"Equal Opportunity for Japanese Women – What Progress?"
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In addition to political participation, women's groups in Japan continue to advocate for equality in employment opportunities and to challenge gendered labor structures. Charles Weathers discusses the question of whether Japan has truly progressed towards equal career opportunities for women after twenty years of legislative interventions (1985-2005). Weathers provides a concise overview of some of the lingering obstacles that women confront in Japan's workforce. First, he highlights the reality that companies in Japan find ways of evading gender equality in hiring and promotion structures. The so-called "dual-track" personnel system allowed corporations to hire managers (men) versus clerical workers (women). Even after the equality laws established in 1985 and 1999, firms could still divide workers into "regular" versus "non-regular" categories. Female employees often fall into the category of "non-regular" workers, which include "part-timers" who may work full hours or temporary employees with limited contracts. Non-regular workers lack job security, an issue particularly discriminatory when some firms continue to offer "regular" male employees lifetime employment.[5]

Regarding promotion patterns, Weathers cites a survey from the Japan Institute of Worker's Evolution that shows many firms "rarely promoted women." Despite recent examples such as Sanyo Electric Co. hiring a female CEO Tomoyo Nonaka (1954-) in 2005, women in Japan still face a "glass ceiling" effect; they can only climb so high on the corporate ladder. Married women also face tax disincentives if they earn more than a limited amount in a dual income family. Working parents in general may be penalized or disadvantaged in terms of equal advancement when corporations require regular employees to accept transfers and "on-call" availability.

In terms of advocacy for women's worker rights, the author demonstrates that current support systems rarely challenge the company-centered *status quo* of gendered labor practices in Japan. Weathers explains that many Equal Opportunity offices remain "reluctant to support women actively challenging employer discrimination." Government employees and bureaucrats handling labor issues, reflecting neoliberal privileging of corporations over citizens, tend to side with businesses in maintaining discriminatory practices. Similarly, labor unions may be limited in how much they serve the needs of women and non-regular workers. However, the largest national trade union organization in Japan, RENGO (Japanese Trade Union Confederation), clearly states in their 2010-2011 Action Policies that they will achieve "an increase in the number of female executives, which is the biggest issue of promoting equal participation of women and men in trade unions."[6] It is noteworthy, however, that the Action Policy does not address the issue of sexual harassment as central to labor unions and their involvement in equal opportunity.

[5] According to Hiroshi Ono, while journalistic coverage suggests that Japan's system of lifetime employment is all but dead, he argues that the practice indeed still continues at least through 2005.
[6] RENGO Action Policy 5 2010-2011,
http://www.jtucrengo.org/12th_biennial_convention/data/action_policies2010-2011.pdf

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Sexual harassment in the workplace remains one of the key complaints brought to Equal Opportunity offices, but labor unions rarely focus on this issue.

Weathers concludes his article with a discussion of whether contemporary Japanese women choose to work or to marry, given the difficulty of doing both. He suggests that the first generation of women after the 1985 EEOL tended to embrace a worker identity to pursue careers intensely, even to the detriment of their personal lives. However, Japan may be witnessing a reversal of this trend. Women may opt for the perceived financial security of marriage, despite a rise in divorce rates and pressures of a shrinking Japanese economy. Overall, Weathers offers an important summary of the main issues that continue to challenge working women in Japan. This article serves as a reference point for examining the effects of later interventions such as the 2010 "Action Policy for Promoting Work-Life Balance," which targets the employment rate of women as central to achieving a society based on "economic independence."

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Equal Opportunity for Japanese Women – What Progress?

By Charles Weathers

Career opportunities have improved greatly for many Japanese women in recent years. More large companies are willing to hire them as career-track employees, and their share of elite civil servant positions has been growing. Although female students at my institution, Osaka City University, still encounter discrimination during the job hunt, they have actually outperformed men in recent job searches. A survey of the top 74 universities confirms the trend, showing that women had higher job placement rates this spring in most of the 395 departments covered. [1] It appears that some businesses are taking more seriously the mantra that ability trumps gender in today's more globalized, market-oriented economy.

