
The Development of Labor Policy on Women: From the Perspectives of Justice, Effective Use, and Welfare

Noriko Iki

Ministry of Health, Labour and Welfare

This paper analyzes the development process of labor policy on women in Japan after the Second World War, based on the three policy perspectives of justice, effective use, and welfare. As a result, it was confirmed that from the viewpoint of changes in policy perspectives there are five periods demarcated by four specific milestones, which can be characterized as follows: during the incipient period at the outset, the focus was placed on the perspective of justice, exclusively in the sense of protection, with effective use and welfare being added from the exploratory period that came next. Then, in the revolutionary period that followed, a paradigm shift took place in the perspective of justice, from protection to equality, followed by further strengthening of the perspective of effective use during the development period, and finally the perspective of welfare is being strengthened in the transition period, which is the most recent phase. Moreover, in terms of future policy issues, it will be important to deal with the weakening of the perspective of effective use in labor administration pertaining to women, as well as the fact that the message to the populace concerning the effective use of the female workforce is becoming attenuated, and it will also be vital to be conscious of the mutual relationship between policies on the Equal Employment Opportunity Act and policies on the Child Care and Family Care Leave Act when promoting such policies.

I. Introduction

The Equal Employment Opportunity Act, which is one of the laws that is most closely related to female labor in Japan, entered into force in 1986, while the Childcare Leave Act (subsequently revised and renamed the Child Care and Family Care Leave Act), which is another such law, entered into force in 1992. These laws were structured as legal policy formulated with working women in mind and have been revised several times over the years until the present day. The content of those laws and revisions has had an impact not only on the conditions of employment of working women at the point when each took effect, but also on social perceptions concerning women's ways of working. Of course, laws and regulations pertaining to female labor existed even before the Equal Employment Opportunity Act, and legislation such as the provisions relating to women in the Labor Standards Act, which entered into force in 1947, soon after the end of the war, and the Working Women's Welfare Law (which was subsequently revised and became the Equal Employment Opportunity Act), which was created in 1972 after Japan had experienced a high growth period, was legal policy that protected working women, who were at a disadvantage compared to men, as well as supporting improvements in their welfare.

However, the scope of things included in the term "labor policy on women" differs

depending on the person discussing it. The legislation with provisions that directly relate to labor includes the Equal Employment Opportunity Act, the Child Care and Family Care Leave Act, and the Part-Time Workers' Act, which was enacted in 1991 (in some parts of this paper, the abbreviated term "three Equality Acts" is used to refer to these three laws), but in addition to this, legislation relating to social security and tax also indirectly has a major impact on approaches to female labor. Moreover, it is not the case that these three Equality Acts currently target only working women in their provisions. More specifically, this is because the assumptions that used to exist—namely that only working women are the objects of discrimination and that the harmonization of work life and family life is an issue only for working women—have changed. Eliminating discriminatory treatment of both men and women in all aspects of employment and achieving compatibility between work life and family life have become the objective of legal policy, so the laws have come to target both men and women.

However, looking at the background to the development of policy to date, one can see that ensuring that working women are not discriminated against due to their gender, enabling them to demonstrate their abilities effectively, and promoting compatibility between work life and family life for women (who have, in effect, borne the majority of the burden of childcare) have developed as primary objectives, even in legal policy that has ceased to distinguish between men and women in the provisions of the laws in question. Moreover, looking at various data, it can be seen that such issues for working women have still not been eliminated. It is an undeniable fact that even now, female labor is an important focus for policy, with improving the female employment rate and eliminating the M-shaped curve¹ set as targets in the New Growth Strategy formulated in 2010 by the DPJ (Democratic Party of Japan) government, and economic revitalization through active participation by women being advocated in the Comprehensive Strategy for the Rebirth of Japan, which was published in 2012 as a revised edition of the New Growth Strategy.

Accordingly, this paper describes the development process of labor policy on women since the Second World War, focusing primarily on the three Equality Acts, including the significance of tracing the origins of the policies, while also touching upon closely-related policies. In doing so, as the author's attempt at interpretation, this paper presents the three policy perspectives of justice, effective use, and welfare, and with these as a working hypothesis, as well as identifying milestones in the development of labor policy on women based on changes in the content of these three perspectives and the relationships between them, this paper examines how these perspectives have been reflected in specific policies. Finally, this paper discusses future challenges relating to policy development.

¹ In Japan, the female labor force participation rate by age describes a so-called M-shaped curve, in which the rate falls during the childbirth and child rearing years and then subsequently recovers.

II. Concerning the Perspectives of Justice, Effective Use, and Welfare

This section explains the definitions of the words justice, effective use, and welfare, as I have termed the three policy perspectives. All of these encompass very broad-ranging concepts in their normal, everyday usage, but it should be borne in mind that, for the sake of convenience, they are perceived as somewhat narrower concepts in this paper.

Firstly, let us look at justice. This term is used as a concept that expresses the values that fall into the category of basic human rights; the equality between men and women that is included in the right to equality, which is one of the basic human rights, can be said to typify this. Moreover, the policy of protection, which was established in the Labor Standards Act (enacted in 1947, soon after the end of the Second World War), supposing that it was difficult for working women to work safely and healthily amid the harsh working environment at that time unless they were subject to more substantial protection than men, related to the right to work as a social right and therefore was a policy based on the perspective of justice.

Next, let us look at effective use. It goes without saying that if one adopts the viewpoint of ensuring the effective functioning of the actual labor market and achieving the development of the economy and society in one's own country, it becomes necessary to make use of the abilities of working women in an economically rational manner. Labor policy on women can also be implemented as a labor market policy or employment policy that takes into account such benefits for the Japanese economy as a whole. In this sense, the promotion of re-employment and particularly the continued employment of women, as well as policies aimed at skills development for this purpose can be described as policies from the perspective of effective use. The relaxation and elimination of provisions concerning protection that had been constraints on the employment of women can also be said to be based on the perspective of effective use. Professor Ryuichi Yamakawa of Keio University, who is an academic specializing in labor law, points out that "Employment equality legislation generally fulfills the function of translating into reality the requirements of employment policy" (Yamakawa and Kawaguchi 2008, 228).

