

'Equal Employment Opportunity Law System' and Women

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Japanese women have made some gains since implementation of the Equal Employment Opportunity Law in 1986, but they still lag far behind men in Japan and women in other industrialized countries in terms of employment opportunities. In this essay, I will evaluate how full and accurate a picture of the lives of women in contemporary Japan Sayoko Yoneda provides in her chapter on the ‘Problem of Women’s Studies in Modern Japan and Women’s History’ (1991, 238-260). Specifically, this essay focuses on her comments in the section on the “‘Equal Employment Opportunity Law System” and Women’ (246-251).

Section 1 of this essay analyzes the Japanese legal framework related to women’s employment. The next section examines the extent and nature of female labor force participation. Sections 3 and 4 evaluate the two principal features of the ‘equal employment opportunity law system’ mentioned by Yoneda, namely long working hours and non-regular (or part-time) employees. Section 5 discusses what I believe to be the key structural features and practices that lead to employment discrimination against Japanese women. The following section looks at some positive developments for equal employment opportunity. The final section provides conclusions.

1. Legal Framework

Yoneda identifies three major laws as forming the ‘equal employment opportunity law system’: the Equal Employment Opportunity Law, revisions to the Labor Standards Law, and the Temporary Work Services Law, all of which went into effect in 1986 (246, 249). Since then, several other new laws and revisions to existing laws have been implemented to improve employment opportunities for women.

Equal Employment Opportunity Law (EEOL)

The drafting of the EEOL provoked an intense debate regarding protective legislation for women, such as restrictions on the number of overtime hours. Critics

charged that legal restrictions gave employers excuses to not allow women in managerial positions and certain occupations. Others suggested that the working conditions (e.g., overtime hours) of Japanese men were unreasonable and inhumane, so the working environment of men should be improved (Brinton 1993, 230). When finally passed by the Diet, the law contained provisions that companies must voluntarily endeavor to not discriminate in recruiting, hiring, assignments, and promotion. The law also had provisions to prohibit discrimination in retirement, dismissal, fringe benefits, and training. However, the law included no provision to penalize companies for noncompliance.

Other Laws

The Labor Standards Law was also revised to relax overtime restrictions for some women. Originally established in 1947, this law limited overtime for women to two hours per day, six hours per week, and 150 hours per year. The law also prohibited holiday work and late-night work (from 10 p.m. to 5 a.m.). Under the revisions implemented in 1986, restrictions were abolished only for women in managerial positions and in 14 occupational categories requiring specialized knowledge or technical skills. Although exact figures are impossible to obtain, it is estimated that fewer than 5% of all female employees worked on a totally equal basis with men even after enactment of the revisions to the law (Shinotsuka 1994, 105-106).

Yoneda incorrectly emphasizes the importance of the Temporary Work Services Law in contributing to the expansion of non-regular, unstable employment (249). This law applies only to temporary workers dispatched to companies by personnel agencies, and in 1992 this category of workers made up only 0.3% of the total work force (NHK 1995, 113). The number of non-regular women employees has rapidly expanded (discussed in Section 4 of this essay), but the reasons for the growth have very little to do with this law, which allowed personnel agencies to provide companies with temporary workers in 16 occupational categories (Hulme 1996).

Recent Changes

Several important new laws affecting women's employment opportunities have been passed since Yoneda's work was published in 1991. In 1992, the Child Care Leave Law went into effect which allows employees, both men and women, to take a leave of absence until their children reach the age of one. Workers with preschool children may also get reduced hours in place of a leave (Rôdôshô 1997). This law only applies to full-time regular employees, and it does not guarantee payment of salary while on leave. In 1995, the law was revised to include family care provisions (e.g., parent care).

In 1997, the Japanese Diet passed revisions to several laws, including the EEOL, the Labor Standards Law, and other related laws, in order to guarantee employment equality and to improve work opportunities for female workers (Sôrifu 1997). When these revisions go into effect in April 1999, they will effectively abolish legal provisions protecting women employees, which means they will now be exposed to the same working conditions as men. With these revisions, the supporters of protective measures for women (and men) effectively lost to those who support equality.

