

Abstracts

Major Issues of Employment Discrimination Law in Japan

Ryoko Sakuraba (Kobe University)

Japan has had legal restrictions on discrimination based on employees' nationality, creed, social status and gender. In contrast, there were no statutes prohibiting discrimination based on employees' age, disability or employment type. Instead subsidies are given to companies hiring workers over the age of 60, and companies are required to meet a ratio for employing disabled persons. However, legal protection for women, older workers and part-time workers has been strengthened in recent years. The concept of indirect sex discrimination was introduced; regulations on age limits for hiring became compulsory; and equal treatment of part-time workers was ensured. Behind these trends lies the aging of society. This article takes a brief look at the current employment discrimination law and highlights the fundamental issues involved.

The Significance of the Enactment of Germany's General Equal Treatment Act (Allgemeines Gleichbehandlungsgesetz AGG)

Kazuyoshi Yamakawa (Tsu City College) and **Hajime Wada** (Nagoya University)

Germany's General Equal Treatment Act of 2006 was enacted to incorporate into domestic law several EC anti-discrimination directives. From the establishment to the termination of labour relations, the Act prohibits disadvantageous treatment "on the grounds of race or ethnic background, sex, religion, world view, disability, age, or sexual identity." The prohibition of discrimination, in general, is of great significance, and there are examples of existing laws being amended through actual judicial precedents. However, there have been very few court cases centering on the Act, and the influence that it exerts on business practices is regarded as less than substantial.

Harrasment on Grounds of Sex and Race :The United Kingdom Approach

Alison Wetherfield (McDermott Will & Emery UK LLP)

The United Kingdom has moved, over the course of the last two decades, from approaching harassment in employment as a type of less favourable treatment on grounds of a protected characteristic to the adoption of specific broad statutory definitions of harassment. These definitions blend concerns about equal treatment and equality with broader concerns about a right to dignity in the workplace. The specific characteristics of sexual harassment are addressed through a separate definition. This is very different from the United States approach to harassment, which some scholars now criticise as inflexible and disadvantageous to claimants, particularly race harassment claimants

Strategies for Elimination of Gender Inequality in Wages: Theoretical and Empirical Bases for the Irrationality of Statistical Discrimination

Kazuo Yamaguchi (University of Chicago)

Gender inequality in wages can be decomposed into six components: one component due to gender differences in employment patterns, four components due to gender differences in wage within each employment pattern, and one component due to gender differences in age distribution of employees. Of these, gender differences in wage among regular fulltime employees is identified to be the component that makes the greatest contribution to gender inequality. This article discusses statistical discrimination against women based on their higher rate of job leaves as the major

cause of the persistence of gender inequality in wages among regular fulltime employees, and provides five specific reasons why such discrimination is economically irrational for the employer. We thus derive strategies toward the attainment of gender equality by promoting employers' rational choices via refutation of statistical discrimination.

Diversity in Organization

Mami Taniguchi (Waseda University)

This paper analyzes how the idea of the workplace diversity has been changing in the US and Japan. In the 1960's and 1970's, it referred to equal employment opportunity and affirmative action in the US. After the late 1980's, due to problems of AA, HR managers and executives tried to develop new rationales for dealing with diversity. This encouraged a clear distinction from former AA programs to valuing diversity and managing diversity initiatives. On the other hand, in Japan's workplace diversity arguments are a relatively recent trend. The paper concludes that a shift from AA programs to valuing diversity and managing diversity in Japan is not as apparent as in the US.