Despite these signs of progress, however, employment opportunity for the majority of women may actually be getting worse. The main reason is that employers are intent on reducing costs by replacing regular (seiki) employees with lower-paid, disposable non-regular (hiseiki) workers, including part-timers, agency temporaries, and contract workers, who often do the same or similar work. The Ministry of Health, Labor and Welfare (MHLW) estimates that non-regular workers constituted 34.6 percent of the salaried work force in 2003, and the figure continues to rise. The Japanese have assigned the name hiseikika (non-regularization) to the rising ratio of non-regular workers. Some, particularly housewives caring for young children, are content with non-regular and part-time jobs, but the number of "involuntary" non-regulars, those unable to find regular positions, has grown steadily in recent years. Further, even regular female employees are bothered by sexual harassment, discrimination in promotions to management, and refusal of childcare leave.

Twenty years after the passage of the first Equal Employment Opportunity Law, why does Japan's progress toward equal opportunity remain so erratic, or worse? What are the prospects of improvement as MHLW officials urge business to accept a revision of the country's weak equal opportunity law, hopefully by next year? Below, I outline some of the major issues and problems facing Japan's equal opportunity reformers.

Equal opportunity laws, new and old

In the mid-1970s, just as the United Nations began to actively promote gender equality, Japanese employers were expanding use of women as non-regular employees in order to reduce rising labor costs in a tight labor market. As a result, the ratio of part-timers in the work force increased from 3 percent in 1975 to 12 percent in1992. The original Equal Employment Opportunity Law (1985) was passed largely to placate international opinion. It did not prohibit discrimination in hiring or promotion. Many large firms evaded the law by establishing so-called dual-track personnel systems, which included separate management-track (sogo-shoku) and clerical-track (ippan-shoku) courses. Their main function was legal cover for continuing to assign jobs on the basis of gender. Even in 2000-01, according to a government survey, only 2.2 percent of employees in large companies' career tracks were women.

By the early 1990s, there was growing pressure – economic as well as social – to strengthen the clearly ineffective EEOL. The government had hoped that the original EEOL would put an end

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to discrimination lawsuits; instead the proliferation of dual-track systems triggered a "second boom" in discrimination lawsuits. Overt discrimination was clearly out of touch with changing social values, and business leaders, increasingly concerned about global competition, recognized that the law was not promoting the utilization of women's talents. But most importantly, around 1990 an unexpectedly sharp decline in the birthrate, leading to projected labor shortages, jolted national leaders into taking action. Alarmed that a declining population would undermine the economy, they feared that poor childcare support and bad working conditions for full-time employees (especially notoriously long hours) were both discouraging couples from having children, and leading women to forego careers or quit professional jobs.

Labor ministry bureaucrats took advantage of this situation to press a campaign to revise the EEOL. The Revised EEOL, which took effect in 1999, is also weak, but it makes discrimination in hiring and promotion illegal. It also provides better support for women challenging discriminatory practices in court, although it prescribes no penalties. The Revised EEOL was successfully utilized by anti-discrimination plaintiffs for the first time in a lawsuit against Nomura Securities. In a verdict handed down in February 2002 after nine years of litigation, the court acknowledged that discrimination had occurred for many years, since the women were clearly paid less than men for doing similarly skilled work. The company promoted the three plaintiffs who were still working, and paid lump-sum settlements to all 13 plaintiffs. However, the court ruled that the practices were illegal only from April 1, 1999, when the Revised EEOL took effect, limiting the size of the damages. Although the case was a landmark, its implications remain uncertain. Nomura was perhaps careless in openly using low-paid female employees to perform skilled work; other firms can take precautions such as redefining jobs, or using non-regular workers, whose rights are ill defined. Further, Japan's conservative courts place relatively little weight on precedent, so the Nomura case's impact will not be clear until more cases have been settled, and a broader legal pattern established.

Obstacles to equal opportunity

Despite the widely recognized economic importance of working women, Japan's would-be reformers have achieved only incremental advances in protection of women's job rights. When seeking to establish new laws (or revise existing laws), labor-welfare ministry officials first convene policy deliberation councils (shingikai) consisting of representatives of labor, business, and the "public interest" (mostly lawyers, academics, and journalists) who debate drafts of bills before sending them to the Diet. To gain business consent to significant new proposals, it generally must be clear that they are necessary to respond to changes in public opinion or in international standards, or that they have economic merit; the anti-discrimination clauses in the revised EEOL basically met all these conditions. More far-reaching proposals have not.

