

- T. Kono and S. Clegg, *Trends in Japanese Management: Continuing Strengths, Current Problems and Changing Priorities* (New York: Palgrave, 2001).
- G. Kunda, *Engineering Culture: Control and Commitment in a High-Tech Corporation*, revised edn (Philadelphia: Temple University Press, 2005).
- H. Kwanishi and R. Mouer, *A Sociology of Work in Japan* (Cambridge: Cambridge University Press, 2005).
- P. Matanle, *Japanese Capitalism & Modernity in a Global Era: Re-fabricating Lifetime Employment Relations* (London: Routledge Curzon, 2003).
- Mien Woon, N. and Ben Ari, E. 'Books, Consumption and the Movement of Japanese Business to Singapore', Ben Ari, E. and Clammer, J. (eds.) *Japan in Singapore—Cultural Occurrences & Cultural Flow* (London: Curzon, 2000), pp. 105–38.
- B. Moeran, *Ethnography at Work* (London: Berg Publishers, 2006).
- M. Pudelko and M. Mendenhall, 'The Japanese Management Metamorphosis: What Western Executives Need to Know About Current Japanese Management Practices', *Organizational Dynamics*, 36 (2007), pp. 274–87.
- Scott, W.R. *Institutions and Organizations* (2nd ed) (Sage Publications, London, 1987).
- E.Z. Vogel, *Modern Japanese Organization and Decision-making* (LA: University of California Press, 1975).

Further references used

- J. Tomlinson, *Globalization and Culture* (Chicago: University of Chicago Press, 1999).
- T.P. Rohlen, *For Harmony and Strength: Japanese White-collar Organization in Anthropological Perspective* (Berkeley, CA: University of California Press, 1974).
- T.P. Rohlen, '“Spiritual Education” in a Japanese Bank', in T.S. Lebra and W.P. Lebra, (eds.), *Japanese Culture and Behavior* (Honolulu: University of Hawaii Press, 1986), pp. 307–35.
- G. Schreyoegg, 'The Role of Corporate Cultural Diversity in Integrating Mergers and Acquisitions', in K. Gunter and M. Mendenhall (eds.), *Mergers and Acquisitions: Managing Cultures and Human Resources* (Stanford, CA: Stanford Business Books, 2005), pp. 108–25.
- N. Mien Woon and E. Ben-Ari, 'Books, Consumption and the Movement of Japanese Business to Singapore', in E. Ben-Ari and J. Clammer (eds.), *Japan in Singapore – Cultural Occurrences & Cultural Flow* (London: Curzon, 2000).

7

The Long Path Toward Gender Equality in Japan: The Revision of the Equal Employment Opportunity Law and Its Implementation

Stephanie Assmann

The implementation of gender equality in the workplace: International pressure for change

Gender equality is stipulated in the post-war Japanese constitution in article 14, which grants equality to all people with regard to race, creed, sex, social status or family origin, and in article 24, which states that marriage shall be based on the mutual consent of both sexes.¹

However, the incentive for the legal implementation of gender equality in the 1980s was Japan's ratification of the Convention of the Elimination of All Forms of Discrimination against Women (CEDAW) that was adopted by the United Nations General Assembly in 1979 and ratified by Japan in 1980 (Mae, 2008, p. 219). In order to put this call for gender equality into practice, in 1975 the Japanese government established the Headquarters for the Planning and Promotion of Women's Policies in the Prime Minister's Office, which coincided with the international women's year (Weathers, 2005, p. 73). The Equal Employment Opportunity Law (EEOl) (in Japanese: *daijijō koyō kikai kintō-hō*, in short: *kintō-hō*) was enacted in 1986 in Japan in order to prevent discrimination against women in the workplace, especially with regard to hiring and promotion. The law was initially and specifically designed to improve the working conditions of women, although its effectiveness has remained weak since employers were merely encouraged to adhere to the law, but were not sanctioned when they did not comply with it. The EEOl applies exclusively to the private sector, whereas employees who work in the public sector are protected by the National Public Service Act (*kokka kōmuin-hō*) (personal interview at the Ministry of Health, Labor and Welfare, 31 October 2007). Before the enactment of the EEOl, women enjoyed certain protections such as restrictions on late-night and overtime

work, and menstrual leave which had been stipulated in the Labor Standards Law (LSL) (*rōdō-kijun-hō*) (Shibata, 2007, pp. 174–5).

A further milestone of the enforcement of gender equality through the Japanese government was the enactment of the Basic Law for a Gender-equal Society (*danjo kyōdō sankaku shakai kihon-hō*) in 1999 that calls for the equal participation of men and women in all areas of society. The EEOL and the Basic Law for a Gender-equal Society form the Japanese government's policy framework toward the enforcement of gender equality. While the Basic Law for a Gender-equal Society takes a broader view on gender equality in all areas of society and not only the workplace, the EEOL focuses specifically on the implementation of gender equality in private corporations.

Objectives

One of the objectives of the enactment of the EEOL is to produce an environment in the workplace that is conducive to true gender equality, which also means that women need to give up a special protection status they had previously enjoyed according to the stipulations in the Labor Standards Law (LSL) (*rōdō kijun-hō*). The first aim of this chapter is to discuss the major changes the Equal Employment Opportunity Law has gone through since its enactment in 1986. I investigated the development of the EEOL from its first stage in 1986 to becoming a comprehensive legal framework in 2007.

Second, I will examine whether, and how, the EEOL is currently being implemented by corporations in Japan. I will present two case examples based on interviews with representatives of the personnel and recruitment departments of a retail company in Tokyo and a major electric power company in Miyagi Prefecture, an area in northern Japan. In addition, I interviewed the deputy director of the Gender Equality Section at the Ministry of Health, Labor and Welfare (MHLW, in Japanese: *Kōsei Rōdōshō*) and analyzed various Japanese government publications.

