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J. Mark Ramseyer & Eric B. Rasmusen (ramseyer@law.harvard.edu & erasmuse@indiana.edu)

## Suing over Ostracism in Japan: The Informational Logic

Villages in Japan sometimes ostracize people, and sometimes the targets of ostracism go to court themselves or complain to criminal prosecutors. But how can a court help the target? And why would it want to intervene?

We look at 25 cases and use a game theory model to frame the question. Our answer is that courts can solve informational problems even if using the coercive power of the state is impractical. The social norm (ostracism) and the government institution (the court system) are complements, each making the other work more effectively.

Seminar: August 28, 2020, 10am-12:30pm Eastern, via <a href="http://eastasianlegalcultures.com/?fbclid=IwAR2S14EXOabCI7EzzW4NJDf5H-Paj1lOhgGWICJzCuXnAIAF7B0-sBdKlI8">http://eastasianlegalcultures.com/?fbclid=IwAR2S14EXOabCI7EzzW4NJDf5H-Paj1lOhgGWICJzCuXnAIAF7B0-sBdKlI8</a>. We welcome comments, especially new information on Japanese ostracism court cases and village examples that never went to court.

"murahachibu" (村八分) and "hamon" (破門)

Criminal Code 222: Intimidation. Conduct that would "threaten the life, body, freedom, reputation, or property of another". Section 249 is Extortion (intimidation for money).

Civil Code 709: Torts. "Intentional or negligent invasion of another person's rights or legally protected interests."

Civil Code, Sec. 720; Criminal Code, Secs. 36, 37. Self defense.

1947 Japanese constitution, Article 21: "Freedom of assembly and association as well as speech, press and all other forms of expression are guaranteed."

## The Model.

The target villager chooses to comply with village custom (x = 0) or offend (x = 1). The village sees evidence indicating that the target complied (y = 0) or offended (y = 1). If the target offends, he is always detected: Prob $(y=1 \mid x=1) = 1$ . If he complies, the evidence sometimes mistakenly indicates that he offended: Prob $(y=1 \mid x=0) = m$ , where 0 < m < 1.

If he offends, he obtains personal benefit B > 0 from that act but imposes cost C on the village and D on the rest of society. The village can ostracize the target at cost Z > 0 to itself and cost P > 0 to him.

At cost L to himself, he can go to court. At cost J > 0 to the public, the court can agree to hear it, to decide whether or not the target truly offended, and to announce its decision publicly.

Whether or not the target has gone to court, in the second period the village again chooses whether to ostracize at a second cost to itself and P to the target.

- (1) No-Penalty Regime: No ostracism, no courts.
- (2) Unconstrained Ostracism Regime: Ostracism, courts stay out of it.
- (3) Constrained Ostracism Regime: Ostracism, courts intervene.

## The Cases.

We thank https://mapchart.net/japan.html. 5. Failed in business. Not-specified 1911. 20. The voting contract. Not-specified 1913. 7. Charcoal theft. Akita 1927. 13. The village bully. Niigata 2007. 11. River textile factory. Aichi 1935. 17. The silica mountain potter. Toyota City 2012. 22. The election fraud snitch. Sendai 1924. 3. Hedge removal in road expansion. Hyogo 1939. 8. Student power harassment. Ibaraki 2017. 9. Major urban mob war. Kobe 2011. 4. Rice requisition. Tokyo 1952. 15. The expelled slanderer. Tokyo 2008. 24. Japan Communist Party control. Tokyo 1988. 18. Cancelled leases. Takamatsu 195 1. Vote fraud in school newspaper 16.Rice requisition informant. Fukuoka 19 10. Retired gangster welfare benefits. Shizuoka 2018. 25.Soka gakkai control 2.Land for road construction. Beppu 1921. 14.Firemen fighting. Kumamoto 1970 6. Conforming to the customs of the village. Mie 1822. 21.The Diet election dissident. Mie 1920. 23. Election-related threat. Nara 1924. 12. The Lily Bulb War. Far-South island 1935. 19. Mountain mushroom rights. Awaji island 1957.