



1-1-1980

Sex Discrimination in Employment: The Legal Status of the Working Woman in Japan

Sherry Yajima Keller

Follow this and additional works at: <https://digitalcommons.lmu.edu/ilr>



Part of the [Law Commons](#)

Recommended Citation

Sherry Yajima Keller, *Sex Discrimination in Employment: The Legal Status of the Working Woman in Japan*, 3 Loy. L.A. Int'l & Comp. L. Rev. 83 (1980).

Available at: <https://digitalcommons.lmu.edu/ilr/vol3/iss1/5>

This Notes and Comments is brought to you for free and open access by the Law Reviews at Digital Commons @ Loyola Marymount University and Loyola Law School. It has been accepted for inclusion in Loyola of Los Angeles International and Comparative Law Review by an authorized administrator of Digital Commons@Loyola Marymount University and Loyola Law School. For more information, please contact digitalcommons@lmu.edu.

Sex Discrimination in Employment: The Legal Status of the Working Woman in Japan

I. INTRODUCTION

Although early Japan was a matriarchal society whose imperial line descended from a mythical sun goddess, the traditional view of the Japanese woman brings to mind a subservient figure, trailing behind her husband, taking care not to step in his shadow. A look at some of the activities of women in Japan today would seem to indicate a radical change in women's roles. Indeed, there is a growing awareness by women in Japan of the oppressed state in which women have been kept in Japanese society. International Women's Year in 1975 sparked much of this awareness, and such groups as the Japan Women's Party, the All Japan Feminist Association, and the pink-helmeted Chupiren have caught the public eye through their advocacy of women's rights. The popularity of the word *kyria uman* (career woman), the demand for more day-care and nursing facilities and the recurrent themes on television dramas of women fighting a sexist society are all indications of a growing awareness by Japanese women of their low social status.

Japanese women have indeed progressed since their grandmother's day, at least in their legal status. The postwar reforms brought with them a promise of equality for all Japanese. The Constitution of Japan and the codes enacted to implement the ideals embodied in the Constitution give women many rights that they previously had been denied.

In spite of the laws giving women the express right to equality, the situation for women in employment has changed very little over the years. Even though the courts have invalidated some of the discriminatory practices used by employers against women, such practices are still prevalent in Japan today. Moreover, women in Japan seldom turn to the legal system to achieve equality among the sexes, as guaranteed by the Constitution and the codes. A look at the role of the courts in Japan in conjunction with Japanese culture will enable the reader to better understand the many obstacles the Japanese woman faces in her fight for equality.

II. STATISTICS ON WORKING WOMEN IN JAPAN

At first glance, the statistics of women in Japan's work force may seem encouraging. Over one half of the adult woman population in Japan was working in 1977. The average age of an employed woman in 1977 was 33.9 years.¹ One Japanese publication reports, with a note of seeming encouragement, that "today women in increasing numbers are taking advantage of the diffusion of education to develop abilities and awareness in no way inferior to those of men. With the rapid growth of the economy, companies have come to employ many women, including housewives."²

These observations would seem to indicate a trend toward employers' hiring more female labor with an intent to keep them longer, rather than the traditional practice of hiring young pretty women as "office flowers" or "office ladies" whose main function is to serve tea. However, the truth of the matter is that even though most Japanese women take office jobs after completing college, most of them leave the company before they reach the age of thirty. While most Japanese men remain with a company until retirement age, Japanese women usually work for a few years and then leave to get married.³ One twenty-three year old woman in Japan expressed the belief that there are very few companies in Japan where women can work after marriage.⁴

Although the number of working women has increased between 1950 and 1975, the majority of these women hold low-status positions. Women constitute only 5.5% of the total managerial positions.⁵ Apart from nurses and kindergarten attendants, who are virtually all women, the only professions in which the number of women engaged exceeds 20% of the total are:⁶

Elementary school teachers	54.5%
Middle school teachers	29.2%
Pharmacists	51.4%

1. *The Japanese Women's Movement: The Long Road to Equality*, FOCUS JAPAN, February 1979, at 17.