The 1997 revisions not only abolish restrictions on overtime, late-night work, and holiday work, they also make mandatory the EEOL anti-discrimination provisions related to recruiting, hiring, assignments, and promotion, which previously employers only needed to make voluntary efforts in regard to compliance. Enforcement provisions in the new revisions appear very weak, with the only penalty being that violators may have their names made public. The new laws also contain some *positive action* (similar to 'affirmative action' in U.S.) provisions for companies to take measures to encourage improvements in women's employment. (Rôdôshô 1998)

2. Female Labor Force Participation

According to the Ministry of Labor's *Labor Force Survey*, the number of working women has increased from 15.5 million in 1985 to 20.1 million in 1993 to 27.6 million in 1997. During these same years, women made up 36%, 39%, and 41% of the total labor

force. More than 60% of the rise is due to an increase in non-regular (or part-time) workers. (Nakano 1996, 67; Sôrifu 1998)

M Curve

Female labor-force participation in Japan reflects a so-called 'M Curve'. The first point of the M is in the 20-24 age group, which had a 73% participation rate in 1997. This peak occurs as women enter the work force after completion of college or high school. The bottom of the M is at the 30-34 age category, with a 56% labor-force participation rate. This dip in the rate is caused when women leave the work force to raise their children. For example, in 1992, among mothers with the youngest child being under four years of age, the paid employment rate was only 21% (K. Tanaka 1995, 297). The second peak in the M occurs when women return to work after raising their children or after they start to attend school. Women in the 45-49 age group have a 72% participation rate. (Sôrifu 1998)

Between 1980 and 1990, the dip in the M (the middle) shifted from the 25-29 to the 30-34 age group due to the increased age of first marriage, which has now reached 26.4 for women (Shinotsuka 1994, 99; Sôrifu 1998). Over the last 40 years, female labor-force participation in eight age categories from age 20 to 59 has increased almost continuously, which has made the M somewhat less drastic now than when compared to previous years (Kumagai 1996, 109).

Japanese women's pattern of participation in the labor force differs drastically than that for Japanese men and for women in other industrialized Western countries. Japanese men's employment remains over 95% from ages 25 to 54 (Ogasawara 1998, 17-18). Women's labor-force participation in the U.S. and Sweden, for example, has an upside-down 'U-curve' since women tend to continue in the work force while rearing their children (JETRO 1993).

Wage Levels

In Japan, men's wages tend to rise steadily throughout their careers until ages 50 to 54, whereas women's wages begin to fall as they enter their 30s. In 1996, the average wages for Japanese women were 63.5% of men's, but this is up from 56% in 1985 (Pollack 1997, 3). The percentages by age group show the decline of 1996 women's wages in relation to those of men: 91% at 20-24 age group, 75% at 30-34 age group, and 52% at 50-54 age group. Women's wages in relation to men's in Western industrialized countries are greater than in Japan. The rates in the U.S., Germany, and France are 76%, 74%, and 81% respectively. (Keizai Kikakuchô 1997, Sect. 1.2.1, Graph 1-2-1)

3. Long Working Hours

Yoneda identifies long working hours as one of the principal characteristics of the 'equal employment opportunity law system' (246-247). These long working hours continue today in Japan. Since Japanese employees work much unreported 'service' overtime for which no wages are paid, accurate statistics on the number of working hours are difficult to obtain. A 1994 Economic Planning Agency report indicates men worked an average of 2,508 hours per year, and one in six men worked over 3,100 hours, which is considered to be in the danger zone of *karôshi* (death from overwork). In contrast, women worked on average 2,002 hours per year (Nakano 1996, 73). According to 1992 official statistics, the average annual working hours in the U.S., the U.K., and France were 1,960 hours, 1,910 hours, and 1,680 hours respectively. In Japan, the official statistics indicated annual working hours of 2,020, but this did not include unpaid overtime hours which were included in the figures previously cited (NHK 1995, 99).