Gender-specific characteristics of the Japanese labor market

Despite the constitutional enforcement of gender equality and the enactment of the EEOL, the labor market in Japan remains highly gendered. Women account for 41 percent of the workforce in Japan, yet employment patterns of women are still characterized by early retirement due to marriage or pregnancy/childbirth, unstable part-time work situations, fixed contracts and temporary jobs. Approximately 70 percent of women in permanent employment retire upon the birth of their first child (Shibata, 2007, p. 34). A closer look at employment patterns of women reveal relatively short periods of full-time employment from early until late 20s, followed by marriage and a period of childbearing before women re-enter the labor market, mostly as part-time employees.²

Part-time work in Japan is also highly gendered. The overall rate of part-timers amounts to 32.6 percent (Women's White Book, 2006, p. 48) and the ratio of female part-timers has increased from 31.9 percent in 1985 to 52.4 percent in 2005 (Gender Equality in Japan, 2007, p. 11). The recent reform of the EEOL coincides with the revision of the part-time law (*tan-jikan rōdōsha no koyō kanri no kaizen-nado ni kansuru hōritsu*) in June 2006. The part-time law was enacted in 1993 and defines part-time work as 35 working hours per week (Broadbent, 2005, p. 6). The reformed part-time law stipulates that part-time workers who do the same work as full-time employees must earn the same wages, and prohibits discriminatory treatment of part-time employees (*sabetsuteki taigū no kinshi*). The reformed law also requires the promotion of temporary employees to regular employees (*sei shain-ka sokushin*). There are corporations in Japan that have adopted this principle such as the casual wear retailer Fast Retailing that has decided to promote 5,000 salespeople who have been employed under temporary or fixed-term contracts to permanent positions (Worsley 2007, *The Nikkei Weekly*, 23 April 2007).

Gender-specific wage differences

Not only do employment patterns such as early retirement and unstable part-time employment characterize the work situation of women, but also gender-specific wage discrepancies remain. The Labor Standards Law (LSL) prohibits gender discrimination with regard to wages as follows: 'An employer shall not practice discrimination with respect to wages solely based upon the worker's sex' (Fukui Prefectural Government, 2004). However, according to the report about gender-specific wage differences (*danjo-kan no chingin kakusa repōto*) released by the Ministry of Health, Labor and Welfare (MHLW), female-male wage differentials do exist in Japan. Wage discrepancies have gradually decreased in Japan over the years since 1986, but remain high by international comparison. Wage differences between men and women in Japan amounted to 59.7 percent in 1986 and were at 66.9 percent for the year 2007 (MHLW, 2008, p. 2).³ According to the report, figures of Western countries are quite different from Japan: In the United States of America, women earned 80.2 percent of the wages of their male counterparts in 2007, whereas gender-specific wage differentials amounted to 76.8 percent in England in 2004 and to 74.1 percent in France in 2002 (MHLW, 2008, p. 5).

Gender differences in education and career development

One reason for gender-specific wage differences is the fact that fewer women than men get promoted to higher levels of management despite a number of years of service to a company, whereas for men there is a stronger correlation

between the number of years they have worked for a company and the position they acquire in higher management (MHLW, 2008, p. 3). The fact that fewer women than men get promoted to higher levels of management has also been observed by Western scholars who have pointed out that the ratio of women managers is around 8.9 percent (Broadbent, 2005, p. 69).

Differences in education (*gakureki no chigai*) are another reason wage differences between men and women prevail in Japan. In her book 'Women and the Economic Miracle. Gender and Work in Postwar Japan,' the sociologist Mary Brinton has drawn attention to the fact that not only the employment system, but also the education system is highly gendered in Japan. In an analysis of gendered education in Japan Brinton has pointed out that the 'rate of high school graduates are virtually identical for the sexes' (Brinton, 1993, p. 200). This was still valid in the year 2008. According to data compiled by the Japanese Ministry of Education, Culture, Sports and Technology 98.1 percent of all female students advance to high school versus 97.8 percent of all male students (Monbukagakushō, 2008). However, these figures change when both genders advance to higher education. Whereas approximately 51 percent of all male students advance to four-year universities (*daigaku*), only 41 percent of four-year university students are women. The percentage of female students who enroll in two-year colleges amounts to 88 percent (*tanki daigaku*). However, recently the percentage of both men and women who advance to graduate school is rising, with 7.5 percent women in graduate school in 2008 versus 15.5 percent of men who advance to graduate school (Monbukagakushō, 2008).

The revisions of the EEOL

Gender-specific characteristics of the Japanese labor market as described above raise the question whether the EEOL, if successfully implemented, can provide solutions to improve gender-specific wage differences and prevailing discrepancies in education and promotion. As of 2007, the EEOL is in its third stage of revision. The law has gone through a reform in 1997 and an even more comprehensive revision in 2006, which took effect in 2007.

The first revision of the EEOL in 1997 contained considerable changes.⁴ First, the revised law prevented discrimination in all stages of employment such as recruiting, hiring, job placement, and promotion. Before the enactment of the revised law, employment conditions, especially the hiring process, had largely been left to the judgment of enterprises. Second, the law required employers to take measures against sexual harassment. Finally, the use of positive action, the equivalent of affirmative action, was advocated in the revised law (Weathers, 2005, pp. 77–8). Although the revised EEOL still does not include penalties for not adhering to the law, the revised law allowed the Japanese government to publicize the names of offenders who did not comply with the law. Weathers points out that the revisions of the

EEOL were followed by a number of initiatives stipulated by the Japanese government to promote gender equality. The Basic Law for Reforms in Central Government Ministries and Agencies was enacted in 1998 and effective from January 2001, and created the Cabinet Office which has four consultative organs including the Gender Equality Bureau (Weathers, 2005, p. 78).

As of April 2007, the third revision of the law was enacted and includes even more comprehensive changes that are summarized below.

