

# Policy Response to Declining Birth Rate in Japan: Formation of a “Gender-Equal” Society

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**Abstract** Japanese women have been assigned to the private role of caretaker, but the Japanese government has made prominent efforts in constructing a “gender-equal” society during the past decade. This policy development has come under the context of falling birth rate. The Basic Law for a Gender-Equal Society and the measures taken by the government so far still fall short from enforcing gender equality and do not affirm equality as a human right. Since the pursuit of gender equality is a means to boost the birth rate, when there is a contradiction between these two goals, the former will be conceded.

**Keywords** Birthrate · Gender · Japan · Policy · Women · Work

## Introduction

During the past decade, the Japanese government has made prominent efforts in constructing a “gender-equal” society. In particular, the Basic Law for a Gender-Equal Society was enacted in June 1999. It should be noted that this policy development has come under the context of falling birth rate and aging population. Delaying marriage and reluctance to have babies has been understood as women’s resistance to the unfriendly social policy for them to harmonize work and family life. The Japanese government thus pledged to build up a “gender-equal” society to rectify the situation. This paper will first briefly review the gendered division of labor and Japanese women’s work-family tension in order to provide a background for discussion. After that, it will examine the efforts paid by the Japanese government in establishing a gender-equal society. This paper will argue that the efforts by the Japanese government in achieving a gender-equal society have been

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mainly due to externally international pressure, and internally the declining fertility and aging population, but not seeking gender equality *per se*. In fact, the gendered division of labor has not been dismantled, nor has the Japanese government intended to have it dismantled.

### Gendered Division of Labor and Japanese Women's Work-Family Tension

In Japan, men and women are expected to play different roles. Women have been historically assigned to the private role of caretaker. Brinton believes that one of the principal factors of the Japanese economic miracle is that women assume all the caretaking responsibilities for the family and leave men free to devote long hours to their work. [1] Women's responsibility is thus to offer domestic support that enables men to make their way in the public sphere. In the public sphere, women have been expected to serve merely an auxiliary function. Particularly, the establishment of the ideal of women as *senjyō shufu* (professional housewives) has been a key aspect in the modernization of Japanese society and social structures. The term "*shufu*" originally referred to an upper class woman as head and economic manager of her household. However, as encouraged by the Japanese government during the period of modernization, the new role of *shufu* has implied the separation between productive and reproductive work, which is a kind of gender role distinction. [2]

This gender role distinction has had a profound effect on the position of women in the labor market. In Japanese companies, especially large corporations, employees continue to be employed at the same company or affiliated companies until they retire. This is the so-called "lifetime employment system", which was established during the period of high economic growth of the 1960s. Another prominent feature of the Japanese employment system is the seniority system. Firms with more than 300 employees usually have such a practice. It bases workers' salary on their chronological age and years of service to the company. The Japanese employment system thus offers workers something close to permanent job security if they are patient about advancement, with predictable pay increases, company housing and several kinds of fringe benefits, all in return for the workers' loyalty and commitment to the company. However, it should be noted that this system applies merely to the so-called "regular workers" (most of them are male). During the period from 1960 to the mid-1980s, for most women, working was a place to bide time until marriage. Women have been assigned the status of a short cycle labor force, moving in and out of the labor market, which serve to provide management flexibility to alleviate the rigidity brought about by men's long-term employment security. [3]

Meanwhile, women have played a different role in the workforce. Female employees are referred to as "office flowers" because of the emphasis employers placed on their physical appearance. The Japanese employment system is divided into two tracks. *Sōgō shoku* (management or core) track employees are usually recruited and expected to make a lifetime commitment to the corporation. Since these employees make a lifetime commitment to the corporation, the corporation invests a significant amount of time and money into their training and development. *Ippan shoku* (standard/general or non-core) track employees, who are mainly clerical staff, are considered temporary and are hired on a yearly basis. Those on *sōgō shoku*

perform duties relating to planning, development, and negotiations, while *ippan shoku* employees just do simple tasks like photocopying, serving tea, and clerical work. Employee benefits differed significantly between the two tracks. [4] Men continue to be assigned automatically to the management track, while only exceptional women are selected for it. Since women are unable to make a lifetime commitment to their companies because of their familial obligations, they are usually forced into non-core positions and are unable to succeed in career. [5] Indeed, while women have occupied about 40 percent of the total workforce, the proportions of females in managerial positions, both in the government and in the private sector, have been around 10 percent only. [6] No matter how much effort women might have put in at the office, their opportunities for advancement to managerial positions remain extremely small.