Finally, there is welfare. Put in simplified terms, this includes those policy perspectives that have the objective of increasing the happiness of female workers that cannot be fully included in the perspectives of justice or effective use alone. In particular, one can detect the perspective of welfare in policies in which the state or local government bodies provide a certain level of support in response to the individual worker's requests, pursuing more desirable working conditions beyond the minimum standard, and questing for consideration in high-level employment management by companies at a level above that which should be observed as mandatory provisions from the perspective of justice, and requests by individual workers. Measures that give consideration to "the harmonization of work life and family life", which have been formulated primarily with women in mind, increase the level of happiness of the individual, according to their particular circumstances, so it would be

fair to say that the perspective of welfare basically applies to these. The promotion of continued employment, support for re-employment, vocational guidance and skills development, which were referred to above in relation to the perspective of effective use, also have welfare-related implications, in the sense that they satisfy a woman's own desire for employment and improve her abilities, thereby leading to the achievement of a more advantageous working environment.

Incidentally, it is not the case that the content and strength of the perspectives of justice, effective use and welfare have remained consistently unchanged within postwar legal policy. For example, the perspective of effective use has been strengthened and weakened according to changes in the economic environment, and the level of requirements in relation to the perspective of welfare has also differed depending on the period. Moreover, the perspective of justice, which is closely linked to basic human rights, has changed in response to social perceptions in each period and the trends created by major developed countries and international organizations. Furthermore, while having a value as independent viewpoints, these three perspectives have also been closely related to each other. While there have been cases in which they have all been incorporated into a single labor policy on women during the same period, there have also been cases in which they have taken the form of separate policies. There have also been instances in which changes have occurred, with one of the three perspectives being strengthened while the others have weakened in relative terms, as times have changed.

Taking an overview of labor policy on women since the end of the Second World War, with a focus on the aforementioned three policy perspectives, they can be classified into five periods, marked by four milestones from the standpoint of changes in policy perspectives, which occurred in 1952, 1975, 1986, and 2001. To provide a simple explanation of these milestone years, 1952 was the year in which the Treaty of San Francisco² entered into force and the influence over the administration of Japan held by the General Headquarters, Supreme Commander for the Allied Powers³ (abbreviated to GHQ in Japan) ceased, or, at least, became minimal. 1975 was International Women's Year and marked the year in which a major step forward was taken in terms of changing public awareness concerning gender equality, both internationally and within Japan. 1986 was the year in which the Equal Employment Opportunity Act entered into force in Japan and, coupled with the previous year's ratification of the Convention on the Elimination of All Forms of Discrimination against Women, this marked the year in which a substantial start was made on policies relating to gender equality in the field of employment. 2001 was the year in which Japan's government ministries and agencies were restructured, resulting in the amalgamation of the Ministry of

² The peace treaty concluded by Japan, which was the vanquished nation in the Second World War, with the Allies, which were the victors in that war. As a result of the entry into force of this treaty, Japan regained its independence and GHQ ceased its activities.

³ During the Occupation, until the Treaty of San Francisco entered into force, governance took the form of indirect rule in which the Japanese government carried out the orders of GHQ.

Labour and the Ministry of Welfare, which led to the integration of the Women's Bureau and the Children's and Families' Bureau.

III. The Development of Policy in Each Period

1. Focus on the Perspective of Justice in the Incipient Period (1945–1952)

This is the period from the immediate aftermath of the Second World War until the entry into force of the Treaty of San Francisco. Japan's labor policy on women commenced with the Labor Standards Act, which was formulated under GHQ supervision from a new, democracy-based viewpoint, namely securing a lifestyle that is adequate for human beings, and the organization called the Ministry of Labour Women's & Minors' Bureau, the launch of which in 1947 owed a great deal to the leadership of GHQ. Labor policy on women, to which the Women's & Minors' Bureau devoted its energies, was focused on protecting working women, together with young workers. The only legal policy concerning female labor that existed in Japan at that point was found in the provisions relating to women in the Labor Standards Act; as well as the provision concerning equal wages for men and women stipulated in Article 4 of this Act, it regulated overtime work and prohibited late-night work in principle, in order to protect women. In other words, it can be said to have been a policy development from the perspective of justice, with a very strong element of protection to it.

It must be borne in mind that this kind of situation was not peculiar to Japan at this time, and regulations that provided women with special protection, such as in regard to night work, also existed in the conventions of the ILO.

Let us look at the reality facing the female employees targeted by labor policy on women during this period. The number of female employees in 1952 was 3.91 million, accounting for less than a quarter of all working women (a category that, as well as employees, also included self-employed women and women working as domestic servants), and the average age of female employees in 1949 was very young, at just 23.8 years old.⁴ In addition, amid the harsh economic environment that prevailed shortly after the war, women were often forced into poor working conditions or turned out of their jobs in order to make room for men who had returned home from battle after being demobilized. In these circumstances, it appears to have been necessary to expend a great deal of effort in order to promote policy from the perspective of protection, so there was no room for devising policies based on the perspectives of effective use or welfare.