2. FOREIGN PRESS CENTER, SERIES NO. 5, ABOUT JAPAN 29 (1977) [hereinafter cited as ABOUT JAPAN].

3. *The Working Girl*, 2 JAPAN PICTORIAL 5 (1979).

4. Tolbert, *New Japanese Woman Slowly Emerging*, L.A. Times, Mar. 19, 1978, § 1-A, at 6, col. 2 [hereinafter cited as Tolbert].

5. ABOUT JAPAN, *supra* note 2, at 11.

6. *Id.*

The proportion of women in other professions is markedly low:⁷

Scientific research	5.1%
Doctors and dentists	10.2%
Elementary school principals	1.4%
Lawyers and judges	2.5%

As well as the low quality of women's work in Japan, particularly disturbing are the low wages paid to women. In spite of laws requiring equal pay for equal work, women's wages in 1975 were 55.8% of men's wages.⁸

Let us examine some of the laws concerning women's rights in the area of employment and consider the effect that these laws have had on women's rights in employment in Japan.

III. THE IMPACT OF JAPANESE EMPLOYMENT LAW ON EMPLOYMENT PRACTICES IN JAPAN

Article 14 of the Constitution of Japan (November 3, 1946) provides that "[a]ll of the people are equal under the law and there shall be no discrimination in political, economic or social relations because of race, creed, sex, social status or family origin."

It was in the Labour Standards Act of 1947 that the principle of equal wages for men and women was first laid down in legislative text. Echoing article 14 of the Constitution, article 4 of the Labour Standards Act provides that "[t]he employer shall not discriminate women against men concerning wages by reason of the worker being women [sic]." Employers violating this prohibition are subject to penalties under article 119 of the Labour Standards Act.⁹

The Labour Standards Act is enforced through a central Labour Standards Bureau which includes Labour Standards offices and Labour Standards Inspection offices in each prefecture. Three thousand inspectors staff the three hundred and fifty Inspection offices. As well as visiting employers' premises on a regular basis, these inspectors investigate individual workers' complaints.

Even though the number of violations of the Act is diminishing, the equal pay principle is far from being thoroughly observed

7. *Id.*

8. *Id.* at 12.

9. Article 119 of the Labour Standards Act provides that persons who violate article 4 "shall be punished with a penal servitude not exceeding 6 months or with a fine not exceeding 5,000 yen. . . ."

in Japan. There are several ways in which employers can escape the requirements of the Labour Standards Act.

One method is to give a woman a different job title than a man. However, even when the job titles are the same, the actual work performed by each may be slightly different. This slight difference in the work performed, even though the difference may be only nominal, can account for a difference in wages. The result is that a man and woman doing apparently the same work may, in fact, be doing different work by virtue of the man's occasionally carrying something heavy or having greater responsibility. Since the man and woman are not performing the same work, they are not paid the same wages.

In addition to the problems raised by job classifications, the concept of equal pay for equal work is not entirely compatible with the peculiar seniority wage system prevalent in Japan. Under this system, as we shall see below, the wage of an individual worker is largely decided by his personal characteristics. The Japanese concept of equal pay for equal work is very strict for it requires exact sameness of work and personal circumstances. If a single element is different, the principle of equal pay for equal work may be inapplicable.

A look at Japanese employment practices will enable us to appreciate the gap between what the law guarantees to women as opposed to the actual position of women in the work world. It has been suggested that since enterprises and the civil service in Japan are premised on lifetime employment and the seniority principle, the practice of giving clear recognition to individual ability is not yet well established.¹⁰

Lifetime commitment to a company is an important aspect of Japanese employment practices. Generally, Japanese enterprises will recruit their workers from school, train them during their period of employment and keep them on the payroll until retirement. Although the worker is free to quit, he is unlikely to do so because of psychological pressure or economic reasons.¹¹ This employment practice can work unfavorably on women. Since a woman's employment may be interrupted by marriage or child raising, employers are reluctant to give women expensive training. Employers

10. ABOUT JAPAN, *supra* note 2, at 11.

11. Takahashi, *Women's Wages in Japan and the Question of Equal Pay*, 111 INT'L LAB. REV. 55 (1975) [hereinafter cited as Takahashi].

hesitate to place women on the ladder of promotion and in responsible positions, fearing that they may leave the company before they have reimbursed the employer's investment in them.¹² As a result, women are relegated to simple jobs with little responsibility and are regarded as temporary workers.