1. Whereas the law was originally designed to protect the rights of women, it now applies to both women and men. For the first time since its enactment, it now promotes true gender equality.
2. Indirect discrimination (*kansetsu sabetsu*) with regard to hiring and promotion is now forbidden. Indirect discrimination is defined as follows: '1) An employer seemingly adopts gender-neutral conditions or criteria and applies these equally to both men and women, but 2) these conditions or criteria result in being disadvantageous for one gender – predominantly for women, and 3) these conditions lack reason or justification, are not based on rational grounds, and are not related to the specific needs of a company' (Shibata, 2007, p. 179). In the outline of the Equal Employment Opportunity Law (*dansho kikai kintō-hō no aramashi*) released by the MHLW in 2007, six major changes of the reform of the EEOL have been introduced:
 1. Job advertisements must not contain certain hiring conditions such as height, weight or the need to possess physical strength (*shinchō, taijū, taiyoku yōken wo senkō kijun toshite iru to mitomerareru rei*).
 2. Mobility provision clauses that were part of the 'career track' (*sōgō shoku*) can no longer be a condition for hiring (*tenkin yōken wo senkō kijun toshite iru to mitomerareru rei*).
 3. National transfer experience must not be a condition for further career advancement (*tenkin keiken yōken wo senkō kijun toshite iru to mitomerareru rei*) (MHLW, 2007, pp. 20–2; see also Imano, 2006, pp. 43, 45).
 4. The issue of sexual harassment has been strengthened. Sexual harassment of both genders is now illegal.⁵
 5. Corporations that practice positive action are encouraged and supported by the government.⁶ The MHLW has also defined the numerical objective of a 20 percent increase of women to be employed in managerial positions within three years (*3 nenkan de josei kanrishoku 20% zōka*) (MHLW, 2007, p. 40).
 6. Layoff of female employees during pregnancy or within one year after the child is born is invalid and it is the responsibility of the company to prove that pregnancy or childbirth was not the reason for discontinuing employment (*risshō sekinin*) (Imano, 2006, p. 46).

The need for gender equality

Two major changes have occurred with the revisions. The EEOL has shifted from being a tool to specifically protect women from discriminatory employment practices to becoming a more comprehensive law that includes measures against sexual harassment, positive action, and indirect discrimination and seeks to protect both genders from discrimination in the workplace, signifying a recognizable shift from a focus on 'women' to a focus on 'gender.' As Michiko Mae argues, the usage of the term 'gender' as culturally and socially constructed sex (*shakaitteki bunkateki seibetsu*) became more common in the public discourse in Japan during the 1990s. For example, the Research Center for Women's Studies at Ochanomizu University in Tokyo has been renamed into the Center for Gender Studies. Several associations and research institutes such as the Japanese Society for Gender Studies (*Nihon Jendaa Gakkai*) utilize the term 'gender' (Mae, 2008, p. 224).

A second change has occurred with regard to the motive to strengthen gender equality. As stated previously, the motivation to enact the EEOL was Japan's ratification of the Convention of the Elimination of All Forms of Discrimination against Women (CEDAW) was adopted by the United Nations General Assembly in 1979 and ratified by Japan in 1980 to conform to principles of ensuring gender equality. However, in the light of the falling birth-rate and the phenomenon of fewer children being born in Japan (*shōshika*), a government policy change with regard to gender equality has occurred, and the motivation to ensure gender quality has shifted from a need to conform to international expectations to finding a response to pressing demographic changes in Japanese society that call for a long-term integration of both genders into the workplace and family responsibilities (Huen, 2007). The birth-rate has decreased continuously since 1974 and reached a record low of 1.57 in 1989 (U.N. Demographic Yearbook, 2007). The Japanese government has recognized the need to promote and strengthen the participation of both genders to the workplace, to advocate a work-life-balance, and to integrate women more effectively into the labor market. As mentioned in the introduction, the objective of an equal contribution to society by both men and women has been formulated in the Basic Law for a Gender-equal Society (*daniyo kyōdō sankaku shakai kihon-hō*) that was enacted in 1999 as a guideline in order to create a society to which both men and women participate on an equal basis (Gender Equality in Japan Report, 2007). According to the Gender Information Site of the Gender Equality Bureau of the Cabinet Office, the formulation of a gender-equal society under the Basic Law for a Gender-equal Society (*daniyo kyōdō sankaku shakai kihon-hō*) is defined in Article 2 as follows:

A 'gender-equal society' is a 'society in which both men and women, as equal members, have the opportunity to participate in all kinds of

social activities at will, equally enjoy political, economical and cultural benefits, and share responsibilities.' In such a society, the human rights of men and women are equally respected. Women who desire an active role in society may participate in activities of their own choosing, while men could enjoy a fulfilling home and community life. A gender-equal society is a society built by men and women as equal partners.

Gender Equality Bureau, Cabinet Office (ed.), Gender Information Site, http://www.gender.go.jp/english_contents/index.html, accessed on 9 January 2009.

In the light of the above discussion about the term 'gender,' it is noteworthy that in the formulation of the Basic Law for a Gender-equal Society, the term 'men and women' (*daniyo*) is preferred over the term 'gender' (*jendaa*) which may reflect the fact that the Japanese government is reluctant to use the term 'gender' and prefers to adhere to the more established view of role differences of men and women in society. The formulation of Article 2 does not break away from gender differences in society but rather seeks to establish a more lenient interpretation of gender roles in order to enable an equal participation of both genders in all areas of society (Mae, 2008, p. 225; Huen, 2007).

The implementation of the EEOL

The Basic Law for a Gender-equal Society and the EEOL form a comprehensive governmental policy toward the implementation of gender equality. However, the effectiveness of the EEOL has remained weak since employers have merely been encouraged to adhere to the law, but have not been sanctioned when they did not comply with it. Japanese private companies have found ways to evade the EEOL by establishing a dual career track which divides all job applicants in two categories, a clerical track (*ippan-shoku*) for which mostly women have applied and a management track (*sōgō-shoku*) for career-oriented and predominantly male employees who are willing to accept a mobility clause and a rotational training on the job upon their entry into a company. While potential employees who are interested in pursuing a career accept a rotational job-training within their new company and nationwide job transfers (*sōgō-shoku*), potential employees who will stay in one position and perform general tasks such as clerical work, apply for the general track (*ippan-shoku*). This dual career track continues to be in operation in order to maintain gender-specific employment conditions, yet without openly declaring these as such. However, this practice has been challenged in the most recent reform of the EEOL which forbids indirect discrimination on the basis of height, weight, and the need to agree to nationwide transfers and experience of transfers. In the first reform of 1997, the enforcement of the law was strengthened, mainly by use of mediation

and by publicly announcing the names of offenders who did not comply with the law (Weathers, 2005, p. 78). This measure has been upheld in the most recent revision in 2006. However, a personal interview with a deputy of the MHLW has revealed that there so far has not been a single case where a name of a company has been publicly announced for not complying with the law. Also, the publication medium in case of non-compliance with the EEOL has not been decided. The most recent reform still does not include financial sanctions when companies do not comply with the law. According to an interview at the MHLW the government merely provides guidelines with regard to equal treatment of both genders, but the method of implementation of the law is entirely left to companies (personal interview with Morizane Kumiko, Assistant Section Chief, Gender Equality Section, MHLW, Tokyo, 31 October 2007). However, there is a reward for companies that encourage and promote hiring and promotion of women. For example, in the Women's Yearbook 2007, names of major corporations that have implemented the practice of positive action in order to promote the career development of women have been positively mentioned (Women's Yearbook 2007, pp. 30–4).

