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Alice Lam*

Law and Equal Employment Opportunities for Women: The Japanese Experience**

For many years Japanese companies built their high performance upon an employment system which excluded the majority of women from key jobs. Since the early 1980s Japan has come under increasing pressure from the international community to improve the position and status of women workers in compliance with the standards of gender equality accepted by other advanced countries. In May 1985, the Japanese government passed the Equal Employment Opportunity Law (hereafter referred to as EEO Law) which took effect from April 1986. It prohibits discrimination against women in vocational training, fringe benefits, retirement and dismissal. It also urges employers to 'endeavour' to treat women equally with men with regard to recruitment, job assignment and promotion.

This paper analyses the nature of the EEO Law and looks at its effects on companies' personnel policies and women's career attitudes. The main conclusions are that the EEO Law has not had the desired effect. Japanese companies' continued attachment to the 'traditional' employment practices and their desire to protect the stability of the established male-dominated internal labour markets constitute the major obstacle for change.

Seit Jahren gründet die Leistungsstärke japanischer Unternehmen auf einem Beschäftigungssystem, das die Mehrzahl der Frauen von den zentralen Berufspositionen ausschließt. Seit den frühen 80er Jahren gerät Japan unter zunehmenden internationalen Druck, die Stellung und den Status weiblicher Arbeitskräfte an den in anderen Industrienationen geltenden Gleichberechtigungs-Standard anzugleichen. Im Mai 1985 legte die japanische Regierung das Equal Employment Opportunity Law (EEO Law) vor, das seit April 1986 in Kraft ist. Es verbietet die Diskriminierung von Frauen in der beruflichen Bildung, bei den Zusatzleistungen, beim Übertritt in den Ruhestand und bei Kündigungen. Ferner drängt es die Arbeitgeber, sich um eine Gleichbehandlung von Frauen und Männern bei der Rekrutierung, der Arbeitsplatzzuweisung und der Beförderung "zu bemühen". Im vorliegenden Aufsatz wird das EEO Law analysiert, und es werden seine Auswirkungen auf die Personalpolitik der Unternehmen sowie auf die Karriereorientierungen der Frauen beleuchtet. Die wichtigsten Folgerungen sind, daß das EEO Law nicht die gewünschten Auswirkungen hatte. Japanische Unternehmen verblieben in den eingefahrenen Bahnen "traditioneller" Beschäftigungspraktiken, und ihr Wunsch, die Stabilität der bestehenden männlich-dominierten internen Arbeitsmärkte zu schützen, bildet das Haupthindernis für den Wandel.

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1. Introduction

The international trend towards sex equality in recent years has strongly influenced Japanese government's policy for women. In 1980, Japan participated in the World Conference of the United Nations Decade for Women and agreed to ratify the Convention of the Elimination of All Forms of Discrimination Against Women by 1985. This international convention, together with many internal social and economic changes, led to the enactment of the Equal Employment Opportunity (EEO) Law in May 1985. The enactment of the EEO Law has aroused controversy and debate unprecedented

in the history of labour legislation in Japan. It prohibits discrimination against women in vocational training, fringe benefits, retirement and dismissal. It also urges employers to endeavour to treat women equally with men with regard to recruitment, job assignment and promotion. For the first time in Japanese history, formal guarantees of equal treatment between men and women in all stages of employment are enshrined in a single piece of legislation. The Japanese government described the passing of the new legislation as 'a great historical moment for all kinds of movements against discrimination in Japan' (MOL 1986: 2).

Indeed, the EEO Law appears to have brought about many changes in companies' policies on women in recent years. Since the introduction of the law, equal opportunities for women have become an important policy issue on management's agenda in many firms. The aim of this paper is to examine the extent to which Japanese companies have modified and adapted their traditionally male-oriented personnel management systems towards more egalitarian treatment of women and to see whether the model of equal opportunities policies pursued by companies is having a positive impact on women's careers.

There are two reasons why Japan provides a particularly interesting case for the examination of women's equal employment issues. Firstly, the Japanese employment system has developed the world's most closed and male-dominated internal labour markets. Their smooth operation up to recent years has depended on personnel management rules and practices which exclude the majority of women from the core career jobs. Internal labour market theorists argue that the rules and procedures which define the internal labour markets and govern their operation, once institutionalised, tend to be self-perpetuating and are difficult to change (Doeringer/Piore 1971). The Japanese employment system has been under increasing pressure to change as a result of many social and economic changes in recent years. Equal opportunities for women is one of the new challenges confronting Japanese management. Japan, thus provides an interesting case for examining how an employment system with well-developed internal labour markets responds to the pressures for greater equality for women.

Secondly, there are reasons to expect the process of change to be more complex in Japan. It is a country which is uniquely situated between the advanced industrial societies of the West and the less-developed countries. Japan emerged as a modern state after World War II. Economically, it is an advanced industrialised country. Socially, it shares many similar characteristics with other developing countries. Particularly illustrative is the position of women in the society. Further, the continued high performance of the economic system means that the desire among policy makers to maintain the present employment system is strong. This makes demands for equal employment a much more sensitive and complex issue than in other advanced countries. One would therefore expect the experience of equal opportunities for women in Japan to differ from that in the West. The primary intention of this paper is to examine how Japan has been tackling this highly sensitive issue of promoting greater equality for women in the sphere of employment. The analysis will focus on the 1986 EEO Law and its effects on companies' personnel policies. I shall also examine how Japanese women have been responding to the new situation. Before looking at the EEO Law and its effects on company policies, a brief examination of the nature of discrimination against women in the Japanese employment system will be presented.