In 2005, the labor force participation rate of Japanese women is 48.4 percent, and it has been around 50 percent in the past few decades. [7] Nevertheless, unlike men's labor force participation rate which is an upside down U-shaped curve, the rate for women has been in the shape of the letter "M", which contains a valley section in the age group of late 20s to 30s. This indicates that many women temporarily withdraw from the labor force upon childbirth and return after the most demanding period of child-rearing. The traditional employment practices in Japan mentioned above help to explain this "M-curve". Japanese women face great difficulty in harmonizing work and family life under the lifetime employment system. Requirements imposed on core workers such as transfers involving a change of residence and overtime work often present obstacles for women in their pursuit of careers. Moreover, a long leave of absence due to family responsibilities can disadvantageously affect female workers' wage and promotion prospects under the personnel management based on continuous service and seniority.

However, unlike the high economic growth era that guaranteed constant salary hikes, households in Japan are now facing increased risks for insufficient income if the husband is the only wage-earner. Over the last 30 years, more and more women have chosen to work after marriage. Both peaks of the "M-curve" have become higher, and the valley section of the letter "M" has shifted rightward, upward, and flatter than before. Nonetheless, women are still responsible for the household chores even if they work outside. This phenomenon is called *shin seibetsu yakuwari bungyō* (neo-gendered division of labor). Regardless of whether their wives work, men spend little time on house chores and care work. [8] As a result, working wives have to shoulder their responsibilities both at home and at work. Since women's role as wife and mother remains undiminished in importance, they are concerned to find employment that offers convenient hours. For many Japanese women, part-time work provides the most favorable working style to balance their work and family life. In fact, once female workers leave their job for childcare and so forth, it is very difficult for them to return to the workforce as regular and full-time workers. Although there are many other factors involved in the change of employment status, including the adjustment of income for tax exemption and will of the women to devote full-time to their children and family, it is really difficult for mothers to work as full-time workers.

According to the Comprehensive Survey on Part-time Workers conducted by the Ministry of Health, Labor and Welfare in 2001, part-timers make up some 30 percent

of all female workers in their 20s, and women aged 35 or older start working as a part-timer in most cases. In other words, in the second peak period of the “M-curve”, there is high percentage of women performing part-time work. Among those female part-time workers, 18.3 percent choose such posts because their family responsibilities prevent them from working full-time. [9] Nonetheless, part-time workers are often employed as unskilled labor not suited to their abilities and qualification. Moreover, there is a distinct incongruity between part-time and full-time workers in wages, job security, and other working conditions. In 2004, in terms of annual salary income, 65.5 percent of female workers earn 3 million yen or less a year, while only 20 percent of male workers belong to this income group. On the contrary, the rate of female workers earning 7 million yen or more is merely 3.4 percent and for men it is 21.7 percent. [10] Although this salary gap might be attributable to the fact that many women take part-time positions that yield much lower wages and some female part-timers are adjusting their income level to enjoy tax exemption, the employment system does play a part. The seniority-based wage practice means that workers will receive higher wages as they are promoted with time to higher grade jobs. Japanese female workers’ chances for promotion are extremely limited. This is an important factor responsible for the enlargement of the wage gap between the sexes as they reach middle age. [11]

Notwithstanding the amendment of the Labor Standards Law (LSL) as well as the promulgation and revision of the Equal Employment Opportunity Law (EEOL), sexual discrimination continues to prevail in the Japanese workplace. For example, despite a 2002 Osaka District Court case openly condemning the two-track system, the business sector continues to divide new recruits into the two tracks. [12] The rules and practices in Japanese companies are based upon the male breadwinner model and the assumption that men’s sphere is at work whereas women’s sphere is at home. The amendments of legislation were still constructed on the premise of this gendered division of labor. The high employment rate of women and their long working hours have contributed to a significant work-family tension among women.