The enforcement of the EEOL: Two case studies

The EEOL is termed a law, but is in fact a guideline for private corporations with the purpose of implementing gender equality. The implementation of this guideline is not effectively regulated. It is therefore essential to evaluate the efforts of the Japanese government to ensure gender quality by examining if and how the guidelines provided by the Japanese government are adhered to by Japanese corporations. In order to evaluate the effectiveness of the EEOL, I have investigated two corporations that show two entirely different corporate cultures. The aim of the following two case studies is to investigate whether the comprehensive policy framework formulated by the Japanese government is reflected in the implementation of gender equality in individual corporations.

The first company is a major electric power company which is situated in Miyagi Prefecture in northern Japan. With 12,163 employees, this company is one of the main employers in the Tohoku Region which consists of six prefectures.⁷ The workforce is extremely homogeneous – there are no non-Japanese employees and approximately 90 percent of all employees are recruited from the Tohoku area. Employment at this company remains highly gendered. The percentage of employed women amounts to only 6.1 percent (746 employees) and women, for the most part, work in clerical positions (*jimukei*). Approximately 4,000 employees work in clerical positions, 18 percent of them women. Among the 8,000 employees who work in technical positions, only 50 women work in technical positions, for example, as engineers (*gijutsukei*). The differentiation between clerical work

(*jimukei*) and positions that require comprehensive technical expertise and knowledge (*gijutsukei*) reveal the distinction between *ippan shoku* and *sōgō shoku* mentioned earlier. The fact that women in technical positions are in the minority, has been linked to the number of women graduates with degrees in engineering:

For example, there are almost no women in the electrical engineering departments at universities. Even though [we] would like to employ [women], currently applications from women are extremely rare. Even if we can employ [women] in technical positions, we receive approximately seventy or eighty [applications] every year... and we can only hire one or two... in fact if the number of women at university and also if we hire directly high school graduates... if the number of women doesn't rise, the number of [women employees] in technical positions won't rise.... At our company almost all of women work in clerical positions....

(Personal Interview with Interviewee I. Tohoku Denryoku, Personnel Department, Recruitment Manager and Matsumoto Mari, Tohoku Denryoku, Public Relations Department, 31 October 2007)

Approximately 700 employees work in part-time, primarily clerical positions, partially on short-term contracts (six months to ten months maximum) and partially in order to replace women who are on maternity leave for a period of six months or a year (*ikuji no tame ni kyūshoku suru*). Furthermore, 400 employees are employed as temporary workers (*haken shain*). Some of these replace women employees who are on maternity leave. The company runs a call-center in which approximately 150 employees are employed, two thirds of them as temporary employees, whereas approximately 50 employees are working full-time at the company. The possibility of promoting part-time employees and temporary employees to full-time employment is currently being considered (*kentō-chū*) but has not been implemented yet. The company provides a variety of educational measures (*kyōiku kunren*) such as language education or computer training if employees feel the need to get further education in these fields. However, career development targeted at women is not a specific objective. Women in management are rare: There are no female department heads (*buchō*), and there is one female director (*eigyō shochō*), appointed in July 2007. Furthermore, just one woman has been appointed to the post of a division manager.

The implementation of the EEOL is covered in the Corporate Social Responsibility (CSR) Report that explicitly states compliance with the EEOL in order to empower women as the following quote taken from the Tohoku Denryoku CSR Report 2008 shows:

In our company, the utilization and allocation of human resources is based on fairness and ability regardless of gender. Precisely, for all

positions advertised we recruit based on motivation and ability without gender restrictions. Furthermore, we carry out work assignments, recruitment, transfers, promotion, and training fairly and regardless of gender in compliance with the Equal Employment Opportunity Law and the Basic Law for a Gender-equal Society.

(Tohoku Denryoku CSR Report, 2008, p. 71)

Despite a corporate policy, formed in alliance with the government policy on the implementation of gender equality, women are still underrepresented and tend to quit their jobs upon marriage or childbirth. The age at which most women quit their jobs at Tohoku Denryoku remains between 30 and 40 years:

Almost all male employees stay in employment until the retirement age of 60 years, but in the case of women, approximately 30 percent quit their jobs at the age of 30. When women reach the age of 40, about 60 percent quit [their jobs] because of marriage and childrearing.... Well, often when women quit their jobs upon marriage and childrearing... when they return to the company they quit working for, for example as a part-timer... salaries may decline dramatically... Also, nobody feels comfortable to return to the previous workplace for lower payment. However, we are currently considering a system of re-employment (*sai-shushoku*) at salaries that are closer to the level of previously earned salaries... this is what we would like to offer.

(Personal Interview with Interviewee I., Tohoku Denryoku, Personnel Department, Recruitment Manager and Matsumoto Mari, Tohoku Denryoku, Public Relations Department, 29 October 2007)

The return of women to the workplace after a period of childrearing on a part-time basis is extremely rare (*reigaiji no reigai de*). Also, once employees quit their jobs, they don't feel comfortable about returning to the same workplace, as the following quote indicates:

In fact, since [employees] quit their jobs on mutual consent (*sōtō no kakugo*), I believe it really requires courage (*yūki ga irun desu*) for women to take up work at the previous workplace.

(Personal Interview with Interviewee I., Tohoku Denryoku, Personnel Department, Recruitment Manager and Matsumoto Mari, Tohoku Denryoku, Public Relations Department, 29 October 2007)

The corporation has recognized the need to change the underrepresentation of women employees and has formed a work group in order to attract more women for recruitment and to prevent more women from quitting their jobs (*rishoku bōshi*). A further objective of the work group is to improve

the work-life balance by staggering working hours and by allowing for leaves of absence during pregnancy or for children's school events. Furthermore, the corporation provides special measures in order to balance work and family life. For example, the corporation offers their employees a period of two years for childcare leave, which is one year longer than the legally binding period of one year.

