

'Equal Pay for Equal Work': Changing the Japanese Employment Paradigm

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'Corporate Japan can no longer afford the rigidities and high costs of lifetime employment and seniority-based wage scales (nenko)...what made sense in the 1950s does not necessarily make sense in the twenty-first century.'

Jeff Kingston 2001, pp. 91–92

Against a backdrop of domestic demographic and economic challenges, Japanese employers have started to increasingly grapple with the risks associated with hiring full-time workers without fixed-term contracts. Japan's previous 'three jewels of the Japanese employment system' – lifetime employment (*shushin koyo*), seniority-based wages (*nenko joretsu*) and specific enterprise unions (*kigyo-nai kumiai*) – are becoming perilous in a nation shouldering the burdens of a declining birthrate and a rapidly ageing population (Kingston 2001; Lincoln & Nakata 1997). Whilst this model played an important role in Japan's period of rapid economic growth, often regarded as a major social driver of Japan's postwar growth (see Abegglen 1958), prolonged economic stagnation as Japan enters its second so-called 'lost decade' has caused many economists to question to what extent this model is sustainable in the shadow of Japan's future.

As the Japanese government continues to liberalise longstanding restrictions on temporary work (see Part Time Employment Act rev. 1999 & 2008), and newly created jobs are concentrated in part-time and temporary employment, it will be imperative that the government and corporate sector work together to reduce the disparity between 'regular' (*seishain*) (full-time ongoing) and 'non-regular' (*hiseishain*) (part-time, temporary and dispatched) employees. One step towards bridging this two-level system is the 'Equal Pay for Equal Work' bill.

In order to argue that the most important policy reform facing Japan is 'Equal Pay for Equal Work', this essay will first summarise the challenges that Japan will face as it undergoes drastic domestic demographic changes. This essay will then focus on outlining the nine key areas in the 2016 'Action Plan for the Realization of Work Style Reform' in order to justify how a focus on changing Japanese work culture was the catalyst for the 'Equal Pay for Equal Work' bill. In a final section, this essay will argue why the 'Equal Pay for Equal Work' bill is the most important policy reform facing Japan and make predictions on how it has the potential to change the Japanese employment paradigm.

Demographic Challenges: Changing the Way the Nation Does Work

It goes without saying that demographic change has the power to significantly impact the size and shape of a nation's workforce. Structural issues in the Japanese population, including a declining birthrate and a rapidly ageing population, will contribute to hindering economic growth (OECD, 2018). Furthermore, major changes to the working-age population, defined by the OECD as those aged between 15 and 64 years old, could potentially be the catalyst for altering the way some institutions in Japan regard the work of non-Japanese skilled workers. Especially if the 'Technical Intern Program for Foreign Nationals Reform' comes to fruition in April 2019 (Urano 2018).

In a recent publication outlining the ways Japan can promote inclusive growth for its rapidly ageing society, the OECD (2018) estimated that Japan's old-age dependency ratio increased by 32 points between 1980 and 2015. That is, the reliance of those aged 65 years or older in a population on the working-age population grew to one of the highest in world. The report further argues that if these trends followed the same trajectory, the Japanese working-age population is projected to decline by about 20 million people to around 55 million in 2050.

Above all, given Japan's current and future demographic challenges, it will be essential to devise effective ways to increase labour force participation by utilising specific target groups within the population. Including, but not limited to, using the skills of women, young people and the elderly, as well as changing attitudes towards engaging foreign workers in the labour market.

Brown and Guttman (2017) argue that whilst ageing populations are most evident in advanced economies, they can be offset by increased labour force participation of women and the elderly. However, this cannot be achieved without improving the working conditions of 'non-regular' employees (part-time, temporary and contract workers). A successful work style reform has the potential to provide solutions to Japan's mounting demographic challenges to change the way the nation does work, and combine the ways in which workers are remunerated for the work they do.

Beyond addressing the third arrow of Abenomics, this structural reform will be a catalyst for changing the way the nation does work (Aoyagi, Ganelli & Murayama 2015). In order to understand the ways in which this will be achieved, it is imperative to first outline the nine key areas proposed by the 'Council for the Realization of Work Style Reform'.