2. Discrimination against Women in the Japanese Employment System
Japanese women's participation in employment shares many similar characteristics with their counterparts in the western industrialised countries. The tendency has been towards increased participation and an expansion of the range of occupations into which women have entered. By

1990, Japanese women constitute 38 per cent of the total employed workforce and their labour force participation has reached 50.1 per cent (MOL 1991). However, compared to many western advanced countries, Japan has been rather slow in granting women equal treatment in the workplace. Employment practices which were overtly discriminatory against women and were explicitly prohibited by legislation in most of the advanced industrialised countries by the mid-1970s were still part of the norm of the employment system until recently. A government survey in 1981 showed that many companies discriminated against women not only in recruitment but also in wages, job assignments, training, promotion and retirement age (MOL 1981). According to the survey, 73 per cent of the firms restricted their recruitment of graduates to men only, 83 per cent of the firms had positions that were not open to women and 43 per cent gave women no opportunity for promotion. Until May 1985 when the EEO Law was passed, there was virtually no legal protection against discrimination of women in employment.

Nowhere in the industrialised world do women enjoy equal status with their male counterparts in the labour market. Sexual inequality in employment appears to be a universal phenomenon, but Japan represents an extreme case among the advanced industrialised countries. Japanese women workers not only have to cope with problems common to women workers in all industrialised countries, but they are also confronted with some unique problems arising from the special nature of the Japanese employment system, characterised by the peculiar features of lifetime employment and the seniority-based wage and promotion systems (Takahashi 1983; Sano 1986; Yashiro 1983). From the viewpoint of the firms, employment of a permanent workforce and wage increments by age make the employment system extremely rigid. This inevitably means that the benefits of the practices can only be applied to the core, predominantly male, workers. The majority of women workers, workers in small firms and a large number of part-time and temporary workers are excluded. Women constitute a high proportion of the 'non-core' workforce. Their relatively lower wages, high turnover and flexible entry and exit from the labour market play an especially important role in maintaining the flexibility of the employment system (Shinotsuka 1983; Kawashima 1987). The logic of the Japanese employment system is sustained by personnel management rules and practices which operate to exclude the majority of women from the core career jobs. Japanese companies are reluctant to invest in the long-term training of women because of their higher average turnover rate as compared to men's. In western countries, women can use external occupational or professional training as credentials to career development; in Japan the emphasis on long-term firm-specific training means that Japanese women tend to face greater institutional barriers to their career advancement and firms have a stronger discretionary power in allocating the chances for career development. Occupational advancement depends much more on the allocative rules and procedures of the firm than elsewhere.

The importance of the seniority rule in job allocation, promotion and wage determination also operates to the serious disadvantage of women. Women retiring from the firm tend to lose all their accumulated seniority. When they re-enter the job market, they have to start again at the bottom of the job hierarchy. Career interruption is a disadvantage to women in any country, but it is much more of a handicap in Japan. Many firms, particularly the large ones, only recruit their regular workers from fresh school leavers. Job openings available for mid-career workers are limited; and for women they are often limited to jobs in the small firms or part-time jobs. Promotion and career development in Japanese firms also generally involve regular job-rotation which often requires geographical mobility. Compliance with the mobility requirement is important for promotion to managerial positions. Firms do not expect

women to be as mobile as their male colleagues. The immobility of women is often given as a reason for not promoting them and not assigning them to the mainstream jobs.

Women's exclusion from the mainstream career jobs is further reinforced by many informal, yet deep-rooted work practices and social customs which are part of the normal corporate life in Japan. Commitment and loyalty to the work group and the corporate community is crucial for career success. Working long hours, intensive involvement in extra-work activities and socialising with co-workers outside working hours are all part of the obligations of a committed member of the corporate community. The dominance of corporate life over private life means that women with family obligations are seen as marginal members.

The customary rules and practices in Japanese companies are based upon the traditional assumption that 'men's sphere is at work', therefore they are expected to be committed and loyal workers; whereas 'women's sphere is at home', therefore their role in the workplace can only be partial or marginal. This deep-rooted sex role distinction in Japanese society serves as an important ideological basis for justifying sexual inequality in the workplace. Sexual inequality in employment is very much related to sexual division of labour in the family. This is true in Japan as well as in all other countries. However, what sets Japan apart from other advanced industrialised countries is that such an extreme sex role distinction has survived into a period of rapid and dramatic economic growth and that it has rarely been challenged until very recently.

3. The 1985 Equal Employment Opportunity (EEO) Law (Danjo Koyo Kikai Kinto Ho)%

In May 1985, the Japanese government passed the EEO Law which took effect from April 1986. Has the EEO legislation helped to reduce discrimination and enhance women's career opportunities? Before answering this question, here is a brief examination of the EEO legislation.

