

Abstracts

What Should Be Done to Reinforce the Anti-Sex Discrimination Act of 1997 ?

Fujio Hamada (Kobe University)

Japan's Anti-Sex Discrimination Act, even after its revision in 1997, remains ineffective, mainly because it does not explicitly guarantee equal employment opportunities as an individual right to be enforced by the courts, and because its primary method of implementing equal employment policy is through administrative activities by the Office of Equal Employment, which is actually part of the Ministry of Public Welfare and Labour itself and thus is not independent of the Ministry. It is time to reconsider and reconstruct the system for enforcing the Act, to make it discourage anti-sex discrimination and be worthy of its name.

Employment Difference and Wage Disparities

Masahiro Abe (Dokkyo University)

Twenty years have passed since the Japanese government established the Equal Employment Opportunity Law, but employment differences remain among men and women in Japan. The M-curve of the female labor force participation ratio still exists, and the average wage of women is 30% or more lower than that of men. Although various reasons for the employment difference between men and women have been examined in previous studies, it is important from the viewpoint of policy to distinguish whether the gap occurs by statistical discrimination. According to the analysis in the present study, the difference in propensity of firms to retain men and women, which is one cause of statistical discrimination, occurs because women stop working due to marriage and childbirth; there is also a difference in propensity to retain men by industry. Furthermore, the wage disparity cannot be explained by the difference in average productivity among men and women. Even if the productivity difference between men and women identified by employers is controlled, it is difficult to explain based on economic reasons why the effect of age and tenure on wages varies among men and women.

Indirect Discrimination: The Theory and Feasibility of Its Implementation

Michiko Aizawa (Hitotsubashi University)

A provision prohibiting indirect discrimination, which had already been enacted in Europe and the United States, failed to be enacted in the previous reform of the Equal Employment Opportunity Law in Japan due to a lack of understanding of the concept of indirect discrimination. The governmental report issued last year changed the situation for the better, and the possibility of legislation in Japan prohibiting indirect discrimination increased. In general, indirect discrimination occurs when a facially gender-neutral provision, standard or practice, the application of which cannot be shown to be reasonable or justifiable by business necessity, causes significant detriment to the members of one sex in comparison to the members of the opposite sex. The purview of indirect discrimination theory, however, is not universal. Between the U.S. and the U.K. different case laws have developed under indirect discrimination theory (known as disparate impact theory in the United States). This article argues the potential scope of applicability of indirect discrimination theory in Japan, gaining insights from a comparison of the British indirect discrimination theory, which developed under the influence of EU law, and the American disparate impact theory. Considering that there is little possibility in Japan of indirect discrimination being recognized and outlawed through judicial interpretation of the current law, the author strongly suggests that a provision specifically prohibiting indirect

discrimination be inserted in the Equal Employment Opportunity Law. Also, the author argues that Japanese society should come to an agreement that the mere fact that a worker is a part-time worker cannot be justification for wage disparity between part-time workers and regular workers, and concludes that indirect discrimination theory could be used as an effective instrument to rectify compensation discrimination against part-time workers.

Effects of Equal-Employment and Family-Friendly Commendations on the Evaluation of Firms in the Stock and Labour Markets

Akira Kawaguchi (Doshisha University), **Akira Nagae** (Osaka University)

This article analyzes the short-term effects of the Corporation Award for the Promotion of Gender Equality and Family-Friendly Corporation Award on the stock prices of award-winning companies as well as on these companies' places in the rankings of popular companies among undergraduate and postgraduate students. The major findings are as follows: 1) While the Family-Friendly Corporation Award boosts the stock prices of recipient companies in the short term, it has an opposite effect for companies with declining profits; 2) the Corporation Award for the Promotion of Gender Equality brings down the stock prices of recipient companies in the short term. However, in an exceptional move, stock prices of companies that receive the Minister's Award—a part of the gender-equality award—tend to go up; 3) While Family-Friendly Corporation Award-winning companies secure somewhat high places on popular companies' rankings for students majoring in humanities, receiving the Corporation Award for the Promotion of Gender Equality does not have any discernable effect; 4) Neither awards have any pronounced effect on students majoring in math and science when they select companies they wish to work for in the future. Since this analysis examined mainly major corporations, with the result distinctive in certain industries to some extent, these results should not be considered as universal. However, at the very least, both investors and college students seem favorably disposed toward family-friendly policies. Consequently, making the performance results of all the surveyed companies in the Family-Friendly scheme available to the public—not just awarding best-performing companies—would allow those with outstanding policies to enjoy the high reputations they deserve. This would work as an incentive for companies in promoting family-friendly policies within their organizations and help create a more efficient labour market.

Situations of Female Self-Employed Workers in Japan

Noriyuki Takahashi (Musashi University)

Although attention has focused on female entrepreneurs recently, the number of female self-employed persons in Japan is declining, a phenomenon that is unique among advanced nations. Moreover, regarding entrepreneurship in Japan and the activity of becoming a self-employed worker, there are few opportunity-based start-ups compared to necessity-based start-ups, that is, start-ups just to live. Compared with the number of male self-employed start-ups, there are many female self-employed start-ups, but the number tends to decline easily. However, this is not because women start up their own business without giving careful consideration to their business plan. The fact is that women are effectively self-employed according to their life cycle and surrounding environment.