

Legal Policies on Gender Equal Pay in Taiwan

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I. Introduction

1. Labor force participation rate of females and by its age group

In December 2018, the Population of Taiwan reached 23.58 million and the number of employed persons increased to 11.48 million. Compared with the average Taiwan's labor force participation rate (LFPR) of 58.5%, the rate rose by 0.59 percentage points in 2018. During this period, 6.61 million men and 5.29 million women joined the workforce. At the same time, the LFPR among men stood at 67.28%, down 0.04 percentage points from 2007 while the percentage of women was 51.29% (i.e. Table 1), up 1.85 percentage points. Although the LFPR of females aged 15 and over in Taiwan exceeded 50% since 2012, and the LFPR gap between Taiwanese men and women has narrowed over the past decade, women are still less likely to be in the workforce than men, as the statistics in Table 1 indicates.

Figure 1 shows the LFPR of females aged 25 to 29 in the latest reports by Manpower Survey Results in December 2018¹ was about 90% in 2017, indicating that an inverted-V-shaped curve for Taiwanese women. The rate of seniors declined sharply due to child rearing and other family reasons, with 76.86% in the age group 35 to 39 and 73.51% in the age group 45 to 49. In view of the fact that the average age at first marriage and the average age of giving birth to their first child for females in Taiwan have both increased over the past decade. In 2017, the median age at first marriage for women increased to 30.03 years and the average age of women having their first baby rose to 30.83 years. Indeed ages 30 to 39 are the roughly period that women would get married, give births and raise young children which make them withdraw from the labor force. Besides, the need for childcare also makes it difficult for women to continue their careers in middle age.

2. Female employees by occupation and economic empowerment

In 2015, the graduates in universities, colleges and junior colleges in Taiwan totaled 309 thousand, among which female graduates accounted for 160 thousand and decreased by 0.6% compared to 2011. The percentage of female graduates accounted for 51.9% in the total of tertiary graduates. However, the females' share of doctoral degree graduates was the lowest (31.7%), but it has the biggest increase (3.4% points) at all degree level growth compared to 2011. The female associate degree graduates was the highest (74.9%), followed by the female bachelor's degree graduates (52.4%). Rising level of women's education helps their access to economic empowerment. Among Taiwan's employees in 2016, 383 thousand were legislators, senior officials, or managers, of whom 106 thousand were females (27.67%), but the percentage in Taiwan is still lower than that of major Western countries (the U.S. (43.8%), Sweden (39.2%), and Norway (37.6%)). According to the occupational structure in the past 20 years, male increased by 5.81% points by professionals, whereas the

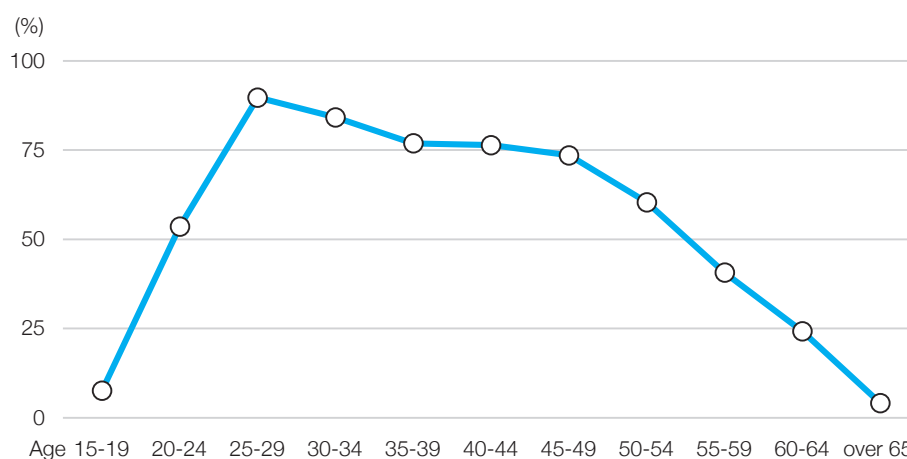
1. Manpower Survey Results in December 2018: <https://www.dgbas.gov.tw/ct.asp?xItem=43836&ctNode=3339&mp=1>

Table 1. Employment / population ratios by sex in December 2018

(Unit: persons in thousand, %)

	Civilian population aged 15 years and over	Labor force		Employed persons	Unemployed persons			Not in labor force
		Number of persons	Labor force participation rate (%)		Number of persons	Unemployed persons rate (%)	Seasonally adjusted unemployment rate (%)	
Total	20,166	11,916	59.09	11,481	436	3.66	3.70	8,249
Male	9,836	6,618	67.28	6,366	252	3.81	3.85	3,218
Female	10,330	5,299	51.29	5,115	184	3.47	3.52	5,031

Source: Directorate-General of Budget, Accounting and Statistics (DGBAS), "Manpower Survey Results in December 2018."