From the western perspective, the Japanese EEO Law may appear rather peculiar. It has granted women very few new rights and imposed only limited legal obligations on employers. The legislation makes a distinction between 'prohibition' (Kinshi kitei) and 'exhortation' (Doryoku-gimu kitei) in its provisions for ensuring equal treatment between men and women. Prohibition against discrimination applies to basic vocational training, fringe benefits, retirement and dismissal - areas in which substantial changes had already taken place before the law was introduced. These are also areas where equal opportunities for women will cause least disruption to the core personnel management system. With regard to the most important stages in employment including recruitment, job assignment and promotion, sections 7 and 8 of the law merely 'exhort' (morally oblige) employers to treat women equally as men: 'employers shall endeavour to give women equal opportunity with men'. Basically, the hortatory provisions have no legal effect. The major responsibility for interpretation and implementation lies with the Ministry of Labour. These are the areas governing entry to the company and job allocation within the company over which employers resisted strongly any form of legal intervention during the bill's drafting stage. The basis of management's argument centred on the difference in the average length of service between men and women and the 'logic' of the lifetime employment practice (MOL 1986: 52f.; Ouwaki 1987: 11-14). Management argued that legal enforcement of equal opportunities in recruitment, job assignment and promotion would cause chaos in companies' personnel management systems and eventually destroy the vitality of the Japanese economy (Honda 1984: 119; The Japan Times, March 25, 1984). The hortatory provisions clearly represent an adaptation to and compromise within the existing employment system.

The hortatory provisions appear to be highly ambiguous and their enforcement is dependent upon the administrative guidance (gysoei-shido) of the Ministry of Labour. An analysis of the contents of the law and the guidelines set by the Ministry of Labour suggests that the standard of equality as required by the Japanese legislation falls far short of the 'western norm'. The way 'equal opportunity' is being defined appears to be rather narrow and limited. According to the interpretation of the Ministry of Labour, 'to give women equal opportunity' means 'not to exclude women and not to treat women unfavourably'. 'To exclude women' means not offering women any opportunity; 'not to exclude women' means offering women some opportunity. For instance, in recruitment, employers are not allowed to advertise jobs for men only although they can specify the number of employees they intend to recruit by sex, such as '70 males required' and '30 females required'. This is not against the requirements of the guidelines, because the employers do not exclude women. Similarly, with regard to assignment and promotion, employers are asked 'not to exclude women', for instance companies which do not offer women any job rotation or promotion chances will be required to 'make efforts' to offer women some opportunity. However, in the case where the frequency of job rotation for women is less than for men or where assignment to certain jobs is limited to women workers with certain qualifications - these do not constitute exclusion of women.

A second meaning of 'equal opportunity' means 'not to treat women unfavourably'. According to the guidelines, to treat women unfavourably means to set different qualifications or conditions of employment for men and women. Discrimination in this sense means unequal treatment; non-

discrimination means equal treatment. The guidelines specify that if as a result less women than men are able to comply with such terms and conditions, it does not constitute 'unfavourable treatment'. For example, according to the guidelines, in the case of promotion tests, 'unfavourable treatment' means not to offer women the opportunity to take the test or to impose qualification requirements on women different from those of men, such as requiring longer years of service. If the results of the tests turn out to be that less women than men are qualified for promotion, this does not constitute 'unfavourable treatment'. Clearly, the Ministry of Labour's interpretation does not embody the concept of 'indirect discrimination'.

Taking the above interpretation literally, one can say that the guidelines are aimed at no more than removing the most blatant forms of direct discrimination against women. 'Equal opportunity' is interpreted as 'equal treatment of women to that of men'. On the whole, the Ministry of Labour seems to have compromised with the status quo and made little attempt to tackle the problem of institutional discrimination. The Japanese Ministry of Labour, however, points out that the EEO Law is a developing piece of legislation and that the requirements stipulated in the law represent no more than temporary minimum standards aimed at raising the average norm of equal opportunities in the Japanese enterprise community by reducing the number of bad practice companies. According to the ministry, the spirit of the law goes beyond the requirements stipulated in the law. Good practice employers, that is those who have already satisfied the minimum requirements are expected to fulfil their 'moral obligations' by making 'further efforts' in providing equal opportunities for women, in respect of the spirit of the law (MOL 1986: 44). The EEO Law has two objectives. The first is to use the prohibitory provisions to remove the most blatant forms of direct discrimination; this first objective in effect aims at formally ratifying changes that have mostly occurred in the past and also to enforce changes in the worst practice companies. Its second, more important, objective is to use the hortatory provisions to exert 'moral pressure' on the good practice employers to move beyond the minimum requirements enshrined in the law, and set the new norms and standards of equality. Thus, the real significance of the law lies not only in the extent to which companies in general are prepared to comply with the stipulated requirements but more importantly, in the extent to which it can act as a symbol of new moral standard to stimulate the good practice employers to set the pace for further change, particular in the areas of recruitment, job assignment and promotion.

The effectiveness of the model of change underlying the EEO Law will have to be evaluated not only in terms of whether companies have responded to the legislation but also the extent to which the policy changes will actually benefit women in terms of their job status and career opportunities. Moreover, the attitudes and responses of women to the new situation will also be a crucial factor in determining the future outcome. The rest of this paper looks at how companies have responded to the legislation and the reaction of women to the new situation.

4. The Management Response to the EEO Law

4.1 Recruitment and Conditions of Employment for New Entrants

So far, survey evidence shows that the law has been quite effective in reducing the most obvious forms of direct discrimination against women. It is in job advertising that the most remarkable changes have taken place. The proportion of companies which excluded female job applicants (specifying that jobs were open to male graduates only) declined from 41 per cent in 1986 to 17 per cent in 1987; those which offered jobs to graduates without specifying the sex requirements rose from 36 per cent in 1986 to 77 per cent in 1987 (JIWE 1986 and 1987).