While the first case study may represent a more conservative corporate culture, the second corporation I investigated is a mail-order house in Tokyo that sells fashion predominantly to women in their 30s, 40s and 50s. This company formed a joint-venture between Sumitomo and a German mail-order company in 1986. Due to this joint-venture with a foreign company and the emphasis on women's fashion, this company represents a unique case in terms of international outlook and employment policies. Since the company targets primarily female customers, approximately 60 percent of the workforce consists of women (personal interview on 15 October 2007). Compared to the first case study, employment structures at this enterprise are quite diverse as there are full-time employees, part-time employees, temporary employees, and contract workers who are hired on short-term contracts in order to work on projects. The main workforce consists of 207 employees with only two or three part-time employees. Moreover, this company runs a call-center in which customer orders are handled by approximately 400 mostly part-time operators of which 90 percent are women who work at the call-center for a limited number of hours. In addition to part-time employees approximately ten temporary employees (*haken shain*, *kigyō to agento to no koyo*) are employed at this company, and along with about 30 contract workers (*keiyaku shain*) who are directly hired by the company for defined projects such as designing a new catalog. The duration of these contracts vary from six months to one year (personal interview on 15 October 2007). In contrast with Tohoku Denryoku, almost all full-time female employees return to the workplace after a period of childcare leave on a full-time basis (*oyame ni naru kata hia hotondo inai desu*) as the following quote indicates:

[Women] who don't want to quit, won't quit even though they get pregnant (*yametakunai kata ha ninshin shite itan shite mo yamenai desu*).

(Personal interview with Interviewee M., Sumishō-Otto, General Manager, Advertising Division, Public Relations Department and J. Amagasa, Sumishō-Otto, Personnel Department, Tokyo, 15 October 2007.)

The workforce in case study 2 shows a greater diversity in terms of full-time employees, part-timers and temporary employees that are hired to work on designated creative projects. Interview partners at both companies emphasized the willingness and the necessity to effectively implement

gender equality into their corporate policies. My informant in case study 2 stressed the openness of company policies toward flexible hiring and re-employment practices as well as the determination of women to return to their former employer after a period of child care. My informants at both companies seemed to be aware of gender differences with regard to hiring and re-employment. Especially, my informant in case study 1 expressed a concern about the low number of women employed and about the fact that women do not feel comfortable to return to their previous workplace after a period of child care, and pointed to prevailing gender discrepancies in the Japanese education system that prevent gender equality in the workplace. He summarized the current situation at Tohoku Denryoku as follows:

It is essential to eradicate the consciousness about gender differences (seisa ishiki) that are still deep-rooted in this company. At the same time a change of consciousness (ishiki henkaku) of women employees themselves is necessary.

(Personal Interview with Interviewee I, Tohoku Denryoku, Personnel Department, Recruitment Manager and Matsumoto Mari, Tohoku Denryoku, Public Relations Department, 29 October 2007)

A comprehensive policy and legal framework with low enforcement in corporations

The case studies have shown that the government policies on gender equality have been integrated into corporate policies, which is reflected in CSR and in concrete measures that aim to implement gender equality and advance career development for women in particular, such as the establishment of a work group for gender equality, for example, as in the case of Tohoku Denryoku. However, the promotion of gender equality on the institutional and management level does not translate into the implementation of gender equality in the workplace but depends on a variety of additional powerful factors. Gender equality policies have been officially incorporated on the management level but have not been fully implemented in corporate cultures. One factor for the lack of implementation of government and management policies is the prevalence of a gendered education system in Japan, which leaves many young women with a less career-oriented education and degrees from junior colleges (*tanki daigaku*) and a slimmer chance of getting a job with career advancement options. Moreover, a variety of factors contribute to women's decision to continue employment upon marriage and childbirth, to return to the workplace after a period of exclusive devotion to family responsibilities, or to quit employment upon marriage or childcare. Prevailing expectations about the role of women as the main caretakers of families but also the perception of women themselves of career

development and the compatibility of work and family responsibilities contribute to the fact that gender equality is not fully implemented. Measures such as the prolongation of maternity leave indicate that corporations are willing or feel compelled to change the working climate for women, but the fact that women quit upon marriage or childbirth suggests that other factors such as families' expectations, lower wages upon the return to the employer, or the climate at the workplace make it difficult to take advantage of legal improvements and changes of companies' policies toward the implementation of gender equality. It will therefore be essential to investigate the attitudes of women toward career development and the compatibility of work and family responsibilities in order to get a more concrete view whether gender equality in the workplace is indeed perceived as desirable by women and if that is the case, to investigate which additional measures apart from the existing legal framework could contribute to improving gender equality in the workplace. Furthermore, the two case studies illustrate that employment structures in Japanese companies remain highly gendered, whether it be that the majority of part-timers and temporary employees are indeed women (as in case study 2) or whether it be that women quit their jobs upon marriage and childbirth despite the fact that the company they work for provides measures to enable women to return to their workplace after a period of childrearing (as in case study 1).

Both case studies document that the Equal Employment Opportunity Law is subject to the individual interpretation of corporations. There are no binding rules with regard to the implementation of the EEOL in corporations. The case studies underscore the results of an above mentioned interview I conducted at the MLHW according to which the government merely provides a guideline with regard to the implementation of gender equality in the workplace, but the method of implementation of the law is entirely left to companies whose decisions to implement gender equality will not be reinforced or scrutinized by the government (personal interview at the MHLW, 31 October 2007). Both cases illustrate that the realization of gender equality and the methods of implementation highly depend on the individual decisions of a company as to whether and how to put gender equality into practice. An individual interpretation of the EEOL depending on the decision of a company is indeed possible and accompanied by a lack of rigid reinforcement from the side of the government.