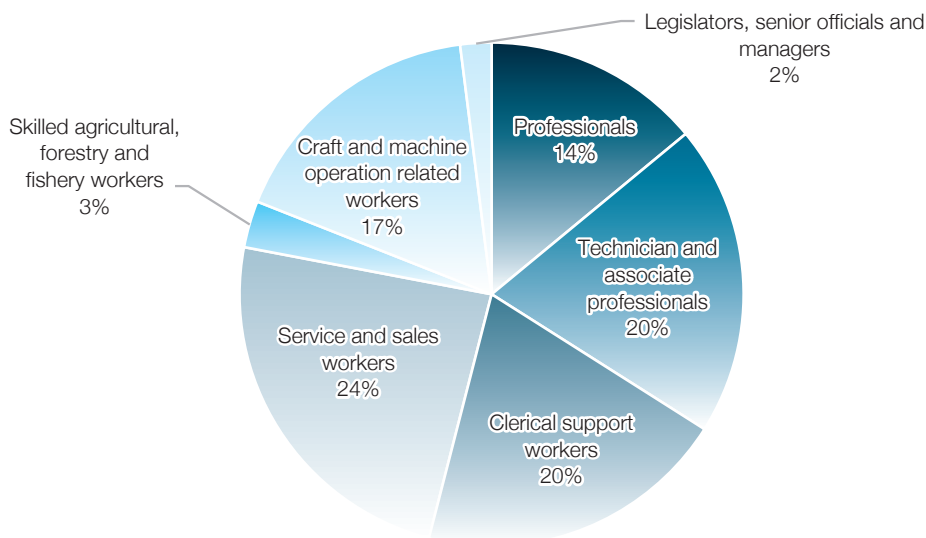


Source: DGBAS, "Manpower Survey Results in December 2018."

Figure 1. Labor force participation rates of females in Taiwan by age groups (2017)

rate by women with professionals and technicians increased by 6.56% points and with assistant professionals increased by 4.63% points. Female employees have the largest number as service and sales staff, reaching 1.221 million people (24%) in 2017, followed by technicians and assistant professionals of 1.099 million people (20%), and clerical support personnel of 999 thousand people (20%) (i.e. Figure 2).

Besides, due to globalization and transitions in industrial structures, the number of non-standard workers (part-time, temporary, or dispatched workers) has also increased in Taiwan. In May 2017, there were 805 thousand workers, comprising 7.1% of total employees and increasing by 69 thousand workers (9.4%) since the same month in 2012. By gender, there were 427 thousand non-standard male workers, comprising 6.8% of



Source: DGBAS.

Figure 2. Female employees by occupation

total male employees; on the other hand, there were 378 thousand non-standard female workers, comprising 7.5% of total female employees. The non-standard employment rate of females was higher than that of males in previous years. However, based on the trend over recent years, this rate of females was declining, while the rate of male was climbing.

3. Gender pay gap

Like many countries in the world, the gender pay gap is still a persistent phenomenon in Taiwan. The average hourly wages for women lagged behind that of men by 14.0% in 2018, according to the statistics from Ministry of Labor. In 2017, the nation's working women made an average of NT\$ 271 (USD 8.82) per hour while men made NT\$ 315 (USD 10.21). In order to raise public awareness of equal pay, the Ministry of Labor has launched "Equal Pay Day" in Taiwan since 2012. It is based on the Employee Salary Survey conducted by the Directorate General of Budget, Accounting and Statistics of the Executive Yuan and reflects the number of days women must additionally work in the current year to earn the same amount of money as men did the previous year. For example, in 2017, women earned an average hourly salary of NT\$ 271 (USD 8.82), 86.0% of men's hourly rate of NT\$ 315 (USD 10.21). The gender pay gap was 14.0%. In other words, women need to work 52 more days (gender pay gap of 14.0% × 365 days = 52 days) than men to receive the same total annual salary (i.e. Table 2). The Equal Pay Day fell on February 21 for 2017.

Until 2018, the Equal Pay Day only progressed to February 21st, same as 2017. The Equal Pay Day is a symbolic date that infers gender income inequality by showing how far into the following year women have to work to earn equal pay and indicated that the gender wage discrimination is still a substantial issue with regard to gender equality in employment. Overall, Taiwan has been closing the gender pay gap over the past decade from 18.2% in 2007 to 14% in 2018. The extra number of days women have to work has reduced from 65 days in 2012 to 52 days in 2018. However, the Gender Wage Gap varies wildly by industry; for instance, in the medical and health care sector presents the widest gender pay gap at 44.6%, followed by 34.3% in the arts and entertainment sector (i.e. Table 3).

