

The Development of Personality-rights Law in Japan: Toward a Multilayered Remedial Structure and a Plastic Conception of Rights

Nozomi YAMADA*

Abstract

Although the Japanese Civil Code lacks a general provision on personality rights, case law has progressively developed remedial measures and protective structures to address social needs. This study draws on major decisions from the 1910s to the present to examine (i) the multilayering of remedies, from damages to injunctions, content deletion, and identification disclosure; (ii) differentiated protection standards for core interests such as life and bodily integrity versus more relational interests such as honor, image, and privacy; and (iii) the expansion of self-regulatory control in the digital environment as observed in deletion requests for search results. It argues that these developments form a “dynamic unity” through the oscillation between personality-based values and the norms guiding social adjustment, thus clarifying the plastic structure of personality-rights law. This study builds on a presentation delivered at National Taiwan University on September 3, 2025.

Keywords:

Personality Rights, Plasticity, Remedial Structure, Privacy, Self-Regulation

I. INTRODUCTION

1. Problem Statement

Unlike the Civil Code of Taiwan,¹⁾ the Japanese Civil Code does not contain a general provision on personality rights. This gap has led to the gradual development of personality interest protection through judicial responses to individual disputes ranging from core interests such as life and bodily integrity to honor, privacy, and, more recently, the handling of digital information. These protected domains are far from uniform and have significantly different historical trajectories. A survey of case law reveals a dynamic structure in which constant interaction takes place between the absolute demands of personality-based values and the relative norms of social adjustment, through which doctrine emerges.

Whereas property rights prescribe who may exercise what degree of exclusive control over which object, personality rights define the normative boundaries of how an individual ought to be treated. Personality-based values are not homogeneous objects but vary in content and weight depending on social and technological conditions. This heterogeneity is precisely why personality-rights law must be understood not as a static system but as a domain generated dynamically through the medium of judicial doctrine.

Discussions of personality rights in Japan trace their origins to Kiyoshi Igarashi, who grounded personality rights in the attributes of the person—such as bodily integrity, freedom, and honor—and positioned the interests that support the free development of personality as central to the right (Igarashi 1989, 2003). This value-based approach has long exerted significant influence as the foundational rationale for the protection of

1) The Taiwanese Civil Code provides explicit, article-level protections for personality rights, including a general claim for the removal and prevention of infringements in Article 18; the right to name in Article 19; and compensation and measures for restoring honor in cases involving infringements of bodily integrity, reputation, or privacy in Article 195.

personality rights. More recently, Yoshiyuki Hashimoto has characterized personality rights as “a collective concept that designates personality interests recognized as legally protectable,” emphasizing that the concept does not serve as a foundational basis from which the legal protection of individual interests can be derived, and offering instead a framework for organizing the accumulated case law (Hashimoto 2017, p. 320).

Yet these existing accounts converge in treating personality rights as a static structure defined by identifying which interests qualify for protection. In contrast, the trajectory of Japanese case law demonstrates that personality interests themselves have been repeatedly reorganized in response to historical contexts, social conditions, and transformations in information technology, and that the architecture of remedies has likewise undergone multilayered change. Thus, what is central to understanding personality-rights law is not merely the presentation of a catalog of interests, but the continual tension—and recurrent reconfiguration—that arises between the absolute demands of personality-based values and the relative norms of social adjustment.

To address the limitations of this static understanding, Katsumi Yoshida’s structural theory of the “law of persons,” published in the present issue, reconceptualizes personality interests as personhood-supporting legal interests and, drawing on the shared tripartite structure of “subject–attributinal relationship–object” found in both the “law of things” and the “law of persons,” repositions personality rights as the legal form expressing the attributinal relationship within the latter domain (Yoshida 2026). This perspective integrates Igarashi’s value-based foundation with Hashimoto’s aggregation-based understanding from a higher vantage point and offers a structural account capable of distinguishing among the diverse concrete interests that fall under the umbrella of personality protection.

Building on Yoshida’s insights, this study takes a further step by conceptualizing personality-rights law as a domain generated and reorganized through historical and technological change. Focusing on the oscillation observed in the case law between the absolute demands of personality-based values and the relative demands of social adjustment, this study extracts the structural principle that animates this dynamic process—namely, the “dynamic unity” of personality-rights law, which cannot be captured by static understandings of the field.