An increasing number of companies have also taken steps to remove the unfavourable terms and conditions applied specifically to female job applicants such as requiring women to have special qualifications or skills or restrictions that women should be commuting to work from their parents' homes, etc. A more remarkable change has been the move towards equalization of starting wages for new recruits. The proportion of companies offering equal starting wages for male and female graduates rose from 36 per cent in 1980 to 79 per cent in 1987, according to surveys by the Romugyosei Kenkyusho (Rosei Jiho 1987). The EEO Law has made it difficult for companies to specify the sex requirements in job advertisements and to impose obviously unequal terms and conditions on women at the point of entry.

Nevertheless, some of the changes in recruitment policies are more in form rather than in substance. Staff at the universities' employment information office reported that even when they received job offers for both sexes, firms often revealed preference for men in the screening process (JIL 1987: 6). There were also widespread complaints from female graduates that the changes in job advertising had only created false expectations and caused confusion in their job hunting activities as they only discovered that companies had no real intention of recruiting female graduates or offering them equal career opportunities when they approached the companies (Asahi Shimbun, September 9, 1987). In practice, 50 per cent of the firms still restricted recruitment for technical-related jobs to men, and over a quarter did not seek to recruit female graduates for administrative or sales jobs, according to a recent survey by the Ministry of Labour (MOL 1990: 4).

The EEO Law does not seem to have had much effect on eliminating many traditional Japanese recruitment practices which, although not in direct violation of the requirements stipulated in the guidelines, discriminate against women. Many companies still conduct their recruitment and screening activities for men and women separately. One common practice is to set aside different dates for accepting applications from men and women. Companies would normally finish the interviews for male job applicants first before they start interviewing female applicants. This could mean that companies only offer job opportunities to women after they have failed to recruit a sufficient number of men. In the case where recruitment activities for both men and women are conducted on the same day, it is still a common practice for companies to organise separate meetings for male and female job applicants. These practices do not constitute discrimination against women, as defined by the Ministry of Labour, because companies have not 'excluded women' in the recruitment procedures.

Sex is still one of the most important criteria on which many companies base their annual recruitment plans and make their manpower decisions. In 1986, three out of four companies still decided in advance the number of men and women they intended to recruit each year (Rosei Jiho 1986: 7). Out of these more than half indicated that they did not plan to change this practice in the near future. The main reason for this, as pointed out by the companies, being that 'the type of jobs' for men and women were different.

This raises a crucial question of how far the present legislation has helped to remove the traditional practice of recruiting men for core career jobs and women for clerical support jobs. Equal opportunities for women will not come about unless companies are prepared to eliminate the practice of making a clear distinction between 'men's jobs' and 'women's jobs'. In the areas of job assignment and promotion, the majority of women are still facing insurmountable barriers. Changes over the last few years seem to indicate that companies are moving towards more indirect, yet institutionalised, ways of segregating the majority of women into inferior career tracks.

4.2 The Career Tracking System

Since the promulgation of the EEO Law, an increasing number of major firms have introduced a new selection system - the 'career tracking system' (Kosubetsu koyo-seido). Over 20 per cent of the firms which had no formal distinction for regular employees' career tracks adopted such a system after the EEO Law was introduced (JIWE 1986). Among those firms which had introduced the system, half of them indicated that the main objective was to cope with the law. The number of companies adopting the system has been rising in recent years. Career tracking is primarily a 'big firm phenomenon': 42.3 per cent of firms with 5,000 or more employees have introduced the system as compared to 11.4 per cent for firms with 300 - 900 employees (MOL 1990: 7).

The system offers employees a choice of career tracks at the point of entry: usually the managerial stream and the clerical stream. The one common criterion used by all the firms adopting the new system is the mobility requirement for jobs in the managerial track. Some companies have simply used instead the commitment to mobility; calling the two career tracks the 'mobile' and the 'non-mobile'. The managerial track (usually called 'sogoshoku') includes jobs which require complex judgement, such as business negotiations, personnel management, designing or developing products, planning of company policies or strategies. Employees in this track are subject to comprehensive job-rotation and transfers for career development and business necessities, and there is no limit to promotion; employees can eventually become top-level managers or executives. In contrast, jobs in the clerical track (usually called 'ippanshoku') are considered less complicated and more manual; job-rotation and transfers are carried out within a limited scope (notably employees are not required to move to other localities). Promotion for those in the clerical track is limited to only lower-level or local management positions. In some firms, an additional track is organised between these two tracks for 'specialist employees' (senmonshoku), who specialise in jobs requiring high-level skills or knowledge.

According to the Kanto Management Association (1986), the career tracking system is designed to clarify each individual's career choice at the early stage of their careers so as to facilitate career planning. It also points out that selection for entry to the different career tracks is solely based on 'merit' and that all career options will be opened to both sexes. As the same standards and criteria for selection will be applied equally to both sexes, the new system is therefore, according to the association, intended to eliminate the past informal practice of discrimination against women at the point of entry. The association also claims that the new system, in which individuals are recruited for specific 'jobs' based on 'merit' and in accordance with individual 'choice', signifies a fundamental shift from the traditional sex-based personnel management system to one that is based on merit. This new form of employment system is strongly recommended by the Kanto Management Association as an appropriate way to fulfil the equal treatment requirement of the EEO Law:

"...treating women equally with men as required by the new legislation can be met if firms fully implement the merit-based personnel management system. In such cases, the differential treatment for those in different career tracks is not based on sex but solely based on individual merit or abilities." (Kanto Management Association 1986: 6)

The crucial issue here is the meaning of the concepts of 'job', 'merit' and 'choice' and the way the system is being implemented in practice. Firstly, one needs to look at the criteria used for classifying the different job categories or career streams. How far are they job-related and how far are they behavioural requirements? In the majority of the cases, the job classification is no more than a broad distinction between the 'managerial' and the 'clerical' jobs. It is often not clear what

precisely the job specifications are and what type of requirements and qualifications companies are looking for.

