



Privacy and Data Protection in Japan



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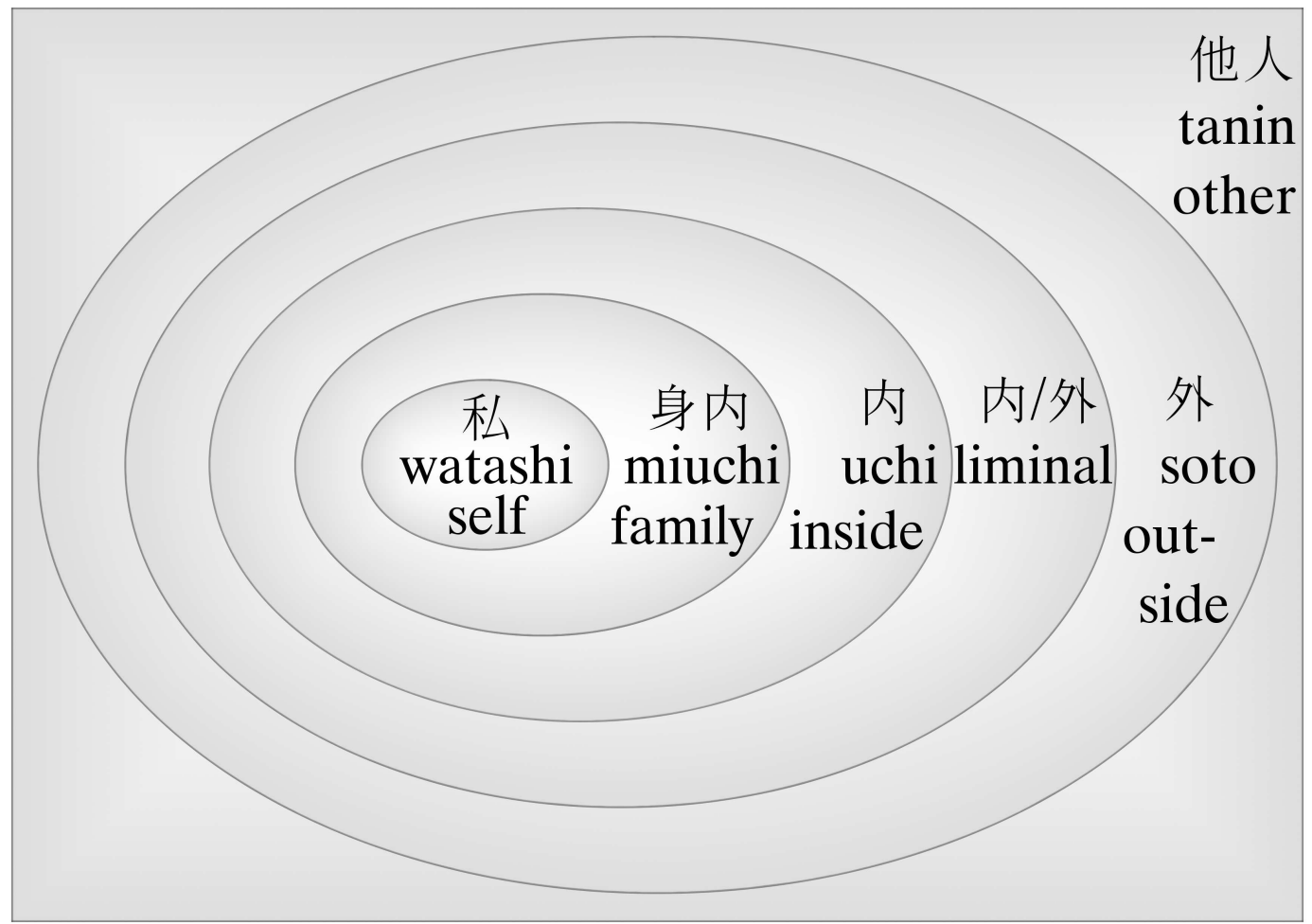