2. Research Tasks and Theoretical Framework

Building on the aforementioned problem awareness, this study reexamines the development of personality-rights protection by drawing on major Supreme Court and Great Court of Judicature (Daishin'in) decisions from 1910 onward, focusing on three dimensions. First, it traces the multi-layering of remedies, moving from damages as the primary response to the introduction of injunctions, content-deletion requests, and identification-disclosure orders. Second, it clarifies the structure of personality interests and the divergence in protection standards between interests requiring strong protection—such as life and bodily integrity—and more relational interests, including honor, image, and privacy. Third, it examines how the expansion of self-regulatory control in the information environment has influenced the understanding of personality interests and the reconfiguration of the remedial framework.

Through these inquiries, this study develops a theoretical framework that reconceptualizes personality rights not as a mere aggregation of heterogeneous interests but as a legal domain unified by a dynamic process in which personality-based values and social adjustment norms continually oscillate.²⁾

3. Analysis Method and Structure

The analysis proceeds in two stages. The first analytical stage identifies structural changes in personality-rights protection by conducting a longitudinal comparison of major cases and organizing the relationships among infringement types, legal grounds, and remedial measures. The second stage focuses on landmark cases that served as doctrinal turning points, closely analyzing their factual configurations and reasoning frameworks to identify the generative principles underlying the case law—namely, the oscillation between the absolute demands of personality-based values and the relative requirements of social adjustment.

Part II traces the formative process of rights protection from the pre-war period through the 1980s, focusing on the doctrine of damages for emotional distress. Part III turns to the diversification of remedies

2) For recent historical and comparative studies on the development of personality-rights jurisprudence, see Saito 1979; Saito 2021.

through injunctions and the development of the “tolerable limit” framework. Part IV explores the expansion of self-regulatory control in the digital environment. Part V theorizes the dynamic structure of personality-rights law and outlines future directions.

II. THE FORMATION AND OBJECTIFICATION OF NONPECUNIARY DAMAGE CLAIMS (PREWAR PERIOD TO THE 1980S)

1. The Emergence of Nonpecuniary Damage Claims in the Prewar Era

In Japan, the protection of personality interests first developed through the construction of claims for consolation money. The Great Court Judgment of October 3, 1910 (*Minroku* Vol. 16, p. 621) treated a claim for consolation money based on emotional harm as a monetary claim inheritable only when the victim had clearly expressed an intention to assert it. This judgment was groundbreaking in that it introduced, for the first time, a technique for objectifying and transforming inherently personal and nontransferable emotional interests into a monetary claim regarded as a property right.³⁾

Furthermore, the Great Court Judgment of February 16, 1926 (*Minshū* Vol. 5, p. 150), although primarily concerned with pecuniary loss through lost earnings, held that even in instant-death cases, a conceptual temporal interval could be posited between the fatal injury and death, allowing a claim for damages to arise in the brief moment before death. This technique did not directly address consolation money but supported the understanding that such a claim does not automatically extinguish upon death and is therefore regarded as having laid the theoretical foundation for the later recognition of its inheritability.

The prewar doctrines on consolation money are characterized by two major developments: (1) their initial formation in relation to infringements of life and bodily integrity, and (2) the early establishment of the monetization of emotional harm and the inheritability of the resulting claims.

2. The Rise of Autonomous Personality Interests and Objectifi-

3) The historical process by which emotional interests were “objectified,” including their transformation into monetary claims, has been systematically analyzed by Yoshimura (2009, pp. 579–580, 594–596).

tection of Nonpecuniary Damage Claims (1948–1970s)

Following the postwar Constitution, which adopted “respect for the individual” as a foundational principle (Article 13), Japanese case law and scholarship in the 1950s and 1960s gradually came to view personality interests under private law as protectable interests independent from pecuniary ones.⁴⁾

In its December 25, 1963, judgment (*Minshū* Vol. 17, No. 12, p. 1802), the Supreme Court affirmed an obligation to indicate the source of phonograph records in wired broadcasting and protected the interests of publication and name attribution—those belonging to the author’s moral rights—as personality interests distinct from property rights. Although rendered in the copyright field, the decision marked an initial step toward recognizing the autonomous value of the creator’s personality.