Secondly, job specifications are often very broad and general. The job abilities and qualifications required for the different career streams are often no more than a set of behavioural expectations, such as a commitment to be geographically mobile. At those companies which had adopted the new system, there were complaints from women that they were doing the same kind of work as men but were classified into the inferior 'clerical career track' simply because they did not make a commitment to the mobility requirement (JERC 1987: 125-127). This is clearly a form of indirect discrimination against women.

Thirdly, implementation of the new system raises serious doubts about the fairness of the selection and screening procedures. Formally, the management career track is open to both men and women (in most cases restricted to graduates only), but in practice men are almost assigned to it automatically, whereas women are selected for it only exceptionally. During selection interviews with management, women often appeared to be challenged with tough questions about mobility and potential sacrifices of family life. Men who intended to select the clerical (or non-mobile) career track were persuaded by the companies to change their mind (Asahi Shimbun, September 1, 1987).

Some good practice companies implement the career tracking system with goodwill and genuinely hope to select a small number of women to be put on the elite career course. However, companies are only prepared to offer such 'special favour' to women provided that they are willing to make a full commitment to work like their male colleagues. Despite the formal offer of opportunities, in reality very few women managed to pass the selection procedures. Table 1 gives some examples of firms which have introduced the new employment system and have recruited women for the managerial track in the spring of 1987. The number of female graduates who managed to enter the main stream managerial track was extremely small.

A survey by the Japan Institute of Women's Employment (JIWE 1990: 26) on 40 firms in the finance, insurance and banking sector, which had adopted the career tracking system found that only 1.3 per cent of the women employees were in the managerial track, as compared with 99.0 per cent of the men (cf. Table 2). In contrast with the managerial track, the clerical track has remained exclusively a female domain. Under the present EEO Law, it is considered acceptable for companies to restrict certain jobs to women only.

The formal classification of employees into different career tracks is in effect the institutionalisation of past informal practices which segregated women in the inferior dead-end jobs. The present system is more of a classification of employees by status rather than by type of work. It would seem that from management's viewpoint, the offer of a 'choice' to the individuals at the point of entry not only fulfils the equal treatment requirement of the EEO Law, but also automatically justifies the differential wage systems, training and promotion opportunities accorded for the different 'class' of employees in different career tracks. Employers thus could justify paying a woman lower wages, and offering her less training and fewer promotion opportunities because she has made a 'choice' to enter the clerical career track.

Table 1: Examples of companies which have recruited female graduates for managerial career track (sogoshoku) in the Spring of 1987

Name of Company	Total no. of male graduates	Total no. of female graduates	No. of females selected for
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recruited recruited* 'managerial career
(all 'managerial track'
career track')

Orientalis	56	152	2		
Sumitomo Bank		420	60	20	
Taisho Kaijo Kasai Insurance		120	43		3
Tokyo Gas		108	12	12	
Daiwa Security		300	(Approx.)	130	3
Nikko Security		396	(Approx.)	160	3
Mitsubishi Bank		385	30	(Approx.)	10
Mitsubishi Trading		138	125		3

Source: Nikkei Shimbun (Evening), April 14, 1987.

Note: * Figures inclusive of those selected for 'managerial career track'.

Table 2: Distribution of male and female employees by career tracks
(Surveys carried out in 1987 on 40 firms)

	Male (%)	Female (%)		
Managerial (Sogoshoku)	99.0	1.3		
Clerical (Ippanshoku)	0.8	96.2		
'Mid-way' (Chukanshoku)*	0.0	2.4		
Specialist (Senmonshoku)	0.2	0.1		
Total	100.0	100.0		
No. of employees surveyed	82,049	55,615		

Source: JIWE (1990: 26)

Note: * This is a kind of 'middle-of-the-road' career track recently introduced by some companies to enable some selected women to take up more responsible jobs, but unlike those in the managerial track, there is no requirement for geographical mobility.

The career tracking system preserves the 'male-oriented' core personnel system and ensures that equal opportunities will be only offered to a limited number of 'male women': those with the 'right ability and motivation' (noryoku to iyoku aru josei) - meaning those who can conform to the existing organisational rules and work practices like their male counterparts. It is therefore not surprising that so few women are able to enter the managerial track.

5. Has the EEO Law Raised Women's Career Consciousness?

As pointed out earlier, the future of equal opportunities for women will depend, not only on changes in company policies, but also on how far Japanese women themselves start to perceive the possibilities of improvement and begin to make more demands on their employers. In this section, I shall look at the shifts in women's attitudes at a major department store (a company with a reputation for its innovative equal

opportunities policies for women). The data are based on attitude surveys and individual interviews conducted at the store before (1984) and after (1988) the introduction of the law. I shall focus on two major aspects of the women's career attitudes: first, their aspirations and expectations for promotion and second, their intention to pursue a continuous career.