The current discussion on revision centers on five issues: prohibiting denial of childcare leave rights, prohibiting indirect discrimination, strengthening anti-sexual harassment measures, strengthening the application of positive action (the counterpart to the US's affirmative action), and shifting the law's basis to gender neutrality (prohibiting discrimination against men as well as women in order to achieve greater equality). The first (leave rights) and third (sexual harassment) are fundamentally about getting serious about enforcing the law. But indirect discrimination – practices that are nominally gender-neutral but in reality disproportionately

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disadvantageous to women – is notoriously difficult to clearly define and identify. The channeling of women into non-regular jobs is generally regarded as indirect discrimination (in many countries), especially when wage and benefit differentials regular and non-regular work are large, as in Japan. Thus indirect discrimination is closely linked to non-regularization, and is accordingly the present shingikai's central issue. Employers and unions did agree at the June meeting that height and weight requirements for employees would constitute indirect discrimination, but in other cases, such as different compensation for regular and non-regular workers, clear standards have been nearly impossible to produce.

Meanwhile, relations between ministry officials and equal opportunity activists and litigants remain strained. To date, local Equal Opportunity offices have been notoriously reluctant to support women actively challenging employer discrimination. Labor bureaucrats actively joined business in the late 1990s in supporting the liberalization of agency temporary work.

Progressive observers regarded that as detrimental to the interests of workers, especially women, who then accounted for nearly ninety percent of temps. Proponents argue that liberalization has expanded job possibilities, while critics point to falling wages and lack of benefits. The average wage for temps dropped from around 1704 yen per hour in 1994 to around 1430 yen by 2004 as the number of temporary workers increased sharply, according to Haken Rodo Network, an NPO that supports temps' rights.

Non-regular workers

While the numbers of non-regular workers have grown in most industrialized countries, the increase has been especially rapid in Japan, tripling since 1980, and increasing 1.5 times in the past decade. From 1997 to 2002, about three million regular jobs were lost, while a slightly larger number of non-regular jobs was created.

Employers have long maintained that lower pay and benefits for part-timers are justified because they have fewer skills and less responsibility than regular workers (they earlier made the same points about female workers in general). That stance was always shaky, partly because many women were denied the chances to raise skills, and it is increasingly wide of the mark. Not only do many "part-timers" work full-time hours (they are sometimes called "false part-timers"), but part-timers' skill levels have increased considerably since the mid-1980s, while employers continue to hold down their compensation. The term part-timer (paato) is as much about status (low) as about work hours (variable).

The incentive for hiring non-regulars is not just lower pay and fewer benefits. Often even more important is that they are far easier to dismiss than regular workers, whose job security has been protected by the courts. In principle, non-regulars have the same job security rights as regular employees, but the courts have been reluctant to give them the same backing. Many companies use carefully crafted contracts that spell out work periods to prevent part-timers from claiming renewal rights. Instead of directly firing workers, companies simply do not renew their contracts (yatoi-dome). In addition, businesses often get away with illegal dismissals because many employees do not know their rights. Reformers are seeking to legally require managers to explain rights to workers when they sign contracts, as well as to challenge the free use of yatoi-

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dome. Critics charge that firms often use contract non-renewal to rid themselves of employees who join unions, become pregnant, or press sexual harassment complaints (Asahi Shinbun, 23 May 2005).

In the meantime, employers are developing new personnel practices to maximize the use of inexpensive non-regular labor. [2] Paato in many firms have been subdivided into "core" and "supplementary" employees. Some companies have created such categories as "regular worker-type paato" and "paato-type regular worker" (the terms are equally clunky in Japanese). The new employee categories are often based on willingness to accept transfers involving relocation, and willingness to work irregular hours. The higher-ranking categories have better pay and promotion prospects. Supermarkets are in the forefront of the changes since most of their employees are now part-timers. Many of their paato perform low-level managerial functions, such as supervising particular sections – the meat section, for example – but at lower pay than regular employees. These practices penalize working parents and maintain corporate control over employees, since any employee who wants a full wage must essentially agree to be constantly available to work and ready to accept transfers involving relocation. That makes it harder, as reformers have long argued, to advance equal opportunity or improve general work conditions.