Introduction and Motivation

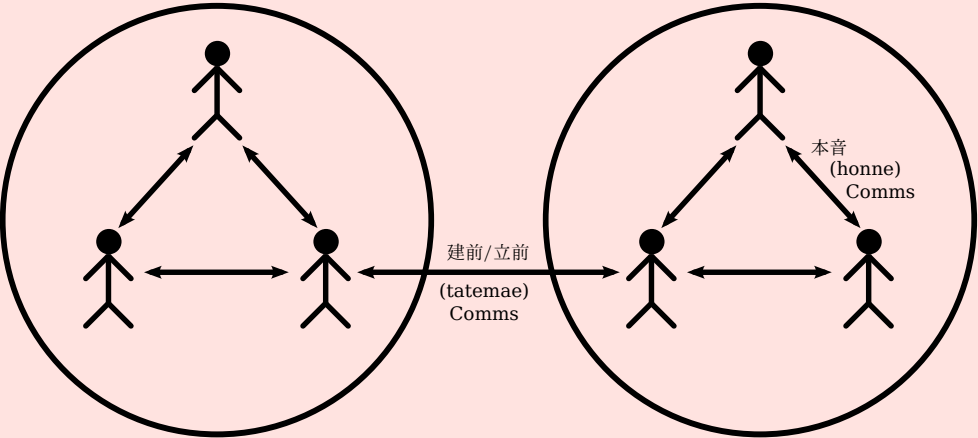
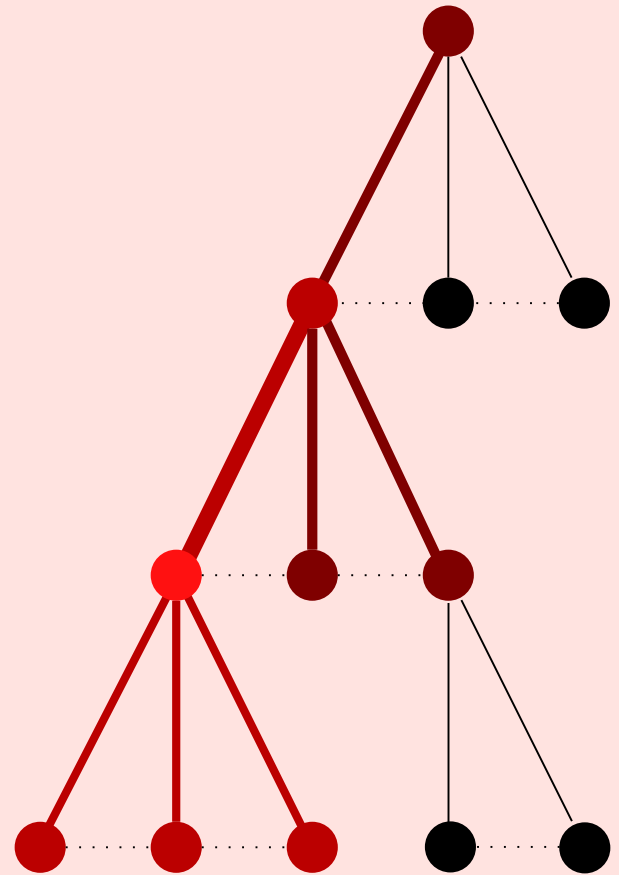
- There is an academic myth that the Japanese have no sense of (information) privacy.
- In 1988 Japan enacted data protection legislation covering only government/public bodies.
- In 1999 a computerisation and nationalisation of citizen registration was proposed and initial enabling legislation passed.
- In 2003 Japan enacted data protection legislation supposedly aiming at EU safe export status (government claims).
- What was the Japanese sense of information privacy, and what caused the shift to legislative action on controlling private use of data?
- Nihonjinron: Japan is not unique, but explaining Japanese culture in Japanese terms is useful.



Variant of the Uchi-Soto Model



Vertical Relationships



Historical Social Norms of Information Privacy in Japan



- (Literally) paper thin walls: the as-if tradition; compare with servants and gossip in Europe
- Taboos: physical disability and mental health problems
- Trust in transitive limits of information flow
- Disregard for the knowledge of 他人 (tanin)
- Finely nuanced sense of group membership bound up with information flow

The Kanji Problem and the Impact of Information Processing



- While phonetic Japanese script was encoded into a standard in the late 70s kanji input, processing and output was much more difficult
- Japanese names are officially written mostly in kanji: 中田/仲田
- Government and banks processed personal information in the 80s using katakana (banks still use this)
- Special purpose word processors using hardware-based kanji input were the most common device even in the early 90s
- Solution of the Kanji Problem: allowed wholesale networked processing of data, using 30 years of Western development in databases

Economic Problems and the Bureaucratic Dream of a Surveillance State



- The property crash of 1989/90 and the subsequent economic problems placed enormous pressure on government finances
- Japan's growing demographic age crisis added to this
- The ku-ro-yon (964 rule) led to the creation of a single tax number
- Since at least 1967 (with threads back to the occupation by the US and the imperial colonisation of Korea, Mongolia and Taiwan) Japanese bureaucrats dreamt of cataloguing everyone in Japan
- In the late 90s this re-appeared as a proposal to computerise the existing registration system

Citizen Registration and Juki Net



- 戸籍 (J: koseki; C: hukou): household registration system made national by the Tokugawa shogunate
- During the imperial expansion of the 20s and 30s individual registrations were introduced as experiments and control mechanisms in Mongolia and Korea
- During and following the occupation by the US, those not ethnically Japanese were excluded from nationality and required to register separately from the Japanese (individual and household registrations for the Japanese persist)
- Rumours of a 1947 proposal for a computerised system; documentation for a 1967 proposal, opposed by Japanese academics, possibly foundering on the Kanji Problem: 1999 Juki Net

Media Attention and Keidanren Flip-Flop



- Media attention to Juki Net began after passage of the enabling legislation
- Concerns about its security led to calls for an update of the Data Protection legislation, combining with concerns about commercial usage and leaking
- Keidanren initially opposed, but after studying the US/EU Safe Harbour agreement, put weight behind complying with EU export rules
- 2005 Legislation is principles-based, not good for regulation of industry
- Individuals and localities refused to join until the Supreme Court finally ruled the system constitutional in 2009.

Conclusions



- The Japanese have a significant and nuanced sense of information privacy
- The public disquiet about commercial (ab/mis)use of personal data and security/abuse of government-held data led to the adoption of data protection laws
- The government's claims that Juki net is to benefit the citizen is a cover for control and taxation (as usual)
- Does Japan believe lip-service is all that is needed to comply with the EU laws? Encouraged by the Safe Harbour agreement?
- Sectoral leader system similar to Australian, but covers everyone, not just citizens