The prevailing practice of determining the individual worker's wage in Japan is based mainly on length of service, regardless of job performance or job content.¹³ Women cannot always take advantage of the seniority system, not only because of the necessities of leaving to raise a family, but because of the employers' encouraging female workers to leave after a certain period of service to make room for younger, cheaper labor.

Other factors affecting the wage packet of an employee are personal factors such as age, educational background and family situation.¹⁴ The basic wage is supplemented by a variety of allowances (family allowances, commuting allowances, children's education) which have little to do with job performance. Since some of the remuneration given employees is based on such personal factors and not on job performance, a man and woman may receive the same pay for the work they perform, yet the man's total wages may be higher because of additional personal factors.

So we see that even though postwar reforms through legislation have removed some of the legal barriers that women in Japan have faced in demanding equality, many of the social legacies of prewar legal discrimination still persist. When Japan was first emerging as an industrial nation, young women were employed in the textile mills at low wages and sweatshop working conditions. Perhaps to ease their consciences, and justify these conditions, employers classified women as temporary workers whose primary goals were marriage and childrearing. Today's employers, on the whole, still maintain the same attitude toward women workers.¹⁵

Women workers are expected to be " 'young, pretty, dexterous and cheap,' and are discouraged from staying long by written or unwritten contracts of retirement at a certain age, sometimes less than 30, or whenever they get married."¹⁶ In fact, it is not uncom-

12. *Id.* at 57.

13. *Id.* at 55.

14. *Id.*

15. Jameson, *Japan Eases Attitude on Working Women*, L.A. Times, June 16, 1978, § 1-B, at 1, col. 1 [hereinafter cited as Jameson].

16. Takahashi, *supra* note 11, at 66.

mon for a woman, upon the announcement of her engagement, to be honored with a surprise "going-away" party by the company. The discriminatory treatment accorded women through these employment contracts is rather openly practiced. As one personnel manager stated: "We know we will lose if we are sued. But there will be few people who would resort to court. We will retain this system until we lose."¹⁷

Even if a woman does continue to work after marriage, the chances for an employer's promoting her to a managerial position are slim. The reasons generally given by employers for not promoting women to managerial positions are that women do not stay long, women's work is subsidiary and women are not competent.¹⁸ Thus, there is a vicious circle — since women are not given responsible jobs, they are induced to quit early, which is used as a reason for not giving them responsible positions. Those women that do manage to reach the managerial positions genuinely feel that they are not, and never will be, accepted as competent individuals.

IV. OBSTACLES TO THE EQUAL TREATMENT OF JAPANESE WOMEN IN EMPLOYMENT

A. Education

Education is a problem area in the Japanese woman's fight for equality. Part of the postwar educational reform included the Fundamentals of Education Law of 1947 giving Japanese women an equal opportunity to education. The general educational level of Japanese women has increased since the passage of this law and there is now an equal ratio of men and women entering the junior colleges and universities. However, the vast majority of these women go to the junior colleges instead of the universities. It has been found that employers, wishing to hire young women as temporary workers, often regard a bachelor's degree with suspicion and openly frown on a graduate degree,¹⁹ perhaps as a result of the belief that businesses do not need university graduates for simple and auxiliary work. Although almost all female university students claim that they will seek employment upon graduation, the majors

17. Tomoko, *The 'Office Ladies' Paradise: Inside and Out*, 26 JAPAN Q. 246 (1979) [hereinafter cited as Tomoko].

18. Tsurumi, *Women in Japan: A Paradox of Modernization*, CONTEMP. JAPAN 65 (1978).

19. Jameson, *supra* note 15, at 2, col. 1.

that these women select, such as homemaking, do not prepare them for the requirements of the work world.

