. More interesting, he rejected the common argument of supporters of the prohibition that the extinction of a family was the act of Heaven with which it would be wrong to interfere. Adoption of an heir with a different surname, he maintained, was a "human activity" that supplemented the operations of Heaven or nature. It was analogous to erecting shelter against wind and rain and dikes against floods, or to

kuni gunsho ruijū contains a refutation entitled *Isei o irete shi to nasu no ron ben* 辨, written under the name Kyosokusai 矩則齋 and dated 1796. This essay derides Fukutomi's use of classical texts and adduces evidence to support the prohibition from the same native tradition to which Atohe and Baien had appealed to refute it. The author cites, for instance, the episode during the reign of the Emperor Ingyō 允恭 (reg. in fifth century A.D.) in which the authenticity of surnames was successfully tested by the ordeal of plunging hands into boiling water (W. G. Aston, trans., *Nihongi* [London: George Allen and Unwin, reprinted edition, 1956], pp. 316–317); and the compilation of the *Shōji roku* 姓氏錄 during the reign of the Emperor Saga 嵯峨 (reg. 809–823 A.D.). Ieyasu's failure to prohibit the practice was a concession to expediency. There was a difference between such "public law" (*kōhō* 公法) and "greater duty" (*taigi* 大義). Gentlemen of aspiration should follow the latter, as the forty-seven *rōnin* had done when faced with a similar predicament. Kyosokusai's refutation was in turn promptly refuted (*Ben ben* 辨々, *ibid.*) by a scholar using the name Igaishi 園外子 (possibly Fukutomi himself), writing in the winter of the same year. This essay reiterates much the views of Fukutomi's original essay, reaffirming Ieyasu's wisdom in not enforcing the prohibition and expressing faith that earlier Confucians would approve the author's argument.

¹⁶⁶ *The Chinese Classics*, Vol. iv, p. 334.

wearing clothes in winter or lighting candles in the dark. This argument suggests that Fukutomi, like Baien, believed man to have some freedom to determine his own destiny and institutions at least as regards such questions as adoption. Both seem to ascribe to man a greater degree of autonomy within nature than orthodox Neo-Confucianism, with its belief in the human and natural worlds alike ordered by unchanging Principles, would allow. This more positive and dynamic view of man's role in the universe is a complex phenomenon and requires more study. Almost certainly it evolved in part to fill the intellectual vacuum resulting from Ogyū Sorai's attack on Neo-Confucian orthodoxy.

V. SUMMARY AND CONCLUSION

At the beginning of the Tokugawa period, Neo-Confucianism appeared to be an ideology well suited to the needs of Japan. The country had just emerged from a long period of internal unrest to a peace that did not appear to contemporaries necessarily to possess the durability it has acquired in retrospect. Neo-Confucianism offered an excellent means to legitimate, strengthen, and preserve this newly established order. Its doctrine that the social order was based on unchanging natural principles would inhibit social change; and the notion that the moral self-realization of the individual held the key to this order would encourage men to concentrate their energies on self-cultivation rather than to attempt directly to alter the *status quo*. Its patriarchal ethic and promotion of hierarchical but harmonious relationships within society could be used to legitimate the position of the ruling samurai elite and protect them from possible threats to their political, social, and economic supremacy.

Neo-Confucianism, however, remained the static intellectual product of an alien society. Tokugawa Japan, on the other hand, was subject to historical change. As the seventeenth century progressed, incongruities and conflicts between the Neo-Confucian world view and the Japanese experience were not only felt subjectively, but also increasingly articulated in the writings of Japanese thinkers. The resulting erosion of Neo-Confucian orthodoxy and the formulation of alternatives constitute one of the main themes of the intellectual history of the period. Doubts about the practicability and efficacy of Neo-Confucianism in Japan were inspired by various factors, from the

aesthetic to the economic, and provide a challenging field of study. Among them, the question of Confucian ritual practice, of which the prohibition on non-agnatic adoption is a type-case, posed a difficult problem. Chinese Confucian rituals, as in the case of the prohibition, reflected a social organization different from that of Tokugawa Japan, and their observance might necessitate special departure from established practices. They were potential obstacles to the widespread acceptance of Confucianism in Japan.