2. The Birth of the Perspectives of Welfare and Effective Use during the Exploratory Period (1952–1975)

This is the period from the entry into force of the Treaty of San Francisco until Inter-

⁴ In 2011, the number of female employees in Japan was 22.37 million, more than half of who were aged 40 or above.

national Women's Year. During this period, the influence of GHQ disappeared and discussions concerning the revision of protective provisions and other matters concerning labor administration intensified, with the objective of making use of female workers to boost the industrial and economic development of Japan.⁵ An administrative system was put in place, with Offices for Women and Youth, which were official Local Branch Offices grounded in law, being established in all prefectures, and a unique form of labor administration pertaining to women by Women's & Minors' Bureau began to appear. However, the main regulations concerning labor and legal policy on labor as a form of social security were already under the jurisdiction of other bureaus, even within the Ministry of Labour, so that part of the administration focused on women and young people could only bring its unique approach to bear in a realm other than these—namely that of welfare—at that time. Policies from the perspective of welfare were launched, such as Working Women's Centers⁶ and a project focused on training in piecework done from home.⁷ However, the quality and quantity of these were not sufficient to form the core of labor policy on women and they were budgetary measures rather than being grounded in law. One could describe this as a period in which the government continued to explore the question of the areas to which it should devote serious efforts in its labor policy on women.

During this process, the tight labor market resulting from high economic growth⁸ led to a focus on the effective use of working women, with discussions concerning the use of female workers starting with part-time workers. The policy proposals made by the Minister of Labour's advisory body, the Women's and Young Workers' Problems Council, from "Proposals Concerning the Effective Use of the Middle-Aged and Older Female Workforce" (1966) to "Proposals Concerning Female Part-Time Employment Measures" (1969), symbolized this. However, while these proposals emphasized putting in place the requisite conditions in the form of the thorough implementation of the Labor Standards Act, which formed the basic premise, before actually making use of the abilities of women as part-time workers, they did not expressly set forth anything that could be described as proactive measures to provide guidance in making use of women's abilities in the labor market.

⁵ In a 1952 revision of the Labor Standards Act, the provision banning late-night work by female workers was relaxed in relation to certain occupations.

⁶ Facilities that began to be established in 1953, funded by a government subsidy. The objective of operating these centers was to promote improved protection and welfare for female workers in the community by offering women working at small and medium-sized enterprises the support they required for their daily lives, as well as providing them with a means of making good use of their spare time. These centers actually offered lifestyle consultation services, support for recreation, and courses and other projects aimed at improving participants' general education.

⁷ A project involving the establishment of public training centers for piecework done from home, along with the provision of services focused on piecework mediation, complaint management, research and in-home training. This began in 1955.

⁸ This is the period when the Japanese economy achieved dramatic growth, and broadly refers to the 19-year period from the end of 1954 until the end of 1973, with the period of full-scale high growth said to be from 1962 until 1970.

Moreover, in fact, a number of definitions of the term “part-time worker” were in use, with discussion of these by experts failing to generate a consensus. Accordingly, the 1969 proposals gave the definition “in general, this refers to workers whose daily, weekly, or monthly prescribed working hours are shorter than those of full-time workers employed at the same place of business, and whose employment is regular and autonomous,” and stated that “it should be clarified that part-time employment refers specifically to employment for shorter hours and is not a status-related category, and steps should be taken to promote thorough awareness of this fact.” However, the proposals themselves were not legally binding, so the status of part-time workers in Japan under employment contracts continued to differ substantially from that of regular workers. More specifically, their wages and other conditions of employment were inferior, they were not considered for promotion, and most continued to experience an unstable way of working with short employment contract periods.

In the same way as part-time labor, piecework done from home⁹ spread during this period as a way for women to work. Minimum wages were set and health and safety measures were implemented as part of labor standards administration based on the Home Work Act, which was enacted in 1970 from the standpoint of labor policy on women, amid a situation in which consultation and mediation was being conducted via the public vocational training centers for piecework done from home, and various studies were being carried out.

In 1972, after policy discussions relating to part-time workers and home workers had settled down due to the proposals and the legislative process, an independent law on the theme of labor policy on women was finally born, in the form of the Working Women’s Welfare Law. This legislation was formulated on the basis of the awareness that not only part-time labor, but also women’s employment as a whole “meets industrial, economic and other social demands . . . and should, in general, be encouraged.” However, as can be inferred from its title, the Working Women’s Welfare Law was a law that put the perspective of welfare at its forefront, while the perspective of effective use was not emphasized. One of the reasons for this was that there were various views among the populace concerning labor by women with a household to run, so it was politically difficult for the government to actively promote the employment of women. Thus, while taking on the characteristics of a basic law, the content of this law stressed “the harmonization of work life and family life” in particular, “from the standpoint of seeking an increase in the welfare of working women, as well as an improvement in their status.” The provisions concerning child care leave, which were a key element in this law, only prescribed the employers’ obligation to make efforts to encourage its introduction, so were deeply tinged with the welfare viewpoint.

⁹ This is a way of working that involves carrying out tasks such as processing or making things by hand at home, with contract remuneration being provided according to the number of items finished; it is carried out on the basis of a contract other than an employment contract, such as a subcontracting or outsourcing contract.

At the same time, the Act on Childcare Leave in Specific Occupations,¹⁰ which was enacted in 1975 as legislation by Diet members, set forth the perspective of effective use, focusing on securing personnel through ensuring continued employment via the introduction of a child care leave system. This law marked the first time that child care leave and continued employment had been linked in the provisions of a law.

In 1973, which marked the final phase of this period, the rapid stagnation of economic activity occurred as a result of the first oil crisis, so the tendency to attach importance to the perspective of effective use did not continue into the next period.

3. The Struggle for a Paradigm Shift in the Perspective of Justice during the Revolutionary Period (1975–1986)

This is the period from International Women's Year in 1975 until the entry into force of the Equal Employment Opportunity Act. During this period, the content of the perspective of justice in labor policy on women changed considerably in the international community, first of all, amid moves that began in International Women's Year and led to the adoption in 1979 of the Convention on the Elimination of All Forms of Discrimination against Women. More specifically, the World Plan of Action for the Decade of Women, which was adopted in International Women's Year, was the catalyst for the clear separation of maternity protection and other forms of protection for women, between which the 1967 Declaration on the Elimination of Discrimination against Women did not differentiate. While it was stated that maternity protection "should not be deemed to be unequal treatment between men and women," protective legislation that targeted only women, other than maternity protection should be reviewed periodically in the light of scientific and technological knowledge and should be revised, repealed or extended as necessary. Within Japan as well, understanding of such international changes progressed within the government, and it became clear what constituted discriminatory treatment between men and women in the field of employment and should therefore be prohibited.