Suganuma Tomoko, one of the most prominent lawyers supporting equal opportunity plaintiffs, told me that 1998 was thought to be the "divide" when non-regularization replaced dual-track personnel systems as the core obstacle to the advancement of equal opportunity (interview, 10 September 2004). In other words, the main target of litigation shifted from assigning women to non-career tracks, to employing them as non-regular rather than regular workers. This reflects the falling legitimacy of the dual-track system, which is out of step with the young generation's support for gender equality at a time of rapidly expanding use of non-regular workers generated by the pressure to cut labor costs.

The number of large firms using dual-track personnel systems fell to 46.7 percent by 2003, according to MHLW. Moreover, recent MHLW investigations indicate that many other firms, especially in the financial sector, have abandoned dual-track systems in the last year or so. That is not a wholly positive trend, however, since most firms simply use non-regular women rather than clerical-track women to perform the same jobs. Indeed, the dual-track system is showing surprising signs of life. The share of mid-size firms (100-299 employees) using dual-track systems rose three points to 13.7 percent from 2000 to 2003. (Smaller firms typically ignore troublesome labor laws, and thus have less need to justify questionable personnel practices.) A recent report from MHLW's ongoing equal opportunity committee observed that companies that use dual-track systems promote very few women to managerial level – in the bureaucratic committee-speak of such reports, that suggests that these firms tend to be active discriminators. [3]

One standard estimate puts the percentage of female managers in Japan at about 9 percent, compared to 30 percent in Britain and 45 percent in the US. According to MHLW, women accounted for just 2.7 percent bucho (department heads), 5 percent of kacho (section chiefs), and 11 percent of kakaricho (low-level supervisors) in 2004. A survey conducted last March by the Japan Institute of Workers' Evolution, a quasi-public organization that promotes women's advancement, verified that many firms rarely promote women. Of 409 firms surveyed, 79

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percent had no female bucho, 55 percent no female kacho, and 19 percent no female kakaricho. Typically, the smaller the firm, the greater the gender inequality. Thirty-nine percent of the firms did not expect to increase the share of women in managerial positions in the next five years. Furthermore, only 4.4 percent of the firms had established numerical targets to increase the number of female kanrishoku (mid- and upper-level managers). Studies of the US that are well known in Japan demonstrate that clear targets, along with active participation by senior managers, are essential to breaking through glass ceilings.

Unions

Japanese unions, like their counterparts elsewhere, historically neglected non-regular workers, because enterprise unions often share managers' propensities to regard low-cost non-regular workers as buffers protecting the company and its regular employees. It was a logic that was particularly compelling for unions representing workers in large enterprises who enjoyed substantial employment security. After three decades of suffering a steady decline in union membership – from 35 percent in 1975 to under 19 percent today – the mainstream union movement knows that it has to start serving female and non-regular workers if it is to reverse the drift toward irrelevance. According to Yoshimiya Sogo, a senior official in the labor federation Rengo, eliminating gender differentials and strengthening protections for non-regular workers are the federation's top priorities. [4]

But union reformers face long odds in efforts to promote the interests of non-regular workers, many of whom are women. If many Rengo officials are reformers at heart, the federation has no authority over the enterprise unions, which, Yoshimiya points out, frequently ignore its directives to help women and part-timers. 95 percent of Rengo unions do not represent part-timers, and most have no desire to do so. The estimated organization rate for part-timers was just 3.0 percent in 2003.

Japanese unions are often most effective in protecting minimum standards and preventing arbitrary management abuses, but in a stagnant economy they have trouble gaining significant wage raises or improved benefits. Non-regular workers, who need representation most, are often reluctant to pay union dues or attend meetings since they can't perceive the benefits. There is also a low level of understanding of unions, especially among younger people. I was recently told by local union officials operating around Tokyo's Kameido district that members often quit unions even when the unions manage to maintain or raise wage levels because they do not realize how their interests are served. (Local unions are primarily tiny organizations with low-paid and/or volunteer staff, and the progressive outlook of social activists.)