Yet such rituals were also an apparently integral part of the tradition. Consequently a conflict was created in the minds of Japanese Confucian thinkers between this element of the tradition and native practice. Their response exhibits interesting diversity. In the case of the prohibition on non-agnatic adoption, most resolved the tension in favor of Confucianism, seeking, in this respect at least, to adapt Japanese practice to Confucianism. The most influential group here was the extensive orthodox branch of the Kimon school. These scholars based their belief in the immutability of natural kinship on the Neo-Confucian doctrine of Principle and, to a lesser extent, the "rectification of names." They rejected the practices of contemporary society and, conscious of their identity as a school, consolidated and disciplined their own ranks. In effect, as critics such as Banzan pointed out, they created a Confucian sect. It is difficult to account for their motivation with confidence. The personal charisma of Yamazaki Ansai undoubtedly played a part. Moreover, though there seems to have been no survey of the occupations of members of the Kimon school, it seems probable that many, if not most, were professional Confucianists, either employed in an official capacity for their knowledge of orthodox Chinese thought or supporting themselves by private teaching. For such men, Neo-Confucian orthodoxy was their livelihood, and they doubtless took its prescriptions seriously. That the school remained extensive may, in part, be explained by the fact that education, and with it the career opportunities for Confucianists, expanded throughout the period.

Yet the obvious difficulties occasioned in practicing Confucian rituals and the very harshness of Kimon discipline suggest that widespread voluntary observance could never become popular. Confucianism would risk becoming the property of an elite, an eventuality dreaded by those ideologues who considered it a social and political

gospel. An alternative lay in enforcement by law. This was the approach of Muro Kyūsō and Ogyū Sorai and his school. Their proposals represent a phase of the development of Japanese Confucianism in which the orthodox Neo-Confucian panacea of suasion and self-cultivation had been discredited by its failure to check the forces undermining feudal society. Neo-Confucianism, in fact, had failed to provide an effective ideological basis for a permanent stratified order. These scholars therefore politicized Confucianism; they attempted to legislate society into line with Confucian assumptions, to return to the past by political authority. In the case of Ogyū Sorai and his school, the theoretical implications of this procedure were worked out in a brilliant and original philosophy. In the case of Kyūsō, an orthodox Neo-Confucian, there must have been an interesting tension between his orthodox theoretical assumptions and practical proposals, a tension indeed often present in the minds of Confucian thinkers.

Nevertheless, the prohibition, whether voluntarily observed or enforced by political authority, must have remained a potential cause of resentment among Japanese and an embarrassment to Japanese Confucian ideologues. It was likely that sooner or later the possibility of its excision from the tradition should be explored. The first thinker to do this appears to have been Kumazawa Banzan, who was able in turn to draw on the thought of his teacher Nakae Tōju. Reacting against the Kimon practice, Banzan argued that for Confucianism to be universally and voluntarily practiced in Japan it would have to be adapted to Japanese conditions. Japanese should not attempt to reproduce Chou dynasty institutions, such as the prohibition, in their society; the practice of Confucian morality was more important than adherence to objective ritual norms.

After Banzan, opposition to the prohibition seems to have developed in two directions, both in some way suggestive of important movements in eighteenth-century intellectual history: the popular diffusion of Confucianism and the growth of Kokugaku. In the former direction, Miwa Shissai opposed rigid observance of the prohibition, arguing that it should be subordinated to conscience. This doctrine almost certainly represents an attempt to make Confucianism acceptable to non-professional Confucians, samurai, *chōnin*, and peasants. Shissai, in fact, was among the Confucian scholars who responded to Tokugawa Yoshimune's efforts to encourage the spread of Confu-

cianism among non-samurai. The social background of his activities in this direction suggests the Sekimon Shingaku 石門心學 movement of Ishida Baigan 石田梅岩 (1685–1744), and it is not surprising to find this connection made by Ishikawa Ken 石川謙, the modern historian of Shingaku.¹⁶⁷

The thought of Tōju, Banzan, and Shissai represents one axis along which Confucianism was popularized and assimilated into Japanese culture during the period. It is important that all three men were, to a greater or lesser extent, influenced by Wang Yang-ming, the great Ming dynasty Neo-Confucian, and are traditionally classified as Japanese followers of Wang. Certainly the emphasis on the subjective conscience, common to all three though expressed in various doctrinal formulations, is consonant with the teachings of Wang Yang-ming. Nor is this an accident, for Wang, like Tōju, Banzan, and Shissai, endeavored to purge Neo-Confucianism of academic formalism and render it more practicable and flexible.