The Japanese government, which had initially been perceived to be passive toward the ratification of this Convention, responded to lobbying by organizations such as women's groups and in 1980 it went ahead with providing the signature that was the prerequisite for ratification, after which it developed the necessary conditions for ratification. In this process, a paradigm shift also took place in labor policy on women in Japan as well, with a transition within the perspective of justice from the viewpoint of protection to the viewpoint of equality, following extensive discussions within such forums as the Labor Standards Act Study Group, the Expert Council on Gender Equality Issues, and the Women's and Young Work-

¹⁰ Its official name was the Act on Childcare Leave for Female Teachers at Schools Providing Compulsory Education, and Nurses and Nursery Teachers at Medical Facilities and Social Welfare Facilities, and it enabled female workers in the public sector engaged as teachers, nurses, or nursery teachers, many of whom were women, to take child care leave until their child reached the age of one year.

ers' Problems Council, and progress was made toward the realization of the Equal Employment Opportunity Act and the revision of the provisions protecting women in the Labor Standards Act.

As expected, it is not the case that the change from the viewpoint of protection to one of equality was entirely smooth. Firstly, business proprietors were very hesitant about this change. In Japan, male workers, who could be expected to have a long period of continuous service, were positioned as the core workforce and so-called Japanese-style employment management, which involved cultivating personnel while rotating them regularly through various posts, became firmly established, primarily in large corporations. However, working women were considered to be outside this scope and were positioned as supplementary workers, based on the premise of a short length of service, due to the likelihood that they would only have a short period of continuous service. Concern spread that the Equal Employment Opportunity Act would force businesses to revise this kind of approach to employment management and a major debate developed, with employers asserting that they "opposed a strong equality law" and "could not treat employees equally in a situation in which protection was required." On the other hand, objections emerged from among working women themselves concerning the either-or choice between protection and equality. In the background to this was the fact that in an environment in which men were expected to work long hours, the development of nurseries had not progressed very far, with women compelled to bear all family responsibilities due to strongly-rooted perceptions of a fixed division of roles, there were many working women who would not be able to work if protections such as regulations concerning overtime work and the prohibition on late-night work were removed.

Ultimately, the laws enacted in 1985 were the Equal Employment Opportunity Act,¹¹ which imposed an obligation to make efforts in relation to recruitment, hiring, deployment, and promotion, and the revised Labor Standards Act,¹² which left in place many provisions protecting women, so a full-scale instant switch from the viewpoint of protection to that of equality did not take place. This can be said to be the result of having reflected the attitudes of working women, the reality of employment, and the actual situation in employment management among Japanese companies.

Incidentally, amid the major trend toward switching from the viewpoint of protection to that of equality, some progress was seen in relation to the perspectives of effective use and welfare, although this did not become sufficiently apparent in policies. Firstly, the abo-

¹¹ Implemented through a revision of the Working Women's Welfare Law. The only things that became mandatory provisions were the prohibition of sexual discrimination in regard to the mandatory retirement age, dismissal, certain welfare programs, and certain education and training.

¹² At this time, the regulations concerning overtime work and the prohibition on late-night work were abolished in regard to certain workers in leadership positions and professional occupations, as described below; in addition, in regard to overtime work regulations for other types of workers, the number of hours to which women were restricted was relaxed, while the number of occupations subject to exceptions in relation to the ban on late-night work was increased.

lition or relaxation of protective provisions other than maternity protection were also the conditions for enabling working women to demonstrate their abilities, which was the aim of the Convention on the Elimination of All Forms of Discrimination against Women, so in this sense one can say that this had the perspective of effective use. The elimination of protective provisions that took place as a result of the revision of the Labor Standards Act at that time was limited, but one example was the removal of regulations concerning work outside prescribed working hours and on holidays, as well as late-night work, in the case of workers in subsection chief position or upper and professional occupations. In addition, the industry group representing taxi drivers requested the relaxation of regulations concerning late-night work, on the grounds that working women themselves had requested this, so this restriction was lifted on condition that the worker herself requested it.

Moreover, it is particularly notable that, at the end of this period, consideration began to be given to measures focused on part-time labor, in parallel with deliberations concerning the Equal Employment Opportunity Act. The Equal Employment Opportunity Act aimed to place working women who were regular employees in a position in which they could compete properly with male workers within the company, according to the wishes and abilities of the individual. In contrast, the Guideline on Measures Concerning Part-Time Work, which is an administrative guidance rule prescribed in 1989, aimed to ensure a minimum level of labor standards for workers with short working hours, such as remedying the inconsistent application of the Labor Standards Act, which should have been applied to them, as well as clarifying various other matters concerning application, bearing in mind female workers employed as part-time workers, who typified non-regular employees. Based on the premise that part-time workers were subject to employment management that differed from that of ordinary workers, this Guideline can also be said to have explored measures to increase the welfare of working women and promote effective use of their abilities, by such means as upgrading the employment environment through the clarification of such matters as the conditions of employment, as well as providing support in the form of vocational guidance, career counseling and training courses.

Furthermore, coupled with the work on formulating the Equal Employment Opportunity Act that was being done at that time, the 1984 reorganization of the Women's & Minors' Bureau into the Women's Bureau, which took place as part of the administrative reforms led by the Nakasone Cabinet, was a major catalyst for further development of labor policy on women. While having consistently demonstrated an awareness of the issues in terms of labor administration pertaining to women, it had been difficult for the Bureau to make independent policy concerning measures relating to part-time labor. Therefore, by providing clear grounds in law for bringing coordination of policies on part-time labor under the jurisdiction of the Women's Bureau, this adjustment can be said to have led to the development of various policies during the period that followed.