Subsequently, the Grand Bench judgment of November 1, 1967 (*Minshū* Vol. 21, No. 9, p. 2249) held that a claim for consolation money arising from the wrongful taking of life comes into existence automatically at the moment of injury and is inherited without any need for the victim to express an intention to assert it. This was significant in abandoning the earlier requirement, suggested in the 1910 Great Court judgment, that the victim must have indicated an intention to seek damages, and in establishing that such a claim arises based on the objective fact of damage.

Further, in its January 28, 1964, judgment (*Minshū* Vol. 18, No. 1, p. 136), the Supreme Court recognized compensation for a corporation’s non-pecuniary loss resulting from damage to its honor or credit, irrespective of emotional distress. Although the decision did not presuppose a corporate “personality right,” it treated the impairment of social evaluation as an objective injury warranting compensation, thereby expanding the reach of personality interest protection.

Taken together, these decisions contributed to the development of claims for consolation money in three respects: (1) such claims were understood to arise automatically upon the occurrence of damage, without the need for the victim’s expression of intent; (2) they were recognized as applicable not only to natural persons suffering emotional harm but also

4) On the interpretation of Article 13 of the Constitution as an overarching guarantee of personal value and privacy, see Ashibe (2023, pp. 198 ff).

to corporations whose social evaluation had been impaired; and (3) they shifted the understanding of nonpecuniary damage by detaching it from the victim's subjective experience and grounding it in the fact of injury to a legally protected interest, thereby laying the foundation for conceiving damage in terms of the impairment of the protected interest itself—although they did not directly hold that damage should be equated with the injury *per se*. Through this process, claims for consolation money became firmly established as the central monetary remedy for the protection of personality interests in the postwar era.

III. THE DIVERSIFICATION OF REMEDIES AND FORMATION OF LAYERED PROTECTION (1980S–1990S)

1. The Introduction of Injunctions and the Protection of Honor

From the 1980s onward, the remedy system for personality interests, which had previously centered on claims for consolation money, began to diversify with the addition of nonmonetary remedies such as injunctions.

The Grand Bench judgment of June 11, 1986 (*Minshū* Vol. 40, No. 4, p. 872), known as the Hoppō Journal case, recognized for the first time a request for a publication injunction based on the right to honor. While affirming this possibility, the Court emphasized that prior restraint on publications is, in principle, impermissible under Article 21 of the Constitution. It then articulated an exceptional framework under which prior restraint may be allowed only when it is clear that (1) the content of the expression is untrue or not solely aimed at serving the public interest, and (2) the plaintiff faces a risk of serious and irreparable harm.⁵⁾

This decision, by establishing a concrete balancing test for freedom of expression and confirming the theoretical basis for preventive remedies against infringements of honor, laid the groundwork for the later expansion of multiple nonmonetary remedies—such as deletion and correction—in the fields of privacy, the right to name, and information circulation.⁶⁾

5) For a systematic overview of the case law on honor and privacy, see Mizuno 2017, which offers a detailed analysis of doctrinal frameworks, remedial measures, and changes in the information environment from the North Japan Journal case and the Criminal Record Inquiry case to recent decisions on search-result deletion and removal of social media posts.

6) For an in-depth examination of the North Japan Journal case from the perspectives of freedom of expression and protection of honor, see Matsui 2013, especially Chapter 5 onward.

2. The Right to Privacy and Personal Autonomy in the Workplace

During the same period, the scope of privacy protection expanded beyond the private sphere and came to include personal autonomy in the workplace. In its September 5, 1995, judgment (*Hanji* No. 1546, p. 115), the Supreme Court held that a company's conduct (treating an employee as a "Communist Party member," subjecting them to continuous monitoring and tailing, and opening their personal locker without permission) constituted a tortious infringement of honor and privacy. The Court also stated that such conduct violated the employee's "freedom to form free human relationships in the workplace."

This judgment was important because it went beyond the traditional, negative conception of privacy as the protection of "secrets of private life" and affirmed the protection of personality interests such as ideological autonomy and the freedom to form interpersonal relationships within the organizational structure of the workplace. It further recognized that an employer's systematic surveillance and control can infringe employees' personality interests and clarified the need to protect personality rights in employment relationships.