Catalyst to Change: Background on the 'Action Plan for the Realization of Work Style Reform'

On September 27, 2016 Prime Minister Shinzo Abe held the first meeting for the 'Council for the Realization of Work Style Reform'. Prime Minister Abe himself doubted a reform that aims to transform Japan's entrenched corporate culture, yet he argued that these changes can contribute to a 'better work-life balance or improved productivity', and thus, a better Japan (Kantei 2016).

Echoing the comments of Prime Minister Abe, members of the executive argued that the purpose of Japan's first full-scale reform was to enable every worker to make a positive contribution

within an environment that fits their own needs. This environment would remove 'irrational gaps' in the treatment of 'regular' and 'non-regular employees', tackle the serious issue of long working hours, and provide employment solutions for citizens with backgrounds who do not fit in with Japan's traditional corporate working model.

One of the unique features of work style reform is its ability to span across nine stand-alone independent, but also overlapping key areas. These key areas aim to promote a society in which everyone, regardless of their circumstances, can pursue diversified ways of working in the hope of a better future.

Area one highlights the importance of improving the employment conditions of 'non-regular' employees. Area two suggests that there needs to be an increase in wages and improvement in productivity. Area three outlines the long-awaited need to tackle the issue of long working hours. Area four provides the necessary support to individuals seeking a career change and reemployment opportunities. Area five promotes flexible working styles, including telework, side jobs and working multiple jobs. Area six argues that there should be more attention paid to creating an environment which supports women and young people wanting to work. Area seven looks at Japan's future ageing population and promoting employment of the elderly. Area eight aims to promote the idea that with adequate policy and systems, it is possible to balance childrearing, caregiving or medical treatment with working. Last, but not least is area nine, which looks at dissolving barriers to increase the acceptance of foreign personnel in the Japanese workforce.

Almost two years later, on June 29, 2018, the Parliament of Japan passed eight core statutory laws: the Labour Standards Act, the Pneumoconiosis Act (a workplace health management law supporting the welfare of workers in the industrial and manufacturing sectors in direct contact with dust), the Employment Measures Act, the Industrial Safety and Health Act, the Worker

Dispatching Act, the Act on Special Measures for Improvement of Working Hours Arrangement (Japan's first-ever cap on overtime work in the history of the Japanese Labour Standards Act), the Act on Improvement of Employment Management for Part-Time Workers, and the Labour Controls Act (Wagatsuma & Kobayashi 2018).

Of these, the 'Act on Improvement of Employment Management for Part-Time Workers', which will be renamed to the 'Part-time and Fixed-term Contract Workers Act', will come into effect on April 1, 2020 (Wagatsuma & Kobayashi 2018). The more palatable title, the 'Equal Pay for Equal Work' bill, aims to reduce the disparity between 'regular' and 'non-regular' employees.

'Regular' and 'Non-Regular' Employees: Defining the Labour Dichotomy

According to the Employment Status Survey conducted by the Statistics Bureau of the Ministry of Internal Affairs and Communications (*soumusho*) (2017), Japan's employment system is a two-tiered system. Over the last decade, the OECD (2018), alongside many other economists and social scientists focused on participation in Japan's labour force, have continually noted that dividing the labour market into a primary sector of stable long-term employment (or 'regular' employment) and a much less stable secondary sector of 'non-standard' workers, has caused a great deal of difficulty when trying to adopt a comparative approach to understanding Japan and Asia (Diamond 2018, p. 69).

The first type, 'regular' employees, accounts for approximately 60 per cent of the labour market in Japan (Ministry of Internal Affairs and Communications 2017). In Japan, there is no legal definition for 'regular' employees. Instead, a 'regular' employee (*seishain*) is generally considered an employee whom is (a) hired directly by their employer without a predetermined period of employment; (b) works scheduled hours; and (c) is covered under public insurance systems, including unemployment, healthcare, and welfare pension. Any

individual failing to meet these three conditions is considered to correspond to one of the various forms of 'non-regular' employment (Asao 2017).