4. The Increasingly Apparent Perspective of Effective Use and the Advance of the Equality Paradigm in the Perspective of Justice during the Development Period (1986–2001)

This is the period from the entry into force of the Equal Employment Opportunity Act until the birth of the Equal Employment, Children and Families Bureau. With the enactment and entry into force of the Equal Employment Opportunity Act as a catalyst, new legal policies on women's labor relations were developed.

One was the advance of legal policy concerning the harmonization of work life and family life triggered by the formulation of the Childcare Leave Act, which entered into force in 1992. Unlike the provisions imposing on employers the obligation to make efforts concerning child care leave in relation only to working women, which had been prescribed in the Working Women's Welfare Law and inherited by the Equal Employment Opportunity Act after the revision of the former, the Childcare Leave Act provided for child care leave as a legal right for both male and female workers, in the form of a single piece of legislation. Moreover, against the background of tight supply and demand in the workforce at the time, by prescribing that the continuation of the employment of a worker through child care leave was perceived not only as a matter of welfare for workers, but also as something that "contributes to the development of the economy and society," this law caused the perspective of effective use to become apparent. Even looking at surveys of attitudes carried out by the state, the proportion of those expressing the opinion that women "should continue their occupation without interruption even after having children" in regard to their ways of working grew to exceed 20% over the period from 1984 to 1992. In addition, with the custom of long-term continued employment of core workers becoming firmly established as the Japanese-style employment system, one could say that this policy reflected the fact that women wishing to enjoy the same advantages of long-term continued employment as men had come to account for a commensurate proportion of the population. Soon after, revisions were made with the purpose of legislating for the right to family care leave as well, and this legislation entered into force in full in 1999 as the Child Care and Family Care Leave Act. Thus, the perspective of effective use, focused on encouraging workers to continue demonstrating their abilities without interrupting their employment to bring up children or provide long-term nursing care for family members, became clearer.

The second was the enactment of the Part-Time Workers' Act. Despite the fact that the focus of the policy was not restricted to women, measures concerning part-time labor, which began in earnest at the end of the previous period with the issue of the Guideline on Measures Concerning Part-Time Work, became one of the key pillars of the policies of the Women's Bureau, which was launched in 1984, due in part to the fact that part-time work had originally been perceived from an early stage as being a form of employment that would enable women to demonstrate their abilities while achieving the harmonization of work life and family life. Legislative efforts ultimately bore fruit with the 1993 entry into force of the Part-Time Workers' Act, following the 1989 Part-Time Labor Guidelines, which

took the form of a public notice from the Minister of Labour. However, the policy perspective of effective use was not as clearly highlighted in the Part-Time Workers' Act as it was in the Child Care and Family Care Leave Act. One of the reasons why the legislation ultimately focused on welfare was the fact that it was difficult to coordinate the opinions of workers, who were seeking the deployment of measures from the perspective of justice, such as demanding "equal treatment" for part-time workers, with those of employers, who were bringing the perspective of effective use to the forefront. However, government policy overall at that time, such as the introduction of the special deduction for spouses,¹³ was focused on making it easier for women to demonstrate their abilities in the form of part-time work, thereby truly emphasizing the perspective of effective use, so this would seem to have partially worked to increase part-time workers.

Furthermore, there was one more major change during this period. This was the advance of policy on the Equal Employment Opportunity Act, with the aim of completing the switch from protection to equality that had remained incomplete in the Equal Employment Opportunity Act that entered into force in 1986. Policy in this field progressed considerably with the revision of the Equal Employment Opportunity Act, which was enacted in 1997 and entered into force in full in 1999.

The front-line administrative organization for implementing this policy was also strengthened. Based on the Equal Employment Opportunity Act, from 1986, the prefectural Offices for Women and Youth were furnished with a role as an enforcement agency for the law, providing advice, guidance, recommendations and support in dispute resolution, as well as carrying out administrative work concerning conciliation based on the law. These prefectural Offices for Women and Youth also came to play a certain role in the administration of enforcement of the subsequently-enacted Childcare Leave Act and Part-Time Workers' Act, and the level of recognition of them and trust in them as an administrative body increased. It also became possible for the government to make policies on the assumption that these Offices for Women and Youth could function as a front-line organization. However, as described below, the major political trend toward administrative reform and the decentralization of power that occurred at the end of this period led to the restructuring of the Women's Bureau and the Offices for Women and Youth, which had been responsible for the implementation of labor policy on women.

¹³ Established in 1987, in addition to the spousal tax deduction, which was applied in the event that the income of the spouse of a taxable person was below a certain amount, this special deduction involved the application of a phased income tax deduction according to the spouse's amount of income, which was designed to ensure that there was no adverse change in household income for those with incomes around the line at which the deduction applied. As a result of this, it was anticipated that the tendency of female part-time workers to curb their employment at a level of income around the line at which the deduction applied would be eliminated.

5. The Policy Effects Are Called into Question As the Perspectives of Welfare and Justice Expand during the Transition Period (2001 Onward)

This is the period since the launch of the Equal Employment, Children and Families Bureau. In 2001, the restructuring of central government ministries and agencies was carried out as part of administrative and fiscal reforms, with the 23 ministries and agencies (including the Cabinet Office) hitherto in existence undergoing a process of amalgamation and abolition, after which there were 13 ministries and agencies (including the Cabinet Office). At that time, the Ministry of Labour was amalgamated with the Ministry of Welfare, while the Women's Bureau, which had been responsible for labor administration pertaining to women, was integrated with the Ministry of Welfare Children's and Families' Bureau, which had been responsible for the administration of child welfare, and began to operate as the Ministry of Health, Labour and Welfare, Equal Employment, Children and Families Bureau. It would be fair to say that this period brought about an expansion in the perspective of welfare in labor policy on women.