Table 2. Equal Pay Day of Taiwan (2012–2019)

Year	Equal Pay Day	Additional number of days
2012	March 05	65
2013	March 02	61
2014	Feb. 28	59
2015	Feb. 24	55
2016	Feb. 23	54
2017	Feb. 21	52
2018	Feb. 21	52
2019	Feb. 23	54

Source: Compiled by the author.

Table 3. 2017 wage gap for each of DGBAS's categories

Employment Sector	Wage Gap (%)
Human health services	44.6
Arts and entertainment	34.3
Construction	26.2
Education	25.5
Mining	25.1
Communications and media	17.3
Fossil fuels, furniture making	13.9
Finance	10
Hotels and food service	9
Transportation and warehousing	8.5
Real estate	− 0.9
Plumbing and water works	−2.5

Source: DGBAS.

II. Basic laws for gender equality

1. Maternity protection

To create a friendly workplace, the government passed the Gender Equality Employment Law, the Act of Gender Equality in Employment (AGEE) in 2002. The goal of the AGEE is to protect gender equality in right-to-work, implement thoroughly the constitutional mandate of eliminating gender discrimination, and promote the spirit of substantial gender equality. The Measures for Promoting Equality in Employment regulated with regard to Maternity Protection in AGEE are as followings:

- Menstrual leave with half of the regular pay; one day per month (Art.14 AGEE).
- Maternity leave for female worker employed for more than six months with regular pay and for the one employed less than six months with half of the regular pay; before and after childbirth for a

combined period of eight weeks (Paragraphs 1 of Art.15 AGEE).

- Leave for pregnancy checkups with regular pay; totally five days (Paragraphs 4 of Art.15 AGEE).
- Paternity leave with regular pay; totally five days (Paragraphs 5 of Art.15 AGEE).
- Parental leave without pay before any of their children reach the age of three years old; the period of this leave is until the children reach the age of three years old; maximum two years (Art.16 AGEE).

Art.15 AGEE requires that employees are allowed to apply for parental leave without pay. Since May 2009, the parental leave allowances have been gradually included in social insurance. In 2016, 92 thousand first-time applications for the allowance were approved, among which 77 thousand applicants were females (83.1%), with the first recorded decline by an annual 1.0%. Male applicants are increasing every year. The average period per child for parental leave without pay applied by females was 7.3 months, longer than 6 months applied by males. Retention rates after parental leave were 89.5% among females, lower than the 94.1% among males.

When employees make a request according to Art.14–16 AGEE, employers may not reject as well as not treat it as a non-attendance and affect adversely the employees' full-attendance bonus payments, evaluation or take any disciplinary action that is adverse to the employees.

2. Work family balance policy

Other than the maternity protection for women workers, the AGEE aims to improve Work Family Balance Policy as well. For the purpose of raising children of less than three years of age, employees hired by employers with more than thirty employees may request one of the following subparagraphs from their employers:

1. To reduce working hours one hour per day; and for the reduced working time, no compensation shall be paid.
2. To reschedule working hours (Art.19 AGEE). For the purpose of taking personal care for family members who need inoculation, who suffer serious illness or who must handle other major events, employees may request family care leaves. The number of this leave shall be incorporated into leave with personal cause and not exceed seven days in one year. The computation of wage during family care leave period shall be made pursuant to the related statutes and administrative regulations governing leave with personal cause (Art.20 AGEE).

When employees make a request according to Art.19, 20 AGEE, employers may not reject as well as not treat it as a non-attendance and affect adversely the employees' full-attendance bonus payments, evaluation or take any disciplinary action that is adverse to the employees.

III. Legal policies on gender equal pay

1. Basic laws for elimination of gender pay gap

Like other industrialized countries, Taiwanese women are paid less than men in the exact same or similar positions. Lately, Germany promulgated Remuneration Transparency Act in 2017, allowing the pay structure in workplace become more transparent and the recognition in equal pay for equal work as well as equal pay for work of equal value become possible and stable. Iceland also declared Equal Pay Act in 2018. Companies or governmental bodies which have more than 25 employees are obligated to enforce gender equality in pay for equal work and has to be certified by the government. The enforcement of the laws in Germany and Iceland symbolizes the commitment to realizing gender equality in pay for equal work and for work of equal value. In Taiwan, the principle of gender pay equity, Article 10 of the Act of Gender Equality in Employment and Article 25 of the Labor Standards Act, have implemented for several years.