In the chapter written by Yoneda, she stresses how in the 1980s Japan was rapidly moving toward a 24-hour-a-day working environment (246-247). Although this trend can be seen somewhat, especially in large cities like Tokyo, I believe Yoneda overemphasizes this trend as an important factor related to long working hours and to women's employment. Long working hours existed before this trend to a 24-hour-a-day working

environment, and no source I consulted in writing this essay mentions this as a factor in the employment situation of Japanese women. If anything, such an environment may provide more flexibility in opportunities for working mothers.

Effect on Families

Extremely long working hours provide a strong disincentive to young women wanting to follow managerial and professional career paths previously dominated by men. Most women find that having both a family and a professional career is impossible.

Long working hours, in addition to beliefs concerning traditional gender-based division of labor, cause men to not take greater responsibilities in family matters. According to a recently published government White Paper on Leisure Activities, 52% of male respondents of a survey answered that they never participate in household chores such as cleaning, laundry, cooking, and shopping (Iwao 1996). Based on a 1996 survey, husbands in double-income households spend an average of 7 minutes per day on housekeeping and 3 minutes on child care, whereas wives spend 3 hours, 35 minutes on housekeeping and 19 minutes on child care. For single-income households, husbands spend 5 minutes per day on housework and 8 minutes on child care, whereas wives spend 5 hours, 2 minutes and 1 hour, 30 minutes respectively (Statistics Bureau 1997).

4. Non-Regular Employees

Yoneda writes that the second characteristic of the 'equal employment opportunity law system' is the spread of the use of non-regular, unstable employment (248-249). This category of non-regular, unstable employment includes contract workers, persons working at home, temporary employees, part-time workers, and workers dispatched from personnel agencies. This category of workers is often referred to as part-time employees, but this term has been avoided in this essay because many so-called part-timers work only one or two hours less per day than regular full-time employees. The term non-regular employees has been used in this essay to emphasize that these workers do not receive the same benefits as regular full-time employees and

generally can be easily hired and dismissed. More than half of the non-regular employees work in small firms with less than 30 employees, and about 85% work in the service, sales, and manufacturing industries (K. Tanaka 1995, 301).

Reasons for Growth

The percentage of female workers working as non-regular employees has increased continuously from 9% in 1960 to 31% in 1992 (K. Tanaka 1995, 301). The primary reason companies hire part-time workers is to reduce personnel expenses, whereas the principal reason for using employees dispatched from personnel agencies and contract workers is to obtain certain technical skills. The three principal reasons for employees working part time are being able to work at convenient times, earning money to supplement their family income, and wanting to work shorter hours and fewer days. Contract employees work mainly to utilize their technical skills and qualifications, to be able to work at convenient times, and to earn money at something because they can not find a company where they are able to work as a regular employee. (Keizai Kikakuchô 1997, Sect. 1.2.4, Graph 1-2-22)

High Hourly Wages for Professional Work

Yoneda mentions that even though highly-educated women get married, their ideal would be to work part-time hours in a professional job and to make use of their technical skills and knowledge by getting work through a temporary personnel agency or by being self-employed (250). There are currently more opportunities for high-paying professional part-time work for women than there were when the 'equal employment opportunity law system' was implemented in 1986. However, the head of Pasona, one of Japan's largest temporary personnel agencies, notes that one of the main reasons his firm exists is the 'insufficient utilisation of women in the Japanese work force'. The demand for temporary personnel, including women, has been increasing throughout the 1990s, especially in specialized fields such as software development, accounting, computer-aided design, and data processing (Hulme 1996). On the other hand, highly-educated women tend to marry

men with higher education, who in turn receive higher earnings, which reduces the economic incentive for these women to find work outside the home (Murdo 1993).