But the excision of its objective ritual institutions from the Confucian tradition was achieved only at the cost of weakening Confucianism. It could be argued that a Confucianism without its rituals was a contradiction in terms. Already, during Banzan's own lifetime, it was suggested to him that, if his ideas were implemented, the result would be "too lax, the rituals of human morality would be abandoned, and society would become bestial."¹⁶⁸ Banzan replied to such charges that "unless rituals are so lax that, compared to the ritual systems of the Chou dynasty they may be called Taoistic, it is impossible to practice them in Japan in modern times."¹⁶⁹ At what point, however, a contemporary might reasonably have asked, was Japan to cease imposing modifications on Confucianism? Banzan would have answered that, whatever else was relative to time and place, Confucian morality—the Great Way—was absolute, universal, unchanging, and natural.¹⁷⁰

A generation later, however, in 1717, Ogyū Sorai put forward his epoch-making claim that the Way itself was merely a human crea-

¹⁶⁷ *Sekimon shingaku no kenkyū* 石門心學の研究 (second edition; Tokyo: Iwanami shoten, 1942), pp. 196–197.

¹⁶⁸ *Shūgi gaisho*, p. 137.

¹⁶⁹ *Ibid.*, p. 201.

¹⁷⁰ *Ibid.*, p. 77.

tion¹⁷¹ rather than, as Banzan and other Neo-Confucians had believed, part of the order of nature. Sorai's contemptuous dismissal of the Sung dynasty metaphysical system may well, among other things, have facilitated the development of the more dynamic view of man's role in the world found later in the century in the views on adoption of Miura Baien and Fukutomi Takasumi. Paradoxically, though intended to provide a strong Confucian basis for government, Sorai's ideas also resulted in a further weakening of Confucianism, for they denied Confucian moral values their traditional sanction in nature. In this situation, might not Japan and her traditions impinge further and further on a Confucianism already weakened and in some ways discredited, and eventually replace it as the highest normative value? Such, whether or not he was influenced by Sorai, seems to be the approach of Atohe, for whom the precedents of Japanese history determined what was ritually appropriate. Here Japanese mythology and history have replaced Confucian sage history as a legitimating principle, and Confucianism itself is relegated to a subordinate position. This belief in the normative value of the Japanese tradition inevitably suggests Kokugaku. It is, therefore, not surprising to note that the most prominent of the Kokugakusha, Motoori Norinaga 本居宣長 (1730–1801), as might be expected of one who held his Sino-phobic views and believed that Japan was "more glorious in all respects than other countries,"¹⁷² was in favor of permitting non-agnatic adoption.¹⁷³

¹⁷¹ *Bemmei* 辨名, *NRI*, Vol. vi, p. 109; quoted in Maruyama Masao 丸山正男, *Nihon seiji shisōshi kenkyū* 日本政治思想史研究 (Tokyo: Tōkyō daigaku shuppankai, 1952), p. 212.

¹⁷² *Tamakushige* 玉匣 (1786), in *Zōho* 増補 *Motoori Norinaga zenshū* (Tokyo: Yoshikawa kōbunkan, 1926–1927), Vol. vi, p. 5.

¹⁷³ "Yashinaiko" やしなひ子, in *Tamakatsuma* 玉かつま (begun 1794), *ibid.*, Vol. viii, pp. 121–122. Motoori argued, rather unexpectedly, that even though the custom might not have existed in antiquity, neither the Duke of Chou nor Confucius would condemn it in modern times. Moreover, the view held by "certain Confucians" that ancestors would not accept the offerings of successors from different clans was mistaken. The spirit of a resentful man returned to haunt the subject of his resentment simply on the basis of this passion. How much more would it respond to one whom it had made its successor. Condemnation of insistence on the prohibition was also expressed by Motoori's leading follower, Hirata Atsutane 平田篤胤 (1776–1843), in his *Shin Kishinron* 新鬼神論 (1805). See Tahara Tsuguo 田原嗣郎, *et al.*, ed., *Hirata Atsutane, Ban Nobutomo, Ōkuni Takamasa* 伴信友大國隆正, *Nihon shisō taikei* 日本思想大系, Vol. 50 (Tokyo: Iwanami shoten, 1973), p. 161.

The controversy over non-agnatic adoption thus presents a paradigm of most of the major developments in intellectual history of the mid-seventeenth to mid-eighteenth centuries: preservation of orthodoxy; politicization of Confucianism in the thought of Ogyū Sorai and his school; downward social diffusion of Confucianism, particularly in the Kyōhō period; and the growth of national awareness that was to find its purest expression in Kokugaku. The question that naturally follows is, how important was it and similar issues in relation to these larger developments? Was the problem of ritual practice a determining factor in the intellectual history of the period, or were the changing attitudes toward Confucian ritual merely an index of other developments?