- Employers shall not discriminate against employees because of their gender or sexual orientation in

the case of paying wages. Employees shall receive equal pay for equal work or equal value. However, if such differentials are the result of seniority systems, award and discipline systems, merit systems or other justifiable reasons of non-sexual or non-sexual-orientation factors, the above-mentioned restriction shall not apply (Art.10 AGEE).

- Employers may not adopt methods of reducing the wages of other employees in order to evade the stipulation of the preceding paragraph. An employer shall under no condition discriminate between the sexes in the payment of wages. Worker shall receive equal wages for equal work of equal efficiency (Article 25 of the Labor Standards Act).

After employees find out that employers contravene the stipulations of Article10 AGEE and file complaints the matter to the local competent authorities, if the employers, employees or applicants are not satisfied with the decisions made by the local competent authorities, they may apply to the Committee on Gender Equality in Employment of the Central Competent Authority for review or file an administrative complaint directly within ten days (Art.33 AGEE). Employers who violate Article 10 AGEE shall be fined no less than NT\$ 300,000 but not exceeding NT\$ 1,500,000 (Art.38-1 AGEE). Apart from filing complaints to the local competent authorities, employees may claim reasonable amounts of compensation even for such damage that are not pecuniary losses. If their reputations have been damaged, the injured parties may also claim the taking of proper measures for the restoration of reputations (Art.29 AGEE).

However, discrimination is often covert and its particular problems is the burden of proof for employees. A particular rule in AGEE is that the burden of proof shifts to the employer if a claimant makes out a prima facie case. That means only a prima facie evidence of discrimination makes the burden shift to the opposing party and the employers shall shoulder the burden to prove non-sexual or non-sexual-orientation factors of a discriminatory treatment, or a specific sexual factor necessary for employees or applicants to perform the job. Even so, it is still quite difficult for employees to make claimants or statements which employers' gender discrimination leads to a less favorable treatment regarding wages. Until now, successful discrimination cases regarding gender equal pay to trial has not come into view. Despite that, in December 2018, the government passed the Labor Dispute Act (LDA). The LDA stipulates that all levels of courts must set up "labor courts" presided over by judges specializing in labor laws to be expected in 2020. Tort disputes arising from violation of gender equality in employment can be also solved in labor courts. The gender equal pay trial may involve a differing progress which deserves further study.

2. Policy of Taipei City government

In view of the problems and difficulties presented above, the local governments take further measures to eliminate gender pay gap. The Committee of Women's Right Promotion, established in 1996, aims to promote gender equality in Taiwan. Since its establishment, the committee has prompted the creation of the Office for Gender Equality in the Taipei City government and has constantly pushed for gender equality. Examples of successful cases include making awareness of sexual equality part of policy development. The gender equal pay policy consists of two components, "promote balance between work and family policy" and "break the cultural myth of workplace, and implement equal work equal pay." The policy to promote work-family balance is as follows:

a. Improve work and family support:

- (a) Taipei City community public daycare.
- (b) Actively guide enterprises to implement daycare benefit measures.
- (c) Conduct "pre-school children" (Age 0–6) daycare service and after-school care for school age children (Age 6–12).

b. Increase legal actions in cases of discrimination:

- (a) Promote parental leave without payment measures.

(b) Conduct special labor inspections of gender work equality.

c. Support joining a union by female members

Advocate training courses of gender awareness empowerment in labor education and training in unions, and include them in union evaluations to improve the gender ratio of managers.

As for breaking the cultural myth in workplace, and implementing equal pay for equal work, the ideals are as follows:

- (a) First of all, to provide salary transparency in the labor market in order to eliminate treatment disparities in terms of salary and promotion between genders.
- (b) Secondly, to end gender segregation, and say good-bye to workplace labels.
- (c) Review basic wages each year and reduce the phenomenon of low wages.

Pursuant to the gender equality policy in Taipei, establishing gender equality index in the workplace and promoting the integration of gender equal pay policies into corporates' social responsibility are important measures. In 2019, Taipei City government will guide enterprises to introduce index into their internal management system and assist enterprises in implementing gender equality. The effectiveness of this policy is worth keeping on observation.

IV. Conclusion

Since the problems and difficulties of the Gender Pay Gap in Taiwan, it is a long way to build fair and stable regulations on violation of equality in pay for equal work and for work of equal value so as to provide incentive for women to use judicial remedy against gender wage discrimination. In this context, local governments, like Taipei City Government, have taken several positive actions and measures including cooperating with labor unions in education, enforcing the labor inspections and providing salary transparency etc. and it deserves further attention.



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