

Who is head of household?

Dear Sean:

I heard about the family registration system and the head of household and I am curious how the system actually works. How does the system work and how is the head of household determined? Confused in Wolmido.

Dear Confused:

"Hojuje" is a system of family registration that classifies individuals based on gender. Hojuje is codified in Part IV of the Korean Civil Code.

The most relevant aspect of the system is when a couple marries. According to Article 779 of the Civil Code, the bride (wife) becomes placed within the groom's (husband's) family registry and the husband becomes the new hoju or the new head of the new household.

The wife is hence removed from her father's family and placed within the husband's new family. The wife, however, keeps her father's family name.

A curious aspect of the system is when a husband dies and a male child and wife are survivors of the deceased. The new head of the family becomes the male child not the wife. So the son is moved up to the head of the family not the mother.

Another curious aspect of the system is when a divorce occurs. During a divorce the wife is removed from the husband's family registry, but all children are not removed even though the children may be residing with the mother. If the mother remarries the children may not adopt the step-father's family name and may not move into the step-father's family registry.

The system is very controversial in Korea with very vocal supporters on each side of the debate. The proponents of the system claim Hojuje is needed to maintain the Korean traditional family structure and to prevent the possibility that marriage may occur within the same family. The proponents of the system are mainly older men and traditional conservative groups.

The opponents of the system, who are mainly female public interest groups, contend that the system needs to be reformed because of the drastic change in the Korean society. Korea today has the second highest divorce rate of OECD members, remarriage is increasingly becoming more commonplace, and women are increasing their role in society. They claim because of this change in Korean society, a change in law is also needed.

The debate has entered the political arena and the courtroom. President Roh has vowed to amend the system, but recently the cabinet has formally put-off a decision on the system to a later undisclosed date. Many believe a decision will be made after the April 2004 National Assembly elections.

Additionally, two cases are pending at the Constitutional Court of Korea dealing with the Hoju system. We will have to wait and see what happens, but the system is a unique curiosity to Korea and it will be interesting to see if, and what, changes will happen to the law.

Sean Hayes is certified at the NY and CT bars and employed as a constitutional researcher for the Korean Constitutional Court. The article provides legal information to help readers cope with legal needs, but should not be construed as legal advice. Send your questions to weekender@heraldm.com. --Ed.

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