Childcare leave

Although the push for equality on the part of some in business and government is largely motivated by fears of the low birthrate, progress in strengthening childcare support, critical to expanding the female work force, is at best erratic. Official statistics show that most eligible women take childcare leave. But these statistics leave out the majority, the approximately two-thirds of women workers who quit work when they become pregnant.

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Pregnant women often quit rather than take childcare leave because they are reluctant to force extra work on coworkers during their leave. Indeed, many women who do take childcare leave experience considerable resentment among coworkers who have to cover the extra work. Nihon Keizai Shinbun (Nikkei, 9 May 2005) reports that female rather than male employees seem to draw the parceled-out work, and have practically no chance of improving their job ratings by working harder – instead, the extra workload results in more problems and errors.

Although the law prohibits dismissing or penalizing people for taking childcare leave, it is widely believed that women who take leave frequently face "disadvantageous treatment" if not outright dismissal. (Men have the legal right to childcare leave as well, but they are even more vulnerable, and rarely take it.) As a result, strengthening the childcare leave right is one of the main subjects under review. The government has also made expanding daycare a priority even as it tacitly encourages daycare centers to hire low-paid non-regular workers to hold down costs.

Rising insecurity

Until relatively recently, near-full employment (for men) helped to maintain a high level of economic security, but that has been changing with the rising rates of divorce, non-marriage, and youth unemployment. The number of single-mother households rose by 30 percent to 1.22 million from 1998 to 2003. Women have become much more willing to abandon annoying or abusive spouses, particularly since marriage no longer provides a strong guarantee of economic security. However, most women seeking to return to the work force after bearing and/or raising children are relegated to non-regular positions paying low wages. Single mothers do a little better than others in finding regular positions, but their incomes remain low. In 2002, according to MHLW, single-mother households had average incomes of just 2.2 million yen, compared to 3.9 million yen for single-father households.

Finally, sexual harassment in the workplace remains a serious impediment to women's economic advance. The Revised EEOL clearly proscribed sexual harassment, but it still accounts for 80 percent of the discussions conducted for women at Equal Opportunity offices (Nikkei, 18 January 2005). These discussions generally take place after a woman's appeal to the company has been rejected. The woman is especially likely to lose her job if the violator is a top manager, as is often the case. Non-regular workers are especially vulnerable, and in extreme cases, harassment can lead to severe depression or even suicide. Local union officials say they sometimes negotiate with employers on behalf of victims, but that they are usually limited to demanding more severance pay. The amounts are small, they say, but the real purpose is to provide moral support and bolster the worker's self-esteem. Labor ministry officials and labor representatives in the equal opportunity committee want to add teeth to anti-sexual harassment rules, but employers are likely to veto such measures.

Marriage over work, again?

There are signs of a shift in the consciousness of young women, at least those qualified for white-collar occupations (Nikkei, 22 June 2005). Some observers report a significant shift in attitudes among many young Japanese women, towards preferring marriage over careers. These women, the thinking goes, are increasingly aware that a business career can be a grind. It is the

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common wisdom for instance that women in the first "post-EEOL" generation – those who took career jobs around 1985 to 1995 – tended to work furiously in order to succeed in the male-dominated business world, yet all too often found their careers unrewarding because of lack of acceptance from male coworkers, persistent glass ceilings (barriers to promotion for women), and neglect of their personal lives. A very high proportion of the few women who reached management rank never had children (this phenomenon is not, of course, limited to Japan). Throw in the problems of long work hours and declining job-and-income security, and it is no surprise that many young women seem to be leaning toward other options, including marriage and alternative work, even if the pay is low. But that spells potentially big economic trouble for a society that is about to see its working-age population decline. Business and political leaders may soon have another compelling reason to get serious about reforming the country's employment practices.

Notes

[1] AERA, 15 August 2005, pp. 72-77.

[2] See the January 2005 issue of Business Labor Trend, a monthly Japanese-language publication of the quasi-governmental Japan Institute for Labour Policy and Training.

[3] The report, regarding the July 27th session, was posted on MHLW's website on August 3rd.

[4] Interview, 11 September 2004. Yoshimiya is also one of the labor representatives in the ongoing EEOL deliberations. Rengo, which selects all the labor representatives, has at best limited contact with women's groups.

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