Furthermore, the prospects of employment for female graduates are dreary. Only twenty-two percent of all businesses employ female university graduates, sometimes imposing unreasonable conditions on their employment.²⁰ An increasing number of women are forced to accept part-time jobs; these part-time employees (two-thirds of all female employees in Japan) are especially discriminated against by low wages and exclusion from social insurance accorded regular employees.²¹

B. Protective Laws

Another hindrance to the advancement of working women in Japan can be found in the protective laws. Feminists argue that such rules tend to confirm and perpetuate the average Japanese male's concept of women's inferiority. Some of these protective laws, found in the Labour Standards Act of April 7, 1947, are as follows:

The employer shall not employ women above full 18 years old overtime more than 2 hours a day, 6 hours a week, and 150 hours a year, and not employ them on rest days even though the employer reaches the agreement under Article 36.²²

The employer shall not employ minors under full 18 years old or women between the hours of 10 p.m. and 5 a.m. . . .²³

The employer shall not employ minors under full 18 years old or women in underground labor.²⁴

The employer shall not employ a woman within 6 weeks after childbirth. However, when the woman requests employment after 6 weeks, it is permissible to assign her to a job that doctor [sic] pronounces unharmed to her.²⁵

The employer shall not employ a woman who suffers heavily from menstruation or a woman employed in jobs injurious to menstrea-

20. Tomoko, *supra* note 17, at 246. Employers impose such conditions as requiring the women to live with their parents or requiring that they have graduated without staying two years in the same class. *Id.*

21. *Id.*

22. Labour Standards Law, art. 61.

23. *Id.* art. 62.

24. *Id.* art. 64.

25. *Id.* art. 65(2).

tion if she requests a menstruation leave.²⁶

There are two conflicting arguments regarding the necessity of these protective laws. One is that these measures tend to give employers and men in general plausible excuses for discriminating against women, which in turn obstructs women's efforts to widen the scope and diversity of employment opportunities. The other opinion is that in Japan, where no basis for equality between men and women exists, such provisions are vitally necessary to protect women workers.

C. Women's Attitudes

1. The Sense of Security and Power

As well as the protective laws and Japanese employers' attitudes toward women as workers, the attitudes many Japanese women have about themselves are a hindrance to the advancement of women in employment.²⁷ A September 1975 survey on the equality of the sexes reveals that most people in Japan consider it a "matter of course" (19.2%) or "inevitable" (60%) that women quit their jobs when they get married or have a baby, while only 12.6% think that leaving work on such pretexts is not right.²⁸

Women's responses to the question "what makes life most meaningful for women" include children (52.6%), family (13.2%), occupation (9%) and husband (2.7%).²⁹ One observer has stated that:

The vast majority of women are totally indifferent if not overtly hostile to movements which advocate such basic rights as equal opportunity for employment and promotion.

The fact is that most women would rather adhere to the traditional role differentiation and secure their positions more easily as hidden matriarchs through control of the family finances. . . . [I]nsecurity follows too much independence. . . . Take away the home and family, and woman [sic] would have nothing. That's where the insecurity comes in. Guaranteed top

26. *Id.* art. 67.

27. One 21 year old working Japanese woman indicated her desires to simply "get out into the world once and then go back into the home." Tolbert, *supra* note 4, at 6.

28. ABOUT JAPAN, *supra* note 2, at 27.

29. Murray, *Modernization Curtails Rather Than Augments Japanese Women's Freedom, Equality, Independence*, Japan Times, May 18, 1978, at R2 - R3 [hereinafter cited as Murray].

role in the home is more desirable than the uncertainties of competition with males in a career.³⁰

Some commentators have indeed expressed the view that Japanese women are not in such a detrimental position since they are able to maintain their "power" through control of the family finances and therefore bear a heavy responsibility in the household economy.³¹

The role of the Japanese woman in the family as observed by one writer may also explain why women fail to assert their legal rights to equality:

In modern times, it is generally accepted that women have more will power [sic] and psychological strength than men, and there can be no doubt that the modern Japanese family centers around and is dominated by the mother, not the father. American comic strips like "Blondie" and family situation comedies on TV and in the movies, which commonly depict a bumbling, henpecked father, have for long been popular in Japan as being entirely understandable despite their unfamiliar social setting.³²