Outlook and further research

Given the lenient interpretation of the EEOL and the obvious lack of reinforcement from the government's side as illustrated in the case studies, the question whether the EEOL is a useful tool for the realization of gender equality is valid. I argue that the EEOL as a guideline as supposed to a binding law with no strict reinforcement needs to be seen on the institutional

level and on the level of implementation. The law in its present form after the second major revision in 2006 provides a comprehensive legal framework. The establishment of such legal mechanisms is a major step toward the implementation of gender equality. It does show the willingness on the institutional level to advance the discourse on gender equality and to promote the implementation of gender equality in the workplace. However, on the level of implementation, there is little cooperation between the Japanese government and corporations in enforcing the EEOL, whether through positive reinforcement of the law or through negative reinforcement such as sanctions (e.g., publicizing the name of companies that do not adhere to the law), are not carried out. Furthermore, the law addresses discriminatory practices such as indirect discrimination but does not discuss remaining gender issues such as gender-specific wage differences and gender discrepancies with regard to education and career advancement. Consequently, the EEOL retains the character of a guideline for corporations and gender discrepancies prevail in the workplace. The implementation of the EEOL remains the responsibility of corporations and is enforced by management principles such as CSR (CSR) that address the responsibility of corporations with regard to gender equality, diversity management, environmental protection and ecological measures, the prevention of poverty as well as humanitarian help. As opposed to financial sanctions, the need to institutionalize the law arises from an effort to comply with international management principles, the threat of losing face when companies do not comply, and the reward of being positively mentioned when legal measures such as positive action have been successfully implemented.

I identify three areas of future research with regard to the implementation of gender equality. First, as stated previously, it will be crucial to examine women's attitudes and perceptions of the implementation of gender equality in the workplace. In this context, it will also be critical to relate the perception women have of gender equality and compatibility of work and family responsibilities to the corporation they work for. The two case studies chosen for this essay represent very different corporate cultures which may also be related to the fact that one corporation is a Japanese corporation while the corporation in case study 2 is a joint-venture between a Japanese and a non-Japanese corporation. In this regard, it will be essential to examine differences in the implementation of gender equality and CSR between Japanese corporations and international corporations that cooperate with Japanese corporations.

Second, the revised EEOL intersects with other laws such as the revised part-time law and with a change of employment patterns such as an increase and a more effective integration of part-time employees. However, the promotion of part-time employees to full-time employees is not common practice as case study 1 reveals where promotion of part-timers is currently under

consideration but has not been implemented yet. In the future, the increase of part-time employees and younger people with inconsistent work résumés (NEET)⁸ is likely to further change employment structures. It is therefore vital to examine employment patterns of younger people with less consistent work histories that involve part-time and short-term employment. Currently, part-time employment and short-term employment show a gendered dimension as the majority of part-timers are indeed women, but this may change as men with inconsistent work histories may also be subject to more unstable work situations and short-term employment.

The fact that unstable work situations may become a concern for both genders, leads to a third area of research. The current discourse about equality in Japan currently focuses primarily on gender equality. Through CSR corporations such as Tohoku Denryoku already recognize the need to integrate employees beyond retirement age and midcareer employees. In addition to the enforcement of gender equality, diversity management through the integration of employees with disabilities, midcareer employees (*chiito saiyō*) (both women who return to the workforce after a period of family responsibilities and men who opt for a midcareer change as well) as well as non-Japanese employees pose challenges that move beyond the implementation of gender equality in a society that faces demographic challenges and changes in employment structures.

Acknowledgements

This article is based on a presentation given at the Annual Meeting of the American Anthropological Association in Washington DC on 29 November 2007. I would like to thank my interview partners Iino Mamoru and Matsumoto Mari at Tohoku Denryoku, Miyajima Tamami and J. Amagasa at Sumishō-Otto and Morizane Kumiko, Assistant Section Chief of the Gender Equality Section at the Ministry of Health, Labor and Welfare for their time, resources and insights made available to me. I would also like to thank Sebastian Maslow for insightful comments on an earlier draft of this article.

Notes

1. Article 14. All of the people are equal under the law and there shall be no discrimination in political, economic or social relations because of race, creed, sex, social status or family origin. Article 24. Marriage shall be based only on the mutual consent of both sexes and it shall be maintained through mutual cooperation with the equal rights of husband and wife as a basis. With regard to choice of spouse, property rights, inheritance, choice of domicile, divorce and other matters pertaining to marriage and the family, laws shall be enacted from the standpoint of individual dignity and the essential equality of the sexes. http://www.kantei.go.jp/foreign/constitution_and_government/frame_01.html, accessed on 9 November 2007.

2. This employment pattern is graphically characterized by the so-called M-curve: The employment of women takes the shape of an 'M' with employment of women in their late 20s and early 30s being the lowest rate.
3. According to a survey (minkan kyūyo jittai tokei chōsa) conducted by the National Tax Agency (Kokuzeichō) in 2004, 65.5 percent of all women employees earn monthly wages below 200,000 Yen (approximately 1,743 US Dollar), whereas only 20 percent of all men employees receive such low incomes (Shibata, 2007, p. 34).
4. The Japanese government created the Office for Gender Equality (OGE) which replaced the Headquarters for the Planning and Promotion of Women's Policies in July 1994 (Weathers, 2005, p. 75).
5. The wording of the law has changed from 'the necessity to consider' (hairyō gimu) to 'the necessity to take measures' (sochi gimu) (Shibata, 2007, p. 39).
6. According to the outline of the Equal Employment Opportunity Law (danjo kikai kintō-hō no aramashi) released by the MHLW in 2007, positive action (sekyokutekina torikumi) seeks to establish gender mainstreaming by eliminating gender-specific discrepancies with regard to the appointment of division managers (who remain men for the most part) and appointments in sales and marketing positions (eigyō shoku) (MHLW, 2007, p. 40).
7. The Tohoku region in northern Japan consists of the six prefectures Aomori, Iwate, Miyagi, Akita, Fukushima, and Yamagata.
8. The term NEET stands for 'not in education, employment, or training' and applies to a younger generation of Japanese between 15 and 34 years of age who are neither enrolled in education programs nor in full-time employment. The work situation of NEET is characterized by a fluctuation of temporary work settings and low incomes.