3. The Establishment of Layered Protection Through the Tolerance-Threshold Doctrine

As personality interests diversified, the tolerance-threshold doctrine came to be articulated in case law as a framework for balancing competing interests. In its June 27, 1972, judgment (*Minshū* Vol. 26, No. 5, p. 1067), the Supreme Court held that construction on an adjacent property that impairs daily life interests such as sunlight or ventilation becomes unlawful when it exceeds the degree of encroachment a victim can typically be expected to tolerate in social life.

The tolerance-threshold doctrine subsequently came to function as a theoretical device that stratifies the assessment of unlawfulness based on the nature of the personality interest at issue.⁷⁾ In domains where the importance of personality interests is particularly high—such as core aspects

7) On the view that the tolerance-threshold doctrine applies only where information lacks public value in cases involving conflicts between privacy and freedom of expression, see Mizobata 2019, pp. 186–188.

of life, bodily integrity, or privacy—the tolerance threshold is set at a low level and may render even minor infringements unlawful.⁸⁾ By contrast, in areas involving interests evaluated in the context of social interaction or information circulation, such as honor, image, or commercial identifiers, courts tend to assess the tolerance threshold more flexibly, considering the purpose of the expression, public concern, the manner of commercial use, and other factors.

Beyond private disputes, the tolerance-threshold doctrine now applies to conflicts of interest in broader social contexts. The Grand Bench judgment of December 16, 1981 (*Minshū* Vol. 35, No. 10, p. 1369), known as the Osaka International Airport case, applied the doctrine to a state-liability claim involving aircraft noise, holding that unlawfulness must be determined by comprehensively considering factors such as the nature, intensity, frequency, and preventability of the noise. Through this judgment, the tolerance-threshold doctrine transcended neighboring-land disputes and became an established general theory for assessing unlawfulness in fields where multiple interests collide, such as environmental pollution and public infrastructure projects.

4. The Search for New Categories of Personality Interests

This period saw the emergence of claims seeking protection for personality interests beyond the traditional categories of honor and privacy. In a series of 1988 judgments, the Supreme Court addressed claims involving mental tranquility, accuracy of name-calling, and religious environment. Although each claim was ultimately rejected, the decisions are significant because they demonstrate that interests outside the traditional domains may become legally salient, suggesting the potential expansibility of the concept of personality interests.⁹⁾

8) For the view that personality interests should be differentiated by the strength of protection, such that infringements of core interests are unlawful per se while infringements of peripheral interests require weighing the mode of conduct and surrounding circumstances, see Yoshimura 2009, pp. 579–580; Kato 2015, pp. 218–220; Yamamoto 2015, pp. 18–20.

9) On the status of the “feeling of honor” as a subjective interest, see Ishibashi 2026.

IV. THE EXPANSION OF SELF-REGULATORY CONTROL IN THE DIGITAL SOCIETY (2000S–PRESENT)

1. Early Case Law in the Internet Era (2000–2010)

As the Internet became widespread, courts addressed emerging forms of digital infringement by adapting legal doctrines to the digital environment.

In its February 13, 2001, judgment (*Minshū* Vol. 55, No. 1, p. 87), the Supreme Court held that the alteration of digital content constituted an infringement of the moral right of integrity. The decision demonstrated that a creator’s personality interests extend to digital and electromagnetic environments, thereby marking the starting point for the protection of personality interests in digital space.

In its judgment of March 6, 2008 (*Minshū* Vol. 62, No. 3, p. 665), the Court addressed whether the management and use of personal identification information under the Basic Resident Register Network System violated Article 13 of the Constitution. While confirming an individual’s “freedom not to have personal information indiscriminately disclosed or made public to third parties” under Article 13, the Court denied that the system caused any concrete infringement. Meanwhile, the Court framed the handling of personal information within the constitutional privacy analysis under Article 13, thereby shaping the conceptual foundation for later discussions on the right to control personal information.

Although not directly concerning the Internet, the judgment of September 24, 2002 (*Hanji* No. 1802, p. 60) recognized a publication injunction on the ground that the work seriously and irreparably infringed an individual’s privacy and feeling of honor. The Court noted the cumulative nature of harm as readership increases, an observation that reflected the growing awareness of the irreversibility of information flow. This decision stands as an important precursor to later doctrines protecting personality interests in the digital environment.