The much-discussed late marriage and continuously falling birth rate in Japan are, to a certain extent, responses by Japanese women to the difficult choices they are facing between work and marriage. The formulation of the Child Care Leave Law (CCLL) in 1992 reflects the Japanese government’s concern for the steady decline in the birth rate. Although the child care leave system applies to both male and female workers, very few men actually take this leave. [13] After implementation for 10 years, in 2002, there is still a very limited number of male workers that actually take child care leave, which is merely 0.33 percent, while 64 percent of female workers have taken such leave. Japanese male workers tend to avoid taking such leave because they “cannot afford to take child care leave”, the fact that “suspension of the father’s salary will lead to significant economic difficulties” and the belief that “father did not need to take child care leave”. [14] Clearly, unless the gendered division of labor is revamped, women will continue to undertake heavy responsibilities in caring.

In Japan, many policies after the “1.53 shock” [15] in 1991 are closely associated with the declining birth rate. Increasing awareness on the effects of declining fertility on population structure and socio-economic institutions finally prompted the government to investigate the causes of fertility decline and to formulate policy

measures to cope with the problem. It is assumed that one of the reasons for the declining total birth rate is the increase of unmarried rate. [16] The non-marriage rate among women between the ages of 25 and 29 had risen from 20.9 percent in 1975 to 48 percent in 1995 [17] and further to 54 percent in 2000. [18] Another reason for the low fertility rate has been thought to be the reluctance of women to have children. Mikanagi points out that the Japanese women are now initiating a “silent revolution” by refusing to get married and have children so as to fight for changes in gender roles. [19] In the past two decades, educational and economic opportunities for young Japanese women have improved, but their subordinated position in the family has changed little. [20] Women remain responsible for most domestic chores and are the primary caregivers of children and elderly. Some young Japanese women are therefore reluctant to enter marriage. Even after marriage, women may delay childbirth, or even choose not to have children.

The declining birth rate, combined with an aging population, presents serious social challenges such as labor shortage and the financing of social security for the growing number of senior citizens. To be sure, declining birth rate has been due to the combination of various factors, but the Japanese government has regarded women’s work-family tension as the primary factor. Hence, its major policy response is the establishment of a gender-equal society. As stated at the preamble of the Basic Law for a Gender-Equal Society, “to respond to the rapid changes occurring in Japan’s socio-economic situation, such as the trend toward fewer children, the aging of the population, and the maturation of domestic economic activities, it has become a matter of urgent importance to realize a gender-equal society in which men and women respect the other’s human rights and share their responsibilities, and every citizen is able to fully exercise their individuality and abilities regardless of gender”. [21] Hence, it is fair to reckon that the formation of a gender-equal society is an important means by the Japanese government to encourage women’s participation in the labor market and to boost the birth rate.

At first glance, the goals of higher rate of women’s participation in the labor market and boost in birth rate may be in conflict, as it was the case in Japan during the past decade. However, in reality these two can be attained at the same time. According to a study conducted by the Gender Equality Bureau in 2005 on the data from the OECD countries, in 2000, there was an evident tendency that countries with higher rates of female labor force participation also have higher birth rates. These countries are characterized by progress on support for balancing work and family life, eliminating gender stereotypes, male participation in housework and child-rearing, as well as equal employment opportunities. [22] Therefore, the crux of the problem is whether the domestic responsibilities can be shared so that women can participate in the labor market on a par with men. Under this policy logic, policies for gender-equal participation will also contribute to measures against the declining birth rate.

In the 2005 Annual Report on the State of Formation of a Gender-Equal Society, it states that “if Japan wants to maintain its societal and economic vitality in the future, the nation needs to provide a better environment so that everyone would be able to actively participate in society”. [23] Therefore, the Japanese government has been trying to improve the environment for women to continue working after marriage or childbirth. It is believed that “if Japan successfully provides female

workers with a more childcare-friendly environment, and if more and more motivated women have a second chance even after leaving their job for childcare responsibilities, then Japanese women will be able to have and raise their children without fearing for the future". It identifies that "achieving gender-equal society by providing support for women's renewed challenges would be an effective countermeasure for the declining birth rate because it will lead to a better society where women would feel safe and the joy of having and raising children". The relation between formation of a gender-equal society and countermeasures on the declining birth rate is thus very clear.