While the husband sometimes seems like an overgrown child, wives are expected to have a strong character. They must always be ladylike and hold the family together. It has been suggested that Japanese women have not responded to the woman's liberation movement because it is contrary to their traditional beliefs. While a "bitter underdog reaction may fit the traditional position of Western women as the 'weaker sex,' it is less to the taste of Japanese women, who are proud of their dominant family role and are so definitely the 'stronger sex.'"³³

2. Social Pressure to Conform

Another reason for the Japanese woman's reluctance to assert her legal rights is the social pressure to conform. Some think that the stability of Japanese society is rooted in the interdependent nature of Japanese relationships and in the importance of social role performance.³⁴

30. *Id.*

31. Saegusa, *Women with Definite Goals to Live for Will Be of Benefit to Country; Influence Steadily Rising*, *Japan Times*, May 18, 1978, at R3, col. 4.

32. E. REISCHAUER, *THE JAPANESE* 209 (1977).

33. *Id.* at 212.

34. Remarks of Hiroshi Wagatsuma before the Town Hall General Luncheon (May 25,

When one thinks of oneself, one's self-awareness tends to be fused with some conception of expected role behavior, which is often idealized as a set of internalized standards or directives. . . . The traditionally oriented Japanese mind equates Western individualism with 'selfishness' in the worst sense of the term. To any ethical Japanese, a person cannot fully exist without performing a proper social role.³⁵

Because of this subordination of the individual to the group and the interdependence of complementary roles, some have prophesied that homogenization of the sexes, as is being witnessed in America, will not occur in Japan in the foreseeable future.

When the role is not one accepted by the society as a whole, there is great pressure on Japanese women to conform to the traditionally accepted roles. This emphasis on conformity perhaps explains why it is so difficult for the Japanese woman to pioneer a new role. The risks of alienation are great. Since the idea of the Westernized woman is not fully accepted in Japan, the Japanese woman faces risks of alienation not only from social acquaintances but from her family as well.

3. Reluctance to Resort to the Court Process to Settle Disputes

Even those women that do desire equality in employment may not be willing to go to court to enforce those rights. The Japanese pride in "saving face" is still prevalent in Japan today. In fact, in business settings, a businessman's word and his handshake are often sufficiently binding because of the value of "saving face." In many situations there is no need for protection against someone going "back on his word." Japanese businessmen frown on the practice of having a lawyer present during business dealings and feel distrust for the man who has to have his lawyer present during the business dealings.

[L]aw as an idea is still associated with punishments and prison; in the popular conception . . . [t]o be brought before a court, even in a civil or private matter, is a source of shame; and this fear of shame — the loss of face — rather than any morality is the determining motive in Japanese conduct

The concept of law has thus not penetrated the daily life of

1979), reprinted in TOWN HALL J., June 26, 1979, at 229, col. 1.

35. *Id.* at 230, col. 2.

Japan.³⁶

4. Cultural Obstacles

Not only may there be a reluctance by Japanese women to go to court to enforce their rights, but many Japanese women may not even recognize them as "rights" at all.

Japan's Constitution is thought to have been a product of the American occupation in Japan. Some commentators feel that the Constitution, with the ideals it embodies, was forced upon the Japanese after World War II and is not suited to present Japanese social norms. Although Japan's laws may be patterned after Western law, in actual practice, the Confucian way of thinking frequently outweighs Western ways of thinking.

Even though Japanese mores are evolving and are gradually fitting in with the ideals presupposed by their governing law, old Japanese ways of thinking are still very much alive among the majority of Japanese. A socially critical spirit has been slow to develop and as one writer observes:

[T]he social structures and the free atmosphere pre-supposed by western laws are present only to a very slight degree in Japan. . . . [I]n Japan the application of modern law runs counter to Japanese mystical sentimentalism, the outcome more of a poetic than a logical spirit, which has rendered the Japanese historically indifferent to the ideals of human freedom and dignity entertained in the West.³⁷

The idea of a duty-centered legal culture, where the individual's will is subordinated to the fulfillment of his role in society, survives in Japan. The Confucian idea of an ordered hierarchy remains incompatible with a Western legal system that is based on fixed and universal standards. The whole concept of "rights" is viewed by the Japanese as a depersonalization of human relations, placing all men on equal footing with no regard for the hierarchy of social roles which exists in nature. The value of compromise in Japanese society is based on a Confucian teaching that the parties' insistence on rights must be subordinated in order to settle conflict.³⁸

36. R. DAVID & J. BRIERLEY, *MAJOR LEGAL SYSTEMS IN THE WORLD TODAY* 499 (2d ed. 1978).

37. *Id.* at 498-99.