2. Deletion Requests in the Platform Era (2010–Present)

As social networking services and search engines became the core infrastructure of information distribution, deletion requests directed at plat-

forms emerged as a central form of personality-rights relief.¹⁰⁾ In its January 31, 2017, decision (*Minshū* Vol. 71, No. 1, p. 63), the Supreme Court held that, in requests to delete search results directed at search service providers, deletion may be permitted only when the interest in not having the relevant facts made public “clearly outweighs” the significance of providing search results. The decision expressly characterized search-result deletion as a form of injunction based on personality rights. It also presented a strict test assigning substantial weight to freedom of expression through the “clearly outweighs” requirement, and provided a balancing framework that incorporates a temporal dimension, considering factors such as the nature and content of the facts, the scope of dissemination and degree of harm, the individual’s social status, the purpose and significance of the article, and the social circumstances at the time of publication and thereafter.¹¹⁾ However, the decision’s focus on the nature of the offense to conclude that the information remained a matter of public concern may be questioned; this reasoning emphasizes the attributes of the information rather than how its continued availability affects the individual’s present circumstances and prospects for reintegration.

By contrast, in its June 24, 2022, judgment (*Minshū* Vol. 76, No. 5, p. 1170), the Supreme Court held that, in a case involving a request to delete a tweet reproducing an arrest report, it is sufficient that the interest in not having the information made public “outweighs” the competing interest, thereby adopting a more permissive standard than that applied to search-result deletion.¹²⁾ The contrast between these two decisions suggests that case law is developing an approach under which stricter standards apply to search engines, given their function as foundational infrastructure for information access, while more flexible standards apply to social networking services, which operate as platforms for individual expression (see Sogabe 2022, p. 14).

10) For a systematic overview of case law on online defamation, deletion requests, and disclosure of sender information, see Matsuo et al. 2019.

11) For analyses of the decision’s balancing framework, including its factors and the “clearly outweighs” requirement, see Takahara 2017, pp. 119–122.

12) For the evaluative framework for deleting SNS posts and the institutional basis for deletion and disclosure requests, see the Ministry of Internal Affairs and Communications 2023, commentary on Articles 3, 4, and 4-2, and Shojihomu Kenkyūkai 2022, pp. 4–11.

3. Retweets and Disclosure of Sender Information

In its judgment of July 21, 2020 (*Minshū* Vol. 74, No. 4, p. 1407), the Supreme Court held that a retweet of an image from which the author's name had disappeared as a result of Twitter's automatic trimming function constituted an infringement of the right of attribution under Article 19(1) of the Copyright Act. The Court further held that the retweeter qualified as an "information sender" under Article 4(1) of the Provider Liability Limitation Act and was therefore subject to disclosure of sender information. By combining three elements—(1) an infringement determination that considers a platform's technical functions (automatic trimming), (2) the attribution of responsibility to individuals participating in information dissemination through retweeting, and (3) the provision of effective remedies through disclosure of sender information—the decision enhanced the effectiveness of protecting authors' moral rights in the digital environment.

4. The Right of Self-Determination in Medical Care and Transactions

Before the emergence of digital-era disputes, the right of self-determination had already developed in the fields of medical treatment and property transactions through the doctrine of the duty to explain.¹³⁾

In its judgment of February 29, 2000 (*Minshū* Vol. 54, No. 2, p. 582), the Supreme Court held that a hospital infringed a patient's personality rights by failing to disclose its policy that a blood transfusion would be administered if necessary to save the patient's life, despite the patient's religious refusal of transfusion. In its judgment of November 27, 2001 (*Minshū* Vol. 55, No. 6, p. 1154), the Court found a physician liable for failing to explain the possibility of breast-conserving therapy and the medical institutions where such treatment was available. The Court emphasized the patient's right to make an informed choice concerning treatment, particularly in light of the consequences of mastectomy, including changes in appearance, psychological burden, and effects on quality of life.

These decisions established a legal framework in which the decision-making process itself—namely, a patient's ability to choose among medical

13) For a classical and comprehensive discussion of the patient's right of self-determination and the limits of paternalistic medical treatment, see Machino 1986.

options on the basis of adequate information—constitutes a protected interest. Violations of the duty to explain were thus treated as infringements of personality rights or as breaches of contractual obligations arising from the medical treatment contract.¹⁴⁾

The protection of self-determination also arose in the context of property transactions. In its judgment of November 18, 2004 (*Minshū* Vol. 58, No. 8, p. 2225), the Supreme Court held that the former Housing and Urban Development Corporation acted in bad faith by failing to disclose that it had no intention of immediately offering comparable units to the general public after giving former residents priority purchase rights. The Court recognized consolation money on the ground that the former residents had been deprived of the opportunity to evaluate the appropriateness of the price. This judgment demonstrated that even in property transactions, damages for emotional distress may be awarded for breaches of the duty to explain.