### **Formation of a Gender-Equal Society**

In July 1996, the Council for Gender Equality published the Vision of Gender Equality. This document calls for the formation of a gender-equal society. This call has been made in response to the pressing issues of the socio-economic environment. As stated at the introduction of the report, "Japan's socioeconomic environment is at a historic turning point, experiencing changes at an unprecedented rate, including the lower birth rate, the progress of an aging society, the maturation and internationalization of economic activities, and the sophistication of info-communications. Such socioeconomic changes raise the need to swiftly achieve a society with gender equality". [24] Under the Vision of Gender Equality, a "gender-equal society" is a society in which both men and women shall be given equal opportunities to participate voluntarily in activities at all levels as equal partners and shall be able to enjoy political, economic, social and cultural benefits as well as to take responsibilities equally. The concept of human rights is the basic idea behind the gender-equal society. Five objectives are presented at the document, including the establishment of human rights, the maturation of democracy by participating in the policy decision-making process, greater and deeper awareness of gender-sensitive perspective, the creation of new values, and contribution to the global community. In order to realize a gender-equal society, a wide range of practical measures are suggested in the report. Meanwhile, it also calls for the enhancement of the national machinery and strengthening cooperation among the state, local public bodies and NGOs so as to promote and coordinate these efforts effectively.

On the basis of the Beijing Declaration and Platform for Action adopted at the Fourth World Conference on Women by the United Nations and the Vision of Gender Equality, the Plan for Gender Equality 2000, which was a national plan of action for promoting a gender-equal society by the year 2000, was presented to the Japanese Cabinet in December 1996. In the Plan for Gender Equality 2000, 11 priority areas are set out under four basic directions: building social systems that promote gender equality, achieving gender equality in the workplace, family and community, creating a society where human rights of women are promoted and defended, as well as contributing to the equality, development and peace of the global community. [25] These four basic directions are roughly corresponding to the five objectives of the Vision of Gender Equality. After a brief overview of the current situation, the Plan lists concrete policy measures to be implemented by the year 2000 and indicates which national agency will oversee the implementation of



the particular measures. This is an important first step as the recognition of current problems in an official document can provide the basis for revision of existing measures or formulation of new ones.

On 15 June 1999, the Basic Law for a Gender-Equal Society (the Basic Law) was enacted. In response to changes in the socioeconomic environment, the purpose of the Basic Law is to “comprehensively and systematically promote formation of a gender-equal society by laying out the basic principles in regard to formation of such a society, clarifying the responsibilities of the state and local governments and citizens, and also stipulating provisions to form the basis of policies related to promotion of formation of a gender-equal society” (Article 1). According to Article 2 of the Basic Law, “formation of a gender-equal society” means “formation of a society where both women and men shall be given equal opportunities to participate voluntarily in activities in all fields as equal partners in the society, and shall be able to enjoy political, economic, social and cultural benefits equally as well as to share responsibilities”. This definition is the same as the one provided by the Vision of Gender Equality. In other words, joint participation with equal opportunities is stressed by the Basic Law.

In Japan, basic laws are intended to address fundamental issues of the state system. They are presumed to take priority in relation to other laws in the same policy area. Moreover, the basic law system creates a framework that leads to enactment of other laws. [26] According to Yoko Komiyama, a Democratic Party parliament member, the Basic Law “is a major step for Japanese women”, and it “is the prime pillar to actualize Japanese women’s equal rights, and this will serve as the foundation for other related bills”. [27] The Basic Law clarifies five basic principles relating to the formation of a gender-equal society. They are: respect for the human rights of women and men, consideration to social systems or practices which have as neutral an impact as possible on this selection of social activities, joint participation in planning and deciding policies, compatibility of activities in family life and other activities, as well as international cooperation in formation of a gender-equal society. These basic principles are still similar to the ones listed under the Vision of Gender Equality. It seems that the understanding of the policy-makers on the issue has not been changed or deepened with time: what the government should do is to give women an “equal” opportunity to participate in the public sphere.