As a result of a further fall in the birthrate around this time, considerable attention was focused on measures to counter the declining birthrate, and the frequent establishment of inter-ministerial forums for deliberation within the government from the end of the 20th century and resultant formulation of policy packages can be said to have been a factor contributing to this. Amid this situation, the necessity of measures focused on the achievement of a "work-life balance" was highlighted; this term became firmly established as a concept that was broader than that of "achieving compatibility between work life and family life" and was easier to apply equally to men as well. However, it was naturally the Child Care and Family Care Leave Act that most needed to be enhanced as a legal policy to cover measures for the achievement of a work-life balance. Initiatives such as the enhancement of childcare facilities and services and upgrading of economic support, such as child allowance, were implemented as measures to counter the declining birthrate, and it was probably inevitable that the Equal Employment, Children and Families Bureau, which has jurisdiction over labor policy on women as well as such measures relating to child welfare, would focus on enhancing measures to support achieving compatibility between work and family based on the Child Care and Family Care Leave Act.

Between 2001 and the present day, the Child Care and Family Care Leave Act has been revised three times, with the policy menu being augmented and enhanced considerably. Even if one looks only at the child care leave system, it was augmented in many ways, such as the prohibition of disadvantageous treatment on the grounds of child care leave, the extension of the leave period in the event that it is not possible to enroll the child in a nursery, the Additional Leave for Mum and Dad (*Papa-Mama Ikukyu Purasu*) system, which extends by two months the period during which leave can be taken if both parents take leave, and the expansion of the application of the leave system to include fixed-term employees. In addition, an even more diverse menu was put in place and assembled so that it enabled workers to make choices. This featured such provisions as limiting work outside prescribed

working hours and on holidays for both male and female workers providing long-term nursing care or bringing up children who are not yet attending elementary school, exempting workers raising a child under the age of three from overtime work and making a system of short-time work obligatory in relation to such workers, establishing and augmenting sick/injured child care leave in the event that a worker's child is unwell, and instituting short-term nursing leave calculated separately from the three-month allowance of family care leave that focuses on parents and other close family members targeted by this system. Moreover, in particular, it is notable that the content of the most recent revision, in 2009, had the aim of using policy to encourage men to take child care leave, by abolishing the provision that made it possible to provide exceptions in regard to the exercise of the right to child care leave in cases in which a labor-management agreement had been concluded concerning workers with spouses who were full-time homemakers and the aforementioned Additional Leave for Mum and Dad system.

As well as content that was, overall, indispensable in terms of enabling female workers to continue employment while fulfilling family responsibilities, such as child rearing, it would be fair to say that these revisions put in place various support measures aimed at ensuring that workers had bright prospects in terms of having children. In this sense, although the provisions of the Child Care and Family Care Leave Act confer on workers the right to request particular working conditions and impose obligations on employers in this regard, it is quite different from the Labor Standards Act, which comprises minimum standards to protect the lives and health of workers and includes penalties, and one could say that it strengthened the nature of the policy in regard to the welfare perspective, which aimed to increase the welfare of workers by such means as enabling workers bringing up children "to be able to secure time with their children."

This fact alone constituted glad tidings for most working women, who had struggled for many years to achieve compatibility between work and child rearing. In particular, the fact that legal policies aimed at eliminating the mindset of a fixed division of roles in relation to childcare, such as the Additional Leave for Mum and Dad system, were initiated could reasonably be described as groundbreaking. At the same time, the various augmented menus have increasingly included measures that could not be entirely described as "measures without which (female) workers might be forced to quit their jobs in order to bring up children or provide long-term nursing care," with a relative decline in the implications pertaining to ensuring continued employment, so it has become harder to perceive the effective use perspective.

Next, looking at the expansion of the justice perspective, it should be noted that, following revisions that entered into force in 2007, the Equal Employment Opportunity Act became legislation that prohibited discrimination against both men and women, which eliminated its previous unilateral character in terms of provisions focused solely on discrimination against women. In addition, the fact that the revised Act included provisions concerning indirect discrimination and that the revisions to the Part-Time Workers' Act that

entered into force in 2008 established provisions prohibiting discriminatory treatment of part-time workers is also worthy of mention. In particular, the Part-Time Workers' Act legislated for a mechanism for ensuring balanced and equal treatment between part-time workers and ordinary workers, which had been an outstanding issue for many years, and contained provisions prohibiting discriminatory treatment (compared with ordinary workers) against part-time workers on employment contracts that had no fixed term and were the same as those of ordinary workers in terms of the scope of their duties, responsibilities and personnel use.

Thus, although advances have been made in augmenting the three Equality Acts since 2001, one cannot say that the actual situation in Japan has progressed significantly since these revisions, in terms of achieving such policy goals as a better work-life balance, de facto equality between male and female workers, and remedying the disparity between the treatment of part-time workers and that of regular employees.

For example, even though systems pertaining to support for achieving compatibility between work and family life have been enhanced, the proportion of women continuing in employment after giving birth remains low and government forums for the deliberation of measures to counter the declining birthrate are questioning whether there might still be a situation in which women face an either-or choice between work and childbirth/child rearing. Neither could one describe the progress in appointing women to managerial posts as adequate (the proportion of women among those in managerial posts in a 2011 survey was 5.1% at the divisional director level and 8.1% at the [more junior] departmental director level), while the wage disparity between men and women remains substantial (in a 2011 survey, when the scheduled cash earnings of male general workers were set at 100, those of female general workers were just 70.6). With regard to the provisions prohibiting discriminatory treatment that were established as a result of the 2008 revision of the Part-Time Workers' Act, some have pointed out that the scope of application is rather narrow, so work has begun on revising the law with a view to achieving more satisfactory treatment.