By contrast, in its judgment of December 9, 2003 (*Minshū* Vol. 57, No. 11, p. 1887), the Supreme Court rejected a claim for consolation money based on insufficient explanation regarding earthquake insurance at the time of a housing purchase, indicating that there are limits to providing relief for emotional harm arising from explanatory failures in the pecuniary domain.

5. The Development of Active Self-Regulatory Control

The digital-era decisions in this section indicate a personality-rights protection model that goes beyond traditional defensive injunctions aimed solely at removing infringements. They show a shift toward enabling individuals to exercise active control over the circulation, retention, and erasure of information concerning themselves. These decisions share an analytical structure in which courts consider the nature and public value of the information, the passage of time, the scope of dissemination, and the potential impact on the individual's future life and social relationships.

In addition, case law on the duty to explain in medical treatment and property transactions has clarified that the decision-making process itself is legally protected. This protection extends from decisions involving life

14) For arguments positioning the right of self-determination as a component of an overarching fundamental right, see Sato 2020, pp. 212 ff.

and bodily integrity to those involving the disposition of property, provided that the individual acts on the basis of adequate information.¹⁵⁾ This framework corresponds structurally to the emerging doctrine of personal information control in digital environments.

Taken together, personality rights have developed beyond a passive form of defense and now include active self-regulatory control, enabling individuals to design and manage their own information environment. This development is consistent with the plasticity of the personality-rights concept discussed in Section II and with the diversification and layering of remedies analyzed in Section III.

V. THE DYNAMIC UNITY OF PERSONALITY-RIGHTS LAW

1. The Dynamic Structure

The case law surveyed above reveals that the protection of personality interests has developed not through linear accumulation but through a dynamic generative process in which the absolute demands of personality-based values and the relative norms of social adjustment continually oscillate. As Kimura observes, this oscillatory structure reflects the foundational feature of the Japanese model of personality rights, where liberty-based values and personality interests as remedial techniques have historically coexisted (Kimura 2005). This coexistence, which requires courts to declare abstract values while simultaneously calibrating concrete remedies, has inevitably produced what Kimura later critiques as the “subjectivization” and “dilution” of the personality-rights concept (Kimura 2015). Tatebe’s historical analysis of the transformation of the structure of honor further illustrates how such dilution manifests within a specific interest domain (Tatebe 2014), thereby reinforcing the inherently dynamic character of personality-rights law.

These historical developments demonstrate that the protection of personality interests has been continuously reconfigured in response to changing historical, social, and technological conditions. This variability is precisely what justifies understanding personality-rights law not as a static framework but as a dynamic domain that recurrently generates and

15) For a cross-cutting analysis of the duty to explain and the protection of decision-making processes in medical treatment and property transactions, see Hayashi 2026.

reorganizes its own structures.

2. The Multitrack Remedial System and the Reorganization of Personality Interests

The diversification of remedial pathways illuminates how the heterogeneity of personality interests has been structured through judicial doctrine. Yamamoto's distinction between dominion-type and relational interests (Yamamoto 2015) provides a useful basis for explaining why interests requiring absolute protection—such as life and bodily integrity—are safeguarded differently from those requiring contextual balancing, such as honor, image, and privacy. In the privacy domain, typologies such as the triadic division into informational self-control, proper-information-handling rights, and the right to private secrecy (Murakami 2023), as well as frameworks distinguishing “autonomy” and “trust” as dual evaluative axes (Saito 2021), have refined the structure of personality interests. Case law on search-result deletion, together with constitutional arguments for reconfiguring the protected interest from mere informational self-control to a more institutional “right to proper handling of personal information” (Otonashi 2021), indicates that the multilayering of remedies and the reorganization of interest structures are closely intertwined.