The Basic Law identifies the respective responsibilities of the national government, local governments, and ordinary citizens. It requires the national government and each prefecture to formulate a basic plan for attaining a gender-equal society, and it also recommends each municipality develop its own plan to reach that goal. The Basic Law also stipulates that the national government should take “positive action” to formulate and implement policies that will create a gender-equal society. Positive action here means “positive provision of the opportunities ... to either women or men within the necessary limits in order to redress gender disparities in terms of such opportunities” (Article 2). In other words, the national government should not merely suppress discriminatory action, but also work actively to develop a society of equal opportunities. However, as criticized by Luera, the Basic Law fails to provide definite steps for implementing the guidelines and lacks monitoring mechanisms. [28] But I would say that even if there are concrete measures to implement such guidelines, merely “equal opportunity” may not be enough as women and men are on different starting points.

Gelb observes that during the formulation of the Basic Law, there was disjunction between the more progressive language embodied in the initial vision statement and the far weaker language of the actual legislation, with regard to issues of indirect discrimination, change of surname and the like. [29] Besides, there was much controversy over the title of the law, that is, whether it should be called the *Danjo Kyōdō Sankaku Shakai Kihon Hō* (basic law for the joint participation by men and women, or gender-equal society) or *Danjo Byōdō Hō* (gender equality law). Consequently, the first title was adopted, which calls for the establishment of a “gender-equal society”. One should note that “gender-equal society” here means joint participation by men and women, but not gender equality. This revised name reflects that the goal of the policy-makers is to attain equality of opportunity rather than equality of outcomes. “Equality of opportunity” and “equality of outcomes” are different. In Japan, since women have traditionally been assigned a different role with men, only equality of opportunity may not be able to bring equality of outcomes. Because of the stereotyped gender role of caretaker, it is difficult for women to compete on a par with men in the labor market. Hence, it is important to give women some protection or preferential treatment, so that they can really participate equally with men. In other words, affirmative actions are needed so as to attain equality of outcomes. The Basic Law is weak in this aspect, which merely states, in Article 4, that “care should be taken so that social systems and practices have as neutral an impact as possible on this selection of social activities”.

After enacting the Basic Law in 1999, the Japanese government developed the Basic Plan for Gender Equality (the Basic Plan) in December 2000. In the Basic Plan, 11 priority areas with concrete measures to achieve gender equality are set out. [30] Looking into the details of the Basic Plan, the 11 priority areas are the same as those of the Plan for Gender Equality 2000 promulgated in 1996. Clearly, these policy areas are the ones the Japanese government believes to be the most important. At the same time, it also means that the standpoint of the government has not been changed, in which no further actions have been suggested. Based on the provisions of the Basic Law, the Japanese government submits to the Diet each year the Annual Report on the State of the Formation of a Gender-Equal Society, which is the so-called “White Paper on Gender Equality”. The White Paper describes the situation and progress made in each of these 11 priority areas for the current year, and reveals the measures that would be taken by the government in the following year.

On 27 December 2005, the Cabinet approved the Second Basic Plan for Gender Equality (the 2005 Basic Plan). [31] The 2005 Basic Plan carries 12 priority fields, and describes the basic direction of long-term measures up until 2020, along with concrete measures to be implemented before the end of fiscal year 2010. Compared with the Basic Plan formulated in 2000, the priority fields listed in the 2005 Basic Plan are almost the same as those of the old version. Only one priority area has been added in the 2005 Basic Plan, that is, promote gender equality in fields requiring new initiatives. The fields that the 2005 Basic Plan mentioned in this section included science and technology, prevention of and reconstruction after disasters, regional development and tourism, as well as environmental protection. The government will provide job opportunities for female researchers and make efforts to improve their research environments. In addition, it will encourage more active participation by women in decision-policy making processes relating to science and



technology. The government will also provide information on best practices of women's active participation in regional development. Besides, it will push ahead with gender equality in the environmental field so as to effectively utilize women's interests, knowledge and experiences in environmental protection.