5.1 Aspirations and Expectations for Promotion

In the questionnaire surveys, the respondents were asked two questions relating to their aspirations and expectations for promotion: (1) 'Do you desire promotion to a higher position?' (2) 'If you continue to work in this company, up to which level do you think you will be promoted?' The first question aims at probing a general response indicating aspirations, that is, whether women want promotion, and the second question asks the respondents to predict the specific level which they think they can achieve. The same questions were asked in the 1984 and the 1988 surveys. If the EEO Law and the company's equal opportunities policies are having a positive influence on women's career attitudes, one can hypothesise the following: (1) That women's aspirations and expectations for promotion should have increased over time; (2) that such a shift in attitude should be more prominent among the younger women as they are most likely to be affected by the EEO Law and benefit from the policy changes.

Contrary to our expectation, there is no evidence that women's aspirations for promotion have gone up (cf. Table 3). As regarding their promotion expectations, some significant shifts can be observed, especially among women aged under 24 (cf. Table 4). Those with a low promotion expectation dropped rather sharply from 50.8 per cent in 1984 down to 32 per cent in 1988. Those with a moderate or high expectation remained a small minority at both points of time. The most striking feature is the increase in the proportion of those with an 'uncertain' attitude (those who replied 'don't know'), the figure rose from 42.9 per cent in 1984 to 61.6 per cent in 1988. The tendency towards greater 'uncertainty' can be observed across the whole female sample, but most striking among the younger women.

On the whole, the findings seem to support our general prediction that equal opportunity policies should have a greater impact on the career expectations of younger women. However, this observation needs some qualification: what could be said is that young women appeared to be less pessimistic about their chances for promotion in 1988. Less of them expected to remain in a low position, yet there is no clear-cut evidence that their expectations for promotion to higher positions have increased over time. Instead, a great majority of them expressed an 'uncertain attitude'. The significant observation is that women who are most likely to benefit from the company's equal opportunity policies appear to display a greater degree of uncertainty about their career future than before. How do we explain this?

Table 3: Women's promotion aspirations (in percent)
('Do you desire promotion to a higher position?')

	1984	1988
Higher position	36.8	37.7
Same position	19.7	19.7
Don't know	41.9	40.6
Others	1.7	2.0

Total	100.0	100.0
Sample no.	544	463)

(X²= 0.36; df= 3; p<0.95)

Table 4: Promotion expectations of young women (aged under 24 / in percent) ('If you continue to work in this company, up to which level do you expect to be promoted?')

	1984	1988
Low expectation ^a	50.8	32.0
Moderate expectation ^b	4.2	3.9
High expectation ^c	2.1	2.6
Don't know	42.9	61.6

Total	100.0	100.0
Sample no.	240	149

(x²=14.04; df=3; p<0.005)

Notes: a) Low expectation group: those who replied that they expected to remain as ordinary employees or up to team leader level (Kakaricho level).

b) Medium expectation group: those who expected promotion up to middle management level (Kacho level).

c) High expectation group: those who expected promotion up to top management or senior executive level (Bucho level or above).

There are two possible explanations: the first relates to women's practical reaction to the 'new situation' and the second concerns the conflicts in values experienced by the women. Firstly, women's increased ambivalence about their career future could be a reaction to the fact that core career jobs have become much more demanding, especially in terms of working hours. Our survey results show that both men and women worked much more overtime hours than they did in 1984. The increase was particularly remarkable among the young women graduates; in 1984 only 2 per cent worked more than 20 hours overtime per month, the proportion increased to 22 per cent in 1988. This was also confirmed by my interviews with a group of women in core career jobs in 1987. Among the 21 women interviewed (they were initially interviewed in 1983), two-thirds of them worked more overtime hours than they did in 1983. Some younger women, especially those regarded by the company as 'high flyers', worked up to an average of 50 hours overtime per month. The majority of the women interviewed had more doubts about the possibility of combining work with having a family. In addition to the actual increase in career demands, the company's new policies of career tracking appeared to have made women, especially the 'potential beneficiaries' of the new policies, more aware of the 'negative aspects' of upward mobility such as long working hours, showing loyalty to the company and a commitment to the mobility requirement. The company introduced the career tracking system in 1986. Younger women who joined

the company after 1986 were likely to be informed of the demands which the company would make on them if they intended to select the 'mobile career track'. The selection and screening processes themselves might have had an impact on women's attitudes. Both my survey results and interviews show that in comparison with the pre-EEO Law situation, women in 1988 perceived greater 'availability' of equal opportunities. At the same time, they were also more clearly informed of the terms and conditions required for equality. The increased degree of uncertainty among the young women could reflect their reaction to the new situation. It is as if these women were saying 'Now that I can have it and I know what are the constraints, I am not so sure I want it.' The possibility of giving women access to better career opportunities also means that women are asked to make more clear-cut choices at the early stages of their careers in order to facilitate the company's training and manpower planning policies. The 'pressure of equality' was becoming more obvious to women in 1988 than in 1984.

There is another reason why women would appear to have become more ambivalent about their career future. This could be a manifestation of a greater degree of value conflict experienced by the women in the post-EEO Law era. Such conflict is likely to be greater among women who are more career conscious. The EEO Law is a symbolic representation of the value of sex equality and the importance of women's role in employment. The introduction of the law might have in fact raised the career consciousness of women. The fact that the attitudes of the young women - the post-EEO Law generation - have shifted most is a suggestive piece of evidence. It is possible that the law does not seem to have raised women's aspirations for promotion because of women's reaction to the 'real situation' at the company. The 'law effect' and the 'company policy effect' might have generated opposing influences on women's attitudes. This may help to explain why the group of women who are most likely to be affected by both factors exhibit a high degree of 'uncertainty' about their career future. Another point worthy of note: both the EEO Law and the company's policies have stressed giving women access to equal opportunities without introducing positive measures to ease women's career constraints. Women might have felt easier to leave employment before when they were confronted with the conflicting demands. However, the value of sex equality as a desirable goal has put more women in the dilemma of choosing between 'either work or family'. Hence, more of them displayed a greater degree of 'uncertainty' in 1988.