References

- M.C. Brinton, *Women and the Economic Miracle. Gender and Work in Postwar Japan* (Berkeley/Los Angeles/London: University of California Press, 1993).
- K. Broadbent, 'Pawaa Appu! Women Only Unions in Japan', *Electronic Journal of Contemporary Japanese Studies (ejcs)* (31 October 2005), available at <http://www.japanesestudies.org.uk/articles/2005/Broadbent.html>, accessed on 26 September 2007.
- Center for the Advancement of Working Women (CAWW) [Josei to shigoto no miraikan], *Working Women in Japan* (2008), available at http://www.miraikan.go.jp/english/statistics/index_1.html, accessed on 9 January 2009.
- Gender Equality Bureau, Cabinet Office (ed.), 'Gender Information Site', available at http://www.gender.go.jp/english_contents/index.html, accessed on 9 January 2009.
- Y.W.P. Huen, *Policy Response to Declining Birth Rate in Japan: Formation of a 'Gender-Equal' Society* (Springer Science + Business Media B.V., 2007).
- H. Imano, 'Hataraku Josei' [Working Women], Nihon Fujin Dantai Rengō-kai (ed.), *Josei hakusho 2006. Kakusa shakai to Josei* [Women's White Book 2006. The Divided Society and Women] (Tokyo: Harupu Shuppan, 2006), pp. 34–47.
- International Policy Division General Affairs Department Fukui Prefectural Government (ed.), 'Working in Japan. The Labor Standards Law' (Extracts), *To Live in Fukui. Daily Life Information for Foreign Residents in Japan* (2004), available

- at http://info.pref.fukui.jp/kokusai/tagengo/html_e/konnatoki/3sigoto/e_hourei/roudou.html, accessed on 1 March 2009.
- Josei Jōhō raiburii* [Women's Information Library], Volume 9, *Onnatachi no ichinen* [Women's Yearbook 2007], Tokyo: Pad Women's Office, March 15, 2007.
- Kōsei Rōdōshō (Ministry of Health, Labor, and Welfare) (MHLW), *Danjo koyō kikai kintō seisaku kenkyū-kai hōkoku-sho* [Report of the Research Committee on Measures of Gender Equal Employment Opportunities] (2004), available at <http://www.mhlw.go.jp/houdou/2004/06/h0622-1.html>, accessed on 23 October 2007.
- Kōsei Rōdōshō (Ministry of Health, Labor, and Welfare) (MHLW), *Danjo kikai kintō-hō no aramashi* [Outline of the Equal Employment Opportunity Law] (2007).
- Kōsei Rōdōshō (Ministry of Health, Labor, and Welfare) (MHLW), *Danjo-kan no chingin kakusa repōto* [Report on Wage Differences between Men and Women], available at <http://www.mhlw.go.jp/bunya/koyoukintou/seisaku09/pdf/01.pdf>, accessed on 8 October 2008.
- M. Mae, 'Zur Entwicklung einer partizipatorischen Zivilgesellschaft in Japan' [About the Development of a Participatory Civil Society in Japan], in I. Wieczorek (ed.), *Japan 2008. Politik, Wirtschaft und Gesellschaft* [Japan 2008. Politics, Economy, and Society] (Berlin: Vereinigung für Sozialwissenschaftliche Japanforschung, 2008), pp. 217–40.
- Monbukagakushō [Ministry of Education, Culture, Sports and Technology] *Heisei 20 nendo gakkō kōhon chōsa sokuhō* [2008 Basic School Statistics Overview] (2008), available at http://www.mext.go.jp/b_menu/toukei/001/08072901/index.htm, accessed on 9 January 2009.
- Nihon Fujin Dantai Rengō-kai (ed.), *Josei Hakusho 2006. Kakusa shakai to Josei* [Women's White Book 2006. The Divided Society and Women] (Tokyo: Harupu Shuppan, 2006).
- The Nikkei Weekly*, 'Hiring Policies Get Second Look. More Companies Starting to Move their Part-Timers to Full-Time Positions', 23 April 2007, available at <http://www.nni.nikkei.co.jp/cgi-bin/print.cgi>, accessed on 21 May 2007.
- M. Ōsu, *Padato. haken. rinji rōdōsha* [Part-timers, Dispatch Workers, Temporary Workers], in *Nihon Fujin Dantai Rengō-kai* (eds.), *Josei Hakusho 2006. Kakusa shakai to Josei* [Women's White Book 2006. The Divided Society and Women] (Tokyo: Harupu Shuppan, 2006), pp. 48–52.
- Y. Shibata, 'Development and Problems of the Equal Employment Opportunity Law', in M. Tsujimura and E. Yano (eds.), *Gender and Law in Japan*, Gender Law & Policy Center, (Sendai: Tohoku University Press, 2007), pp. 171–87.
- Shushō Kantei [The Prime Minister of Japan and His Cabinet], *The Constitution of Japan* (2007) available at http://www.kantei.go.jp/foreign/constitution_and_government/frame_01.html, accessed on 9 November 2007.
- Tohoku Denryoku, *Tohoku Denryoku NOW CSR Repōto* (2008) 65–72, available at <http://www.tohoku-epco.co.jp/csrreport/>, accessed on 1 March 2009.
- United Nations, 'United Nations Statistics Division', U.N. *Demographic Yearbook* (2005), available at <http://www.mhlw.go.jp/toukei/saikin/hw/jinkou/tokusyuu/syusyo05/syusyo5.html>, accessed on 7 November 2007.
- C. Weathers, 'In Search of Strategic Partners: Japan's Campaign for Equal Opportunity', *Social Science Japan Journal*, 8(1) (2005) pp. 66–89.
- K. Worsley, 'Uniqlo to Switch up to 5,000 Part-time Workers to Full-Time Status', Japan Economy News & Blog, 6 March, 2007, available at <http://www.japanecconomynews.com>.

com/2007/03/06/uniqlto-to-switch-up-to-5000-part-time-workers-to-full-time-status/, accessed on 28 April 2009.

Personal interviews

1. Miyajima Tamami (Sumishō-Otto, General Manager, Advertising Division, Public Relations Department,) J. Amagasa (Sumishō-Otto, Personnel Department). Tokyo, 15 October 2007.
2. Iino Mamoru (Tohoku Denryoku, Personnel Department, Recruitment Manager), Matsumoto Mari (Tohoku Denryoku, Public Relations Department). Sendai, 29 October 2007.
3. Morizane Kumiko (Assistant Section Chief, Gender Equality Section, MHLW). Tokyo 31 October 2007.

8 Innovation in Japanese HRM: Are Japanese Companies Adopting the Pay for Performance Principle?

Markus Pudelko

The pay for performance principle – only a specifically Western or a universal concept of HRM?