### **Gender-Equal Society, Not Gender Equality**

Compared to the progress during the past few decades, the efforts by the Japanese government in attaining gender equality in the last decade are prominent. In particular, it formulated the Basic Law for a Gender-Equal Society and the Basic Plan for Gender Equality. The Basic Law has created a foundation that makes other legislation more possible, for example, the EEOL amendments, the Law for the Prevention of Spousal Violence and the Protection of Victims, and other related reform efforts such as those to amend the Civil Code to permit retention of the wife's surname and revision of pensions system. However, as mentioned above, the Basic Law just provides guidelines for the related parties to follow. It does not go further to formulate any definite steps for implementing the guidelines, nor establish any monitoring mechanisms. Just like the case of the EEOL, the Japanese government adopts a passive and soft approach in implementing the legislation, relying on individuals' voluntary compliance.

In spite of critics contend that the Basic Law failed to adequately address the issue of indirect discrimination, the Japanese government just argues there is no consensus. [32] The government claims that the stereotyped perception for gender roles that has been developed and standardized over a long time in the minds of Japanese people has been a major obstacle in the formation of a truly gender-equal society. [33] However in fact, some policies by the Japanese government have really perpetuated the gendered division of labor. The economic system in Japan has affected the fixing of gender roles and impeded the reformation of gender roles and division of labor. [34] The Japanese government has made conscious efforts to re-establish a gendered division of labor in the 1980s when an increasing number of women began to work. The taxation system encourages married women to work part-time rather than full-time. A series of tax reforms beginning in 1984 reduced the tax rate for incomes derived from part-time employment and incomes of workers with dependent wives whose income does not exceed 1.03 million yen per year. Furthermore, in 1985, spouses of salaried men gained their own right to claim a national pension. All these measures have encouraged women to stay at home and take up the caring role. This is really a vicious cycle that a consensus on gender equality is harder to achieve. Hence, it is quite tricky that the Japanese government uses it as an excuse to weakly enforce the legislations.

It is the idea that caring tasks are crucial elements of women's primary role limits their participation in the labor market. Takahashi points out that family ideology, family institution, housewives' sense of family duties, and the concept of motherhood all cause obstacles to the efforts to review the roles of men and women as well as to balance full-fledged membership for men and women in both family and work. This situation has formed a vicious cycle, in which the traditional gendered division of labor is reinforced in relation to one's attitudes toward family and working life. [35] Men and women cannot enjoy central roles both in family and working life at the same time. The main

role in working life tends to be reserved for men, while women are often encouraged to find their own role in their family. In such a way, within this vicious cycle, traditional gender stereotypes have been shaped and reinforced. Actually, this vicious cycle has also been reinforced by the Japanese government intentionally.

Women have long been used as a low-cost temporary labor force, providing flexibility to the business sector. The Liberal Democratic Party (LDP) has been supported by the business community, so it is not in their interests to promote real gender equality in the workplace. According to Luera, the LDP always uses cultural values to justify its political decisions and to conceal prosaic political interests. It is these political interests that are opposed to establishing a more gender equal society. [36] For instance, one of the reasons why the EEOL failed was that employers resisted the change. The government under the rule of LDP therefore eventually decided that the law would not include coercive means to change the business practices. In addition, under the gendered division of labor, women are responsible for taking care of the old and the young at home. Family care is an integral part of the social welfare system in Japan indeed. This practice has helped keep the Japanese welfare system in low cost as a major part of caring work has been done by women without pay.

Since the Japanese government is a stakeholder in keeping the gendered division of labor, it thus seems that the early efforts by the government in promoting gender equality were quite superficial. They were merely the results of international pressures. Although Japan has already substantially complied with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) by taking legal and political action, its efforts have not translated into actual gender equality. [37] Fundamentally, discrimination persists, often in a much more subtle and complicated way. Significant differences in the position of men and women in Japanese society still exist. Within the family, women continue to bear nearly all the responsibility for domestic chores and family obligations. As a result, women of child-bearing age continue to have low participation rate in the work force. After quitting a job to raise children, most women will return to part-time or temporary positions. In other words, women continue to confront difficult decisions regarding careers and family, even after the revision of the EEOL in 1997.