Thus, while some progress was seen in legal policies during this period, such as the expansion of the perspectives of welfare and justice, it was a period in which verification of their policy effects from a variety of angles began to be sought. In particular, with the challenges in terms of legal policies having become somewhat clearer by this stage, there have been several revisions of policies on the Equal Employment Opportunity Act and policies on the Child Care and Family Care Leave Act, with a view to their achievement, but it would be fair to say that questions are now being asked about whether the efforts to enhance these legal policies have borne sufficient fruit and about the degree to which the upgrading of the legal system can lead to improvements.

IV. Conclusion

1. Broad Overview of Each Period

Looking at the development of policy in each period, it can be said that the perspective of justice has existed consistently throughout labor policy on women in each period, with the perspectives of welfare and effective use being added in the period from 1952 and increasing in substance from 1986. Moreover, the mutual relationships between these three perspectives have changed in each period: for example, one can see how the balance between the three perspectives has varied, as the period from 1975 to 1986 was the period when attention focused on the perspective of justice, while the period from 1986 to 2001 was one in which the degree of focus on the perspective of effective use increased in relative terms and the period from 2001 onward has been one in which greater emphasis has been placed on the perspective of welfare.

In terms of the content of these perspectives as well, International Women's Year in 1975 was the catalyst for the beginning of a paradigm shift in the justice perspective, from protection to equality, which was followed by changes such as convergence with the equality paradigm in areas apart from maternity protection. In addition, changes in the welfare perspective include the shift in emphasis that took place in the 21st century in relation to the content that brings about satisfaction through welfare, from satisfaction in terms of one's working life toward satisfaction in terms of such lifestyle-related aspects as child rearing and long-term nursing care. Furthermore, the effective use perspective began as a relatively indirect form, starting in the high growth period, but became more apparent in the form of continuing employment in the 1975 Act on Childcare Leave in Specific Occupations and the Childcare Leave Act that entered into force in 1992, but although subsequent revisions have gradually expanded its content, it has been overshadowed by the other perspectives.

2. Elements Other Than Changes in Policy Perspectives: Increasingly Bilateral Nature of the Issue

Apart from these changes in policy perspectives, a major change has occurred in the development of labor policy on women over the last 65 years or so. This is a phenomenon that could either be described as the dwindling of its unilateral nature, or the growth of its bilateral nature.

Whether in relation to protection for women, the elimination of discriminatory treatment *vis-à-vis* men, or achieving compatibility between work life and family life, policies that clearly targeted only women when they were first introduced have progressively come to focus on both men and women as a result of subsequent policy development, and have therefore developed a bilateral nature.

The catalyst for this was the work done on the Equal Employment Opportunity Act and on revising the Labor Standards Act, which was carried out to put in place the conditions for the ratification of the Convention on the Elimination of All Forms of Discrimina-

tion against Women. Furthermore, ILO Convention No.156 (the Workers with Family Responsibilities Convention), which was adopted in 1981, aspired to the realization of equality of opportunity and practical equality, both between male and female workers with family responsibilities and between workers with family responsibilities and those without. While it included various exceptional measures, the Childcare Leave Act that entered into force in 1992, having been enacted with the ratification of this Convention in mind, conferred on both men and women the right to child care leave. In addition, when family care leave was legislated for in the revision of this Act, discussions focused on both male and female workers, and the subsequent enhancements to mechanisms supporting the achievement of compatibility between work life and family life have always targeted both male and female workers. In particular, with the revision of the Equal Employment Opportunity Act as a catalyst, the support measures included in this Act that were focused on the fact that women bear a heavy burden due to being required to take on more responsibility for childcare and housework, namely provisions taking into consideration support for re-employment, vocational guidance, and improved development of vocational skills, were changed to measures focused on male and female workers with family responsibilities and were transferred to the Child Care and Family Care Leave Act.

In the case of the Equal Employment Opportunity Act as well, even after the revision prohibiting discriminatory treatment of women at every stage of employment entered into force in 1999, there has been an aspiration to legislate for the prohibition of discrimination against both men and women, in light of trends in various other countries, and it was even said that “as long as there is a prohibition solely on discrimination against women, one cannot avoid the perception that there is also a welfare-related tinge to it, in the form of protection for women alone,” which led to the 2007 revision.

As a result, looking at current legal policies, the number of provisions relating solely to women have decreased to such an extent that it would seem inappropriate to use the term “labor policy on women.” The aforementioned bureau amalgamation in 2001 and the integration of Local Branch Offices that was carried out in 2000 (the prefectural Offices for Women and Youth were integrated with organizations for labor standards administration and employment security administration, and became prefectural Labour Bureaus) were the catalyst for the disappearance of the word “women” from the names of administrative organizations.

3. The Future of Labor Policy on Women

Finally, I would like to highlight a number of points that I believe to be challenges for the future.

(1) Mapping out the Effective Use of Working Women

The elimination of elements with a unilateral nature from all aspects of policy is, in itself, necessary and appropriate, as it has the aim of avoiding effects and harmful results

that would impede substantial equality, for example, encouraging a mindset based on a fixed division of roles. In particular, in light of the fact that there is what might be described as a global trend, with the countries of Western Europe at the forefront of efforts to make progress with systemic revisions in order to eliminate unilateral elements from their policies, it may be inappropriate for Japan alone to maintain policies specifically for working women. On the other hand, due to the fact that the policies themselves have come to target both men and women, it has become difficult to perceive the perspective of effective use of working women.

For example, despite the fact that official support policies are still targeted at women, taking into account the effective use of working women who carry out childcare or long-term nursing care, policy development is being mapped out with a focus on both men and women, based on the provisions of the Child Care and Family Care Leave Act. Accordingly, it has become difficult for both those involved in employment management and women themselves to perceive the importance of the perspective of effective use of women. Moreover, although Japan's current Equal Employment Opportunity Act provides for state support when companies develop positive action in regard to working women, the country has prescribed no other measures to directly support female workers, with a view to achieving effective gender equality. Moreover, in effect, almost all of the employment support measures that targeted working women alone have disappeared.¹⁴ This is probably because there is a possibility that failing to target male workers as well runs the risk of being criticized as reverse discrimination. In employment security administration, which does not directly fall within the purview of labor policy on women, centers called Mothers' Hello Work have been developed as service hubs for job-seekers who face constraints such as child rearing, while offering their services to both men and women, thereby publicizing the importance of employment policy concerning women in a form which could be described as role reversal.

