
Introduction

The Impact of the Equal Employment Opportunity Act in Japan

In 1947, the Labor Standards Act was enacted in Japan. Article 4 of this Act prohibits wage discrimination against women by reason of their gender, but Japan had no other statutes against gender discrimination in employment for nearly 40 years. This situation was changed upon the enactment of the Act on Securing, Etc. of Equal Opportunity and Treatment between Men and Women in Employment (hereinafter referred to as the “Equal Employment Opportunity Act”).

The Equal Employment Opportunity Act, when initially enacted in 1985, was the first law to prohibit employers from discriminating against women by reason of their gender in terms of the mandatory retirement age, dismissal, and access to education/training as well as to some fringe benefits. However, some points in this Act needed to be corrected in that: (i) literally it only required employers to “make efforts” to avoid discrimination against women in recruitment, assignment, and promotion, in consideration of the gender consciousness and employment practices prevailing in society at that time; and (ii) while restricting disadvantageous treatment of women, it was not concerned with the problem of disadvantageous treatment of men. Subsequently, this Act was revised in 1997 to prohibit discrimination against women by reason of their gender in recruitment, assignment and promotion, and was further revised in 2006 to prohibit discrimination against men, introduce provisions regulating indirect discrimination, and clearly codify the prohibition of disadvantageous treatment of female workers by reason of marriage, pregnancy, childbirth, etc.

Thus, the Equal Employment Opportunity Act has become more substantial through these major revisions made in about ten-year intervals, and has passed the quarter-century milestone since its enactment until today.

Also during this period, progress has been made with regard to such measures as supporting workers in achieving both family and work life, which may be indispensable for realizing gender equality in employment. For example, the Act on the Welfare of Workers Who Take Care of Children or Other Family Members Including Child Care and Family Care Leave was enacted in 1991 and has undergone repeated revisions.

As the Equal Employment Opportunity Act took a long time to be developed into what it is now, it also takes a long time for any change to the legal system to bring about change in society, and any change in society will create new challenges to the legal system. Now, more than a quarter-century has passed since the enactment of the Equal Employment Opportunity Act, and it is time for us to review how this Act and other laws, as well as the measures to support achieving compatibility between family and work life, have contributed to realizing gender equality in the Japanese labor society, and based on the review results, to look into the issues that remain in these laws and measures.

From this viewpoint, the Special Edition of this issue of *Japan Labor Review* has selected papers discussing the impact that the Equal Employment Opportunity Act has had on the Japanese labor society as well as the issues that remain to be addressed with regard to this Act and the measures implemented to date to support workers in achieving both family and work life. Specifically, these papers focus on the following topics: the history and issues of the Equal Employment Opportunity Act; the long-term impact of this Act on the labor market; the impact of this Act on the human resources management of women at companies; and the causes of the persistent gender inequality in the labor market and the measures to rectify it.

Yamada provided an overview of the history of the Equal Employment Opportunity Act in three phases, namely, from the enactment in 1985 until the revision in 1997, from the 1997 revision until the revision in 2006, and from the 2006 revision until now. He confirmed that through the revisions in 1997 and 2006, this Act has undergone various changes, such as: (i) transforming from a mild law that only provides for the obligation for employers to make efforts to avoid discrimination, into a strict law that clearly prohibits discrimination; (ii) transforming from a law to prohibit discrimination only against women, into a law to prohibit discrimination by reason of gender, including discrimination against men; (iii) introducing provisions concerning sexual harassment; (iv) introducing prohibition of indirect discrimination; and (v) clarifying prohibition of discrimination against women by reason of pregnancy and childbirth, and expanding the scope of prohibition. Based on the understanding of its current status, Yamada then pointed out issues with this Act that remain to be addressed, namely: (i) introducing prohibition of discrimination by reason of marital status; (ii) re-considering the concept of discrimination to be prohibited under this Act; (iii) using positive action; and (iv) enhancing remedies for discrimination.