The Japanese 'regular' employment system offers employees the necessary informal and formal training required to undertake a general job in a specific company. Individuals are usually driven to work for a company, rather than in a sector, and in most cases, seek a generalist role in their first year of employment regardless of their academic background in formal higher education. In some medium to large Japanese companies, intra-firm labour markets are formed with equal opportunity given to all newly recruited workers with a rotation process, a slow promotion process, and with active viable competition among the participants in the cohort (Flath 2000). The process of job rotation creates workers who are trained in intra-firm general, but firm-specific skills (Flath 2000). These skills are useful in many divisions within the firm. Job security is thus maintained through the unwritten rule that a decline in demand in one division is unlikely to lead to discharge of affected workers. Instead, affected workers generally undergo a job change within the same firm.

The second type, 'non-regular' employees (*hiseishain*) accounts for 40 per cent of the labour market. It is essential to understand that 'non-regular' employees is an umbrella term used to encompass part-time employees, *arbeit* (a German-derived word for casual employees who undertake part-time work), temporary workers from temporary staffing companies (*haken-shain*), contract employees (*keiyaku-shain*), entrusted employees (*shokutaku-shain*) and other types of employees.

Disparities and Dualities: Productivity, Pay and Buffering

There have been three major focus areas when looking at the duality of the Japanese employment system: productivity, pay, and the use of 'non-regular' employees as buffers. Drawing on several Japanese case studies, Aoyagi and Ganelli (2013) have advocated for the importance of single labour contracts to reduce a decline in Total Factor Productivity (TFP) (see also RIETI 2006). By looking at 'non-regular' employment as a barrier to social cohesion, they argued that Single Open-Ended Contracts for newly hired workers could be an option to reduce the duality of the Japanese employment system and tackle low labour productivity amongst 'non-regular' employees. Whereas Diamond (2018) suggests that labour market segmentation between 'regular' and 'non-regular' employees has the potential to impact productivity, due to the imbalance of accumulated human capital through company-based rotations and intense intra-company training that occurs amongst 'regular' workers.

Aoyagi and Ganelli (2013) noted that by shifting to a 'flexicurity model', one that provides greater support to workers during periods of 'absence' from the labor market during child-rearing or caregiving for the elderly, could result in a system that offers a high level of employment protection for 'regular' workers. Other studies have argued that 'non-regular' employment is an important way of increasing female labor force participation without the pressures, such as an obligation to perform overtime work, of being a 'regular' employee. In a recent study looking at female 'non-regular' workers in Japan, Inoue, Nishikitani and Tsurugano (2016) illuminated the role that part-time work played in resolving Japan's characteristic M-shaped curve. Using data from the 2015 Labour Force Survey from the Ministry of Internal Affairs and Communications, they found that of the 49.6 per cent of female labour force participation in Japan, 37.1 per cent was through part-time employment (Inoue, Nishikitani & Tsurugano 2016).

While a major argument for labour market duality has supported its ability to be a key contributing factor towards maintaining low unemployment rates, other scholars have suggested that low unemployment rates in Japan can be attributed to nominal wage flexibility (Kuroda and Yamamoto 2014). Moreover, recent statistics showed that there was a 40 per cent gap in hourly pay between 'regular' and 'non-regular' employees in 2014 (Takahashi 2014).

Despite the wage differentials between 'regular' and 'non-regular' employees in Japan, there has been a significant increase in 'non-regular' employees from 1984–2014 (Diamond 2018). Typically, a 'regular employee' is paid monthly wages, while a 'non-regular employee' is paid hourly wages. By definition, 'non-regular' is characterised by fixed-term employment, where most businesses utilise 'non-regular' or temporary workers to cope with seasonal fluctuations in work volume. Arguably, this form of employment lacks long-term stability but allows for workers who desire more employment flexibility to enter the job market.

The 'Survey on the Current Conditions of Employment of Workers with Diverse Employment Type' (2010) sampled 1610 establishments. When the 11,010 employees were asked 'why do you work as a "non-regular" employee?', 39 per cent of respondents said that they prefer this style of work because it suits their hours, with a further 37 per cent of respondents maintaining that they do not have the opportunity to work as a 'regular' employee. A final 20 per cent of hopeful 'non-regular' employees mentioned that their employment status may lead to the possibility of becoming a 'regular' employee after a period.