5. Discriminatory Structure and Practices

This section of the essay discusses what I believe to be the key structural features and practices that lead to employment discrimination against women: the lifetime employment and seniority-based wage system, the dual-track employment system, and societal attitudes. Although Yoneda emphasizes the effects that the major laws implemented in 1986 had on women's employment, I think these three key structural features and practices play a much larger role in determining the conditions of women's employment. Of course, the major laws that went into effect in 1986 have had an impact on these three items, but these items existed before 1986, and they continue to greatly influence the employment situation for Japanese women.

Lifetime Employment and Seniority-Based Wage System

Lifetime employment and seniority-based wages continue to be the backbone of Japanese-style management in large companies. Women do not generally obtain the rewards of such a system, since their average length of full-time employment at a company (8.2 years in 1996) is much shorter than that of men's (13.1 years) because women tend to quit to fulfill their roles as mother and wife (Sôrifu 1998). Moreover, the seniority-based wage system does not apply to non-regular employees, most of which are women.

Large Japanese companies, which almost all still have lifetime employment and seniority-based wages, as a rule have better pay and benefits than smaller companies, but women are not as well represented as men in these large companies. In 1996, 16.6% of women and 22.8% of men worked for companies with 1,000 or more employees (Keizai Kikakuchô 1997, Sect. 1.1.1, Graph 1-1-5). Large companies also tend to hire men first. The number of female college graduates employed by companies with 1,000 or more employees went from 36% in 1985 to 50% in 1989 to 41% in 1992 (Kumagai 114-115).

The decrease in the percentage of women hired can be attributed to the economic recession starting in 1991 and the tendency of large companies to favor men in hiring decisions.

Dual-Track Employment System

Although the dual-track employment system existed before 1986, many companies formalized the system after the passage of the EEOL. With the dual-track system, new employees enter either a comprehensive career-track position (*sôgôshoku*) or a general clerical non-career track position (*ippanshoku*). Some companies also have established a third track for professional workers who do not have to accept transfers. Within five years after passage of the EEOL, about 50% of the companies with 5,000 or more employees formally adopted the dual-track employment system, whereas only about 1% of companies with 30 to 99 employees adopted the system (Kawashima 286).

The majority of female employees are confined to the non-career track, with only bright, dedicated career-oriented women admitted to career-track positions. At many companies, there is still an informal emphasis that the career track is not for women who want to have a family. In contrast, men are expected to take career-track positions.

Although the percentages of women entering the different tracks vary between companies, the following 1991 statistics give some idea as to how the system works in practice. Tokyo Marine Insurance, a very prestigious firm, hired 424 men and 24 women to career-track positions and 553 women and no men to the non-career track. JAL hired 147 men and 3 women to the career track, in addition to 52 women to the non-career track. Some firms hire a much greater proportion of women for professional jobs, such as Isetan Department Store, which hired 80 men and 65 women to career-track positions and no one to the non-career track. (Iwao 1993, 180)

Even though many companies, especially smaller ones, have not established a formal dual-track employment system, most still informally track women into non-career type positions. For example, many *office ladies (OLs)* work as assistants who do a

variety of menial tasks such as filing, copying, greeting customers, data entry, and serving tea.

The limited participation of women in career-track positions results in relatively few women managers. In companies with 100 or more employees, women make up only 1% of the total number of general managers (*buchô*), 3% of section managers (*kachô*), and 7% of subsection heads (*kakarichô*) (Ogasawara 1998, 19). According to a Ministry of Labor survey of companies, the top three reasons why there are few or no women managers are: 'there are no women with the necessary knowledge, experience, or judgment' (48%), 'women workers tend to work fewer years than men and retire before they can become managers' (35%), and 'there are women with the capacity to become managers in the future, but they have not yet worked a sufficient number of years' (30%) (Iwao 1996, Table 3).