Abe surveyed the impact of the Equal Employment Opportunity Act on labor market outcomes of women in Japan, through the literature review from the following viewpoints. The first point is the status of women's participation in the labor market. According to Abe, after the enactment of the Equal Employment Opportunity Act, regular (full-time) employment rose among highly educated women (graduates of university or higher education) younger than age 40, but the increase in regular employment was not outstanding for those over age 40, even among highly educated women. For both married and non-married groups, the regular employment ratio did not increase between before and after the enactment of this Act, and Abe pointed out that this suggests that the increase in regular employment among highly educated women younger than age 40 only reflects the increase in the regular employment ratio among single women, which is basically higher than that among married women. The second point is the wage gap and tenure gap between men and women. Abe explained that both the wage gap and the tenure gap by gender have become narrowed for less-educated middle-aged women after the enactment of the Equal Employment Opportunity Act, whereas such improvements cannot be found for highly educated young women. The third point is regional differences of the impact of this Act, that is, there are regional

differences in the increases in regular employment of highly educated women younger than age 40, with the most significant increase in Tokyo. Finally, Abe concluded that the Equal Employment Opportunity Act caused increasing regular employment for highly educated, single (unmarried) women but did not increase the number of women who achieve family and career.

Kawaguchi studied the situation after the enactment of the Equal Employment Opportunity Act, focusing on (i) the aims of the government's formulation of policies concerning work-life balance (WLB) and the intentions of companies in introducing systems relating to WLB, and (ii) the impact of the measures to support achieving compatibility between work and family life on employment of women, such as the retention rate of female workers. Kawaguchi's findings are as follows. Firstly, the government's main objective of promoting WLB-related policies is to counter the declining birthrate, and most companies introduce measures to promote a better work-life balance basically as part of their efforts to make a contribution to society, while some companies implement these measures with the expectation that this will improve the motivation of female workers and increase their retention within the company. Secondly, over the last 20 years, the retention rate of female workers has gradually but steadily increased, thanks to the WLB-related policies promoted by the government and the WLB-related measures introduced by companies. At the same time, women's relative wage has also risen, although the rise is very sluggish. Since 2000, the proportion of female managers has also increased. Thirdly, comparing individual companies, the more assiduous the senior management at a company is about measures to promote a better work-life balance, the higher the level of female retention, and the higher the level of female retention, the more successful women are in a company.

Wakisaka looked at transitions in the human resource management of women at companies following the enactment of the Equal Employment Opportunity Act. He first pointed out that the system of double-tracked personnel management was introduced around the time that this Act was enacted, primarily at large corporations. The major objective of introducing this system is to recruit women who are capable and aspiring to work for many years, thereby dealing with the great disparity between men and women in their separation rates. However, the system has not sufficiently contributed to increasing the retention rate of female workers because it has not been able to adapt to women's tendency to change their ideas about life course while building their career. Wakisaka also indicated that, especially following the enactment of the Act on the Welfare of Workers Who Take Care of Children or Other Family Members Including Child Care and Family Care Leave, in order to increase the retention of women, companies have become positive in introducing systems to support achieving compatibility between work and family life, such as a child care leave system and short-time work system for child rearing, in the context of human resource management of women. With regard to the child care leave system and short-time work system for child rearing, in particular, he identified problems such as the difficulty in securing replacement personnel, the decline of abilities while on leave, and disadvantages in

assessment of staff on leave or short-time work.

Estévez-Abe inquired into why gender inequality remains so persistently in the Japanese labor market even after a quarter-century has passed since the enactment of the Equal Employment Opportunity Act, and discussed how to cope with this problem by comparing the situation in Japan with other developed nations, such as the United States and Sweden. As institutional conditions for realizing gender equality in employment, she mentioned: (i) an extensive policy for enabling mothers to balance work and family life; (ii) strong anti-discrimination laws matched with class action suits, (iii) the presence of professionally-oriented educational systems that allow women with academic abilities entry into high status occupations; (iv) market conditions that enable women to outsource their unpaid domestic work; and (v) availability of contraceptive methods that give women control over their reproductive decisions. Through international comparison, she indicated that Japan lags behind other advanced countries in implementing these measures and that this causes gender inequality to remain in the Japanese labor market. Based on these findings, she asserted the necessity of the policy intervention by the government in the form of affirmative action for gender equality, including the introduction of quotas—equivalent to sanctions in class-action suits in the United States—, and the promotion of outsourcing housework and childcare services.

One notable point highlighted in the papers in the Special Edition is the importance of the measures to support workers in achieving both work and family life, in the process toward the goal of gender equality in employment. I hope that these papers will contribute to identifying the realities of treatment of men and women in the Japanese labor society and to enhancing research and policy-making in the pursuit of realizing gender equality, while promoting the measures to support achieving compatibility between work and family life.

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