Traditionally, the duality of the Japanese employment system has acted as a buffer to offset the rigidities of the 'regular' employment system. 'Non-regular' employees can be used as a means to protect the positions of 'regular' employees during times of market uncertainties (Lincoln & Nakata 1997). Yokoyama, Higa and Kawaguchi (2018) note that by adjusting the number of 'non-

regular' employees, firms relying heavily on exporting tend to implement more significant adjustments of 'non-regular' employment in response to exchange rate shocks.

The 'Equal Pay for Equal Work' bill will not see the concentration of a single labour contract. Nor will the bill eliminate 'non-regular' or 'part-time' employment from the employment duality discourse. The bill, however, will work towards closing the hourly pay gap for 'regular' and 'non-regular' workers. As many 'non-regular' employees are not union members, there is an absence of provisions in the system that mandate that part-time workers be paid at least the same hourly pay rate as full-time workers undertaking a similar job. The 'Equal Pay for Equal Work' bill when enacted on April 1, 2020 will hopefully ensure this change.

The Future of Work: Remunerating the Work of Multiple Groups

The 'Equal Pay for Equal Work' bill will be like no other recent reform to the way work is performed and rewarded in Japan. Whilst previous policies have been made to increase labour force participation, past attempts have often been done so with a specific target group in mind. The 'Equal Pay for Equal Work' bill, however, will go beyond addressing critical disparities between 'regular' and 'non-regular' employees and involve multiple target groups within the population. Including, but not limited to, using the skills of women and the elderly.

Not surprisingly, most 'non-regular' workers in Japan are women. The Ministry of Internal Affairs and Communications (2017) estimated that of the total amount of 'non-regular' employees in Japan, approximately 70 per cent are female. Additionally, across female employees, the rate of 'non-regular' employment increases with age. This is a trend evident amongst women in their 30s, who turn to the flexibility of part-time employment as a source of income. Conversely, when

compared to married females, unmarried females account for the highest rate of 'regular' employment.

The 'Equal Pay for Equal Work' bill will be one of the most important catalysts in addressing the asymmetry of employment between 'regular' and 'non-regular' employees. As it currently stands, there are laws in Japan that outline that companies must provide equal pay for equal work. However, companies may make exceptions if there is a 'reasonable' basis to discriminate between 'regular' and 'non-regular' employees. Whilst there is no clear definition of what is seen as 'reasonable' or 'unreasonable' grounds for wage-based discrimination, wage-based discrimination may arise from perceived lack of experience, skills and understanding of the company's culture.

Similarly, Professor Arita from the Department of Social Science at the University of Tokyo maintains that the current wage gap between the two groups is due to the 'tacit understandings' in 'non-regular' employment (Arita 2017). That is, the belief that 'non-regular' employees have less responsibilities, duties, and obligations to perform overtime work. Whereas, 'regular' employees merit higher pay due to the rigorous selection and training programs they undertake. Professor Arita (2017) further notes that wage disparity between the two has become broadly accepted despite the fact that 'employment type is not necessarily an accurate reflection of the differences in individual skills'.

According to 'Survey on the Current Conditions of Employment of Workers with Diverse Employment Type' (2010), 38 per cent of respondents suggested that one of the major reasons for wage discrepancies between 'regular' and 'non-regular' employees was the different levels of job responsibilities, whilst 33 per cent noted that wage discrepancy was a result of differences in years of service to the company. These results are parallel with Professor Arita's (2017) comments and show that although there seems to be no necessary basis for hourly based income

disparity, perhaps underlying cultural attitudes in Japan based on the long-held perception of the lifetime employment system still influence the way work is remunerated.

2020 and Beyond: 'Equal Pay for Equal Work' is Paramount

Removing barriers to labour force participation spans both economic and social necessity in Japan. The 'Equal Pay for Equal Work' bill will play an influential role in contributing to the way work is performed and rewarded, and it will be imperative for creating financial incentives for increased labour force participation of specific target groups within the Japanese population. With foreseeable demographic challenges and increased pressure on the working-age population, there has never been a better time to bridge the gap between Japan's labour dichotomy. Because of its ability to transcend across the nine key target areas proposed by the 'Council for the Realization of Work Style Reform', the 'Equal Pay for Equal Work' bill is the most important policy reform facing Japan.

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