5.2 Attitudes to Career Continuity

A comparison of the survey results in 1988 with that of 1984 shows that the proportion of women wishing to pursue a continuous career has declined over time, from 16 per cent in 1984 to 12 per cent in 1988. The intensive demands on employees in career jobs to work excessively long hours and to make a commitment to relocation appear to have driven a growing number of women to become more 'home-oriented'. The majority of the women interviewed pointed out that if equal opportunities meant they had to forego having a family and work like men, they would rather seek a compromise by adopting a 'two-phase work profile'. Indeed, government surveys (PMO 1979 and 1989) also show a decline in the proportion of women intending to pursue a continuous career, from 20 per cent in 1979 to 14.4 per cent in 1989. In contrast, the proportion of women who prefer to adopt a two-phase work profile, retire from work when they have families and re-enter the labour market when their children have grown up, has increased from 39 per cent in 1979 to 64.2 per cent in 1989. For the majority of Japanese women, this is probably a pragmatic choice in a system which does not allow career jobs to be compatible with family life and in a society which expects women to take up sole responsibility for raising children.

An increasing number of good practice companies might have allowed and even encouraged more women to compete with their male colleagues on an equal basis, but the intensive demand of the core career jobs and the lack of policy measures to ease women's career constraints mean that such opportunities are seen as irrelevant by the majority of the women. In the case company, there was some evidence that women were actually turning down promotion. Some women interviewed in 1987 pointed out that the company appeared to be more willing to appoint women to senior management positions than before, but such efforts often turned out to be futile because women appointed to management positions tended to resign afterwards. If the incidents mentioned are representative, then the 'equal opportunity efforts' made by the company might not have much effect on women's positions.

6. Equal Employment for Women in the Japanese Employment System: Limitations and Obstacles

The above empirical evidence clearly shows that the move towards equal employment for women has been extremely limited. Although the EEO Law has been quite effective in reducing the number of worst practice companies by removing the most obvious forms of direct discrimination against women, there has been little evidence that companies have taken more positive steps to initiate changes in their core personnel management procedures, especially with regard to job assignment and promotion, apart from adopting a passive policy of equal treatment. On the contrary, the requirement to offer women equal treatment has prompted companies to formalise and institutionalise many of the past informal practices which operated to segregate men and women into entirely separate career tracks. Companies have now introduced more formal screening and selection procedures for those women who intend to pursue the main stream career jobs. Discrimination is indirect and is justified by the 'logic' of the personnel management system.

The EEO Law does not have enough power to prevent employers' sex-based personnel policies. The equal treatment approach has clearly failed to tackle the problem of indirect discrimination. Although the law has helped to reduce many of the formal written rules which discriminate against women directly, many substitute rules are written with sexual differentiation in mind and continue to discriminate indirectly against women. By defining 'equal opportunity' as 'equal treatment of women to men' but not the other way round, the law has created a loophole for employers to earmark jobs for women only. The present EEO Law is clearly a product of political compromise with management power.

It took the Japanese government over seven years to consider and study the EEO bill. The process of drafting the bill was fraught with difficulties and tensions. Throughout the various stages of the debate, management opposed strongly the idea that companies should be legally bound to offer women equality. They argued that while legal prohibition of discrimination with regard to retirement and dismissal would be inevitable (as these were ruled illegal by the courts in the past, see Cook/Hayashi (1980: 45-62)), other personnel procedures such as recruitment, job assignment and promotion were directly related to companies' assessment systems which should not be subjected to legal intervention. The final version of the bill, which merely imposes a 'moral obligation' on employers not to discriminate against women in these areas, has clearly made concessions to management's view. During the final Diet debate on the EEO Bill, the Minister of Labour was challenged by a member of the opposition party on whether the proposed legislation was lacking in a human rights perspective. The Minister made the following reply:

"It is generally agreed that the entry point to the companies is important. Until the present day lifetime employment has been a 'male-centred' system. The individual is of course important but one cannot ignore the average difference between men and women. Companies' personnel management systems have been operating on this assumption. Up to the present, women's length of service has been relatively short, and one cannot say for sure that their length of service will increase." (quoted in Ouwaki 1987: 12)

The above statements made by the government clearly revealed that management had won a major victory in the EEO Law controversy. The hidden message seems to be that the UN convention is too idealistic for Japan to implement it as it is. The Japanese government seems to prefer a step-by-step approach, taking into account the employment practice peculiar to the country. However, by compromising with the existing reality and by appealing to the voluntary 'moral obligation' of the employer to provide women equality in the most important stages of employment, the EEO Law has done no more than reasserting management control over the agenda of change.