3. The Plasticity of Personality-Rights Law and Its Theoretical Positioning

Although the personality-rights concept is sometimes criticized as incoherent because of its aggregative nature, a dynamic reading of the case law suggests that its very plasticity constitutes the structural principle of the field. Personality interests are heterogeneous and context dependent, with new domains of protection emerging as social and technological conditions evolve. The right of publicity—which protects the commercial attraction value of one's name and image—offers a clear example. Recognizing that personality interests may acquire economic value, the Supreme Court's judgment of February 2, 2012 characterized this value as an “element of a right derived from personality rights.” Recent scholarship likewise advances the reconstruction of the right of publicity as a domain where personality-based and economic elements intersect (Bito 2026), signaling an ongoing reorganization of the economic dimensions of personality interests.

4. The Distinctiveness of Personality-Rights Law in Contrast to Property Law

Whereas property rights are static entitlements that determine who may exercise what degree of control over which object, personality rights constitute a domain that regulates how individuals ought to be treated. Their protective structure is closely shaped by the irreversibility of infringements, the heterogeneity of personality-based values, and the speed at which information circulates. The indispensability of case-responsive remedies—such as injunctions, deletion, and disclosure—reflects the fact that personality interests are not fixed objects but are dynamically generated through the oscillation between value and adjustment.

5. Future Directions

Emerging phenomena such as artificial intelligence-generated content, digital twins, and fabricated expressions challenge not only existing remedial frameworks but also the substantive understanding of personality interests themselves. Yet, as the history of case law demonstrates, personality-rights law has continually produced new structures through the oscillation between value and adjustment. Sustaining this field will require harmonizing plasticity with stability, developing a layered remedial framework that reflects the multiplicity of protected interests, and clarifying the boundaries of personality in the information environment. The perspective of dynamic unity advanced in this study offers a foundational approach for addressing these future challenges. Reconstructing personality-rights law will depend on integrating multiple normative viewpoints—including the balance between personal autonomy and social trust, and the proper governance of personal information.¹⁶⁾

REFERENCES

- Ashibe, Nobuyoshi (supplemented by Kazuyuki Takahashi). 2023. *Kenpō* [Constitution], 8th ed. Tokyo: Iwanami Shoten.
- Bito, Tsukasa. 2026. “Protection of Publicity Rights in Japan: Current State and Issues.” *Ritsumeikan International Affairs* 21: 69-83.

16) For related issues concerning the deceased as subjects of personality-rights protection, see Oda 2026; Kariya 2022.

- Hashimoto, Yoshiyuki. 2017. "Jinkaku-ken" [Personality Rights]. In *Shin-chūshaku minpō* (15): *saiken* (8) [New Annotated Civil Code (15): Obligations (8)], edited by Atsumi Kubota, 300-325. Tokyo: Yūhikaku.
- Hayashi, Seiji. 2026. "The Structure and Substance of the Right of Self-Determination as a Protected Legal Interest under Japanese Tort Law". *Ritsumeikan International Affairs* 21: 35-48.
- Igarashi, Kiyoshi. 1989. *Jinkakuken-ron* [Theory of Personality Rights]. Tokyo: Ichiryūsha.
- . 2003. *Jinkakuken-hō gaisetsu* [Outline of Personality-Rights Law]. Tokyo: Yūhikaku.
- Ishibashi, Hideki. 2026. "On the Establishment of the Tort for Infringing the Feeling of Honor". *Ritsumeikan International Affairs* 21: 17-34.
- Kato, Masanobu. 2015. "Jinkaku-ken to chosakusha-jinkaku-ken" [Personality Rights and Author's Moral Rights]. *Hōritsu Jihō* 87 (3): 88-96.
- Kariya, Atsuko. 2022. "Shisha o hō-shutai to shite toraerunoka" [Considering the Deceased as Legal Subjects]. *Hōgaku Kyōshitsu* (498): 24-28.
- Kimura, Kazunari. 2005. "Waga-kuni ni okeru jinkaku-ken gainen no tokushitsu: saikōsei no kokoromi (jō)" [The Characteristics of the Concept of Personality Rights in Japan: An Attempt at Reorientation (Part I)]. *Setsunan Hōgaku* (34): 85-113.
- . 2015. "Kinnen no hanrei ni okeru jinkaku-ken gainen no shosō" [Aspects of the Concept of Personality Rights in Recent Case Law]. *Ritsumeikan Hōgaku* (363-364): 136-165.
- Machino, Saku. 1986. *Kanja no jikoketteiken to hō* [Patients' Right of Self-Determination and the Law]. Tokyo: University of Tokyo Press.
- Matsui, Shigenori. 2013. *Hyōgen no jiyū to meiyō-kison* [Freedom of Expression and Defamation]. Tokyo: Yūhikaku.
- Matsuo, Takayuki, et al. 2019. *Intānetto ni okeru meiyō-kison, sakujo seikyu, hasshinsha-jōhō kaiji no hanrei* [Case Law on Online Defamation, Deletion Requests, and Disclosure of Sender Information]. Tokyo: Shōjihōmu.
- Ministry of Internal Affairs and Communications. 2023. *Purobaida sekinin seigenhō chikujō kaisetsu* [Article-by-Article Commentary on the Provider Liability Limitation Act]. 3rd ed. https://www.soumu.go.jp/main_content/000883501.pdf
- Mizobata, Shunsuke. 2019. "Fuhōkōi-hō ni okeru puraibashī: kenri to shite no seishitsu oyobi junin-gendo" [Privacy in Tort Law: Its Nature as a Right and the Tolerance Threshold]. *University of Tokyo Law School Law Review* 14: 164-193.
- Mizuno, Ken. 2017. "Puraibashī" [Privacy]. In *Shin-chūshaku minpō* (15): *saiken* (8) [New Annotated Civil Code (15): Obligations (8)], edited by Atsumi Kubota, 490-552. Tokyo: Yūhikaku.
- Murakami, Kōjirō. 2023. "Jōhō puraibashī-ken no rui-kei-ka ni muketa ichikōsatsu" [A Study on the Typology of Information Privacy Rights]. *Journal of Information and Communications Policy* 7 (1): II -1- II -22.