The very seriousness of the response it evoked suggests that the whole problem of Confucian ritual practice was of greater importance than hitherto generally allowed. It is reasonable to suggest that the influence it exerted was subtle, and that there probably existed a complex dialectic between issues of the type of which the prohibition on non-agnatic adoption is representative and wider developments. The rise of national consciousness in the seventeenth and eighteenth centuries had, of course, its roots in other causes as well, such as the sense of nationhood deriving from the unification of the country in the late sixteenth century, Hideyoshi's overseas campaigns, the contacts with the West, the fear of invasion by the Christian powers or the Manchus, and a sense of national separateness deriving from the exclusion policy. But it is not fanciful to suggest that awareness of the distinctive nature of Japanese society and the Japanese inheritance must also have been stimulated by the practical difficulties of following Chinese Confucian ritual prescriptions in Japan. If this is the case, the orthodox Confucian scholars who so tenaciously and stoically observed the prohibition on non-agnatic adoption ironically performed a role as catalysts in the development of Kokugaku, an anti-Confucian school of thought.

The irony of Confucian endorsement of the prohibition does not rest here. When, less than a century and a half after the deaths of Miyake Shōsai and Dazai Shundai, adoption became from 1876 the subject of renewed public discussion in the Meiji press and in learned journals,¹⁷⁴ Confucian arguments were once more used. They were

¹⁷⁴ For this controversy, see: Aoyama Michio 青山道夫, *Nihon kazoku seido no kenkyū* 日本家族制度の研究 (Tokyo: Ganshōdō shoten, 1947), pp. 137–144;

enlisted, however, in the service of a cause of which the Tokugawa polemicists would not have dreamt and which they would certainly have condemned. Shōsai and Shundai would have endorsed the arguments of their Meiji successors that adoption from another clan was “a cause of great confusion to genealogies,”¹⁷⁵ that *muko yōshi* was incestuous and bestial,¹⁷⁶ and that the extinction of a house was determined by fate.¹⁷⁷ But they would have been startled by other arguments in the case against adoption: that it stifled the independence and initiative of those adopted and was a form of exploitation.¹⁷⁸ Nor would they have understood the assumptions on the role and rights of the individual with which these arguments were associated. For although Meiji opponents of adoption sometimes used Confucian language and rhetoric, they argued for the most part for a very different cause. They belong, in short, to another, less claustrophobic chapter of Japanese history. Nevertheless, they shared with their Tokugawa predecessors an inability to change significantly a practice that was woven into the fabric of Japanese society.

Tezuka Yutaka 手塚豊, “Meiji zenki no yōshi hantai ron” 明治前期の養子反對論, *Hōgaku kenkyū* 法學研究 28.5(1955).49–64; Mukai Ken 向井建, “Meiji zenki ni okeru yōshi ron” 明治前期における養子論, *ibid.* 29.5(1956).55–73; and “Meiji kyūnen no yōshi ronsō to Ueki Emori” 明治九年の養子論争と植木枝盛, *ibid.* 29.7(1956).54–64. The combination of Confucian and liberal approach is also nicely expressed in Shigeno Yasutsugu 重野安釋, “Inkyō katoku narabi yōshi no heigai” 隱居家督並養子の弊害, *SZ* 8.8(1897).1–11; 9.7(1898).1–16.

¹⁷⁵ Anonymous article in *Kōgaku yodan* 講學餘談 3 (1877); quoted in Tezuka, p. 55.

¹⁷⁶ *Ibid.*

¹⁷⁷ Enomoto Yoshimichi 榎本義路, “Ibutsu bumpai hō o ronzu” 遺物分配法ヲ論ズ, in *Hōritsu shisō*, 法律志叢 No. 38(?); quoted in Tezuka, p. 56.

¹⁷⁸ *Yūbin hōchi shimbun* 郵便報知新聞, 9 February 1876; quoted in Tezuka, p. 52.

ABBREVIATIONS

- NJS* *Nihon jurin sōsho* 日本儒林叢書, ed. Seki Giichirō 關儀一郎, 6 vols. (Tokyo: Tōyō tosho kankōkai, 1927–1929).
- NKT* *Nihon keizai taiten* 日本經濟大典, ed. Takimoto Seiichi 瀧本誠一, 54 vols. (Tokyo: Keimeisha, 1928–1930).
- NRI* *Nihon rinri ihen* 日本倫理彙編, ed. Inoue Tetsujirō 井上哲次郎 and Kanie Yoshimaru 蟹江義丸, 10 vols. (Tokyo: Ikuseikai, 1901–1903).
- TKKZ* *Tokugawa kinrei kō, zenshū* 徳川禁令考, 前集, ed. Ishii Ryōsuke 石井良助, 6 vols. (Tokyo: Sōbunsha, 1959).
- Uchida Uchida Shūhei, “Kimon sampa no yōshi hinin-ron narabi ni sono jikkō” 崎門三派の養子否認論並に其の實行, Parts I–VIII, *Daitō bunka* Nos. VIII–XV (1934–1937).

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