Lawsuit Targets Free choice for Wedded Surname

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In many countries, brides-to-be grapple with one crisis after the next as they prepare for their upcoming nuptials. Weighing whether to change a surname to match the future husband’s can be one of the more identity crisis-inducing decisions to be taken.

The name question can also cause wedding stress in Japan. But for a different reason: The choice of keeping two different surnames doesn’t exist. Here, couples are required by law to stick to one name only, in practice bringing a legal burden that almost always befalls the bride

Now, after years of stalled efforts to reform that law, there may be some movement on the horizon. Kyodo news reported Friday that five people are expected to file a lawsuit with the Tokyo District Court, challenging for the first time the constitutionality of the Civil Code article that requires married couples to share the same surname, according to the lawyers representing those behind the suit.

The plaintiffs are expected to argue that Article 750 of the Civil Code conflicts with the Constitution. They will draw on two Articles – 13 and 24 – that stipulate the “people shall be respected as individuals” and “the equal rights of husband and wife,” respectively. They claim that the Civil Code article tips the equality scale between husband and wife by forcing couples to commit to a single surname. One of the expected plaintiffs said the prohibition caused her to suffer from mental distress and lose a part of herself, according to Kyodo.

The restriction has dissuaded some couples from registering their marriage, including Seiko Noda, the 50-year old lawmaker who on Thursday gave birth to a baby conceived through artificial insemination.

Japan remains the only country in the Group of Eight that requires married couples to register a common surname. Men are permitted to take their wives’ name, but it is rare. Moreover, although women have more leeway in using their maiden names at work, they must use their registered surnames for official documents like passports and health insurance cards.

Various proposals to revise the law were scuttled over the years by the formerly ruling Liberal Democratic Party. Back in 1996 a Justice Ministry advisory panel submitted an outline to amend the article, and the then-opposition Democratic Party of Japan attempted to have the revision passed into law several times. But lawmakers of the conservative LDP stalled the proposals, saying family ties would be eroded and traditional Japanese values threatened if married couples used separate surnames.

The DPJ pledged to resurrect the proposal when it led a coalition that toppled the LDP in the historic landslide election victory in August 2009. And in April last year, a government panel proposed a menu of measures tailored to promote gender equality, including a call to revise the Civil Code to allow a dual surname system. But efforts were met with fierce opposition from then Financial Affairs Minister Shizuka Kamei, who threatened to retract his own People’s New Party from the DPJ-led coalition if a bill were submitted to parliament.