- Oda, Misako. 2026. "Protection of Posthumous Personality Interests." *Ritsumeikan International Affairs* 21:1-16.
- Otonashi, Tomohiro. 2021. *Puraibashī-ken no saikōchiku* [Reconstructing the Right to Privacy]. Tokyo: Yūhikaku.
- Saito, Hiroshi. 1979. *Jinkakuken-hō no kenkyū* [Studies on Personality-Rights Law]. Tokyo: Ichiryūsha.
- . 2021. *Jinkakuken-hō no hatten* [The Development of Personality-Rights Law]. Tokyo: Kōbundō.
- Sato, Koji. 2020. *Nihonkoku kenpō-ron* [Treatise on the Constitution of Japan], 2nd ed. Tokyo: Seibundō.
- Shōjihōmu Kenkyūkai. 2022. "Intānetto ni okeru meiyō-kison ni kansuru senmon-iinkai hōkokusho" [Report of the Expert Committee on Defamation on the Internet]. <https://www.shojihomu.or.jp/list/internet-chusho>
- Sogabe, Masahiro. 2022. "Tsūito sakujo jiken" [The Tweet Deletion Case]. *NBL* (1230): 13-18.
- Takahara, Tomoaki. 2017. "Kensaku-kekka sakujo jiken ni okeru kōryō-yōso" [Balancing Factors in Search-Result Deletion Cases]. *Jurist* (1507): 119-122.
- Tatebe, Miyabi. 2014. *Fuhōkōi-hō ni okeru meiyō gainen no henshen* [The Evolution of the Concept of Honor in Tort Law]. Tokyo: Yūhikaku.
- Yamamoto, Keizo. 2015. "Fuhōkōi-hō ni okeru 'kenri mata wa hōritsu-jō hogo sareru rieki' yōken o meguru rippō-ron-teki kadai" [Legislative Issues Relating to the Requirement of Infringement of 'Rights or Legally Protected Interests' in Tort Law]. *NBL* (1056): 17-29.
- Yoshida, Katsumi. 2026. "Comments on the Japan–Taiwan International Symposium on 'The Intersection of Property Rights and Personality Rights.'" *Ritsumeikan International Affairs* 21: 49-67.
- Yoshimura, Ryoichi. 2009. "Fuhōkōi-hō ni okeru kenri-shingai yōken no 'saisei'" [The 'Revival' of the Right-Infringement Requirement in Tort Law]. *Ritsumeikan Hōgaku* (321-322): 569-607.