The late 1980s witnessed in the U.S. and subsequently in many other, mainly Western countries a major management innovation: the introduction of human resource management (HRM). Authors produced various catalogues of 'best practices' within HRM, which were established as check lists for enhancing corporate success.¹ While these lists varied to some degree, the performance orientation and here in particular the link between incentives and performance was a common theme. It is through the setting of performance-based incentives that each employee should be motivated to perform better, with the accumulative effect of an augmented performance of the overall organization. This focus on individual performance is central with regard to two major incentive categories: pay and promotion.

While performance orientation is essential to the concept of modern, Western-style HRM, the seniority principle is, at least in the West, more associated with old-fashioned personnel management. According to the seniority principle, both pay and promotion of employees of the same category (managers, workers, specialists and so on) are primarily determined by the length of employment and less so by individual performance.

As management practices develop in the specific cultural and institutional context of the country they are originating from, adoption of those practices will be particularly difficult in countries with substantially different socio-cultural contingencies. This problem certainly presents itself to a high degree in the case of Japanese companies seeking to upgrade their management model by adopting management practices originating in the U.S. (Dore, 2000; 2002). In addition, implementation of foreign management practices in the area of HRM is much more likely to meet cultural and institutional barriers than in more technical management areas such as, for

Also by Parissa Haghirian
J-MANAGEMENT
MARKTEINTRITT IN JAPAN

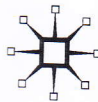
Innovation and Change in Japanese Management

Edited By

Parissa Haghirian

*Associate Professor of International Management
Sophia University, Tokyo*

palgrave
macmillan



Selection and editorial content © Parissa Haghirian 2010
Individual chapters © the contributors 2010
Introduction © Makoto Abe 2010

All rights reserved. No reproduction, copy or transmission of this publication may be made without written permission.

No portion of this publication may be reproduced, copied or transmitted save with written permission or in accordance with the provisions of the Copyright, Designs and Patents Act 1988, or under the terms of any licence permitting limited copying issued by the Copyright Licensing Agency, Saffron House, 6-10 Kirby Street, London EC1N 8TS.

Any person who does any unauthorized act in relation to this publication may be liable to criminal prosecution and civil claims for damages.

The authors have asserted their rights to be identified as the authors of this work in accordance with the Copyright, Designs and Patents Act 1988.

First published 2010 by
PALGRAVE MACMILLAN

Palgrave Macmillan in the UK is an imprint of Macmillan Publishers Limited, registered in England, company number 785998, of Houndmills, Basingstoke, Hampshire RG21 6XS.

Palgrave Macmillan in the US is a division of St Martin's Press LLC, 175 Fifth Avenue, New York, NY 10010.

Palgrave Macmillan is the global academic imprint of the above companies and has companies and representatives throughout the world.

Palgrave® and Macmillan® are registered trademarks in the United States, the United Kingdom, Europe and other countries.

ISBN: 978-0-230-21667-9 hardback

This book is printed on paper suitable for recycling and made from fully managed and sustained forest sources. Logging, pulping and manufacturing processes are expected to conform to the environmental regulations of the country of origin.

A catalogue record for this book is available from the British Library.

A catalog record for this book is available from the Library of Congress.

10 9 8 7 6 5 4 3 2 1
19 18 17 16 15 14 13 12 11 10

Printed and bound in Great Britain by
CPI Antony Rowe, Chippenham and Eastbourne

Contents

<i>List of Tables and Figures</i>	vii
<i>Preface</i>	ix
<i>Notes on the Contributors</i>	xiii
Introduction: Japanese Management in the 21st Century <i>Makoto Abe</i>	1
Part I Restructuring Japan – Theoretical Foundations	
1 Restructuring of Japanese Enterprises – Programs for a Special Institutional Environment <i>Carsten Herbes</i>	15
2 Rigidity and Change in the Japanese Venture Economy <i>Sebastian Schäfer and Cornelia Storz</i>	39
3 The Attitude Toward Risk in Japanese Management <i>Werner Pascha</i>	59
Part II Inside the New J-Firm	
4 Lifelong Employment, Labor Law and the Lost Decade: The End of a Job for Life in Japan? <i>Leon Wolff</i>	77
5 Vocational Education and Training in Japan – Recent Trends <i>Silke Bromann</i>	100
6 Going Global? Strategizing Ideology and Practice in a Japanese Subsidiary <i>Avital Baikovich</i>	119
7 The Long Path Toward Gender Equality in Japan: The Revision of the Equal Employment Opportunity Law and Its Implementation <i>Stephanie Assmann</i>	139
8 Innovation in Japanese HRM: Are Japanese Companies Adopting the Pay for Performance Principle? <i>Markus Pudelko</i>	157

Part III Innovation and Knowledge Management

- 9 Innovation and the Patenting of Knowledge in Japanese Corporations
John W. Clarry 177

- 10 Nonaka Revisited: Can Japanese Companies Sustain Their Knowledge Management Processes in the 21st Century?
Benjamin Hentschel and Parissa Haghirian 199

Part IV Internationalization Processes

- 11 Japanese Corporate Strategies in Emerging Markets: From China-centered Trade and Investment to Diversified Internationalization
Pascal Gudorf 223

Index 239**Tables and Figures****Tables**

- 2.1 Total venture capital invested in 28 nations in 2001 40
- 2.2 Adult-population prevalence rate of high-expectation (nascent and new) and high-growth (established) entrepreneurs in 2000–06 countries 46
- 2.3 Institutions, actors and policies promoting the development of a venture economy in Japan 49
- 2.4 Share of venture capital investors in Japan and the United States 50
- 2.5 The development of academic spin-offs in Japan 51
- 2.6 Number of IPOs in the Japanese venture economy (1997–2008) 52
- 4.1 Annual downsizing rate 87
- 4.2 Type of employment system among Japanese corporations 88
- 4.3 Methods of employment adjustment, 2000–03 89
- 8.1 Assessment of compensation criteria of American and Japanese companies 166
- 8.2 Assessment of compensation criteria of American subsidiaries in Japan and of Japanese subsidiaries in the U.S. 168
- 9.1 U.S. technology (utility) patents granted to Japanese electronics corporations, 1999–2007 185
- 10.1 Knowledge management in the West and in Japan 203
- 10.2 Changes regarding knowledge management in contemporary Japanese organization 209
- 10.3 New challenges for knowledge management 214
- 11.1 Promising countries for overseas business operations over the medium-term according to JIBC survey 2008 231
- 11.2 Japan's top 25 export destinations in 2008 233