38. H. EHRMANN, *COMPARATIVE LEGAL CULTURES* 47 (1976).

V. CASES DECIDED BY THE JAPANESE COURTS

A. *Legal Victories*

Some women recognize their "rights" and are bringing actions alleging unequal treatment, especially regarding dismissals. Although many of these women are winning their cases, it is at the expense of much time and trouble. Let us examine some of the cases women have brought before the courts in Japan.³⁹

In an action⁴⁰ brought before the District Court of Tokyo, a clause requiring mandatory retirement upon marriage was challenged. The court held the requirement invalid and found that there was no proof of general deterioration in efficiency of women after marriage and that individual cases of such deterioration could be dealt with by other means.

In two other cases dealing with compulsory early retirement rules for women, the courts examined the question of possible justification for these discriminatory practices by employers. In one case,⁴¹ the court could not find any justification for the differences in mandatory retirement ages for men and women (men retired at fifty-five and women at thirty). In the other case,⁴² where the retirement ages were fifty-five for men and fifty for women, one of the arguments made for the mandatory early retirement age for women was that the physical strength of women declined earlier. The court did not accept this argument since the job in question did not require physical strength.

It was argued in both of these cases that it was undesirable to retain unskilled female employees because of the wage system based on seniority. The court responded by pointing out that the same argument could be applied to unskilled men also.⁴³

B. *The Japanese Court System*

As evidenced by the scarcity of legal actions brought in Japan,

39. The availability of Japanese court opinions translated into English is very limited. In addition, the courts in Japan are selective in the opinions they choose to publish.

40. Tokyo District Court, 20 December 1966. *Rôdô Hôrei Tsûshin* (Tokyo), 28 Jan. 1967. On December 11, 1971, the District Court of Osaka took a similar view in regard to a shipbuilding company. Morgenstern, *Women Workers and the Courts*, 112 INT'L LAB. REV. 18 n.2 (1975).

41. Nagoya District Court, 2 April 1972. *Hanrei Jihô*, 21 Oct. 1972. *Id.* at 21 n.3.

42. Tokyo District Court, 23 March 1973. *Rôdô Shiryô Sokuhô*, 1 May 1973. *Id.*

43. *Id.* at 21.

some feel that the court system in Japan is itself an inadequate means of enforcing one's rights under the law. As well as outmoded substantive law⁴⁴ and excessive delay and unreasonable costs of pursuing a lawsuit, especially for an individual against a large corporation, it is felt that the policy-makers do not pay adequate attention to the problems of the judiciary.⁴⁵ Commentators feel that there is an urgent need to focus upon ordinary persons and to create a system that serves their needs, emphasizing that the present system makes it almost impossible for ordinary persons to protect their rights. Proposals for creating a more efficient justice system in Japan include the creation of specialized departments, simplifying court procedure and reducing the duration of court proceedings.⁴⁶ In addition, the Japanese method of settling disputes through compromise can still be valuable in a society where the sense of humanity and obligation work as social sanctions.⁴⁷

As the reader has noticed, the number of reported cases dealing with sex discrimination in employment in Japan is scarce. This is in part due to the selectivity of the Japanese courts in the opinions they choose to publish. However, the main explanation for the scarcity of legal material can be found in the sociology of the Japanese people. As we have seen above, the role of the courts in Japanese culture is very different from the role of the courts in the United States. The importance of "saving face" and resorting to methods of conciliation in settling disputes may account for the reluctance of the Japanese to resort to the court system. Even when cases are brought before the courts, precedence of decided cases is not highly valued in Japan.⁴⁸

The scarcity of case law may also indicate a relative lack of interest in this area and illustrate the dichotomy between what the law provides and what the culture says about the role of women and the role of the courts in Japan. In a culture where the legal system is not as prominent as it is in Western civilization, it seems that decisions by the courts in Japan will not play a decisive role in eliminating sex discrimination in employment. The Japanese legal

44. Kojima, *The Representation of Collective and Public Interests in Civil Litigation*, I ACCESS TO JUSTICE 737 (M. Cappelletti & B. Garth eds. 1978).