It was only in the mid-1990s when the Japanese government began to realize that greater gender equality could have a positive impact on the declining birth rate that more efforts have been put to achieve gender equality. Nonetheless, it is fair to say that the efforts by the Japanese government in attaining gender equality are not whole-heartedly for the sake of achieving gender equality *per se*. For example, the Basic Law is for a gender-equal society but not gender equality. Hence, the law is to strike for securing equal opportunities by men and women, that is to say, equality in the process, instead of equality in the outcome. In fact, the gendered division of labor has not been dismantled, nor the government has intended to have it dismantled. With some support from the government and companies, women are still expected to balance home and work responsibilities. The phenomenon of “neo-gendered division of labor” is likely to maintain. As women have to bear the domestic burden, they cannot compete on par with men even if there is “equal opportunity” for them to participate in the public sphere.

Since the problem of gender inequality is deeply rooted in cultural and social norms, only legislation is not enough. In order to achieve actual gender equality, the

Japanese government must go further. Changes in law do not automatically bring social changes, which require individual citizens to alter their behaviors and beliefs. As pointed out by Barrett, without a new perspective on old societal norms, the law will remain powerless against entrenched stereotypes. [38] The CEDAW also recognizes that law has severe limitations as a method of initiating social change and therefore requires the states parties to use all appropriate measures to achieve gender equality. Therefore, the CEDAW requires the Japanese government to take measures beyond legislation. [39] In order to make gender equality in Japan a social reality, Japan should build the requisite consensus concerning women's roles in society. In other words, the government should take affirmative measures to build a consensus that will support gender equality in Japan.

Affirmative actions are needed so as to attain equality of outcomes, but the Basic Law is weak in this aspect, which merely states, in Article 4, that “care should be taken so that social systems and practices have as neutral an impact as possible on this selection of social activities”. Similarly, the Basic Plan, both the 2000 and 2005 versions, is weak in rectifying the gender bias. “Review social systems and practices and raise awareness from a gender-equal perspective” is one of the priority fields listed in the Basic Plan. However, the concrete measures provided by the Basic Plan are mainly efforts to study and research. At best, there are some awareness-raising activities. Nothing has been mentioned on reforming the gender-biased social systems. The role of the government as suggested by the Basic Plan is therefore quite passive. Similar things have appeared in the White Paper on Gender Equality released during these years: some figures, reviews of the current problems, and measures to be taken. In fact, rather than merely studying what the gendering effects of the social systems are, the Japanese government should go a step further by stipulating reform measures on the gender-biased social systems. Otherwise, the supposedly gender-neutral policies will only end in gender-bias.

As mentioned at the beginning of this paper, the efforts of the Japanese government to attain gender equality, to a certain extent, have been due to the declining birth rate. Regarding the choice about having children, in the recent opinion polls conducted by the government, more than 40 percent of the respondents think that it is not always necessary for married couples to have children. [40] The tendency in public opinion to tolerate the choice of not having children is quite a new phenomenon, but this new development may upset the senior government officials. The then Prime Minister Yoshiro Mori in 2003 had once doubted the eligibility of women who have not given birth to a child for social benefits. “Welfare is supposed to take care of and reward those women who have lots of children,” Mori said. “It is truly strange to say we have to use tax money to take care of women who don't even give birth once, who grow old living their lives selfishly and singing the praises of freedom”. [41] Clearly, to him, it is women's responsibility to have children; otherwise, they are irresponsible and selfish. Although his opinion does not equal to those of the ruling party nor the Japanese government, it can really reflect the views of the conservatives. To the conservatives, giving birth is the responsibility of women, and thus it is not fair to treat women who give birth and those who do not equally since the latter do not fulfill their responsibility.