Even under the Convention on the Elimination of All Forms of Discrimination against Women, it is not the case that policy-making bodies such as national and local governments are not permitted to implement any policies aimed at the welfare or effective use of working women alone, rather than being aimed at both men and women. Indeed, Article 4, paragraph (1) of the Convention permits special measures, which include those formulated on the basis of government policy, stating that "Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention." In fact, Article 8 of the Basic Act for Gender-Equal Society clearly stipulates that measures to promote the formation of a

¹⁴ The Comprehensive Strategy for the Rebirth of Japan, which was formulated on July 31, 2012, advocated "economic revitalization through the promotion of active participation by women," and the state redoubled its efforts to urge companies to accelerate their initiatives in regard to positive action, but one would still have to say that the government is still refraining from providing direct support to working women.

gender-equal society include measures to actively promote improvements, and states that the government will bear the responsibility for their comprehensive formulation and implementation. The “active remedial measures” in the Basic Act for Gender-Equal Society are deemed to be those measures that actively provide either men or women with opportunities to participate in activities in all fields of society according to their own wishes, as an equal member of society, within the scope required to remedy the disparities between men and women in terms of such opportunities (Article 2 of this Act); accordingly, they can be considered to be policy measures for so-called positive action.

In Japan, *de facto* equality between men and women has not yet been achieved, as demonstrated by the fact that substantial wage disparities still exist between men and women, while the proportion of women in managerial posts is low, and it is also clear from the Concluding Observations of the Committee on the Elimination of Discrimination against Women concerning Japan published in 2009 that active remedial measures are still required in Japan. In these observations, it is pointed out that “The Committee notes with regret that no temporary special measures are in place to accelerate *de facto* equality between men and women or to improve the enjoyment by women of their rights in the State party, in particular with regard to women in the workplace and the participation of women in political and public life.” In other words, this leads to insufficient use of working women, who are essential to the maintenance and development of Japan’s society and economy in an era in which we face the aging of the population coupled with a declining birthrate. If this is the case, one can say that there is scope to enhance public policy focused on effective use, in the form of active remedial measures, in order to enable working women to demonstrate their abilities more fully.

(2) Measures to Deal with Disparities between Men and Women in the Use of Systems for Supporting Compatibility between Work and Life

Another challenge is the fact that although measures relating to achieving compatibility between work life and family life and achieving a better work-life balance are designed as systems aimed at both men and women, most of the users are actually women, as can be seen from such indicators as the child care leave system utilization rate. Of course, needless to say, augmenting these legal policies concerning support for achieving compatibility between work and family has brought about many advantages for working women. However, there are fears that as the policy menus for raising the level of welfare for individual workers are enhanced, in order to “make it easier to give birth to children and bring them up,” disparities between men and women will widen in terms of the use of such policy menus with this welfare perspective. Just as the very existence of the former provisions protecting women and their application provided grounds for the legitimacy of managing the employment of men and women differently, there is the potential for actual disparities in the use of policy menus to give rise to disparities between men and women in terms of their treatment. Among companies that have endeavored to enhance their in-house systems in response to

the augmenting of policies in the Child Care and Family Care Leave Act, some have expressed the view that “We implemented all of the measures to support achieving compatibility between work and family that we could think of, but almost all of those who use the system ended up being women. The more that we enhance measures to support child rearing, the more a gap opens up between men and women in terms of their ways of working. It feels as though measures to benefit women are actually causing disparities to increase.”¹⁵ Consequently, in policies to support achieving compatibility between work and family, as well as the necessity of further promoting the use of policy menus by men in the future, as symbolized by the “Ikumen Project,”¹⁶ when conducting deliberations about the enhancement of policy menus, consideration should also be given to dealing with the expansion of disparities in treatment resulting from such disparities in use.

(3) Seeking a Synergistic Effect between the Policies of the Equal Employment Opportunity Act and Those of the Child Care and Family Care Leave Act

Furthermore, it is necessary to properly verify the truth of the suggestion that systems such as child care leave, which originally began with the objective of the effective use of women through their continuing employment, might actually have failed to promote their use. In research conducted recently by the Japan Institute for Labour Policy and Training, analysis was carried out that showed that a large proportion of women responsible for the same duties as men and women who have worked for a long time at the same company before being pregnant are taking child care leave and continuing their employment, even if they have long working hours, and that the employment continuation rate is rising, because of an increase in the number of such regular workers (Japan Institute for Labour Policy and Training 2011). Thus, even when a company runs child care leave and other legal systems relating to support for achieving compatibility between work and family in practice, what is important is not only the perspective of welfare, based simply on creating an environment that makes it “easy to raise children” during the childbirth and child rearing period, but also the perspective of effective use, which is focused on promoting active participation by women as the basic premise for this. Consequently, it is necessary to pursue policies that bring about a synergistic effect between the policies of the Equal Employment Opportunity Act and those of the Child Care and Family Care Leave Act, focusing on the mutual relationships between initiatives to support achieving compatibility between work and family, such as child care leave, and positive action initiatives in the form of expanding the scope of duties of women.

¹⁵ Comments by Kimie Iwata, Executive Vice President at a leading Japanese company, at the Labor Policy Forum (organized by the Japan Institute for Labour Policy and Training) held on June 3, 2010 (Business Labor Trend 2010).

¹⁶ This initiative led by the Ministry of Health, Labour and Welfare commenced in June 2010, with the aim of building a society in which male workers can become actively involved in child rearing by such means as encouraging them to take child care leave.

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