45. Kojima & Taniguchi, *Japanese National Report on Access to Justice*, I ACCESS TO JUSTICE 692 (M. Cappelletti & B. Garth eds. 1978).

46. *Id.* at 706-717.

47. *Id.* at 718.

48. L. BEER & H. TOMATSU, A GUIDE TO THE STUDY OF JAPANESE LAW 26 (1978).

system will only be effective when the culture, itself, chooses to strive for the equality of women in employment and develops the courts as an effective tool for achieving this goal.

VI. HOPE FOR THE FUTURE

The goals of the World Action Plan set in Mexico during International Women's Year in 1975 included guaranteeing legal equality for both men and women. This goal has already been satisfied in Japan. However, there is still a need for women in Japan to actually enjoy, equally with men, the right to work and the right to receive education — all guaranteed by the Constitution — in accordance with the principles of equality of the sexes.

Some feel that in spite of the well-publicized antics of militant women's groups, the role of the Japanese woman as the obedient wife and mother is "entrenched as strongly as when it was laid down by the samurai in the feudal era."⁴⁹

One long time advocate of Japanese women's rights, eighty-five year old Ichikawa Fusae, stated that the present situation made her feel as if she were in prewar days, wondering whether Japanese women of today have more of an awareness as women rather than as wives and mothers.⁵⁰

The Japanese government has at least expressed an awareness of women's problems. In response to the United Nations designation of the 1976 - 1985 period as "U.N. Women's Decade," the Japanese government, in September 1975, started the Headquarters for Planning and Promoting of Policies Relating to Women. The goals of the World Action Plan were incorporated into Japan's National Plan of Action through the legislative council of the Justice Ministry. One of the goals is revamping of labor legislation pertaining to women's labor from the standpoint of promoting sexual equality in employment to help elevate the status of women.

The Council on Women's Problems has recommended to the Prime Minister that "changes in the contents of school and home education are necessary to put Japanese women on an equal status with men. . . ."⁵¹ In addition to improvement of education, other areas that need improvement are the opportunities for vocational training by employers, improvement of the wage system by in-

49. Murray, *supra* note 29, at R2, col. 2.

50. Tomoko, *supra* note 17, at 247.

51. *Change in Women's Education Urged*, Japan Times, Nov. 7, 1976, at 2, col. 4.

creasing the job performance component and promoting scientific job analysis and evaluation, promotion of trade union interest in implementing the equal pay principle and programs of assistance to women workers with family responsibilities.⁵²

Many women feel that the lack of child care facilities is a major obstacle to the advancement of women in the employment area. The enactment of the Working Women's Welfare Act in 1972, which is intended to allow women to harmonize their work with their home life, provides measures to promote vocational guidance and training and time off for child care. The Act makes it obligatory upon employers to endeavor to introduce a nursing leave system and to provide other forms of assistance for child care in their companies. But since the Act has no penalty clauses, there is no guarantee that employers will observe the requirements of the Act.⁵³

VII. CONCLUSION

A discussion of the legal status of the working women in Japan must not end with the mere realization that there are laws in Japan granting women equality in employment. Rather, the true legal status of Japanese women depends on the willingness of Japanese women to change their philosophy of the traditional order of things and to break away from a culture that has depended so long for its existence on the mutual cooperation and assumption of traditionally designated roles. In a culture where dependence rather than independence is valued, this breaking away can be a very painful and alienating experience. The thought of the subservient position of Japanese women is infuriating to many Westerners who feel that modernization should bring with it freedom. But to many Japanese women the "freedom" to become an equal is not a welcome freedom at all.

Sherry Yajima Keller

52. Takahashi, *supra* note 11, at 67.

53. *Id.*