Why are Japanese companies so reluctant to introduce more liberal equal opportunities for women? In light of the economic and demographic changes, the failure to attract and retain more able women in responsible jobs is a problem of concern for management. Many companies are well aware of the dilemma they are facing. In order to attract and retain more able women in top jobs, companies would need to change the promotion rules and the work practices governing the core career jobs, for example, allowing for greater flexibility in career planning, enabling women to retain their seniority after a period of career break, reducing the intensity of work and allowing for the mobility rules to be applied in more flexible ways. However, altering these rules too radically could have two 'undesirable' consequences from the viewpoint of management. Firstly, offering women true equal opportunities would imply redistribution of the promotion chances between men and women. This would disrupt the job security and long-service promotion expectations of the male employees which are part of the long-standing implicit understanding between management and the male employees. This customary expectation has been the major force generating high commitment, high output effort and willingness to cooperate in furthering the aims of the company. The benefits management derives from these long-standing practices are considerable and it is not at all clear that Japanese companies are willing to give them up. As long as 'good employers' in the Japanese enterprise community are still expected to be able to offer long-term job security and stable career progression for their (male) regular employees, giving up the benefits of the traditional system too rapidly

might jeopardise the status of companies in the enterprise community and their ability to attract good quality male graduates. Management's continued attachment to the traditional employment practices imposes a severe constraint on their willingness to introduce more liberal equal opportunities for women.

Secondly, introducing fundamental changes in the career rules to allow more women to retain their seniority and career continuity would not only imply an absolute increase in labour costs but would also lead to an expansion of the number of employees under the guarantee of lifetime employment with its associated career expectations. The guarantee of lifetime employment under the seniority wage and career progression system is extremely costly and rigid. The smooth operation of the core employment system depends on the existence of a large number of women willing to work as low cost 'peripheral' employees to provide the necessary flexibility. Full equal opportunities for women would not only de-stabilise the male career hierarchy and the established work practices, but would also upset the flexibility of the employment system. In the 1980s and 1990s, the increased pressures for greater equality for women has pushed Japanese companies to adopt more cautious policies in maintaining a delicate balance between the need to give some selected women equal opportunities and at the same time ensuring that the long-standing employment practices governing the internal career jobs will not be disrupted. The career tracking system has been designed to co-opt a small number of highly-educated women with strong career aspirations and, at the same time, to prevent the EEO Law from inflating the expectations of all women. Indeed, since the introduction of the EEO Law, Japanese companies have introduced more clear-cut formal policies of segmentation by employment status. An increasing number of women are now employed as contract or part-time workers who are outside the scope of the EEO Law. This segmentation policy helps to dilute the potential destabilising effects of equal opportunity pressures.

One final question the readers might raise: Why is it that Japanese women appear to continue to accept their conditions? There has been little evidence that Japanese women have become more career conscious and begin to make more demands on their employers. Does this indicate that equal opportunities are not desired by the majority of Japanese women? Or is it that there is a lack of awareness of the need for change?

Opponents of equal opportunities for women in Japan often use the following observations to argue against the introduction of more drastic policy changes:

- 1) improved career opportunities do not always seem attractive to women and

- 2) Japanese women themselves endorse the sex-role ideology and their psychological identity with the traditional feminine role renders external action ineffective. These observations are not entirely inaccurate but they should not necessarily be used as a guide for policy. What deserves more consideration is why the majority of Japanese women are not prepared to accept the type of 'equal opportunities' offered by their employers. Under the present employment system, women who desire equal opportunities are asked to accept and conform to the male working norm which requires them to work continuously without interruption, to accept the mobility requirements in a very rigid way, to work excessively long hours as a sign of commitment to the company and to ensure that the occupational sphere remains aloof from the domestic sphere. All these practical constraints have made any expectation for career advancement unrealistic for the majority of women.

Nevertheless, it is true that compared to their counterparts in western countries, Japanese women have been slow in developing their equality consciousness for their equal rights. Experience in the United States and the United Kingdom suggests that active intervention by the government in

the provision of equal opportunities policies for women was largely a result of political campaign and lobbying by women's pressure groups (Meehan 1985). In Japan, women's pressure groups have not consolidated as a major social force to exert pressures on the government to intervene more actively in equal opportunity issues. The women's voice was almost unheard in the process of drafting the EEO Law. The present legislation is a manifestation of the dominance of management power in Japanese society.

An important lesson that Japanese women can learn from their counterparts in the West is that grass-roots lobbying and political campaigns from women themselves are important means for propelling equal opportunities issues to the top of political agenda. Without stronger political pressures from Japanese women themselves for more active state intervention, the future of equal employment is unlikely to progress beyond its present limit. Japanese women cannot achieve full and real equality on men's terms. The male work norm will have to change and the Japanese management system will need to be challenged.

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% For a more detailed analysis of the historical background leading to the introduction of the law, see chapter 5, Lam (1992).

% Originally the law was entitled 'Danjo Koyo Kikai Byodo Ho'. The word Byodo means equality. At some stage during the debate, the word Byodo was replaced by Kinto which can be translated as 'equalizing' or 'progress toward equality'. Some Japanese critics suggest that the change of the title from Byodo to Kinto signifies a compromise of the government to the opponents of the legislation. The present title suggests an effort toward equalizing opportunity rather than a commitment to achieve such equality (Edwards 1988:243).

% The questionnaire survey was first conducted at the company in March 1984 on 1,100 employees (approx. 700 women and 400 men) and replicated in the summer of 1988 on 800 employees (approx. 500 women and 300 men). The response rates for both surveys were above 80 per cent. In addition, in-depth individual interviews were carried out with 34 women employees first in the winter of 1983 and later in the summer of 1987, two-thirds of the initial group were later re-interviewed.

% The proportion of women employees classified as part-time, arbeit and contract workers increased from 26 per cent in 1981 to 36 per cent in 1990. In comparison, male non-regular workers showed only a slight increase from 6 per cent to 8 per cent over the same period (Somucho 1981 and 1990).