Societal Attitudes

Yoneda explains that young women generally do not want to continue working when they have a family for two reasons. First, under the 'equal employment opportunity law system', if women want to continue working as full-time employees, they must work under the same conditions as men, which often means a great number of work hours. Second, marriage can be security for a woman who is supported by the high salary of her husband who works long hours (249-250). Yoneda's comments accurately reflect the thinking of many Japanese women. Very few women who want to have a family are able and willing to do the extreme amount of work performed by men in career-track positions.

Many Japanese hold stereotypes and expectations that support a gender-stratified work structure, but these beliefs are changing. In 1985, 52% of the men and 37% of the women believed that the husband should work and the wife should stay at home, but these percentages decreased to 33% of men and 22% of women by 1995 (Keizai Kikakuchô 1997, Sect. 1.3.1). A 1993 poll indicates that 70% of women favored a two-

stage work life, where a woman works until she has children and then returns to the work force after raising her children (Murdo 1993). This high percentage indicates the great value Japanese women place on child rearing, but it probably also shows the lack of desirable opportunities for women to continue working after children are born.

6. Positive Developments

The Japanese government recognizes the need to fully utilize the female work force because of the projected shortage of labor due to the declining birth rate and rapidly aging population. The changes to the EEOL, Labor Standards Law, and other related laws approved by the Diet in 1997 show the government's desire to improve working conditions for women. However, some critics believe these changes will allow companies 'to replace full-time male employees with part-time women workers, who will receive lower wages and benefits and no lifetime employment' (Pollack 1997). Also, these changes in the laws do not address the fundamental problems facing women (e.g., dual-track employment system) as discussed in Section 5 of this essay.

Although changes in laws provide the framework for improvements in the employment situation for Japanese women, real progress will only occur based on changes in the personnel policies of individual companies and shifts in people's attitudes toward the role of women in the work place. A few companies are taking positive steps to assist women so they can better balance the responsibilities of work and family by supporting child care and by allowing flex-time, five-day workweeks, and leaves of absence.

Many well-educated women go to foreign-owned companies that offer challenging jobs and good pay more equal with men's than most Japanese companies (Y. Tanaka 1995, 106). These foreign firms have more trouble obtaining men due to the lower security and benefits they offer in comparison to large Japanese companies (Iwao 1993, 169).

Many companies with a majority of women customers, such as fashion and cosmetic companies, department stores, and travel agencies, have realized how women employees can provide valuable perspectives and skills to better understand and service their customers. For example, many department stores, which are estimated to have 60% to 80% women employees depending on the store and location, have instituted policies to retain women workers. Isetan Department Store allows pregnant women to take eight weeks off with pay both before and after the birth of a child. A woman can also take up to three years of unpaid leave and return to the same job. Seibu and Tōbu department stores have license programs of reinstatement which allow women to return to the company at their former status up to a maximum of ten years after departure. (Creighton 1996, 196, 199)

7. Conclusion

In Yoneda's section on "Equal Employment Opportunity Law System" and Women', she generally provides an accurate picture of the employment situation of women in contemporary Japan. The two key system characteristics she identifies, long working hours and non-regular employees, play key roles in restricting women's opportunities in the work place. However, Yoneda's description of the 24-hour-a-day working environment adds nothing to the understanding of the employment situation of Japanese women. Also, in my opinion, Yoneda's description of Japanese women's employment situation is not complete since she fails to mention the key structural features and practices that lead to employment discrimination against women, namely the lifetime employment and seniority-based wage system, the dual-track employment system, and societal attitudes.

Since the implementation of the EEOL in 1986, the employment situation for women has only slightly improved. The strengthening of the dual-track employment system, the long working hours required for career-track employees, and the increase in female non-regular employees have served to restrict true equal employment

opportunities for women. Improvements in the employment situation for Japanese women will only come about with fewer working hours for both men and women, more companies providing women-friendly policies such as leaves of absence, mid-career hiring by companies into good professional and managerial jobs, and pay more correlated to skills and abilities rather than seniority.

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