In Japan, there is little awareness about the concept of “body right” among the public. To a certain extent, the government should be held accountable for this. In

the first Basic Plan made in 2000, the government acknowledged the need for raising awareness of reproductive health/rights and included some measures to achieve this goal. However, the right wing and conservative forces intensified backlash attacks advocating in the media, parliament and municipal councils that reproductive health/rights are the ideas encouraging free sex and abortion, and have thus promoted “excessive sex education” at school. In Tokyo, the metropolitan education board unjustly punished the principal and teachers at a public school for disabled children for their “excessive sex education”. A handbook for gender-equal child-raising that denies the stereotyped gender roles and nurtures the conscience about human rights, as well as the teaching materials used in the ninth grade for a sex education based on the respect for human rights including the right to self-determination about sex, were called in. [42] In the second Basic Plan published in 2005, the reference to the program for increasing awareness of reproductive health/rights and to the self-determination about sex included in the first Basic Plan was dropped. This move is really a step backward, and a reflection of the influence of the conservatives or so-called backlash forces. Behind the goal of attaining gender equality, there is a hidden agenda (not so hidden really) of boosting the birth rate. The efforts by the Japanese government to promote gender equality are all serving this hidden goal. As the promotion of reproductive rights may be contradictory to that goal, the change in the Basic Plans is not a surprising move. From this issue, we can see that although one of the basic principles of the Basic Law is respecting the human rights of women and men, actually the Japanese government does not take it seriously.

Nevertheless, Japanese people’s perception of gendered division of labor and of women’s continuing careers is now changing. In 2004, 71 percent of male respondents agree with “uninterrupted working” (38.6 percent) or “temporarily suspended working for childrearing” (32.4 percent), and the figures for female respondents are 41.9 percent and 37 percent, respectively. [43] Similarly, in spite of the current efforts of the backlash forces to reinforce the traditional family values, young women in Japan may still choose not to have children. [44] In other words, the Japanese government may not be able to improve the birth rate by putting such kind of pressure to women. In fact, it is doubtful whether simply giving women more “equal” opportunities for participation can raise the birth rate. The efforts by the Japanese government in attaining gender equality seem to be pretence as the hidden goal is still gendered. Without respect to people’s legitimate choice, there is no real respect to human rights or gender equality. Given the future labor shortage in Japan because of the aging population, it has become a vital issue to create an environment for employment where workers can leverage their abilities to the fullest without facing discrimination. Binding women to bear and care for children at home is no longer feasible. In order to formulate a more feasible policy response, the Japanese government should first review its policy logic and abandon its gendered point of view.

## Conclusion

Japanese legal and social norms historically relegated women to the private role of caretaker and excluded them from the public role of serious entities in the labor market. However, legal and political changes in these two decades began to favor

gender equality. Pressures from the international community resulted in Japan's ratification of the CEDAW. Since the ratification of CEDAW, Japan has enacted a series of laws to achieve gender equality. The most prominent one is the promulgation of the Basic Law for a Gender-Equal Society, which establishes principles for achieving gender equality in Japan. This policy development indicates that the Japanese government is attempting to guide its society toward gender equality. Nevertheless, this guidance is reluctant in character. Since the legislation often lacks a concrete course of action to achieve its goals, its efficacy is undermined. In fact, the gendered division of labor has not been dismantled, nor the Japanese government has intended to have it dismantled. The efforts by the Japanese government in achieving a gender-equal society have been mainly due to externally international pressure, and internally the falling birth rate and aging population.

As pointed out by Hoshii, the core problem of sexual equality is to give the same recognition to men and women as human beings and to ensure them the social, economic, legal and political conditions required for their existence as persons. [45] Nevertheless, as discussed above, the Basic Law and the measures taken by the Japanese government so far still fall short from enforcing gender equality and do not affirm equality as a human right of women. The Basic Law even avoids the word commonly used in the discussions on equality. Instead of *danjo byōdō* (gender equality), *danjo kyōdō sankaku* (joint participation by men and women) was adopted. Once again, just like the case of EEOL, the Japanese government opted for equality of opportunity, instead of equality of outcomes. Since the pursuit of gender equality is a means to boost the birth rate, when there is a contradiction between these two goals, the former will be conceded. However, such kind of carrot-and-stick approach adopted by the Japanese government may not be well-received by Japanese women. Whether the goal of boosting the birth rate can be achieved is thus in doubt.

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